

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.6296 of 1995

Date of Decision:- 30.03.2016

Managing Committee Ahir College, Rewari

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Shubham Kaushik, Advocate,
for the petitioner.

Mr. Rajesh Gaur, Additional Advocate General, Haryana.

Mr. K.L. Arora, Advocate
for respondent No.3.

RITU BAHRI, J. (Oral)

Petitioner by way of present petition is seeking quashing of order dated 06.03.1995 (Annexure P-5) whereby Professor H.S. Lamba (respondent No.3) has been granted the selection grade w.e.f. 01.01.1986 to 30.06.1991 and order dated 27.03.1995 (Annexure P-6) whereby the Director Higher Education has given a direction to the petitioner's College for releasing the arrears of salary for the above-said period when the College had not received the grant-in-aid from the State Government. .

The Ahir College, Rewari had received grant-in-aid from the State Government and it was an affiliated College to Maharishi Dayanand University, Rohtak. Prior to the year 1979, the College was taken grant-in-

aid from the State of Haryana. In the year 1979, the Government was in the process of taking over the Affiliated Colleges but the Governing Body of the Ahir College, Rewari did not want the College to be taken over by the State Government. The Government was only taking over the Colleges which were receiving the grant-in-aid from the Government. After February, 1979, the College management refused to take the grant-in-aid from the Government and the Government stopped the grant-in-aid but in an illegal manner took over the College Management. The petitioner challenged the said act of the respondent-State by filing CWP No.5697 of 1979 in this Court and the said petition was allowed and the order by which the Government taken over the College was quashed. In the year 1988, the College Management once again applied for grant-in-aid to the Government, which was granted vide order dated 25.09.1991 (Annexure P-1). The college prior to sanction the grant-in-aid had taken affidavits from the staff working with them to the effect that they will not seek any arrears of salary on the revision of pay scales from the College Management prior to 01.07.1991. Respondent No.3 filed CWP No.17120 of 1994 in this Court seeking directions to the Director Higher Education to count his service prior to 01.07.1991 for the payment of gratuity for 22 years of service and and to give the benefits of revision of the pay scales w.e.f. 01.01.1986. This writ petition was disposed of giving a direction to the Managing Committee and the Director Higher Education to treat the writ petition filed by respondent No.3 as a representation, vide order dated 29.11.1994 (Annexure P-3). The claim of respondent No.3 was rejected, vide resolution dated 29.01.1995 (Annexure P-4). Thereafter, the Director

Higher Education (respondent No.2), vide order dated 06.03.1995 (Annexure P-5) held that respondent No.3 is entitled for the revision of pay scales provided he fulfills the conditions as laid down by the State Government. Thereafter, vide another order dated 27.03.1995 (Annexure P-6) passed by respondent No.2, the respondent No.3 has been found eligible for the grant of selection grade w.e.f. 01.01.1986. Petitioner is seeking quashing of said two orders on the ground that respondent No.3 has given his affidavit before making the application grant-in-aid from the Government that he will not claim any arrears of salary on account of any revision of pay scales. Respondent No.3 has not challenged the resolution dated 29.01.1995 (Annexure P-4) by which his claim for revision of pay scales has been rejected by the Managing Committee of the petitioner's institution.

In the written statement filed by Deputy Director Colleges-I Office of the Director of Higher Education, Haryana, on behalf of respondent Nos.1 and 2 and the stand taken therein that as per Section 6 of the Haryana Affiliated Colleges (Security of Service) Act, 1979, the pay scales and others allowances and privileges of the employees of the private colleges is prescribed by the State Government. Prior to amendment made vide notification dated 23.04.1984, this Act has been made applicable to all the affiliated Colleges situated within the State of Haryana and condition of receiving grant-in-aid has been deleted. In view of the above amendment, for all intents and purposes the petitioner is bound to give the revised pay scales to respondent No.3 w.e.f. 01.01.1986.

Separate written statement has been filed on behalf of

respondent No.3. As per letter dated 02.08.1991 (Annexure R-3/2) written to the President, Ahir College, Society, Rewari, he has not signed the undertaking that he will not claim any arrears regarding salary and revised grades. Respondent No.3 has placed on record a number of representations (Annexures R-3/3 to R-3/10), which was sent by the College to the Government for the release of the admissible revised scales and Selection Grade etc. from the relevant date.

After hearing learned counsel for the parties, going through the record, this Court is of the considered view that as per order (Annexure P-5) and amended notifications (Anenxure R-1 and R-1/A) once the condition of receiving grant-in-aid stood deleted, then for all intents and purposes respondent No.3 was entitled to revision of pay-scale w.e.f. 01.01.1986 as well the gratuity for the continued service rendered by him. The impugned orders have rightly been passed by respondent No.2 in favour of respondent No.3.

Consequently, the present petition is without any merit and the same is hereby dismissed as such. The petitioner-college is directed to make the payment of all the benefits due to respondent No.3 on account of revised-scale as also the gratuity, along with 9% interest from the date of retirement i.e. 31.05.1994, within a period of three months and thereafter compliance report be sent to this Court.

March 30, 2016
naresh.k

(**RITU BAHRI**)
JUDGE