

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

CWP No. 19623 of 2014

Date of Decision: 10.11.2016

GITA RANI

...Petitioner

VS.

STATE OF PUNJAB AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Ashok Kumar Nabhewala, Advocate,
 for the petitioner.

 Mr. Rajat Bansal, AAG, Punjab.

 Mr. Naresh Prabhakar, Advocate,
 for respondents No. 3 and 4.

KULDIP SINGH, J. (Oral)

The petitioner has preferred this petition filed under Article 226/227 of the Constitution of India for issuance of writ of certiorari quashing the order dated 15.05.2012 (*Annexure P-4*) and for issuance of a writ of mandamus directing the respondents to grant the benefit of revised pay scales w.e.f. 01.01.2006 and consequential retiral benefits alongwith interest.

Brief facts of this case are that the petitioner had worked as Lecturer in history with the respondent-College w.e.f. October, 1976. He retired from service on 31.12.2011 on attaining the age of superannuation. The grouse of the petitioner is that her revised pay scale with effect from 01.01.2006 as well as the consequential retiral benefits have not been released to her.

I have learned counsel for both the parties.

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The respondent-State Punjab, in the written statement, has taken the stand that as per the Government notification dated 02.09.2009, the revised pay-scale were released to the teachers of Government Aided Colleges w.e.f. 01.01.2006. The respondent-State has also relied upon Regulation 14.1.1 and 15.1.1 regarding the workload of the teacher which was being followed by the Universities/College which was 40 hours a week for 30 working weeks (180 teaching days) and in an academic year. The Assistant Professor must work for 16 hours and Associate Professor and Professor for 14 hours a week. It was stated that the petitioner spent nearly 30 to 33 hours a week instead of mandatory 40 hours a week and therefore, she does not fulfill the conditions contained in the notification dated 02.09.2009 and is not entitled to revision of pay scale with effect from 01.01.2006.

The respondents No. 3 and 4 have taken the plea that they are receiving 95% grant-in-aid scheme of respondent-State. They also referred to the workload as claimed by the government as per regulation 14.1.1 and 15.1.1 and taken the plea that since the petitioner had not worked for the requisite hours, therefore, she is not entitled to the revised pay-scales w.e.f. 01.01.2006 and other consequential retiral benefits in view of the objection raised by the office of Auditor General, Punjab.

I have learned counsel for both the parties.

Admittedly, the petitioner was working as regular Lecturer against the aided post in the Government aided College and before 01.01.2006, she was getting the pay-scale as admissible at the time notification dated 02.09.2009 (*Annexure R-1/2*) was issued vide which the Government of India in pursuance to the recommendations of University Grant Commission (UGC),

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the Government of Punjab released certain pay-scales among Government aided Colleges w.e.f. 01.01.2016. Certain terms and conditions were also laid down for financial grant to private college (Annexure R/1-1) and out of these conditions, condition No 8 is reproduced as under: -

“8. The teaching staff if the college shall be paid salaries according to the revised UGC pay scales approved by the State Government. The teaching and the Non-teaching staff shall be given salaries every month by Payees cheque and no member of the staff shall be compelled to pay or refund directly or indirectly, any part of the salary admissible to him under the Rules.”

However, the perusal of the notification shows that it does not lay down that if a teacher does not work for a particular number of working hours he can be denied the revised pay scale w.e.f. 01.01.2006. Regulation 14.1.1 and 15.1.1 regarding workload, are infact UGC recommendations, which have been adopted by the State Government.

The state has also relied upon the terms and conditions of the financial grant given to the private colleges to the extent of 95% (Annexure R-1/1) wherein as per condition No. 18, a certificate is required to be furnished by the Principal of the College for which grant-in-aid is to be released to the effect that each of the lecturers for whom the grant has been claimed has put in 40 hours of work in a week, out of which he should spend at least 20 hours in a week on the premises of the college for teaching and guidance to the students. This would be subject to provision that teacher may be detained in the college beyond this limit in the interest of work. This

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condition is a condition for release of grant in aid. It is not laid down that if the requisite working hour are not put in by the employee/teacher, new pay scales with effect from 01.01.2006 will not be released.

Para 8 of the notification dated 02.09.2009 (*Annexure R-1/2*) is reproduced as under: -

“8. *Other terms and conditions of service of teachers shall be the same as may be notified by the State Government of specified by way of Regulations incorporating the approved pay scales and other related condition by the University/State Government on the lines of existing scheme(s).*”

On bare perusal of the above noted para of Government notification dated 02.09.2009, it comes out that it merely lays down that terms and condition of service specified will be followed. It also does not lay down that new pay scales will be released to only those teacher who worked for a particular working hours. It was for the College to fix a timetable in such a way that the lecturer has to work for a requisite number of working hours.

The petitioner has placed on file the statement which shows that in the year 2006 and 2007 the salary of the petitioner was claimed as lecturer by giving the certificate that she had worked for the requisite number of hours. Similar certificates were also given for the teaching staff including the petitioner for the other years.

I am of the view that if a particular college claiming grant in aid, does not follow UGC norms, then it could be a ground to deny the grant in aid. However, it has got no linkage with the release of the new pay scales w.e.f. 01.01.2006.

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Consequently, present writ petition is allowed and impugned order dated 15.05.2012 (*Annexure P-4*) is hereby quashed. Writ of mandamus is issued directing the respondents to release the revised pay scale to the petitioner w.e.f. 01.01.2006 alongwith consequential retiral benefits including gratuity and arrears alongwith interest @ 9% per annum starting three months after the date of notification dated 02.09.2009 till its payment.

In view of the above, the present petition stands allowed.

November 10, 2016
Suresh Kumar

[KULDIP SINGH]
JUDGE

Whether speaking / reasoned

✓
Yes / No

Whether Reportable

✓
Yes / No