

244-A

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-4695-2016 (O&M)
Date of decision-06.09.2018

Rajni Bala and others

....Petitioners

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Sameer Sachdeva, Advocate for the petitioners.

Ms. Harsimrat Rai, DAG, Punjab.

Mr. Amrit Paul, Advocate for respondent No.3.

Mr. Naresh Prabhakar, Advocate for respondent Nos.4 and 5.

JITENDRA CHAUHAN, J.

This writ petition under Articles 226/227 of the Constitution of India has been filed for the issuance of a writ, in the nature of mandamus directing the respondents to immediately release the upto date arrears in respect of 100% salary with all consequential benefits arising therefrom due to the petitioners along with interest @ 18% per annum.

It is the case of the petitioners that they were appointed as Lecturer/DPE by respondent No.5. The services of the petitioners were confirmed. In view of the notification issued by the UGC, Government of Punjab revised the pay-scales of the teachers. As per the conditions of P-1 and P-2, the petitioners are duly covered and entitled for the revised pay-scale. However, the recommendations of the UGC i.e. P-1 and P-2 have not

been implemented qua the petitioners who are working in the Government Aided Colleges.

Learned counsel for the petitioners contends that case of the petitioners is squarely covered the ratio of law laid down in CWP-19623-2014, titled as “**Gita Rani Vs. State of Punjab and others**” decided on 10.11.2016 and prays that present petition may be disposed of in the same terms.

On the other hand, learned counsel for the State and respondent Nos.4 and 5 disputes the assertion made by learned counsel for the petitioners.

Heard.

This Court in CWP No.19623-2014 titled as “**Gita Rani Vs. State of Punjab and others**” decided the controversy in question by passing a detailed order dated 10.11.2016. The case of the petitioners is squarely covered by the aforesaid judgment dated 10.11.2016. The operative paragraph of the judgment reads as under:-

“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), 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 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.

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.”

In view of the above, case of the petitioners is squarely covered by the aforesaid judgment dated 10.11.2016 passed in Gita Rani's case (supra) and the present petition is disposed of in the same terms.

(JITENDRA CHAUHAN)
JUDGE

06.09.2018

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No