

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 9208 of 2014

Date of Decision : January 20, 2015

Vijay Bajala and another Petitioners

Vs.

Union of India and another Respondents

CORAM : HON'BLE MR. JUSTICE SATISH KUMAR MITTAL.

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. Prateek Pandit, Advocate
for the petitioners.

Mr. Vivek Singla, Advocate
for respondent no. 1.

Mr. Aman Chaudhary, Advocate
for respondent no. 2.

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DEEPAK SIBAL, J. :

The petitioners have approached this Court seeking quashing of the Sardar Swaran Singh National Institute of Renewable Energy, recruitment of officers and staff rules (hereinafter referred to as – the Rules) pertaining to the post of Technical Assistant/Junior Engineer, as contained

in Appendix IX thereof, to the extent that the pay scales attached to the post of Technical Assistant therein have been arbitrarily fixed at ₹ 4000-100-6000 (revised pay scale of ₹ 5200-20200) being discriminatory and arbitrary for the same post in other institutions being run by the Government of India, Ministry of New and Renewable Energy have been fixed at ₹ 5500-175-9000 (revised pay scale of ₹ 9300-34800).

The petitioners further seek quashing of orders dated 11.05.2012 (Annexure P-12) and 02.07.2013 (Annexure P-16), whereby the request of the petitioners, for fixation of the pay scale attached to their post of Technical Assistant at par with that of the post of Technical Assistants in other institutions, being run by Government of India, has been rejected.

The petitioners further pray for issuance of a direction to the respondents to fix the pay scale of the petitioners at par with the pay scales being granted to Technical Assistants working in other institutions established and functioning under the Government of India, which, according to the petitioners, are similar institutions to Sardar Swaran Singh National Institute of Renewable Energy (hereinafter referred to as – the Institute), wherein the petitioners are employed.

The petitioners further pray for release of arrears after fixation of their pay scale, as prayed for by them along with interest @ 18% per annum from the date they became due till the date of actual payment.

The undisputed facts, which have emerged before us are that in

pursuance of an advertisement issued by the Institute, the petitioners had applied for appointment to the post of Technical Assistant. On favourable consideration of their application, they were issued appointment letters, in pursuance of which, they joined the post on 01.07.2009. On successful completion of the probationary period of two years, their services were regularized w.e.f. 01.07.2011. The pay scale applicable to the post of Technical Assistant in the respondent Institute, which was ₹ 4000-100-6000, was paid to the respondents. On adoption of recommendation of 6th Pay Commission, this pay scale was revised to ₹ 5200-20200 with Grade Pay of ₹ 2400.

The petitioners aver that after they joined the post of Technical Assistant, they came to know that there were similar institutions established and functioning under the Ministry of New and Renewable Energy, Government of India. In those institutions also, there were posts of Technical Assistants, who, after adoption of the recommendations of 6th Pay Commission, were being paid their salaries after placing them in the scale of ₹ 9300-34800. According to the petitioners, on inquiry, they found out that the educational qualification, relating to the post of Technical Assistant in the other institutions, was the same, as required in the respondent Institute. The petitioners further submit that on coming to know of the above anomaly, they represented their case for bringing their pay scales at par with the pay scales being granted to Technical Assistants in

other institutions under the Ministry of New and Renewable Energy, but this representation was rejected vide order dated 11.05.2012 (Annexure P-12), which, according to the petitioners, was a non-speaking order giving no reasons to deny the legitimate claim of the petitioners. On the passing of the order dated 11.05.2012, the petitioners filed a comprehensive representation to the Secretary, Ministry of New and Renewable Energy, Government of India and when this comprehensive representation received no response, they were constrained to serve a legal notice upon the respondents. Reply to legal notice was sent by respondent no. 2 through letter dated 02.07.2013 (Annexure P-16) rejecting the grievance so raised by the petitioners. Aggrieved by the above inaction on the part of the respondents to grant to the petitioners the higher pay scale, as prayed for by them, they approached this Court through **C. W. P. No. 20219 of 2013 – Vijay Bajala and another vs. Union of India and another** (Annexure P-17). Vide order dated 24.10.2013, this Court disposed of the writ petition by directing the respondent - Government of India to decide the legal notices served by the petitioners by passing a speaking order. In purported compliance of the order passed by this Court, the Institute, vide order dated 05.02.2014, has decided the legal notice served upon by the petitioners, rejecting the request so made by them.

