

State of H.P. and another

Vs

Post Graduate Teachers Association and Others

Civil Appeal No. 1393 of 1988

(N.M. Kasliwal, N.P. Singh JJ)

01.12.1992

JUDGEMENT

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N. P. SINGH, J. :-

1. The State of Himachal Pradesh is the appellant in this appeal. The writ petitioners-respondents (hereinafter referred to as "the respondents") filed the writ application in question for a direction to the appellant-State to implement the decisions of the State Government as communicated by their letter dated 30th September, 1970. A copy of the said communication was marked as Annexure B and an enclosure thereto as Annexure B-1 to the writ application.

2. In the aforesaid communication it was said-

"the question of revising the scales of pay of the teaching personnel in Government Schools in Himachal Pradesh on the basis of orders issued by the Punjab Govt. revising the pay scales of their teaching staff w.e.f. 1-11-1966 has been engaging the attention of the Govt. After considering the whole matter, the Lieutenant Governor, Himachal Pradesh, is pleased to order, in exercise of the powers vested in him under second proviso to sub-rule (2) of the Rule 2 of the Conditions of Service of Union Territories Employees Rules, 1959, the revision of present scale of that category with effect from 1st Nov. 1966 as shown in the attached annexure."

The relevant part of the annexure attached to the aforesaid communication which, as already stated above, was marked as Annexure B-1 before the High Court is as follows :

"EDUCATION DEPARTMENT TEACHING PERSONNEL,

WORKING IN THE SCHOOLS AND INSTITUTION CADRE

Sr.No	Designation of post	Existing time scale of pay on 31-10-1966	Revised time scale of pay	Remarks
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and all posts of B. E. Os. Crafts-      iii) 250-350      ii) 250-550 M.A. III Class

Masters/ Arts and Crafts Masters/

Fine Art Masters, Home Science

Teachers/ Agr. teachers and (sic).

3. According to the respondents, in view of the aforesaid order issued by the Lieutenant Governor, Himachal Pradesh, in exercise of the power vested in him under the provisions of Conditions of Service of the Union Territories Employees Rules, 1959, 25% of the Trained Graduate Teachers having post-graduate qualification i.e. M. A. in First or Second Class became entitled to the revised scale of pay of Rs. 300-600 on the analogy of Punjab.

4. The stand of the appellant-State is that in view of the aforesaid statutory order, 25% of the Trained Graduate Teachers having passed M. A. in First or Second Class are entitled to the aforesaid scale of pay with effect from the date mentioned in the said order, but this 25% has to be calculated taking into account not only the Teachers in the different schools but also the Lecturers having passed M. A. in First Class or Second Class, who are teaching in different schools in the State. It

was pointed out that the appellant-State has adopted the Punjab pattern by the statutory order aforesaid in the matter of revision of the scale of pay and as in Punjab, the Lecturers teaching in schools have to be clubbed together with the Trained Graduate Teachers having Degrees of M. A. in First Class or Second Class.

5. It can be said that there is no dispute so far the question of payment of revised scale to 25% of the Teachers having Degrees of M. A. in First Class or Second Class; the controversy is as to whether this 25% will include the Lecturers teaching in the different schools or they have to be excluded for purpose of identifying the 25% of the Teachers who became entitled for the revised scale.

6. On behalf of the appellant-State our attention was drawn to the revision of the pay-scale of Teachers in Punjab having Degrees of M. A. in First Class or Second Class, which was communicated by a letter dated 29th July, 1967, the relevant part whereof is-

"Lecturer in Higher Secondary Schools and Masters/Mistresses with Post-Graduate Qualifications in High and Higher Secondary Schools.

2. Lecturers in Higher Secondary Schools, Punjab Institution of English and Masters/Mistresses with post-graduate qualifications in High/Higher Secondary Schools will be placed in Rs. 300-25-450/25-600 grade provided they have first or second division master's degree. These with third class master degree will be placed in the grade of Rs. 250-25-400/25-500. The number of posts in lecturer's grade will be 1571 i.e. 742 posts for the existing school lecturers and 829 additional posts for other Masters/ Mistresses with post-graduate qualifications. The Master/ Mistresses will be eligible to lecturer's grade only if they have post-graduate qualifications in the subject of their teaching. No one will be entitled to these 829 additional posts automatically. These requirements of the institutions and the appointment will be made keeping in view the rules/ instructions as amended from time to time."

