

State of Haryana and Others

Vs

Rajpal Sharma and Others

Civil Appeals Nos. 9511-12 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

25.07.1996

JUDGMENT

G. B. PATTANAİK, J. –

1. Delay condoned.

2. Leave granted.

3. These appeals by special leave are directed against the judgment of the High Court of Punjab and Haryana dated 19-8-1994 in Civil Writ Petitions Nos. 5354 of 1991 and 10324 of 1992. By the impugned judgment the High Court has directed that the respondents would be entitled to the same scales of pay and privileges as are available to their counterparts in government schools. Admittedly the respondents are JBT teachers in privately managed aided schools in Ambala District in the State of Haryana. While they continued as employees of private schools much prior to the formation of Haryana State, the State of Haryana by issuance of notification dated 3-1-1968 revised the pay scales of the teaching personnel with effect from 1-12-1967. These respondents acquired higher qualification while continuing in service and therefore claimed higher scales of pay as is being admissible to their counterparts in government schools. The State Government having refused their claim, they approached the High Court by way of writ petitions. The High Court relying upon the earlier decision of the same Court in Civil Writ Petition No. 876 of 1988 granted the relief and hence the present appeals.

4. Mr. Prem Malhotra appearing for the appellant State contends that the schools in question being privately managed aided schools, the employees thereof are entitled to reimbursement of 95% of budgetary deficit by way of grant and therefore the State is not bound to grant these employees the scales of pay as is admissible to their counterparts in government schools. Mr. Palli appearing for the respondents on the other hand contended that it has been held by this Court that teachers of aided schools must be paid the same scales of pay and other allowances as teachers of the government schools and therefore the High Court was fully justified in granting the relief sought for. The question that arises for consideration is whether the teachers of privately aided schools in the State of Haryana would be entitled to the same scales of pay and other allowances as are admissible to their counterparts in government schools ?

5. In Chaman Lal v. State of Haryana [(1987) 3 SCC 113 : 1987 SCC (L&S) 175 : (1987) 3 ATC 779] the question for consideration was whether teachers who started as basic trained teachers and later acquired the higher qualification would be entitled to higher scales of pay ? This Court considered the recommendations of the Kothari Commission and different circulars of the State of

Haryana and came to hold that those teachers who acquired the higher qualification would be entitled to the higher scales of pay as soon as they acquired the qualification irrespective of the date when they were adjusted against posts of Masters. In this case no doubt the appellants were teachers of a government school. The question of parity in pay scales between the teachers of a recognised aided school and the teachers of a government school, as in the present case, came up for consideration in the case of Haryana State Adhyapak Sangh v. State of Haryana [(1988) 4 SCC 571 : 1989 SCC (L&S) 21]. This Court came to the conclusion that the teachers of aided schools must be paid the same pay scale and dearness allowance as teachers in government schools for the entire period served by them and that the expenditure on that account should be apportioned between the State and the Management in the same proportion in which they share the burden of the existing emoluments of the teachers. The aforesaid decision of this Court was considered again by a three-Judge Bench in the case of Haryana State Adhyapak Sangh v. State of Haryana [1990 Supp SCC 306 : 1991 SCC (L&S) 307 : (1991) 15 ATC 873] and by way of clarifying the earlier decision, this Court observed : (SCC p. 310, para 6)

"These observations leave no scope for doubt that this Court has directed that the teachers of aided schools must be paid the same scales of pay and dearness allowance as teachers in government schools and that the said payment must be made for the entire period claimed by the appellants and the petitioners in these cases."

In para 12 of the judgment the Court issued the following directions : (SCC p. 315, para 12)

"(i) The pay scales of the teachers of government-aided schools shall be revised so as to bring them on a par with the pay scales of teachers of government schools with effect from 1-4-1979 and the differential amount as a result of such revision in pay scales shall be paid in four six-monthly instalments, the first instalment being payable by 30-6-1990.

(ii) The teachers of the government-aided schools shall be paid additional dearness allowance on the basis of the revised pay scales with effect from 1-4-1979 to 31-12-1985 and the arrears of such additional dearness allowance found payable as a result of such revision shall be paid along with the last part of the five instalments of additional dearness allowance which is to be paid in September 1990.

(iii) The parity in the pay scales and dearness allowance of teachers employed in aided schools and those employed in government schools shall be maintained and with that end in view the pay scales of teachers employed in government-aided schools shall be revised and brought on a par with the pay scales and dearness allowance payable to the teachers employed in government schools with effect from a 1-1-1986.

(iv) As from 1-4-1990 the teachers employed in aided schools shall be paid the same salary and dearness allowance as is paid to teachers employed in government schools.

(v) The arrears of pay and dearness allowance payable as a result of such revision for the period from 1-1-1986 to 31-3-1990 shall be paid in four six-monthly instalments, the first such instalment being payable by 30-6-1990."

6. In the impugned judgment the High Court has merely stated that the petition is allowed in the

same terms as in CWP No. 876 of 1988. CWP No. 876 of 1988 was disposed of with the direction that the State would determine the benefits available to the teachers in the light of the judgment of the Supreme Court including the grant of increments as has been granted to their counterparts working in the government schools. The positive direction in Haryana State Adhyapak Sangh v. State of Haryana [1990 Supp SCC 306 : 1991 SCC (L&S) 307 : (1991) 15 ATC 873] to the effect that as from 1-4-1990 the teachers employed in aided schools shall be paid the same salary and dearness allowance as is paid to teachers employed in government schools, leaves no room for doubt about the grant of the said benefit to the respondents herein who are the teachers in privately managed aided schools in Ambala District in the State of Haryana.

7. Accordingly, we find no infirmity with the impugned judgment requiring interference by this Court under Article 136 of the Constitution. These appeals are accordingly dismissed but in the circumstances there will be no order as to costs.