In view of the above facts, the petitioners have again approached this Court through the present writ petition for the prayers

made above primarily alleging discrimination at the hands of the respondents. The petitioners say that there is no reason in fact or in law to grant higher pay scales to the same posts in different institutions under the same Ministry. According to the petitioners, this is grossly discriminatory and is liable to be set aside.

Upon notice, the respondents put in appearance. In defence of the inaction complained of by the petitioners, respondent no. 2 – Institute has filed a detailed written statement, the relevant portion of which is reproduced below :-

“It is submitted that the present Civil Writ Petition is legally misconceived and not maintainable for the simple reason that the petitioners were well aware of the functioning of the Respondent-Institute and nature of duties and responsibilities of the post of Technical Assistant on which they were appointed. It is submitted that SSS-NIRE is an autonomous body, having its independent bye-laws and service conditions, Recruitment Rules for the personnel/services in SSS-NIRE and it has no co-relation with other similar bodies/ institutions including Solar Energy Centre (SEC) or Centre of Wind Energy

Technology (C-WET) and other institutes/bodies mentioned in body of the Writ Petition, so far as its objectives, nomenclatures, qualification, duties assigned to different posts including Technical Assistants are concerned. These bodies/Institutes are having different objectives, qualification, duties assigned to different posts/services, having different pay scales. These institutes/ bodies are governed by their own set of independent service rules, which are different and do not match to the functioning of SSS-NIRE. Therefore, the petitioners cannot equate themselves with the persons working in those institutes/ bodies. The equation of posts and equation of pay are matters primarily for the executive, Government and expert bodies like the Pay Commission. Respondent Institute prescribed the pay scale of ₹ 4000-6000 revised to Pay Band ₹ 5200-20200 with Grade Pay ₹ 2400 keeping in view nature of duties and responsibilities of the post of Technical Assistant, which were accepted by the petitioners at the time of appointment. This Hon'ble Court

may not grant relief to the petitioners regarding scale of pay etc. not contemplated by the rules of the Institute.”

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

From the above, it is clear that the respondent Institute is an autonomous body, registered under the Societies Registration Act, 1860, having its own independent bye-laws and recruitment rules laying down service conditions for its employees. It is nowhere connected or controlled by other similar bodies/institutions so referred to in the writ petition. Once this is so, then the petitioners cannot complain of discrimination as the employees of the respondent Institute, which as an autonomous body, would form a class in itself. There is no discrimination alleged viz-a-viz the employees of the respondent Institute. That being so, we do not find any discrimination and violation of Article 14 or 16 of the Constitution of India.

When the petitioners joined their posts, they were well aware about the pay scales applicable to the post, to which they were seeking recruitment. Having joined on the post with open eyes, clearing their probation period, now cannot turn around to allege discrimination and claim higher pay scales.

Further, it is the specific case of the respondent Institute that the nomenclature, qualification and duties assigned to different posts

including Technical Assistants in different institutions so referred to in the writ petition are different to the post of Technical Assistants in the respondent Institute.

Even otherwise, equation of posts for the purpose of grant of pay scales is a matter which is best left to the bodies like Pay Commission etc. It is settled law that the Courts are not equipped to deal with these issues and should rather refrain themselves from entering into this sphere unless perversity in State action is shown. On hearing learned counsel for the parties and going through the records of the case, we find no such perversity in the present case.

In view of the above, finding no merit in the present writ petition, the same is dismissed.

No costs.

(SATISH KUMAR MITTAL)
JUDGE

(DEEPAK SIBAL)
JUDGE

January 20, 2015
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