It was pointed out that the decision, which had been taken by the State of Punjab, put the Lecturers in the Higher Secondary Schools and Masters/ Mistresses having degree of M. A. in First Class or Second Class in the same category and it also indicated that the total number of posts in Lecturer's Grade was 1571 out of Which 742 posts in the existing schools were for Lecturers and 829 additional posts were for Masters/ Mistresses with post-graduate qualification.

7. So far the State of Himachal Pradesh is concerned, as already pointed out above, the benefit of the revised scale of Rs. 300-600 has been separately given to the Lecturer of the Higher Secondary Schools under Serial No. 2 of the annexure attached to the communication dated 30th September, 1970. Thereafter under Serial No. 3 the revised scale of Rs. 300-600 has been given to only 25% of the Trained Graduate Teachers having post-graduate qualifications. Pay-scale of Rs. 300-600 has been given to 25% of such Graduate Trained Teachers who had degrees of M. A. in First or Second Class, whereas pay-scale of Rs. 250-550 was given to Teachers who had post-graduate qualification but had passed M. A. in Third Class. A note appears to have been made against the scale of Rs. 300-600 which was given to Trained Graduate-Teachers having degrees of M. A. first Class or Second Class saying that only 25% of such Trained Graduate Teachers shall be entitled to the said scale 'on Punjab analogy'. Because of the expression 'on Punjab analogy', it was urged on behalf of the appellant-State before the High Court as well as before this Court that the revision of the scale of pay by the order aforesaid has to be made in the light of the decision of the State of Punjab which was notified by the aforesaid communication dated 29th July, 1967.

8. It need not be pointed out that so far the State of Punjab is concerned, the decision was taken to revise the scale of pay of the Lecturers in the Higher Secondary Schools and Masters/Mistresses in such Schools with post-graduate qualification treating them as a class. In that order no limitation has been placed with reference to any percentage as has been done in the case of Himachal Pradesh. In the State of Himachal Pradesh the Lecturers have been put in a separate /category for purpose of revision of their scale of pay whereas the Teachers with post-graduate qualification have been put in another category. The revised scale of pay of Rs. 300-600 has been given only to 25% of the Trained Graduate Teachers having degrees of M. A. in First Class or Second Class. In the State of Punjab on the date of the issuance of the order, the total number of Lecturers and Teachers with post-graduate qualification, teaching in different schools were treated to be in one class for the purpose of revision of the scale of pay.

9. Apart from that, the communication dated 30th September, 1970 nowhere says that the State of Himachal Pradesh was adopting the decision of the State of Punjab as mentioned in the aforesaid communication dated 29th July, 1967. It simply says, the question of revising the scales of pay of the teaching personnel in Government Schools in Himachal Pradesh on basis of orders issued by the Punjab Government revising the pay-scales of their teaching staff with effect from 1-11-1966 had been engaging the attention of the Government and after considering the whole matter the Lieutenant Governor, Himachal Pradesh, had been pleased to order the revision of the scale of pay of different categories with effect from 1st November, 1966 as shown in the attached annexure. In this background it is difficult to hold that merely because it has been mentioned in the attached annexure to the said order that 25% of the Trained Graduate Teachers having degrees of M. A. in First Class or Second Class shall be entitled to the pay-scale of Rs. 300-600 'on Punjab analogy', it shall mean that for identifying the persons who shall be entitled to the said revised scale of pay, the Lecturers and the Trained Graduate Teachers have to be first clubbed together as was done by the State of Punjab. The High Court was right in coming to the conclusion that so far the State of Himachal Pradesh was concerned, by the decision aforesaid the Lecturers in the different Higher Secondary Schools were given the revised scale of Rs. 300-600 with effect from the date mentioned in the order but out of the Trained Graduate Teachers having degrees of M. A. in First Class or Second Class only 25% were given that scale.

10. The Punjab order said specifically that Masters/ Mistresses will be eligible to the Lecturer's Grade only if they have postgraduate qualification in the subject of their teaching. In Himachal Pradesh while giving the scale of Rs. 300-600 to 25% of Trained Graduate Teachers with M. A. degrees in First or Second Class, when it was said 'on Punjab analogy', it only meant that such scale will be given to Teachers on the analogy of the Punjab pattern, but it will be limited only to 25% of the total strength.

11. In the result this appeal is dismissed. However, in the circumstances of the case, there will be no order as to costs.

12. Before we part with this order, we may mention that it was brought to our notice that later rules have been framed in respect of revision of scales of pay in respect of different categories of employees including Trained Graduate Teachers by the State of Himachal Pradesh under Art. 309 of the Constitution. As such we make it clear that the view expressed in this judgment relates only to the aforesaid statutory order which was communicated by letter dated 30th September, 1970.

Appeal dismissed.

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