

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Civil Writ Petition No.16265 of 2012

Date of Decision: May 26, 2015

Ramesh Kumar Rohilla

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

Present: Mr.Rajesh Arora, Advocate,
for the petitioner.

Mr.Hitesh Pandit, Addl.A.G.Haryana,
for the State.

AMIT RAWAL, J. (Oral)

The petitioner has approached this Court for quashing of the order dated 23.7.2012 (Annexure P-15), whereby the claim of pay scale of Lecturer to the petitioner in Computer Subject from the date he was assigned the job of teaching Computer subject to B.Com and B.B.A. Part-I to Part-III classes from the session 2004-05 has been rejected on the premise that as per the rules, the post of Lecturer can be filled either by direct recruitment or by transfer or deputation of a Lecturer already in service of any State Government/Government of India.

Mr.Rajesh Arora, learned counsel appearing on behalf of the petitioner submits that the petitioner was appointed as Type-Writing Instructor on the basis of the qualification, i.e., B.A., Diploma in Office

Management and Secretariat, M.A. Political Science and M.Sc. Computer Science in Government College Sidhrawali, Gurgaon on 13.8.1984. The services of the petitioner were regularised w.e.f. 1.11.1986 vide order dated 1.3.1999 (Annexure P-1). Vide letter dated 24.8.2004 (Annexure P-2), the Registrar of Maharishi Dayanand University, Rohtak, on the basis of the letter circulated by the office of the Commissioner, Higher Education, Haryana, directed all the Colleges to provide Computer training to the Type-Writing Instructions, who had not obtained the degree of PGDCA and all the Principals of the Colleges were requested to make arrangement for Computer training to those Type-Writing Instructors, who have not obtained the aforementioned qualification.

The petitioner, vide letter dated 25.11.2008 (Annexure P-3), sought permission for doing the M.Sc. Computer Science and on grant of the permission, acquired the degree in M.Sc.Computer Science in Ist Division from the Institute of Advance Studies in Education University vide Annexure P-6.

It is further stated that, thereafter, the petitioner had been teaching Computer subject to B.Com. Part-I to Part-III and B.B.A. Part-I to Part-III as compulsory/optional subjects similar to other Lecturers appointed in the College to teach Computer subject in pursuance to the instructions issued by the respondent-University and in this regard has attached the copy of the time table as Annexure P-6A and thereafter through misc.application also placed on record Student Attendance Register as Annexure P-19 demonstrating that the petitioner had been discharging the duties of Lecturer.

Learned counsel for the petitioner has drawn the attention of this Court to Annexure P-17, Time table (Department of Commerce) Session 2012-13 to indicate that the petitioner had been teaching Computer Theoretical to the students of B.Com in Computer NET, Banking etc. He has further submitted that the case of the petitioner is squarely covered by the order dated 11.11.2013 passed in Civil Writ Petition No.9294 of 2012 (Annexure P-18), wherein identical issue arose and this Court on the basis of the dictum laid down in Laxman Dundappa Dhamanekar Versus Management of Vishwa Bharata Sewa Samiti, AIR 2001 SC 2836 held that since the petitioner therein had been performing the duties of higher responsibility, she would be entitled to higher emoluments de hors of the fact that the petitioner therein had not been appointed as Lecturer or fulfilled the eligibility of condition laid down by the University Grants Commission.

Mr.Hitesh Pandit, learned Additional Advocate General, Haryana submits that the petitioner has only been imparting practical course in Computer Lab. and, therefore, he was not discharging the higher duties/responsibilities and, therefore, not entitled to higher pay scale. He has further submitted that there is no legal enforceable right in favour of the petitioner and since he has not been appointed as a Lecturer, therefore, he is not entitled to the same pay scale, for, in view of the qualification neither he is eligible for direct recruitment to the post of Lecturer/Assistant Professor nor for promotion to the said post.

I have heard the learned counsel for the parties and appraised the paper book.

From the perusal of the time table, Annexures P-16, P-17 and P-19, it is evident that the petitioner had been discharging duties of Computer Lecturer by imparting education to the students of B.Com. Part-I to Part-III and B.B.A., Part-I to Part-III both in practical and theoretical and since he has been discharging higher responsibilities, therefore, as per the settled law, he would be entitled to higher emoluments. No doubt, the petitioner has not been appointed as Lecturer nor can be appointed in view of his qualification, but the fact remains that once the petitioner is performing the duties of higher responsibility, then he is not entitled to the existing pay scale of ₹9300-34800+3200 Grade Pay, but would be entitled to higher pay scale equivalent to the basic salary of Lecturer for the period for which he had been performing the duties of Lecturer in Computer Science plus usual allowances as per rules. The matter is squarely covered by the ratio decidendi culled out by this Court in Laxman Dundappa Dhamanekar's case (supra).

Accordingly, the writ petition is allowed and it is directed that the petitioner will be paid higher pay scale equivalent to the basic salary of Lecturer for the period for which he has been performing the duties of Lecturer in Computer Science plus usual allowances as per rules. The said arrears shall be paid to the petitioner for a period of three years from the date of filing of the petition. It is further observed that the petitioner will be paid the aforementioned enhanced salary rendered by him for higher responsibility as Lecturer.

May 26, 2015
ramesh

(AMIT RAWAL)
JUDGE