

The State of Maharashtra and Others

Vs

Association of Maharashtra Education Services Class II officers and Others

Civil Appeal No. 1281 of 1971

(CJI A. N. Ray, V. R. Krishna Iyer, Y. V. Chandrachud JJ)

11.04.1974

JUDGMENT

CHANDRACHUD, J. -

1. What is the true nature of the Scheme envisaged in the Report of the University Grants Commission for the year 1966-67 ? Was the Scheme, in so far as it related to the pay scales of lecturers and professors in affiliated colleges accepted by the Government of Maharashtra ? And if so, is the state Government entitled to superimpose on that Scheme additional conditions subject to which alone the benefits thereof can be given to the lecturer and professor ? These are the questions which were raised before the High Court in a petition under Article 226 and 227 of the Constitution. It is open to grave doubts whether the recommendations of a body like the University Grants Commission, can give rise to rights and obligation enforceable in a court of law but of that we shall say nothing as everyone concerned approached the questions on the assumption that the petition raised a justiciable issue. The decision of the High Court meets a long-left demand of ill-paid teachers and though the High Court has certified that the case is a fit one for appeal under Article 133(1) (a) and (b) of the constitution, we do not propose to entertain in this appeal the point raised by the State Government for the first time Memorable of Appeal before us that the respondents possess no enforceable right.

2. The University Grants Commission in its Report for the year 1966-67 recommended a revision of pay scales for various categories of teachers, who were broadly divided into two classes : "University Teachers" and "Teachers in affiliated Government and non-Government Arts, Science, Commerce and Secondary Training Colleges". The latter class of teachers with which we are concerned in this appeal consists of Senior Lecturers, Lecturers (Senior Scale) and Lecturers (Junior Scales) for whom the University Grants Commission recommended the following scales of pay respectively :

Senior Lecturers : Rs. 700-40-1100. Lecturers (Senior Scale) : Rs. 400-30-640-40-800. Lecturers (Junior Scale) : Rs. 300-25-600.

3. The Report of the Commission was accepted by the Government of India for the reason that the prevailing scales of pay at the university level were very low and it was necessary in the interest of higher education to adopt the recommendation of the Commission and apply it uniformly all over the country. The earlier reports of the Commission recommending higher pay-scales for University teachers failed to evoke adequate response as the Union Government agreed to reimburse the State Governments to extent of 50 percent only of the additional expenditure incurred by them. Some of the State Governments transferred the burden of remaining 50 percent to the University and the

private colleges. By its letter of April 7, 1966 to the Education Secretary, Government of Maharashtra, the Government of India undertook to bear 80% of the expenditure incurred by the University or the colleges for implementing the Scheme of the commission which was to be brought into operation with effect from April 1, 1966. The remaining 20% was to be borne by the State Government for a period of five years and thereafter the State Government was to undertake the entire financial responsibility for implementing the Scheme.

4. On November 6, 1967 the Government of Maharashtra passed a Resolution accepting in principle the proposal of the Government of India. Under Notes 1 and 2 to resolution, all Professors, Heads of Departments and Lecturers in different pay-scale were to be given the junior scale of Rs. 300-600, 25% of the posts were to be in the senior scale of Rs. 400-800 and not more than 25% of the total number of Lecturers were to be placed in the scale of Rs. 700-1,100. Note No. 1 further stated that only such persons who possessed at least a second class Master's degree of a statutory University would be eligible for the revised scale and in regard to scale of Rs. 700-1,100 it was further necessary that the teachers were recognised or approved by the University for post-graduate work as on April 1, 1966 and had in fact done post-graduate teaching for a minimum period of one year prior to April 1, 1966.

5. Respondents 2 to 11 admittedly possessed the requisite qualifications for being placed in the pay-scale of Rs. 700-1,100, but the state government refused to place them in that scale unless they offered themselves for selection before the state public service commission as required by notices dated March 2 and March 3, 1970 issued respectively by the Director, College of Science, Nagpur and the Principal, Nagpur Mahavidyalaya. Respondents 2 to 11 filed in High Court of the Bombay a petition under Article 226 and 227 of the Constitution praying that these notices be quashed and that they be placed in the pay scale of 700-1100 with effect from April 1, 1966. The 1st respondent is an Association of Maharashtra Education services class II officers and Lecturers in Government Arts, Science and Commerce Colleges, Nagpur and collectively represent individuals whose rights are alleged to be infringed.

6. The State of Maharashtra did not dispute that the petitioners were qualified to be placed in the pay-scale demanded by them but their contention as reflected in the return filed by them in the High Court was that respondents 2 and 11 belonged to the class II Educational service (Collegiate Branch) for which a pay-scale of Rs. 270-715 was prescribed by the State Government; that the scale of 700-1100 demanded by the respondents fell squarely within the pay scale permissible to Class I Officers in the State Educational Service; that giving the higher pay-scale to respondents 2 to 11 was tantamount to promoting them to Class I service; that Under the Rules governing Educational Service of the State, such a promotion could not be made without consultation with the Public Service Commission and therefore Respondents 2 to 11 had to appear before that Commission as a pre-condition to their promotion to the higher Class. These contentions were rejected by the High Court which granted to the respondents the relief demanded by them.

7. The High Court, it seems to us, is right in the view it has taken. It is not disputed by the State Government that Respondents 2 to 11 possess the requisite qualification and experience for being placed in the higher pay-scale of 700-1100. They hold a second class Master's degree, they were approved by the University as post-graduate teachers since April 1, 1966 and they had in fact done post-graduate teaching for the minimum period of one year prior to April 1, 1966. They are therefore entitled to the higher pay-scale under the Report of University Grants Commission which was accepted by the Government of India and was adopted by the Government of Maharashtra. The State Government having received on stated terms and condition the 80 percent contribution from

the Government of India for implementing the Scheme it was not right on its part to depart from the rudiments of that Scheme and to devise a new mechanism entitling the imposition of fresh conditions as a pre-requisite to eligibility for the higher pay-scale.

8. The contention that Lecturers in Class II of the Maharashtra Education Service must present themselves for selection before the Public Service Commission was introduced apparently on a misunderstanding of the Scheme initiated by the University Grants Commission. That Scheme envisages of promotion of the Lecturers from one class to another. It concerns itself with the revision of pay-scales of the Collegiate teachers and its object was to raise the salary-structure as one of the basic essentials for improvement of educational standards. The letter of the Government of India to the State Government, dated April 7, 1966 shows that the subject matter of the correspondence was "improvement of salary Scales of College and University teachers" and that the Government of India had accepted the recommendation of the University Grant Commission for (a) "revision of the salary scales" of the collegiate teachers with effect from April 1, 1966. The Government of Maharashtra misunderstood the Scheme as requiring the promotion of Class II teachers of Class I and since under its Rules such a promotion could not be granted without consultation with Public Service Commission, it asked respondents 2 to 11 to offer themselves for selection by that commission. The imposition of such a condition being based on a misunderstanding of the Scheme proposed by the University Grants Commission, the High Court was right in directing the Government to place respondents 2 to 11 in the pay-scale of 700-1100 without asking them to appear before the Public Service Commission. As stated by the High Court whether respondents 2 to 11 should, as a consequence of the upgrading of their pay-scale, be placed in Class I Educational Service and whether they are entitled to the other benefits available to class I officers is an entirely separate matter which the state Government will be at liberty to decide in accordance with the relevant rules and procedure.

9. We therefore confirm the judgment of the High Court and dismiss the appeal with costs.

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