

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

RSA-1074 of 1992(O&M)

Date of Order:31.10.2023

Subhash Chander Sharma and others**.Appellants****Versus****State of Punjab****..Respondent****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present: Ms. Gurpreet Kaur Bhatti, Advocate, for the appellants.
Mr. Vikas Arora, AAG, Punjab**

ANIL KSHETARPAL, J

1. In this regular second appeal, the correctness of the concurrent findings of fact arrived at by the courts below is assailed by the plaintiffs.

2. The basic dispute between the parties is with regard to the entitlement of the appellants to particular pay at the time when the government took over the management of Guru Gobind Singh Medical College, Faridkot. Previously, this was a privately managed college.

3. The State of Punjab issued ordinance which was replaced by the Punjab Guru Gobind Singh Medical College, Faridkot (Acquisition) and Miscellaneous Provisions Act, 1978 (hereinafter referred to as 'the 1978 Act').

4. The appellants were working on the posts of Modeller, Senior Laboratory Technician, Laboratory Technician and Clerks. They claim that their pay has been reduced to their disadvantage in violation of Section 8 of the 1978 Act.

5. Both the courts on appreciation of the evidence have found that the appellants vide Ex.D1 to Ex.D6, after admitting the terms and conditions

of the service have given their acceptance for fresh appointment and the appellants are being paid salary according to the pay scale as applicable to the State Government employees.

6. The learned counsel representing the parties have been heard at length and with their able assistance perused the judgments passed by the courts below along with the requisitioned record.

7. The learned counsel representing the appellants while relying upon Section 8 of the 1978 Act submits that the appellants were required to be absorbed at the same remuneration and upon the same terms and conditions and with the same rights and privileges. She submits that there was no occasion for the respondents to reduce the salary of the appellants.. She further submits that the legislative intent behind Section 8 of the 1978 Act is to absorb the employee on the same remuneration and protect their salary.

8. On the other hand, the learned State counsel again while referring to Section 8 of the 1978 Act submits that the first part of Section 8 of the 1978 Act would be applicable till the State decides on the question of retention of the employee or until his remuneration, terms and conditions are duly altered by the State Government. He submits that the employees were given an option vide Government's letter dated 08.01.1979, which was duly accepted by each of the plaintiff vide documents Ex.D1 to Ex.D6. He submits that the legislative intent behind Section 8 of the 1978 Act is to protect the pay of the employees till the State Government takes a conscious decision and the first part of Section 8 of the 1978 Act cannot be read in isolation of the subsequent part. While interpreting Section 8 of the 1978 Act, the whole section is to be read as a whole.

9 In this case, the decision of this appeal is based upon interpretation of Section 8 of the 1978 Act, which is extracted as under:-

8. (1) Every officer or other employee, who, immediately, before the appointed day, is employed in, or in connection with the affairs of The Guru Gobind Singh Medical College shall become, as from the appointed day an officer or other employee, as the case may be, of the State Government and shall hold his office by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, gratuity and other matters as he would have held, if this Act had not been enacted, and shall continue to do so unless and until his employment under the State Government is duly terminated or until his remuneration, terms and conditions are duly altered by the State Government:

Provided that, if the alteration so made is not acceptable to any such officer or other employee, his employment may be terminated by the State Government by giving not less than three months' notice or by paying an amount equivalent to three months' remuneration :

Provided further that nothing contained in this subsection shall apply to any officer or other employee who has, by notice in writing given to the State Government within thirty days next following the appointed day, intimated his intention of not becoming an officer or other employee of the State Government.

(2) Notwithstanding anything contained in the Industrial Dispute Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other employee, employed in, or in connection with the affairs of, the Guru Gobind Singh Medical College to the State Government shall not entitle any such officer or other employee to any compensation under that Act, or

any other law, and no such claim shall be entertained by any court, tribunal or other authority.

(3) For the persons who, immediately before the appointed day, were the trustees for any pension, provident or gratuity fund or any other fund constituted for the officers or other employees of the Guru Gobind Singh Medical College, there shall be substituted as trustees such persons as the State Government may, by general or special order, specify.”

10. On reading of sub-section(1) of section 8 of the 1978 Act, it is evident that the first part of Section 8 provides for protection of the remuneration of the employees. However, the second part provides that the State Government is entitled to take a decision with regard to retention of the employee in service or until his remuneration, terms and conditions are altered by the State Government. It is well settled that the provision is required to be read in entirety and not in part or in isolation. In this case, the State government appears to have taken a decision on 08.01.1979, which was circulated to the employees. The appellants submitted their consent for fresh appointment on the regular pay scale payable to the government employees. In such circumstances, the plaintiffs cannot now take a U-turn and take protection of first part of Section 8 of the 1978 Act particularly when that stage has come to an end. Once the government took a conscious decision and the appellants accepted and undertook to work as per the altered terms and conditions, they cannot now claim protection under the first part of Section 8 of the 1978 Act.

11. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

12. Dismissed.
13. All the pending miscellaneous applications, if any, are also disposed of.

October 31, 2023
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO