

State of Punjab and Others

Vs

Om Parkash Kaushal and Others

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Vs

Gulshan Lal Aul and Others

Civil Appeals Nos. 9103-05 of 1996 With Nos. 9106-9115 of 1996

(B. L. Hansaria, Kuldip Singh, J.)

08.07.1996

JUDGMENT

KULDIP SINGH, J. –

1. Delay condoned.

2. Special leave granted in all the petitions.

3. The respondents, in the appeals herein, are teachers employed in various privately managed aided schools in the State of Punjab. Prior to 1967 there was considerable disparity in the emoluments of the teachers employed in the private schools. Government of India appointed Kothari Commission to examine the conditions of service of teachers with the object of improving the standard of education in the country. Among other things the Kothari Commission recommended that the scales of pay of school teachers belonging to the same category and working under different managements such as Government, local bodies or private organisations should be the same. Almost all the States, including the State of Punjab, decided to implement the recommendations of the Kothari Commission. The State of Punjab revised the pay scales of the teachers of the privately managed aided schools with effect from 1-12-1967 and brought the same at par with the teachers of the same status in the government service. This Court in *Haryana State Adhyapak Sangh v. State of Haryana* [(1988) 4 SCC 571 : 1989 SCC (L&S) 21 : 1988 Supp (1) SCR 682] and *Haryana State Adhyapak Sangh v. State of Haryana* [1990 Supp SCC 306 : 1991 SCC (L&S) 307 : (1991) 15 ATC 873], on the peculiar facts pertaining to those cases, directed that the Haryana teachers employed in the private aided schools were entitled to the same pay scales and dearness allowance as were being paid to the teachers in government schools.

4. As mentioned above, the State of Punjab had granted uniform pay scales to the respondents with effect from 1-12-1967. The pay scales were similar to the pay scales drawn by the government teachers. The Punjab Legislature enacted the Punjab Privately Managed Recognised Schools Employees (Security of Service) Act, 1979 (18 of 1979) (the Act) which came into force with effect from 23-1-1981. Section 7 of the Act is as under :

"7. Salaries of employees. - Notwithstanding anything contained in Section 3, the scale of pay and dearness allowance of the employees shall not be less than those of the employees of the State Government holding corresponding posts in the schools run by the State Government :

Provided that where the scales of pay and dearness allowance of the employees are less than those of the employees of the State Government holding corresponding posts in the schools run by the State Government, the Director shall direct the concerned managing committee to bring the same at par with those of such employees of the State Government."

5. It is not disputed that the pay scales and the dearness allowance which are being paid to the private teachers are not less than what is being paid to the government teachers holding corresponding posts. A peculiar and wholly untenable claim has been made by the respondents in these proceedings. The claim of the respondents is based on the Punjab Government instructions - applicable to government teachers only - which were issued four decades back when none of the respondents were in service. The Punjab Government issued instructions dated 23-7-1957 revising the pay scales of various categories of government servants, with effect from 1-5-1957. The government teachers were placed in two broad categories based on their educational qualifications. Different revised pay scales were provided in the said instructions for the teachers on the basis of their qualifications. The Punjab Government issued further instructions dated 1-9-1960, whereunder it was provided that the masters (a category of teachers) - working in government schools - who acquire the qualification of M.A./M.Sc/M.D. (IIIrd Division), would be entitled to one increment and those who acquire the said qualification with first and second division, would be entitled to three increments. There is a chequered history of litigation regarding the 1957/1960 instructions but it is not necessary to go into the same. Suffice it to say that the instructions were not implemented by the State Government and as a consequence there was prolonged litigation between the teachers and the State Government which was finally settled by this Court in favour of the government teachers. Later on by the order dated 19-2-1979 the Punjab Government withdrew the 1957/1960 instructions. The 1979 instructions, however, provided that all those government teachers who became eligible for the benefits under the 1957/1960 instructions prior to the 1979 order would be entitled to the same.

6. The respondents filed several petitions before the High Court claiming the benefit of the 1960 instructions. According to the respondents, there being parity regarding pay scales and dearness allowance between the private teachers and the government teachers since 1-12-1967, all of them, having acquired the higher qualifications prior to 1979 in terms of the 1960 instructions, were entitled to the advance increments. The High Court relying upon the two Adhyapak Sangh cases allowed the writ petitions. These appeals, by the State of Punjab, are against the judgment of the Division Bench of the High Court dated 24-3-1994.

7. As mentioned above, the Act came into force on 23-1-1981. Section 7 of the Act granted parity to the private teachers in the matter of scales of pay and dearness allowances with the government teachers. Prior to that the Punjab Government had granted unified pay scales and dearness allowance to the private teachers at par with the government teachers by the executive instructions with effect from 1-12-1967. The respondents were given parity under the executive instructions only in respect of pay scales and dearness allowance. The other conditions of service relating to the government teachers were not extended to the respondents. The incentives provided in the 1960 instructions in the shape of advance increments to the government teachers who improved their

educational qualifications could not be automatically extended to the respondents. This Court, in the two Adhyapak Sangh cases from the State of Haryana, allowed the benefit of pay scales and dearness allowance to the private teachers and declined to go into other benefits like house rent allowance, city compensatory allowance, LTC, bonus etc.

8. We are, therefore, of the view that the High Court fell into patent error in directing the State of Punjab to grant the benefits under the 1960 instructions to the respondents. We allow the appeals, set aside the impugned judgment of the High Court and dismiss the writ petitions filed by the respondents before the High Court. No costs.