

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 3802 of 1993
Reserved on: 04.07.2019
Pronounced on: 01.08.2019

Swaranjit Kaur

.... Petitioner

versus

Sri Guru Gobind Singh Senior Secondary School, Chandigarh
and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. R.L.Sharma, Advocate
for the petitioner

None for the respondents

ARUN MONGA, J.

1. The instant writ petition has been filed, inter alia, seeking writ in the nature of mandamus directing the respondents to grant the petitioner regular pay along with other allowances and other service benefits equal/admissible to other employees regularly employed as Hindi Teachers.

2. Facts succinctly are that the petitioner, having requisite qualifications, was appointed on temporary basis as Hindi Teacher by the respondents vide appointment letter dated 01.08.1989 (Annexure P-1). Besides her, another Hindi Teacher, appointed on regular basis prior to appointment of the petitioner, was also teaching in the same school. The nature of duties and responsibilities assigned to both of them were similar. However, on completion of session for the year 1989, the services of the petitioner were terminated vide order dated 31.05.1990 (Annexure P-2).

3. Petitioner was re-appointed and similarly relieved for the

academic sessions for 1991 and 1992. On 01.04.1992, the respondents advertised a vacancy for which the petitioner, being duly qualified, applied. Without issuance of any appointment letter, the petitioner joined services on 23.04.1992 and continued till the filing of the present writ petition.

4. While working as teacher with the respondents, she worked temporarily with short breaks for the period of vacations/summer vacations. On coming to know that she was not being paid for vacations and even some other allowances like special pay of Rs. 100/- was not being paid to her, she represented to the respondents for grant of such benefit vide representations Annexures P-5 and P-6. She found out that the other Hindi Teacher was being paid more than her for the same duties and responsibilities and she was being discriminated against.

5. The policy adopted by the respondents, to hire her at the beginning of the academic session and to relieve her just before vacations as also the discrimination faced by her in grant of pay and other allowances has led to filing of the present writ petition.

6. Petitioner herein has averred that the policy of the respondents is against the principle of 'equal pay for equal work' as upheld by Courts in various judgments. She states that having been given the same duties and responsibilities as the other Hindi Teacher, any discrimination with regard to her pay is in violation of Article 14 and 16 of the Constitution of India. She has been serving the respondent-School as Hindi Teacher since 1989 and is entitled to all the benefits being given to the other teachers.

7. She has placed reliance on judgments rendered by Hon'ble the Supreme Court in '**Rattan Lal and others vs. State of Haryana**' reported as AIR 1987 SC 478, wherein it has been held that hire and fire policy being

adopted in case of adhoc teachers is in violation of Articles 14 and 16 of the Constitution of India. In decision of Division Bench of this Court in '**Ram Avtar Teacher and others vs. State of Haryana**' reported as 1950-1988 (1) RSJ 244, it was held that teachers will be entitled to pay and allowances for the period of summer vacations. Further reliance is placed on '**Rajinder Singh vs. State of Punjab**' reported as 1950-1988 (1) RSJ 245, wherein it has been held that adhoc teachers should be allowed to continue in service till regularly appointed teachers are posted.

8. On the other hand, in their reply, the respondents have averred that the school is a grant-in-aid minority institution and there is only one sanctioned post of Hindi teacher on which one Mrs. Harjit Kaur has been appointed. It is conceded that the petitioner has been working in the respondent-school for the past decade albeit on temporary basis. She was never appointed as Hindi teacher and has been given various classes as and when need arose. Hence, it is stated that she cannot claim parity with Hindi teacher working on a sanctioned post.

9. It is averred that the terms of service of the petitioner were clear and specific. Now for the petitioner, to turn around and claim pay and allowances, on par with other teachers of the school, is wrong and cannot be allowed. It is stated that the school runs on grant-in-aid by the Chandigarh Government and being on an unsanctioned post the salary of the petitioner is paid out of the resources of the institution like collections from students, public donations, etc. Hence for the petitioner to claim pay and allowances for summer vacations is not justified.

10. Respondents have controverted the reliance placed on the judgments by the petitioner. They state that the same are not relevant in the

present case as the terms of service on which the petitioner was kept were clear and specific and no arbitrary act can be attributed to the respondents at this stage.

11. I have heard the learned counsel for the petitioner and have gone through the rival pleadings.

12. For the reasons stated hereinafter, the prayer of the petitioner to the extent of being paid her salary and allowances and other benefits for the period of vacations/ weekends, as admissible to the other teachers employed in the school is fair and reasonable.

13. In the return filed on behalf of respondent-School, there is an admission though an implicit one, to the specific averment of the petitioner that she was appointed every year on the commencement of the session and was relieved of her duties before the vacations/ summer vacations and thereafter she was subjected to regular hiring and firing. The stand taken in the corresponding paragraph of the written statement is that the services of the petitioner were governed by the terms and conditions of her appointment and, therefore, her services were hired during each academic session as and when the same were required minus the summer vacations. It has also been clearly admitted in Para No.1 of the preliminary objections that the petitioner remained in service of institution from 01.08.1989 to 31.01.1993 for different periods as per her appointment orders. Per the school record, the petitioner worked in the respondent-School for the following period of 3 years and 5 months:-

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|-------|-------------------------------|---|-----------------|
| (i) | from 1.8.1989 to 31.5.1990 | = | 10 months |
| (ii) | from 16.7.1990 to 30.03.1991 | = | 9 months 5 days |
| (iii) | from 25.04.1991 to 31.03.1992 | = | 11 months |
| (iv) | from 23.04.1992 to 31.03.1993 | = | 11 months |

14. Given the conceded position that the petitioner served for consecutive academic sessions as stated in the written statement, it is obvious that the job was of perennial nature. However, the respondent-School exploited her vulnerability by throughout indulging in adhocism to deny the petitioner her legitimate dues on the ostensible ground of being a minority institute and the post of Hindi Teacher being a non-aided one against which the petitioner services were availed. The said stand, therefore, does not stand the scrutiny of law and has to be necessarily rejected.

15. Not only this, the denial of pay and allowances for vacations/summer vacations to the petitioner is in violation of the Articles 14 and 16 of the Constitution of India, as has been held in the case of **Rattan Lal & Ors. Vs. State of Haryana, AIR 1987 SC 478**, wherein it was held that the appointment of teacher on adhoc basis on commencement of the year and terminating their services before the summer vacation is in violation of Articles 14 and 16 of the Constitution of India.

16. Similarly, in the case of **Ram Avtar Teacher and others Vs. State of Haryana, 1950-1988(1) RSJ 244**, the Division Bench of this Court following the dictum in Rattan Lal's case (supra) has held that the petitioners therein were entitled to pay and allowances for the period of summer vacations.

17. Even otherwise, as per the principles of equal pay for equal work, the petitioner is entitled for regular scale as pay of Hindi Teacher as is being granted to another Hindi Teacher by the respondents besides other service benefits thereof.

18. In the premise the writ petition is allowed to the extent that the petitioner is entitled to all the pay and allowances for the weekends and also

during summer vacations as well as other consequential benefits during vacations. The respondents are, therefore, directed to calculate the arrears of salary for the days she was not paid, in parity with other teachers in school. Let the necessary calculations be done within a period of two months from the date of receipt of certified copy of this order and the same shall be payable to the petitioner with interest @ 6% per annum.

(ARUN MONGA)
JUDGE

August 01, 2019
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| 1. | Whether speaking/ reasoned: | Yes/ No |
| 2. | Whether reportable: | Yes/ No |