

Punjab and Haryana High Court, Chandigarh through its Registrar

Vs

Sunder Sham Kapoor and Others

Civil Appeal No. 1248 of 1993

(S. P. Kurdukar, M. K. Mukherjee, Faizanuddin, S. C. Agrawal JJ)

08.01.1997

JUDGMENT

S. C. AGRAWAL, J. -

1. The short question that falls for consideration in this appeal is whether the respondents who were employed as Revisors in the High Court of Punjab and Haryana (hereinafter referred to as "the High Court") and were given the pay scale of Superintendent Grade II with effect from 5-8-1980 are entitled to the said scale with effect from 23-1-1975.

2. In the High Court the conditions of service of the employees were earlier governed by the High Court Establishment (Appointment and Conditions of Service) Rules, 1952 (hereinafter referred to as "the 1952 Rules"). Under the 1952 Rules there were posts of Senior Translator and Junior Translator. Keeping in view the recommendations of the Pay Commission constituted by the State of Punjab in 1968, when the High Court Establishment (Appointment and Conditions of Service) Rules, 1973 (hereinafter referred to as "the 1973 Rules") were made by the High Court, the posts of Senior Translator and Junior Translator were designated as Revisor and Translator respectively. The 1973 Rules were issued vide notification dated 23-1-1975 and were published in the Chandigarh Gazette on 1-2-1975. Under Rules 26, 27 read with Schedule I of the 1973 Rules Revisors were placed in the scale of Rs. 225-500 with a special pay of Rs. 50 per month and Translators were placed in the scale of Rs. 225-500. Since Rules 26, 27 and 34 and Schedules I, II and III of 1973 Rules related to salaries, allowances and pension etc. of the employees, the same were sent for approval of the President of India as required under clause (2) of Article 229 read with Article 231 of the Constitution of India. The approval of the President of India was received vide letters dated 25-9-1985 and 30-10-1985. In the meanwhile, the pay scale of Rs. 225-500 had been revised to Rs. 600-850 with effect from 1-1-1978 and by notification dated 5-8-1980 Schedule I of the 1973 Rules was substituted. In the substituted Schedule the posts of Senior Translator and Junior Translator were mentioned. In the remarks column against the post Senior Translator the following note was made :

"Note : Redesignated as Revisors and recommended the pay scale of Superintendent Grade II i.e. Rs. 800-25-850-30-1000/40-1200/50-1400."

3. Similarly, as against the post of Junior Translator the following note was made in the remarks column :

"Redesignated as Translators and recommended the pay scale of Assistants i.e. Rs. 570-1080 and also the Selection Grade."

4. After receiving the approval of the President of India, notification dated 23-1-1986 was issued by the High Court wherein it was notified that Rules 26, 27 and Schedules I, I(A) and III shall come into effect from 25-9-1985. Feeling aggrieved by the said notification dated 23-1-1986, a number of employees working as Revisors and Translators in the High Court, including the respondents who were working as Revisors, filed a writ petition (CWP No. 2363 of 1986) in the High Court wherein they claimed that Rules 26, 27 and Schedules I, I(A) and III should be brought into effect from 1-3-1974, the date of enforcement agreed to by the then Chief Justice while approving the draft rules on the administrative side. The said writ petition was disposed of by the High Court by judgment dated 6-8-1987. The High Court held that in letter dated 25-9-1985 conveying the approval of the President of India to Rules 26, 27 and Schedules I, I(A) and III of the 1973 Rules, it is stated that the Rules shall come into effect from the date of issue and since the 1973 Rules were issued by notification dated 23-1-1975, the said Rules came into effect from 23-1-1975 and all amendments to the Rules made between 23-1-1975 and 25-9-1985 were to take effect from the respective dates on which such amendments were issued from time to time. The High Court, therefore, quashed the notification dated 23-1-1986 and directed that 23-1-1975 be treated as the date of enforcement of the 1973 Rules and that the pay and allowances of the petitioner in the said writ petition should be fixed on the basis that the 1973 Rules came into force on 23-1-1975.

