

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 3874 of 2010

Reserved On : May 05, 2015

Pronounced On : 11.05.2015

Dr. Jasbir Singh and another Petitioners

vs.

Punjabi University, Patiala and another Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. D. S. Patwalia, Senior Advocate
with Mr. Salil Sablok, Advocate
for the petitioners.

Mr. Vipul Jindal, Advocate
for the respondents.

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DEEPAK SIBAL, J. :

The present judgment disposes of two writ petitions being
C. W. P. No. 3874 of 2010 – Dr. Jasbir Singh and another vs. Punjabi
University, Patiala and another and **C. W. P. No. 20522 of 2013 –**
Bhupinder Singh vs. Punjabi University, Patiala and another as both
these writ petitions involve similar questions of fact and law. However, for

the sake of convenience, facts have been extracted from **C. W. P. No. 3874 of 2010.**

The facts, as borne out from the record and the arguments raised at the Bar are that the petitioners, who are working as Sports Coaches in the respondent – Punjabi University, Patiala (hereinafter referred to as – the University), were granted pay scales, as being paid to the Lecturers w.e.f. 01.01.1986. Thereafter, the revised grade as payable to Lecturers (as revised by the University Grants Commission) was also granted to the petitioners w.e.f. 01.01.1996. However, in the year 2005, after the bifurcation of the the Department of Physical Education into Department of Sports and Department of Physical Education, the petitioners, who were placed in the Department of Sports, were categorized as non-teaching staff and thus, were denied the benefit of pay scales, as being paid to Lecturers. Feeling aggrieved by the above action, through the present writ petition, the petitioners seek pay scales as being paid to Lecturers w.e.f. 01.01.2006.

I have heard learned counsel for the parties and with their able assistance, have also gone through the record of the case.

It is the undisputed position that the petitioners were given the scales, as applicable to the Lecturers by the respondent University w.e.f. 01.01.1986 and then again w.e.f. 01.01.1996. However, in the year 2005, after the bifurcation of the Department of Physical Education into Department of Physical Education and Department of Sports, the

petitioners, who have been placed in the Department of Sports, are being categorised as “non-teaching” staff as they are not conducting any theory classes.

The stand of the respondent University is that since the petitioners are not taking any theory classes, they cannot be termed as “teachers”. They have thus been denied the pay scales being paid to Lecturers.

Even after the bifurcation of Department of Physical Education into Department of Sports and Department of Physical Education, according to me, Sports Coaches like the petitioners, would continue to be “teachers”. A student of Physical Education needs education in both – theory as also in the practical aspects. Sports Coaches, who impart practical training on the field, are as much as teachers as the ones, who impart theoretical knowledge in the classrooms. In fact, teachers, who train the students by taking theory classes as also the teachers, who train the students through practical training, have to work in tandem to produce the best possible students.

Whether Sports Coaches can be termed as “teachers”, is an issue, which is not *res integra*. A Division Bench of this Court in **C. W. P. No. 3353 of 2001** titled **M. M. Bhardwaj and others vs. The State of Haryana and another**, decided on **28.07.2002**, has held as under :-

*“From the above notice facts, it
is clear that there is no much controversy of*

the facts stated in the petition. The first and the foremost question that falls for determination before us is whether the Coaches of various sports are part of teaching faculty or not. This question was considered at some length by a learned Single Judge of this Court in the case of Murari Lal Saini Versus The State of Haryana and others, CWP No. 11641 of 1998, decided on 20.5.1999 where his Lordship while referring to the judgment of the Hon'ble Apex Court in the case of P. S. Ramamohna Rao (supra) held as under :-

“The fact of the present case have to be examined in the light of the judgment of the Supreme Court with special reference to the passage quoted above as the words teaching experience too have not been defined. It is apparent that the petitioner who had been imparting skills in wrestling to students of the University since

1979 fell within the definition of a teacher. The petitioner's situation is, to my mind, a still happier one as Rule 3 (ii) does not require that a candidate should be a teacher but that he must have teaching experience and merely because the petitioner happens to impart instruction in physical activities does not detract from his character as a teacher and his vocation as teaching experience. I am, therefore, of the opinion that this petition must succeed. Ipso-facto, the order Annexure P-6 is quashed and a direction is issued to the University to grant permission to the petitioner to undergo the Ph.D. course in question. No order as to cost. Dasti order.

