

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

LPA No.27 of of 2023
Decided on:22.03.2023

State of Himachal Pradesh & Another Appellants

Versus

Rattan Lal Bhardwaj ...Respondent

Coram:

Hon'ble Ms. Justice Sabina, Acting Chief Justice.

Hon'ble Mr. Justice Satyen Vaidya, Judge.

Whether approved for reporting?

For the appellants : Mr. Rakesh Dhaulta, Additional Advocate General.

For the respondent : Mr. Dilip Sharma, Senior Advocate with Mr. Manish Sharma, Advocate.

Sabina, Acting Chief Justice

Appellant-State has filed the Letters Patent Appeal, challenging the order dated 6th January, 2022, passed by the learned Single Judge, whereby, writ petition filed by the respondent was allowed.

2. We have heard learned counsel for the parties and have gone through the record available on the file, carefully.

3. Respondent had filed Original Application before the erstwhile Himachal Pradesh Administrative Tribunal (hereinafter

referred to as the “*Tribunal*” in short), seeking following relief(s):-

- (i) *That impugned letter dated 1.9.2009, Annexure A-15 and order dated 10.10.2014, Annexure A-17, denying pay parity to the applicant at par with another Librarian, Sh. P.K. Kaushal of the respondent department and Assistant Librarians of Education Department may be quashed;*
- (ii) *That respondents may be directed to allow to the applicant pay scale of Rs.700-1200 with effect from 20.12.1983, pay scale of Rs.1640-2925 with effect from 1.1.1986 with further corresponding revision from 1.1.1996 and 1.1.2006, with all consequential benefits;*
- (iii) *That as a result of revision of pay scale of applicant with effect from 20.12.1983 he may be held entitled to revision of his retiral benefits on account of his retirement from service as Librarian on 31.12.2007 with all consequential benefits.”*

4. After abolition of the Tribunal, the Original Application was transferred to this Court for adjudication.

5. Learned Single Judge, vide the impugned order, has allowed the writ petition filed by the respondent basing

reliance on the decision given by this Court in CWP(T) No.2578 of 2008, titled ***P.K. Kaushal*** versus ***State of Himachal Pradesh & Others***, decided on 26.03.2009.

6. Learned State Counsel has submitted that the learned Single Judge has erred in allowing the writ petition filed by the respondent. In fact, the case of the respondent was not covered by the decision given by this Court in P.K. Kaushal's case (*supra*) and that was a judgment in *personam* and the decision in the said case would not apply to the case of the respondent.

7. Learned Senior Counsel for the respondent has opposed the appeal and has submitted that so far as the case of the respondent is concerned, it was on a similar footing as that of P.K. Kaushal's case. In fact, P.K. Kaushal was working in the same department where the respondent was working and was senior to the respondent. Respondent was impleaded as respondent No.3 in the writ petition filed by P.K. Kaushal. The writ petition filed by P.K. Kaushal was allowed by this Court, vide order dated 26.03.2009, and the said order has been duly implemented by the State/Department.

8. In the present case, facts are not in dispute. Petitioner was working as a Librarian with the appellants' department and had claimed pay parity with the Assistant Librarians working with the Education Department. Similarly situated Librarian P.K. Kaushal had filed CWP(T) No.2578 of 2008 and the said petition was allowed by the learned Single Judge vide order dated 26.03.2009.

9. Operative part of the order dated 26.03.2009, reads as under:-

“Accordingly, in view of the observations made hereinabove, the writ petition is allowed. The decision of the respondents not to grant the petitioner the pay scale of Rs.300-600 with effect from 1.11.1966 is declared unjust, unreasonable and arbitrary. He is held entitled to the pay scale of 300-600 on the basis of Annexures A-9 and A-19 with effect from 1.11.1966 with all consequential benefits. The respondents shall calculate the consequential benefits within a period of ten weeks from today. No costs.”

10. Admittedly, the order passed in the writ petition filed by P.K. Kaushal, has been duly implemented. Learned Single Judge, thus, by basing reliance on the decision given by this

Court in P.K. Kaushal's case (*supra*) (which had attained finality), has rightly allowed the writ petition filed by the respondent. No ground for interference is made out.

11. Dismissed.

12. Pending miscellaneous application(s), if any, shall also stand disposed of.

**(Sabina)
Acting Chief Justice**

**March 22, 2023
(Yashwant)**

**(Satyen Vaidya)
Judge**