

2023:PHHC:167002

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

CWP-8656-2020 (O&M)
DECIDED ON: 23.08.2023

RAMESH AND ANOTHER ...PETITIONERS

VERSUS

STATE OF HARYANA AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Dinesh Arora, Advocate
for the petitioners (in CWP-8656-2020 & CWP-9359-2020).

Mr. Vijay Singh, Advocate
for the petitioner (in CWP-13520-2020).

Mr. Ravi Dutt Sharma, DAG, Haryana.

Mr. Amit Rao, Advocate and
Mr. Anurag Goyal, Advocate
for respondent No. 3 and 4 (in CWP-8656-2020) and
for respondent No. 5 (in CWP-9359-2020).

Mr. R. Kartikey, Advocate and
Ms. R. Akanksha, Advocate
for respondent No. 3 and 4 (in CWP-9359-2020)

SANDEEP MOUDGIL, J

1. This order shall dispose of CWP-8656-2020, CWP-9359-2020 and CWP-13520-2020, involving a common question of law. For the purpose of order, CWP-8656-2020 is treated as the lead case.
2. The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India for issuance of a writ in nature of *certiorari* for quashing the impugned order dated 02.06.2020 passed by the office of Director General, Higher Education, Haryana vide which the claim of the petitioners seeking grant of pay scale of Rs.2200-4000 from the date of their joining and its corresponding revised pay scale of Rs.8000-13500 w.e.f. 1.1.1996, has been

rejected. The petitioners have further sought a mandamus directing the respondents to grant the requisite revised pay-scale with consequential benefits.

3. Learned counsel for the petitioners contends that the petitioners being appointed as Sports Coaches with the Maharishi Dayanand University, Rohtak (for short 'MDU'), have been denied the benefit of revised pay scale as have been granted to similarly placed persons employed by other State Universities. It is further submitted that on 18.09.1986 (Annexure P-1), the Govt. of Haryana had taken a decision that the present incumbents of the posts of Sports Officer, Assistant Sports Officers, Sports Coaches and A.D.P.C's working in grade of Rs.700-1300, Rs.700-1100 and Rs.550-900, respectively in the Kurukshetra University will be entitled to the U.G.C. grade of Rs.700-1600. This Court was also informed that MDU had revised the then existing pay scales of the Assistant Sports Officers and Sports Coaches to Rs.2200-4000 vide its order dated 09.12.1993 (Annexure P-2). The same was subsequently revised to Rs.8000-13500 w.e.f. 01.01.1996. The grievance of the petitioners is that despite the revision of pay scale, the decisions were not implemented.

4. Learned counsel for the petitioners have relied upon **Devinder Singh Dhull v. Maharishi Dayanand University 2000 (1) S.C.T. 490** wherein this Court allowed the petition filed by the persons appointed as Assistant Sports Officer and Boxing Coach with MDU for revision of pay scale on the ground that since *the officers of the equivalent rank in the Kurukshetra University have been granted the pay scale of Rs. 2200-4000. There appears no reason to deny the same scale to the petitioners who are working in the Maharishi Dayanand University, Rohtak.*

5. On the other hand, the respondents by way of its reply as well as the written arguments contends that the earlier decision relied upon by the

petitioners is distinguishable on facts because in that case, where the Universities or the State Govt. granted the benefit of parity of pay scale equal to teaching lecturers to the different sports coaches, the benefit was conditional one and was made available to only such existing sports coaches who were having the degree of the post-graduation in Master of Physical Education (MPed.) and it was specifically mentioned that the same is confined only to the existing sports coaches as a personal measure and in future any recruitment to Sports Coaches/ Assistant Director Physical Education/ Director, Physical Education shall be on the basis of the qualification prescribed by the UGC from time to time as adopted by the Govt. of Haryana.

6. It is vehemently contended that the petitioners were appointed as Sports Coaches in the year 1996, 1997 and 2012 respectively, therefore the UGC in the year 1993 prescribed the qualification for the post of teaching community equivalent to the lecturers/ Asst. Professors and apart from the qualification of Masters in Physical Education clearance of National Eligibility Test (NET) either conducted by UGC or any other authority is also mandatory.

7. It has been argued that it was incumbent upon the petitioners to possess the qualification for NET but they have not qualified NET at the time of appointment or subsequent thereto, therefore, they are not entitled to claim any relief on the ground of parity. Reliance has been placed on University Grants Commission Vs. Sadhana [1997(1) S.C.T. 363], P. Susheela and Ors. Vs. University Grants Commission & Ors. (2015) 8 SCC 129.

