

State of Maharashtra and Others

Vs

Dr. Hari Shankar Vaidhya and Others

Civil Appeals Nos. 2878-79 of 1997

(K. Ramaswamy, D. P. Wadhwa JJ)

07.04.1997

ORDER

1. Leave granted. We have heard learned counsel on both sides.
2. These appeals by special leave arise from the judgment of the Division Bench of the Bombay High Court, made on 14-6-1996 in Writ Petition No. 3508 of 1992 and Writ Petition No. 2645 of 1990.
3. The admitted position is that the respondents are teachers working in Ayurvedic, Unani and Homeopathic private-aided educational institutions. One of the questions which requires examination is whether they are eligible for pension and gratuity scheme on par with State Government Civil Servants under the Maharashtra State Government Civil Service (Pension) Rules, 1982 (for short "the Rules"). Admittedly, per se, the Rules do not apply to them. Pursuant to the recommendations made by the UGC, the Government of Maharashtra by its Resolution dated 26-5-1981 have adopted the uniform pay scales being paid to the non-teaching staff and teachers working in aided educational institutions, i.e., Ayurvedic, Unani and Homeopathic colleges. By another Resolution dated 29-7-1983, they extended the benefit to the non-government organisations on par with the government organisations. Since the Government have not extended the benefit of pension and gratuity scheme, a writ petition was filed in the High Court in that behalf. The High Court has disposed it of in the impugned order. Thus, these appeals by special leave.
4. As regards the grant-in-aid, this is not in controversy and, therefore, we need not go into the question. The only question is whether the respondents are entitled to the pension and gratuity on a par with government servants. Shri Mohta, learned Senior Counsel appearing for the State, has contended that in view of the huge financial outlay, the Government has been, in a phased manner, extending the benefits from time to time and, therefore, the direction cannot be given to tie down the hands of the Government to extend all the benefits to all of them at a stretch. Shri D. A. Dave, learned Senior Counsel for the respondents, on the other hand, has contended that when the grant-in-aid and the pension were not being extended to the teachers working in the private law colleges, the High Court has given direction to extend the benefit which was affirmed by this Court in *State of Maharashtra v. Munuhhai Pragaji Vashi* ((1995) 5 SCC 730). Therefore, the same benefit may be extended to them. He also cited *State of H. P. v. H. P. State Recognised & Aided Schools' Managing Committees* ((1995) 4 SCC 507 : 1995 SCC (L&S) 1049) wherein this Court has directed to extend grants-in-aid to the private educational institutions, middle class and lower middle class aided schools.
5. In view of the respective contentions, the only question that arises for consideration is whether

the High Court would be justified to grant the pension and gratuity scheme to the teachers working in the Ayurvedic, Unani and Homeopathic aided institutions. It is seen that pursuant to the direction issued by this Court, the pension and gratuity scheme were extended to the Law Colleges from 1995. Whether the scheme could be extended or not is a question of an executive policy and the Court would not take the responsibility of directing the Government to extend the policy. The Court requires examination as to how the policy laid down is being worked out. It is stated that since huge financial outlay is involved in extending the benefits and the Government is not intending to deny the benefit to the segment of the teachers, we appreciate the stand taken by the Government. The Government is, therefore, directed to consider extension of the benefit of pension and gratuity scheme to the teachers working in the Ayurvedic, Unani and Homeopathic aided educational institutions in a phased manner, as was done with respect to the other aided institutions.

6. The appeals are, accordingly, disposed of. No costs.