5. Thereafter the High Court issued an order dated 17-11-1987 whereby the pay of Revisors was fixed as under :

| #----- | Date | Scale of Pay----- |
|--------|---------------------------------|---|
| ----- | (i) 23-1-1975 | Rs. 225-15-360/20-500 |
| ----- | plus Rs. 50 p.m. as special pay | (ii) 1-1-1978 Rs. 600-20-700-25-850/30-1000-40-1080-40-1120 plus Rs. 50 p.m. as special pay |
| ----- | (iii) 5-8-1980 | Rs. 800-25-350-30-1000-40-1200/50-1400 plus Rs. 50 p.m. as special pay |
| ----- | ----- | -----## |

6. Feeling aggrieved by the said order dated 17-11-1987, the respondents filed another writ petition (CWP No. 2359 of 1988) in the High Court which was allowed by a learned Single Judge of the High Court by judgment dated 28-1-1991. The learned Single Judge held that under the 1973 Rules Revisors have been granted the same scale and special pay as admissible to Deputy Superintendents (who were subsequently designated as Superintendents Grade II) and, therefore, the respondents who had filed the writ petition in the High Court are entitled to the same pay scale as Deputy Superintendent (Superintendent Grade II) with effect from 23-1-1975. Letters patent appeal (LPA No. 615 of 1992) filed by the appellant against the said judgment of the learned Single Judge has been dismissed in limine by a Division Bench of the High Court by its order dated 27-8-1992. Hence this appeal.

7. By order dated 17-11-1987, the respondents, as Revisors, have been given the pay scale of Rs. 800-1400 which is also the pay scale of Superintendents Grade II plus Rs. 50 p.m. as special pay with effect from 5-8-1980. The question is whether the respondents are entitled to claim the same pay scale as that of Deputy Superintendent (Superintendent Grade II) with effect from 23-1-1975. The High Court has held that they are so entitled on the view that under the 1973 Rules they have been given the same pay scale as that of Deputy Superintendent (Superintendent Grade II). This view is, however, not borne out by Schedule I of the 1973 Rules as originally issued vide notification dated 23-1-1975. Under Schedule I of the 1973 Rules, as originally notified, the post of Deputy Superintendent mentioned at Serial No. 2 of the posts in the group of non-Gazetted Ministerial Establishment was placed in the scale of Rs. 275-15-410/20-550 and in the revised grade

of Rs. 350-25-500/30/650 with effect from 6-6-1972. The post of Revisor was mentioned at Serial No. 8 in the non-Gazetted Ministerial Establishment and the pay scale fixed for the said post was Rs. 225-15-360/20-500. There was a further provision for special pay of Rs. 50 p.m. for the post of Revisor. It would thus be seen that in the 1973 Rules, as originally issued on 23-1-1975, Revisors had not been placed in the same pay scale as Deputy Superintendents. Revisors were given the pay scale of Superintendent Grade II only by notification dated 5-8-1980 whereby Schedule I of the 1973 Rules was substituted and against the post of Senior Translator it was mentioned in the remarks column : "Senior Translators have been redesignated as Revisors in the pay scale of Superintendent Grade II". This would show that till the notification dated 5-8-1980 was issued Revisors had not been given the same pay scale as Superintendent Grade II. Revisors, therefore, can claim the pay scale of Superintendent Grade II with effect from 5-8-1980 only and they were correctly given the said scale with effect from that date under Order dated 17-11-1987. The High Court was in error in quashing the said order and in directing that Revisors are entitled to pay scale of Superintendent Grade II with effect from 23-1-1975.

8. In order to hold that Revisors are entitled to the same pay scale as Superintendent Grade II with effect from 23-1-1975, the learned Single Judge has placed reliance on the earlier judgment of the High Court in Civil Writ Petition No. 2369 of 1986 wherein it was directed that the 1973 Rules shall be treated to have come into effect from 23-1-1975. The said judgment lays down that the 1973 Rules, as issued by notification dated 23-1-1975, would come into force with effect from 23-1-1975. It also lays down that all amendments to the 1973 Rules made between 23-1-1975 and 25-9-1985 were to take effect from the respective dates on which such amendments were issued from time to time. Since the amendment in Schedule I to the 1973 Rules was made by notification dated 5-8-1980, it can only come into force with effect from the date of issue of the notification dated 5-8-1980 and not with effect from 23-1-1975 as held by the learned Single Judge in the impugned judgment. The benefit of the pay scale of Superintendent Grade II under the notification dated 5-8-1980 cannot be extended to Revisors from a date earlier than the date of the issue of the said notification.

9. For the reasons aforementioned, we are unable to uphold the judgment of the learned Single Judge as well as order passed by the Division Bench of the High Court. The appeal is, therefore, allowed, the order dated 27-8-1992 passed in Letters Patent Appeal No. 615 of 1992 as well as judgment of the learned Single Judge dated 28-1-1992 passed in Civil Writ Petition No. 2359 of 1988 are, therefore, set aside and the writ petition filed by the respondents is dismissed. But in the circumstances there is no order as to costs.