8. Heard learned counsel for the parties and gone through the record.

9. The crux of the case is stated in Annexure P-15 being the noting relating to the grant of pay scale of sports coaches of MDU Rohtak. Vide the said noting the Chief Minister was apprised of the matter including the decided and

pending writ petitions before this Court. It has been stated therein that the matter relates to the different pay scales being given to the Sports Coaches of MDU, Rohtak stating that one of their colleagues Sh. Ravinder Singh Rana has been given the pay Scale of Rs.2200-4000 at the behest of the High Court. As such, they are seeking the pay scale prescribed for the coaches of the State Govt. in view of the fact that they all are working in the same university and performing the same duties. The said noting was submitted for orders of the Chief Minister which was subsequently approved by the Chief Minister. This approval was submitted to the Finance Department, however, the Finance Department commented that since the matter is sub-judice, it is advisable to wait for the outcome of the Court.

10. It may be noted that, a large number of judgments have been relied upon by the petitioners, as have mentioned hereinabove, wherein parity had been granted to similarly placed employees. As such, the only question remains is with respect to the implementation of a decision which already stands approved by the Chief Minister of the State.

11. It may also be noted that the learned counsel for the respondents have tried to rely on a number of judgments to state that the benefit cannot automatically be passed on to the petitioners. However, none of the judgments relied upon by the respondents deal with the issue of parity. Though the judgments do speak of exemptions that may be granted by the Central/ State Government but none of the judgements deal with the aspect that revised pay scale has been granted to similarly placed employee.

12. Yet another issue which has been raised by the respondents is that petitioners do not possess the requisite qualification as prescribed by UGC is without any merit and has been dealt by this Court in ***Dr. Subhash Chander &***

Anr. Vs. State of Haryana &Ors. [CWP No. 5424 of 2017, Decided on 11.12.2019] wherein this Court while rejecting the argument raised by the respondent-State held as under:

“The other contentions of the State are equally untenable. The norms referred to supra clearly manifest that it is not compulsory for an incumbent to acquire Ph. D qualification as a condition precedent to secure either the Senior Scale or the Selection Grade Scale. The said qualification would only accelerate the eligibility to attain such scale and no more. In the case on hand, when the petitioners attained the eligibility to acquire the scales in question upon completing the requisite length of service, the fact that they thereafter acquired Ph. D qualification cannot be held against them. It is not as if they would be disentitled to claim such benefit if they had not acquired the qualification. The same therefore cannot be used against them and to their detriment. Similarly, the condition with regard to participation in Refresher/Orientation Courses, specified or approved by the University Grants Commission, cannot be applied to Sports Coaches. The aforestated norms were promulgated in the context of teaching personnel, viz, Lecturers and Readers. It is only by virtue of the authorities resolving to treat Sports Coaches on par with Teachers that they attained eligibility to aspire for the scales, in terms by the aforestated Career Advancement Scheme...”

13. In **Subhash Chander & Anr. Vs. State of Haryana &Ors. [CWP No. 969 of 2003, Decided on 12.04.2016]**, wherein the writ-petitioners were claiming parity with Ravinder Singh Rana on the issue of grant of pay scale of Rs. ₹2200-4000 and while taking into consideration the fact that the Director Higher Education, as per his recommendation, had approved the scale of ₹2200-4000 to Ravinder Singh Rana, similar benefit was extended to all the other employees.

14. Once, admittedly, benefit has been granted by the University of the State to certain employees, the question of discriminating between identically situated Coaches does not arise. The University ought to have granted the benefit to the petitioners once the same stood granted to other similarly-situated employees.

15. In the light of the above discussion, the present writ petition is allowed and the impugned order dated 02.06.2020 rejecting the claim of the petitioners for pay scale is quashed and the respondents are directed to grant the benefit of pay scale of Rs.2200-4000 from the date of joining of the petitioners and its corresponding revised pay scale of Rs.8000-13500 w.e.f. 01.01.1996 along with interest @ 9% p.a., within a period of *two months* from the date of receipt of certified copy of this order.

16. Pending miscellaneous application, if any shall stands disposed of.

23.08.2023

V.Vishal

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

(Sandeep Moudgil)
Judge

Yes/No
Yes/No