

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.6034 of 2013
Date of Decision: July 24, 2015

Manju Bala

...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.Anurag Goyal, Advocate &
Mr.Lalit Rishi Advocate,
for the petitioner

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

AMIT RAWAL, J. (Oral)

Challenge in the present writ petition is to the impugned order dated 24.5.2011 (Annexure P-12), whereby the claim of the petitioner for grant of minimum pay scale on revision of pay scales w.e.f. 1.1.2006 has been rejected on the ground that the petitioner was working on contract basis.

Mr.Anurag Goyal, learned counsel appearing on behalf of the petitioner submits that in pursuance to the advertisement promulgated by the State for inviting applications for appointment to the posts of Lecturer,

Master, Mistresses and Teachers on a consolidated salary of ₹5,000/- per month for Lecturer, ₹3,500/- per month for Masters/Mistresses and ₹2,000/- per month for J.B.T. Teachers, the petitioner submitted an application and after getting interviewed by the duly constituted selection committee, was appointed as J.B.T. Teacher on the consolidated salary of ₹2,000/- per month, which is evident from the appointment letter dated 31.12.1997 (Annexure P-1). On 20.2.1999, the services of the petitioner were dispensed with. In compliance to the orders dated 13.2.2003 passed in CWP No.2434 of 2003, the petitioner was reappointed on the terms and conditions enumerated in the first appointment letter and the period between the first relieving and the appointment thereafter was considered as break period without any pay. The petitioner joined and continued to draw consolidated salary of ₹4,500/- per month. However, after the introduction of Haryana Civil Services (Revised Pay) Rules, 1998, the functional revised pay scale of the J.B.T. Teachers was fixed as ₹4500-7000.

Learned counsel for the petitioner further submits that since the petitioner was getting a minimum pay scale on reappointment and on revision of the pay scales w.e.f. 1.1.2006, she is entitled to minimum pay scale of ₹6500-10500. He further submits that the embargo in the rules would not come to the aid of the State for the reason that the petitioner was getting the minimum pay scale on the ground of appointment in view of the law laid down in Polu Ram and another Versus State of Haryana & another), decided on 17.4.1998.

Learned counsel for the petitioner has also drawn the attention of this Court to Annexure P-10, the information sought under the Right to

Information Act, whereby similarly situated persons, namely, Gurmeet Singh, Mahipal and Babita Rani have also been granted similar scale on revision, though they are also working on contract basis.

Mr.Hitesh Pandit, learned Additional Advocate General, Haryana appearing on behalf of the State, in order to support the impugned order, has drawn the attention of this Court to the Haryana Civil Services (Revised Pay) Rules, 1998 and 2008 to contend that the rule shall not apply to the persons paid otherwise than on monthly basis, including those paid on a *piece-rate basis* or on daily wages or on contract basis and even for the persons, who have been appointed on contract basis, 1998 Rules would not be applicable.

In rebuttal, learned counsel for the petitioner has relied upon the judgment dated 11.11.2011 rendered by the Full Bench of this Court in Avtar Singh Versus State of Punjab and others, CWP No.14796 of 2003 to contend that on the basis of the general law, it has been held that the daily wagers, ad hoc or contractual employees appointed against the regular sanctioned posts would be entitled to minimum of regular pay scale from the date of engagement and the persons, who have been appointed on daily wages and continued for a period of more than 10 years would also be entitled to minimum of the regular pay scale.

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

From the clear reading of the rules, it is evident that the same would not be applicable to the employees who are working on contract basis, but the fact remains that the petitioner on reappointment was being

given minimum pay scale of ₹4500-7000 and on revision w.e.f. 1.1.2006 she has been denied the minimum revised pay scale of ₹6500-10500. The respondents cannot be permitted to cause discrimination among the same class of persons, which is evident on perusal of the information sought under the Right to Information Act (Annexure P-10), whereby three persons, namely, Gurmeet Singh, Babita Rani and Mahipal, who have been working as J.B.T.Teachers on contract basis, have been given minimum pay scale after revision. Even the ratio decidendi culled out by the Full Bench of this Court would also apply to the facts and circumstances of the present case for the reason that the petitioner has been appointed against regular sanctioned post and after following the due procedure. In essence, the petitioner cannot be said to be a back door recruitee.

There is another reason for granting relief to the petitioner as she is entitled to equal pay for equal work as the similarly situated persons, who are working on regular posts have been granted the revised pay scale. In order to lend support, I intend to refer the ratio decidendi culled out by the Hon'ble Supreme Court in U.P.Land Development Corporation and Anr. Versus Mohd. Khursheed Anwar and Anr., 2010(3) S.C.T. 327, wherein it has been held that the principle of 'equal pay for equal work' shall be applied to the contractual employees.

For the foregoing reasons, the impugned order dated 24.5.2011 (Annexure P-12) is hereby quashed. The petitioner shall be entitled to minimum pay scale after revision w.e.f. 1.1.2006 till she had been appointed on regular post. The respondents are directed to release the benefits within a period of three months from the date of receipt of certified copy of this

order, failing which it shall entail interest @12% per annum.

The writ petition stands allowed.

July 24, 2015
ramesh

(AMIT RAWAL)
JUDGE