

Dr. Bhanu Parkash Singh and Others

Vs

Haryana Agricultural University

Civil Appeal No. 3108 of 1983

(K. Ramaswamy, S. C. Agarwal JJ)

17.08.1994

ORDER

1. The 28 appellants while working as Lectures in Haryana Agricultural University were selected to undergo Ph. D. course in the year 1978. They joined in July and November 1978. They were permitted as in-service candidates to undergo the course according to the leave of the kind due to them. They pursued the course of study up to 1980-81. They were not paid the leave salary and, therefore, they filed the Civil Writ Petition No. 702 of 1982. The Division Bench of the High Court of Punjab & Haryana by its order dated 10-5-1992 dismissed the writ petition holding that during the relevant period due to financial stringency the University had prohibited the in-service candidates to pursue their course of study and they were not in a position to pay the full pay etc. to them. Thereafter, the said condition was withdrawn on 10-1-1979. Since the appellants had joined during the period of prohibition, they are not eligible to get their full pay except in accordance with the leave of the kind due to them.

2. Shri Gobinda Mukhoty, the learned Senior Counsel for the appellants had contended that Statute 21(3) of the Haryana & Punjab Agricultural Universities Act, 1970, Act No. 16 of 1970, entitles the in-service candidates who have been granted admission to undergo higher course of study in a specialised subject full pay and allowances on admission into the course. Under Section 16(11) the salary and allowances payable to the teachers cannot be determined and withheld by the Vice-Chancellor except with the approval of the Board. Since no such approval was given, the prohibition made by the Vice-Chancellor is without authority of law. By operation of Statute 21(3), they are entitled to full pay and allowances. It is also further contended that after the prohibition from 10-1-1979, the University had paid full pay to the teachers permitted to undergo the Ph. D. course. Non-payment to the appellants constitute discrimination offending Article 14. We find no force in the contention.

3. It is true that the appellants have been permitted to undergo Ph. D. course as in-service candidates during the relevant period. The Vice-Chancellor in his proceedings dated 27-10-1972 had stated that the Director of Research informed the Vice-Chancellor that there is financial stringency for admission of the teachers to Ph. D. programme and that, therefore, he requested not to recommend the candidates to undergo the Ph. D. course. The Vice-Chancellor accepting the recommendation has ordered : "Deans/Directors should please make sure that no in-service candidates are recommended for admission to Ph. D. in any subject during the current year. " It would appear that the same prohibition continued up to 10-1-1979, the date on which the prohibition was lifted as indicated hereinbefore. It is seen that the order which was produced before the High Court and marked as Annexure I permitting them to undergo the course of study clearly mentioned that they are entitled to the leave of the kind due to them. When the appellants were permitted to undergo the course of

study subject to the condition, then they cannot have any right higher than what were permitted to avail of. It is not in dispute that by virtue thereof, they are not eligible to draw the salary and full allowance during the period from 1978-79 up to 1980-81 during which period they have undergone the course of study. It is also stated in the counter-affidavit filed in this Court that after the relieving of the appellants to undergo the course of study, they have employed new teachers in place of the appellants. No doubt, the appellants sought to explain that some of the teachers appointed had not worked during the full course or worked only a partial time as indicated in the rejoinder-affidavit. But since the appellants have come forward only in the rejoinder-affidavit, the State had no opportunity to controvert it. It is clear that the appellants having gone to the course of study for the relevant period according to the leave of the kind due to them, they cannot have higher right than what was permitted to be availed of.

4. It is true that Statute 21(3) provides the eligibility to seek admission and on making such an admission they became eligible for full salary and allowances but it would be subject to the conditions that may be imposed by the University. Section 16(11) is inapplicable to the facts in this case. Therein it would appear that in fixation or determination of the salary and allowances, the Vice-Chancellor has to discharge that function with the approval of the Board. That would be relatable to the initial fixation of the pay and allowances but it has no relation to the payment of full salary and allowances when the teachers were admitted to undergo the course of Ph. D. and that, therefore, Section 16(11) is inapplicable.

5. Article 14 also has no application to the facts in this case. It is seen that after the lifting of the prohibition on 10-1-1979, teachers sent thereafter were paid full salary and allowances. It is true that few teachers who were found to be ineligible and were selected along with the appellants but were not admitted to the course of study in the later years had been paid the full salary and allowances. It is not the case of the appellants that any one of the teachers, though were prohibited to draw the full salary and allowances except in accordance with the leave of the kind due to them, were made payment of the full salary and allowances. They are not entitled to salary and allowances though other teachers after lifting the prohibition were permitted to undergo the course of study with full pay and allowances. Under these circumstances, there is no invidious discrimination or arbitrary or unjust action violating equality enshrined in Article 14.

6. The appeal is accordingly dismissed without costs.

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