

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-19643-2014

Date of Decision: 06.05.2022

ISHWAR SHARMA AND OTHERS

..... Petitioner(s)

Versus

STATE OF HARYANA AND ANOTHER

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Saurabh Dalal, Advocate
for the petitioners.

Mr. Sandeep Singh Mann, Addl. AG, Haryana.

LISA GILL, J.

Petitioners who are working as Typewriting Instructors have filed this writ petition for setting aside order dated 18.07.2014, whereby their prayer to grant the pay scale and status of Computer Lecturer has been rejected. Petitioners also seek a direction to respondents to release the pay and emoluments for the higher post of college Lecturer as they claim to have been exclusively teaching the subject of Computer Science to graduate classes since the session 2004-2005 in their respective institutes.

Learned counsel for the petitioners submits that petitioners joined service in various government colleges as Typewriting Instructor. The State Government discontinued the subject of 'typewriting' in the year 2003-2004 and 'Typewriting Instructors' were to be absorbed in their respective institutions if they secured qualifications of BCA or PGDCA. Petitioners, it is submitted, obtained the required qualification of PGDCA

i.e. Post Graduate Diploma in Computer Applications well within time and were absorbed in their respective institutions and have been working therein since then. Petitioners are stated to have started teaching “Basics of Computer Science” to B.Com students since the session 2004-2005 and have been exclusively working as college Lecturers. Grievance raised is that petitioners, however, are not being treated at par with the college Lecturers and in fact their pay is not even at par with school teachers. Reliance is placed on decision dated 11.11.2013 in CWP-9294-2012, titled '**Sarla Kumari Vs. State of Haryana and others**'.

Heard learned counsel for the parties.

There is no dispute regarding petitioners working as Typewriting Instructors and their absorption as narrated in the writ petition. It is, however, the case of respondents that petitioners do not possess necessary qualification for the post of Lecturer/Assistant Professor (college cadre) as per Haryana Affiliated Colleges (Security of Service) Rules, 2006. It is, thus, stated that petitioners cannot be appointed to the said post and neither can be treated as Lecturer/Assistant Professor in Computer Science, though, it is admitted that they have been teaching graduation subjects for about 12 periods in a week.

Learned counsel for the petitioners does not press the claim of petitioners for appointment to the post of Lecturers or being treated as lecturers and restricts the claim for higher emoluments as are available to the Lecturers in Computer Science.

At this stage, it is relevant to note that the competent authority vide order dated 17.11.2017 passed in this writ petition was directed to file a specific affidavit detailing qualifications of each of the petitioners as also

qualifications required for teaching the subject of either Computer Applications or Computer Sciences at the undergraduate level. Affidavit dated 05.11.2018 of S.P. Sukhija, Joint Director-I, O/o Director General Higher Education, Haryana was filed in compliance thereto. It is stated therein that from the academic session 2004-2005, subject of Typewriting was replaced with the subject of Basics of Computer and this subject was introduced specifically for students of B.Com and that petitioners are imparting education in Basics of Computer to students of B.Com 1st year, one period per day in theory and one period per day in practical i.e. a total of 12 periods per week.

Learned counsel for the State is unable to deny that co-ordinate Bench while disposing of CWP-9294-2012, though rejecting the claim of petitioner therein (a Typewriter Instructor) for being treated as a Lecturer and grant of pay scale of Lecturer/Assistant Professor held her entitled to higher emoluments. Reliance was placed on judgment of the Hon'ble Supreme Court in ***Laxman Dundappa Dhamanekar Vs. MNGT. of Vishwa Bharata Seva Samiti and another, 2001(8) SCC 378***. It was observed in order dated 11.11.2013 in CWP-9294-2012 as under:-

“It has not been denied specifically that she has been performing duties of higher responsibilities. Though the petitioner cannot be granted the pay scale of Lecturer/Assistant Professor as she has neither been appointed as Lecturer nor she fulfills the eligibility conditions laid down by University Grants Commission, but in view of the fact that she has been performing the duties of higher responsibilities she is entitled to the higher emoluments.

This petition is disposed of with a direction that the petitioner will be paid higher pay scale equivalent to the basic salary of the Lecturer for the period for which she had been performing the duties of Lecturer in Computer Science plus usual allowances as per the rules. The said arrears will be paid to her for a period of three years prior to the date of filing of the petition. The claim of the petitioner for promotion to the post of Lecturer in Computer Science is further rejected on the ground of her ineligibility. It is further observed that the petitioner will be paid above said enhanced salary for the services rendered by her for higher responsibilities as Lecturer.”

Decision dated 11.11.2013 in CWP-9294-2012 is stated to have attained finality. LPA-1853-2014 challenging the same was dismissed on 01.12.2014.

In view of the statement made by learned counsel for the petitioners, claim of petitioners for appointment as Lecturer/Associate Professor is dismissed as not pressed. Writ petition is disposed of with a direction that petitioners being entitled to the higher emoluments equivalent to the basic salary of the Lecturer for the period for which they performed (are performing) duties of Lecturer in Computer Science plus usual allowances as per the rules will be paid the same. It is further clarified that the higher emoluments are restricted to the period for which the petitioners were/are imparting education to students of graduate level. Arrears to be released to the petitioners, shall be restricted for a period of three years prior to the date of filing of this writ petition.

06.05.2022

Sunil

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No

(LISA GILL)
JUDGE