

Vijay Kumar and Others

Vs

State of Punjab and Others

Civil Appeals Nos. 3760 to 3764 of 1992

(J. S. Verma, Dr. A. S. Anand JJ)

10.09.1992

JUDGMENT

1. Leave granted. Heard on merits.
2. The notice issued in these matters was limited only to the question of payment according to the minimum of the pay scale prescribed for the post of regular lecturers to the appellants during their employment as part-time lecturers.
3. A learned single Judge of the High Court directed that the appellants be paid a consolidated honorarium of Rs. 2000/- per month instead of payment according to the prescribed pay scale for lecturers notwithstanding anything to the contrary contained in their letter of appointment. A Letters Patent Appeal against that decision in the writ petition was dismissed by a Division Bench. These appeals by special leave are by the appellants against that order.
4. The appellants initially contended that they were also entitled to absorption and regularisation as lecturers in addition to the benefits attaching to a regular appointment from the very inception. However, as stated earlier, only a limited notice to the extent indicated was given.
5. The respondents in response to the notice have stated in the counter-affidavit that the appellants as part-time lecturers are bound by the conditions of their appointment and are not entitled to claim anything in excess thereof. It is also contended by the respondents that the part-time lecturers were free to be gainfully employed elsewhere in their spare time which advantage in fact these appellants had taken. On this basis, the respondents contended that the appellants were not entitled even to the minimum of the pay scale of the post of lecturer since the principle of equal pay for equal work did not apply on the facts of this case. Accordingly, we gave opportunity to the respondents to substantiate their assertion even before us and made an order on 5-8-1992 as follows :-

"Learned counsel for the respondents prays for grant of two weeks' time to file the material documents to support the respondents' contention that the petitioners were mere part time employees who are not entitled even to the minimum of the pay scale of the post of regular lecturers because during the remaining time they were gainfully employed elsewhere and also the nature and amount of work done by them is not equal to that of the regular lecturers."

Thereafter in the affidavit dated 20-8-1992 filed on behalf of the respondents apart from reiterating

generally the earlier assertion, it has been clearly stated as under

"The part time lecturers are known to be doing some jobs or the other in addition to their job as a part-time lecturers. However, the respondent/State is not in a position to give any documentary evidence to establish this fact against the petitioners."

It may be stated that in the rejoinder filed by the appellants this assertion of the State has been emphatically denied and it has been clearly stated that none of the appellants was employed at any other place and, therefore, there was no other source of earning for the appellants in addition to the remuneration paid to them for working as part-time lecturers. The appellants also expressly stated that they had been working for more hours every day as compared to the regularly appointed lecturers. In other words, the appellants claim to have been working more and not merely equal to the regular lecturers, their nature and quality of work being the same.

6. On these facts, it can hardly be disputed that on the principle of equal pay for equal work, the respondent-State has to pay to the appellants the minimum of the pay scale prescribed for the post, the duties of which they are discharging during the period their employment as part time lecturers subsists. The notice being limited to this extent in the present case, the appellants claim for absorption and regularisation on the post is not a matter for consideration herein and this decision would not create or confer on them any right for regularisation on this basis, if no such right is available to them otherwise.

7. Learned counsel for the respondents placed reliance on State of Punjab v. Surinder Kumar, (1992) 1 SCC 489 : (1992 AIR SCW 1728). That decision is of no assistance to the respondents in the present case wherein the question of absorption or regularisation of the appellants is not in issue and the only question is of the quantum of payment during the subsistence of appointment as part-time lecturers, on the above facts. It is unnecessary to burden this order with reference of the several decisions of this Court wherein it has been repeatedly held that in such a situation during 'the period such an employment subsists, the employer is bound to pay to such an employee according to the minimum of the pay scale prescribed for the post, the duties of which such an employee is discharging.

8. For the aforesaid reasons, these appeals are allowed to the extent indicated. It is directed that the appellants shall be paid according to the minimum of the pay scale prescribed for the regularly appointed lecturers, the duties of which post they are discharging during the period their appointment as part-time lecturers subsists.

9. No costs. Appeals allowed.

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