

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

**CWP No.5051 of 2012 (O&M)
Date of decision: 10.02.2016**

Parkashwati

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sandeep K. Sharma, Advocate,
for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana,
for respondent Nos. 1 and 2.

Mr. Anurag Goyal, Advocate,
for respondent No.3.

Ritu Bahri, J.

The petitioner is seeking direction to the respondents to upgrade or re-designate her post in the cadre of lecturer w.e.f. 29.07.2004 and grant her the grade of lecturer on the principle of equal pay for equal work w.e.f. 29.07.2004. Further prayer has been made to restrain the respondents from making appointment to the post of lecturer in computer application in business (Department of Commerce) in terms of advertisement No.4/2010 and to direct the respondents to frame promotion policy with regard to Ex-Cadre post of Instructor on which the petitioner is presently working in terms of resolution No.1 of the Executive Council dated 15.10.2010 (Annexure P-22).

The petitioner was appointed to the post of Typewriting Instructor

by the respondent-University vide appointment letter dated 29.10.1984 (Annexure P-1) in the pay scale of 420-10-490/540-15-600-EB-20-700 plus other allowances as admissible under the University rules. She used to teach the subject of typewriting to the students of only B. Com. Part-1. The services of the petitioner were regularized on 15.03.1985 vide Annexure P-2. Later on, the respondent-University decided to replace the subject of type writing to that of basic of computers. In a meeting held on 29.04.2002, the Common Syllabi Committee had taken a decision vide Annexure P-3 that the paper/subject type writing will be applicable for the sessions 2002-2003, 2003-2004 and w.e.f. Session 2004-2005, the paper of type writing will be replaced by the paper of Basics of Computers for the students of Class B. Com-I. This information was sent to all the Principals of Colleges vide letter dated 28.07.2004 (Annexure P-4). The petitioner improved her qualification by passing the following examinations:-

1. M.Sc. (Computer Science) 1st and 2nd Semester i.e. equal to PGDCA by securing 706 marks out of 1000 i.e. 70.06%.
2. M.Sc. (Computer Science) i.e. equal to M.Sc. (Computer Degree) by securing 1388 marks out of 2000 i.e. 63.04% (with 1st Division).
3. M.C.A (Master of Computer Application) i.e. equal to M.Ph.d. (Computer Science) by securing 508 marks out of 700 marks i.e. 72.5% (with 1st Division).

Thereafter, the petitioner was allowed to teach the subject of computer science to the students of B.Com., Part I, II, III and B.Sc., Part I, II and III vide letters dated 29.07.2004 and 01.12.2005 (Annexures P-6 & P-7). Vide applications dated 31.05.2006 (Annexure P-9) she made a request

Computer Science, which was forwarded to the State Government vide letter dated 31.08.2006 (Annexure P-10). She also made representations dated 20.09.2007 and 31.03.2008 (Annexures P-12 and P-13) to the respondent-university to consider her case. Thereafter, the State Government took over the control of erstwhile University/College, Rohtak and all the teachers were transferred/posted in their respective departments. The Registrar of respondent-university sent a letter dated 19.05.2008 (Annexure P-16) to the Higher Education Commissioner, Haryana regarding recalling of the teachers of erstwhile university College, Rohtak, who were working on deputation at Pt. NRS, Govt. College, Rohtak. As such, the petitioner joined in the Department of Commerce in the respondent-university and started teaching the subject of computer science to the students of M. Com. classes. Later on, vide Annexure P-17, the petitioner was merged with the respondent-university to teach the classes of Master of Commerce. Vice Chancellor of the university, vide resolution No.1 in a meeting held on 15.10.2010 (Annexure P-25) assured the Executive Council to frame promotion policy regarding Ex-Cadre post, subject to availability of higher position & fulfillment of qualifications. Pursuant to Annexure P-25, the petitioner made a representation dated 01.02.2011 (Annexure P-26) and legal notice dated 30.11.2010 (Annexure P-27, Colly.). However, the university rejected the claim of the petitioner vide reply dated 13.01.2011 (Annexure P-28). Hence, the present petition.

Upon notice, the Director, Higher Education Department, Haryana, filed an affidavit dated 17.03.2015, wherein it has been stated that in compliance of the orders passed by this Court on 05.12.2014, communication sent by the respondent-university vide letters dated

considered and the Registrar, Maharishi Dayanand University, Rohtak, vide letter dated 23.02.2015 (Annexure R-1), was informed that the pay scales of Type Writing Instructor of Maharishi Dayanand University, Rohtak have been revised from 5200-20,200 to Rs.9300-34,800+3200 vide memo dated 08.05.2014. There was no post of Computer Instructor in the university and the proposal of the university regarding change of nomenclature of the Type Writing Instructor to that of Computer Instructor was declined.

The petitioner has placed on record copy of advertisement No.PR-54/2013 (Annexure P-33), vide which the respondent-university has invited applications for filling up the posts of Assistant Professors of Computer Applications in Business, in the Department of Commerce. The petitioner made a representation dated 17.12.2013 (Annexure P-34) requesting the Establishment Branch to withdraw the said post. In response to her representation, the respondent-University, vide letter dated 10.01.2014 (Annexure P-35) declined the request of the petitioner on the ground that the post of Assistant Professor has been filled by direct recruitment and not through promotion.

Learned counsel for the petitioner has stated that the present case is squarely covered by the decision of this Court in **Ramesh Kumar Rohilla Vs. State of Haryana others**, CWP No.16265 of 2012 (decided on 26.05.2015). In this case, the petitioner was seeking higher pay scale of Rs.9300-34800+3200 Grade Pay, which was admissible to a lecturer, on the ground that as per time table (Annexures P-16, P-17 and P-19), the petitioner had been discharging duties of Computer Lecturer. The said petition was allowed in view of the law laid down by the Hon'ble Supreme Court in **Laxman Dundappa Dhamanekar Vs. Management of Vishwa**

the petitioner has been performing the duties of higher responsibility, she would be entitled to higher emoluments de hors of the fact that the petitioner, therein, had not been appointed as Lecturer or fulfilled the eligibility of condition laid down by the University Grants Commission.

In the facts of the present case, this benefit has already been extended by the University by accepting the recommendation vide letter dated 23.02.2015 (Annexure R-1) and the pay scales of Type Writing Instructor of Maharishi Dayanand University, Rohtak have been revised from Rs.5200-20,200 to Rs.9300-34,800+3200 vide memo dated 08.05.2014. However, in the absence of any post of Computer Instructor in the University, nomenclature of the post of Type Writing Instruction could not be changed to that of Computer Instructor, therefore, the prayer of the petitioner was declined.

The petitioner has been awarded the scale of Rs.9300-34800+3200 Grade Pay as has been granted in the case of **Ramesh Kumar Rohilla's** case (supra). As per letter dated 10.01.2014 (Annexure P-35), the post of Assistant Professor (Computer Application) has to be filled only by direct recruitment and not through promotion. The petitioner cannot lay a claim to that post.

Since the pay scale of the petitioner has already been upgraded and due relief has been granted to her as per letter dated 23.02.2015 (Annexure R-1), no further orders are required to be passed in this petition.

Disposed of accordingly.

10.02.2016
ajp

(RITU BAHRI)
JUDGE