

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.9859 of 1997

Date of Decision: May 18, 2015

Prem Parkash Malhotra

.....Petitioner

versus

Central Administrative Tribunal, Chandigarh Bench and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.Vipin Mahajan, Advocate, for the petitioner.

Ms.Neha Sharma, Advocate, for UT Administration.

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1· Whether Reporters of Local papers may be allowed to see the judgment?

2· To be referred to the Reporters or not?

3· Whether the judgment should be reported in the Digest?

Surya Kant, J. (Oral)

The petitioner impugns the order dated 30.06.1997 whereby the Central Administrative Tribunal, Chandigarh Bench has rejected his claim for the grant of revised pay-scale of Rs.2200-4000, senior scale of Rs.3000-5000 and the selection grade of Rs.3700-5700 on the post of Librarian in Government Museum and Arts Gallery, Chandigarh.

[2] The case of petitioner is that he was appointed as a Librarian in the Government College of Arts, Chandigarh, in August, 1966 and in May, 1967, was transferred to Government Museum and Arts Gallery, Chandigarh. The initial pay scale granted to the petitioner was Rs.225-400 which was revised to Rs.300-600. He further avers that the respondents granted him the UGC pay-scale of Rs.700-1600 w.e.f. 01.04.1980 but the subsequent corresponding revised pay-scale of Rs.2200-4000, which was admissible after 8 years of

service w.e.f. 01.01.1986, was denied. The next senior scale as well as the selection grade were also not granted to him.

[3] The respondents defended their action on the plea that though UGC pay-scale of Rs.700-1600 was granted to the petitioner but the Government of India vide their memo dated 02.11.1988 raised an objection against the grant of UGC pay-scale which was applicable only to the Institutions covered under the UGC Scheme. It was pointed-out that the petitioner was given a fresh appointment in Government Museum and Arts Gallery, Chandigarh in May, 1967 and thereafter he was no longer in the cadre of Education Department. The above-stated objection found favour with the Tribunal.

[4] Learned counsel for the petitioner has further pointed-out that after filing of this writ petition, the Chandigarh Administration issued a show-cause notice dated 22.08.1997 (Annexure P-22) proposing to withdraw even the pre-revised pay-scale of Rs.700-1600 against which the petitioner submitted his reply dated 26.08.1997, but without assigning any reason whatsoever, the order dated 28.08.1997 (Annexure P-24) withdrawing the said pay-scale was passed.

[5] The petitioner moved Civil Misc.No.19716 of 1997 in which this Court stayed the operation of above-stated order. Consequently, the petitioner continued in the pre-revised pay-scale of Rs.700-1600 and/or the corresponding revised pay-scale. However, in view of the condition imposed by this Court, his retiral benefits on retirement w.e.f. 31.08.1997 were released as per the impugned order, namely, the un-revised pay-scale. In this manner, the petitioner is till date drawing his pension in the lower pay-scale (pre-revised) of Rs.1640-2925.

[6] We have heard learned counsel for the parties and gone through the records with their able assistance.

[7] So far as the petitioner's claim for the grant of UGC pay-scale of Rs.2200-4000 or the corresponding senior scale and selection grade is concerned, we are in agreement with the Tribunal that the post of Librarian in the Government Museum and Arts Gallery is not included amongst those of the educational institutions falling in the categories recognized by UGC. The petitioner was not appointed in the Education Department nor the post of Librarian held by him was in that department. The UGC pay-scale cannot be universally applied to all the posts which have the same nomenclature as given to the posts in the Education Department. The nature of duties of a Librarian in an Art Gallery or Museum may not be similar to those of a Librarian in the Education Department. The petitioner, thus, cannot claim parity merely because both the posts carry the designation of Librarian.

[8] As regard to the impugned show-cause notice dated 22.08.1997 (Annexure P-22) and the order dated 28.08.1997 (Annexure P-24) withdrawing the old pay-scale of Rs.700-1600, it appears to us that the then Home Secretary, UT, Chandigarh, acted in a totally arbitrary and whimsical manner, if not malafide. The pre-revised pay-scale of Rs.300-600 was granted to petitioner by the respondents at the time of his appointment as a Librarian. The said pay-scale was thus one of the conditions of his service which could not have been altered adversely and that too a few days before his retirement. The sheer haste shown by the then Home Secretary, Chandigarh Administration in issuing the show cause notice or passing the impugned order leaves no room to

doubt that the officer was pre-judged and took the punitive action with a closed mind apparently for the reason that the petitioner dared to approach the Court of law for redressal of his grievance. The inference drawn by us is writ large by the fact that the petitioner's reply to the show cause notice was not at all dealt with and was rejected by passing a totally perfunctory and cryptic order and that too in great haste. We are thus, satisfied that the action of withdrawal of pay-scale of Rs.700-1600 was full of vendetta, arbitrary and totally in violation of principles of fair and just play.

[9] For the reasons afore-stated, the writ petition is allowed in part. While the Tribunal's order dated 30.06.1997 in declining the pay-scale of Rs.2200-4000 or the subsequent revised pay-scales, is upheld but the show cause notice dated 22.08.1997 and the order dated 28.08.1997 are hereby quashed. Resultantly, the petitioner shall be entitled to re-fixation of his pension and retiral benefits in the revised pay-scale of Rs.700-1600 or the corresponding revised pay-scale, in accordance with law. The consequential arrears alongwith interest thereon @ 7% per annum, shall be released to the petitioner within a period of four months from the date of receiving a certified copy of this order.

[9] Dasti.

[SURYA KANT]
JUDGE

May 18, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE