

State of Haryana and Others

Vs

Rai Chand Jain and Others

Civil Appeals Nos. 3236-3274 of 1997

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

21.04.1997

ORDER

1. Substitution allowed.
2. Leave granted. We have heard the counsel on both sides.
3. These appeals by special leave arise from the judgment and order dated 2-11-1993 of the High Court of Punjab and Haryana made in CWP No. 13493 of 1991 and batch. It is not necessary to narrate all the factual details. Suffice it to state that the respondents claim payment of salary in the selection grade pay scales which the high Court has granted them. While we have taken the matter for final disposal, Shri Pankaj Kalra, learned counsel for the respondents, has brought to our notice the order issued by the Government on 20-8-1996 signed by the Joint Secretary (Finance), for Financial Commissioner and Secretary to Government, Haryana, Finance Department which reads as under :

"I am directed to invite your attention to the subject noted above and to say that prior to 1-4-1979 the selection grade to Groups C and D category employees was admissible on the basis of the number of permanent posts in a particular cadre and later on, till 1-1-1986, the date on which this practice was altogether abolished, for determining the number of selection grade posts, the temporary posts in existence for the preceding three years were taken into account.

CWPs Nos. 2143 of 1994 and 11255 of 1995 were filed in the High court by some teachers of the Education Department and while disposing these of, the Hon'ble High Court directed to grant the selection grade on the basis of total strength, including permanent and temporary posts, with all consequential benefits, to the petitioners. Thus the employers of the Education Department have already been granted this benefit as per the judgment.

The Government has, therefore, decided that the selection grade wherever available prior to 1-1-1986 may be worked out on the basis of total strength including permanent and temporary posts and all consequential benefits including arrears of 38 months preceding the date of such decision, be allowed to eligible employees."

4. In view of the above direction, we are of the view that sine the Government itself has accepted to compute the selection grade wherever available prior to 1-1-1986 and to work it out on the basis of the total strength of the cadre including permanent and temporary posts with consequential benefits

including arrears for 38 months preceding the date of the decision, i.e., 20-8-1996, these cases need no interference.

5. Mr. Pankaj Kalra, learned counsel has stated that fixation of 38 months for payment of arrears is arbitrary. We find no force in the contention. It is for the Government to decide as a part of the executive policy as to from which date the arrears would be granted to the employees. The matter being an executive policy in character, we do not think that the decision taken by them is arbitrary violating Article 14 of the Constitution.

6. In view of the above order, we think that there is nothing for this court to interfere with the judgment of the High Court. The appeals are accordingly dismissed. No costs.

CA No. ... @ SLP (C) No. 11705 of 1995

7. Though the respondents have been served, none is appearing either in person or through counsel. The controversy raised in this case is covered by the judgment of this Court in *State of Haryana v. Ravi Bala* [(1997) 1 SCC 267 : 1997 SCC (L&S) 724]. In para 4, this Court following the decision on *Wazir Singh v. State of Haryana* [1995 Supp (3) SCC 697 : 1996 SCC (L&S) 114 : (1995) 31 ATC 774] has held that such of the teachers who have obtained the B.T. or B.Ed. degree would be entitled to higher grade with effect from the respective dates of their acquiring that qualification. Therefore, they are not entitled to higher scales of pay prior to the date of acquiring qualifications.

8. The appeal is accordingly allowed. No costs.