In the light of the above decision, with the reasoning of which we respectfully agree, now we proceed to see

what is the effect of the recommendations/ directive issued by the State Government to the concerned University. The Financial Commissioner and Secretary to the Government of Haryana, Finance Department, vide letter dated 30.10.1998 had issued clear instructions with regard to pay scale of non-teaching employees of all the four Universities. To this letter an annexure was attached, giving details of revised pay scale in regard to the category of the posts which were to be controlled by this letter. Item No. 27 of this Annexure related to Sports Coach (old) revised pay scales and selection grade etc. These revised pay scales, after approval of the Vice Chancellor, were duly notified and employees were called upon to give their options. The Executive Council of the University, despite the recommendations of the U. G. C. and the directive of the State Government, passed a resolution No. 35 in its meeting held on 28.07.1999, which reads

as under :-

“Considered that the Sports Coaches of the University be continued to be treated as non-teaching employee for all intent and purposes and be also allowed to avail the facility of earned leave instead of vacations.”

As is clear from the above resolution, the University wanted to treat the Coaches as members of the non-teaching cadre. This resolution certainly does not appear to be in consonance with the judgments referred by us above. We have already held that the Coaches will have to be treated in the category of teachers and, therefore, the resolution cannot be sustained. [Emphasis supplied]”

The above quoted judgment was affirmed by the Apex Court as the Special Leave Petition against the same being **S. L. P. No. 9207 of 2003** was dismissed on **08.07.2003**.

In the case of **B. S. Bhandari and others vs. State of**

Haryana and others - **C. W. P. No. 16713 of 2011**, decided on **08.01.2014**, this Court culled out the following issue for decision :-

“The petitioners are working as Sports Coaches in respondent No.3-Kurukshetra University. Through present writ petition, they have challenged the decision of Director General Higher Education Department, Haryana, dated July 27, 2011 (annexure P-21) holding that the petitioners are not entitled to UGC pay scales w.e.f. January 1, 2006 in view of para 8 (P) (iii) and (iv) of Ministry of Human Resources and Development (MHRD) letter No. 1-32/2006/U-II/U-I dated December 31, 2008 (annexure P-22). The petitioners have sought a direction to the respondents to grant the benefit of revised UGC pay scales w.e.f. January 1, 2006 as per 6th Pay Commission with all consequential benefits including interest on the delayed payments. The petitioners claim that the revised pay scales have been granted to other University teachers.”

After considering the entire law on the subject, the following directions were issued :-

“In view of the above circumstances, this petition is allowed. The order annexure P-21 dated July 27, 2011, declining the pay scale of RS.37400-67000 + AGP 9000 on the basis of letter annexure P-22 dated December 31, 2008 is hereby set aside. A direction is issued to the respondents to grant the revised pay scale w.e.f. January 1, 2006 to the petitioners as per the decision of the University at par with the teachers getting the same benefit of revised pay scales w.e.f. the dates similarly circumstanced teachers have been granted within a period of three months after the receipt of a certified copy of the order.”

Once it is held that the Sports Coaches like the petitioners are “teachers”, then I unhesitantly would erase the line of distinction sought to be drawn by the respondent University between Lecturers and the petitioners, with regard to grant of pay scales, branding the petitioners as “non-teaching” staff and thus, not granting them the pay scales of Lecturers.

Further, it is the University, which had even earlier equated the

petitioners with Lecturers and granted them the same pay scales twice over i.e. initially w.e.f. 01.01.1986 and then again w.e.f. 01.01.1996. Once earlier the petitioners had been granted the same pay scale, as applicable to Lecturers and there being no change in their nature of duties, they could not have been denied the benefit from a subsequent date. The bifurcation of a Department by the respondent University did not change the nature of their duties, as being discharged by them.

In view of the above, holding that the petitioners are “teachers”, I direct the respondent University to grant to the petitioners the pay scales, as payable to Lecturers in the scale of Rs. 37000-67000+AGP 9000, w.e.f. 01.01.2006, with all consequential benefits.

Both the writ petitions being **C. W. P. No. 3874 of 2010 – Dr. Jasbir Singh and another vs. Punjabi University, Patiala and another** and **C. W. P. No. 20522 of 2013 – Bhupinder Singh vs. Punjabi University, Patiala and another** stand allowed in the above terms, with no order as to costs.

**(DEEPAK SIBAL)
JUDGE**

Pronounced On : 11.05.2015

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