

(206)

2023:PHHC:070362

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

CWP No.2498 of 2015

Date of decision : 15.05.2023

Dyal Purush Bhatnagar

...Petitioner

Versus

Punjabi University, Patiala and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. H.C. Arora, Advocate
for the petitioner.

Mr. Abhishek Kaushik, Advocate for
Mr. Vipul Jindal, Advocate for
respondents. No.1 and 2.

PANKAJ JAIN, J. (ORAL)

By way of this writ petition filed under Article 226/227 of the Constitution of India, petitioner prays for issuance of a writ in the nature of certiorari quashing the impugned order dated 03rd of November, 2014 (Annexure P-10), whereby the claim of the petitioner for grant of 05 non-compounded advance increments for passing Ph.D. degree on the basis of Clause 9.1 of UGC(Minimum Qualification for Appointment of Teachers and other Academic Staff in Universities and Measures for the Maintenance of Standards in Higher Education) Regulations, 2010 (for brevity 'UGC Regulations, 2010'), stands rejected.

2. Petitioner was appointed on *ad-hoc* basis as '*Assistant Professor*' with the respondent-University on 19.11.2003. Later on in the year 2009, the petitioner came to appointed on regular basis as '*Lecturer*'.

The pay of the petitioner was protected meaning thereby that the annual

increments earned by the petitioner post *ad-hoc* appointment on 19.11.2003 were held payable and protected.

3. Mr. Arora, learned counsel appearing for the petitioner refers to Clause 9.0 of UGC Regulations, 2010, which deals with incentives for Ph.D/M.Phil and other higher qualification admissible to the Assistant Professors in service or directly recruited w.e.f. 01.09.2008, to hammer forth the claim of the petitioner and submits that the petitioner being in possession of the Ph.D degree earned in the year 2002 ought to have been granted these 05 non-compounded advance increments at entry level once the petitioner was recruited on regular basis on 10.02.2009.

4. While attacking on the impugned order, Mr. Arora, submits that the impugned order cannot be sustained, as the reasoning recorded by the authorities in declining the aforesaid incentive payable to the petitioner cannot be sustained.

5. *Per contra*, learned counsel representing the respondent-University submits that the incentives available under UGC Regulations, 2010, as relied upon by counsel for the petitioner have to take effect from 01.09.2008. The petitioner have already recruited in the year 2003 and his pay having been protected while appointing him on regular basis on 11.02.2009 cannot fall back upon the regulations which came into effect in the year 2008 only.

6. I have heard counsel for the parties and have gone through records of the case.

7. It will be apt to read and peruse the relevant regulations, which reads as under:-

“9.0. Incentives for Ph.D/M. Phil and other higher qualification to take effect from 01.09.2008.

9.1 Five non-compounded advance increments shall be admissible at the entry level of recruitment as Assistant Professor to persons possessing the degree of Ph.D awarded in a relevant discipline by the University following the process of admission, registration, course work and external evaluation as prescribed by the UGC.

9.2 M.Phil, Degree holders at the time of recruitment to the post of Assistant Professor shall be entitled to 2 non-compounded advance increments.

9.3 Those possessing post graduate degree in the professional course such as LL.M/M.Tech./M.Arch./M.E./M.V.Sc./M.D., etc. recognized by the relevant statutory body/council, shall also be entitled to 2 non-compounded advance increments at the entry level.

9.4 (i) Teachers who complete their Ph.D. Degree while in service shall be entitled to 3 non-compounded increments if such Ph.D is in a relevant discipline of the discipline of employment and has been awarded by a University complying with the process prescribed by the UGC for enrolment, course work, evaluation etc.

(ii) However, teacher in service who have already been awarded Ph.D by the time of coming into of these Regulations or having been enrolled for Ph.D. have already undergone course-work as well as evaluation, if any, and only Notification in regard to the award of Ph.D. is awaited, shall also be entitled to the award of 3 non-compounded increments even if the University awarding such Ph.D. has not yet been notified by the UGC as having complied with the process prescribed by the Commission.

9.5. In respect of every other case, a teacher who is already enrolled for Ph.D. shall avail the benefit of 3 non-compounded increments

only if the university awarding the Ph.D. has been notified by the UGC to have complied with the process 72 prescribed by the Commission for the award of Ph.D. in respect of either coursework or evaluation or both, as the case may be.

9.6 Teachers in service who have not yet enrolled for Ph.D. shall therefore derive the benefit of 3 non-compounded increments on award of Ph.D., while in service only if such enrolment is with a university which complies with the entire process, including that of enrolment as prescribed by the UGC.

9.7 Teachers who acquire M.Phil. Degree or a post graduate degree in a professional course recognized by the relevant Statutory Body/Council, while in service, shall be entitled to one advance increment.

9.8 Five non-compounded advance increments shall be admissible to Assistant Librarian/College Librarian who are recruited at entry level with Ph.D. degree in the discipline of library science from a university complying with the process prescribed by the UGC in respect of enrolment, course-work and evaluation process for the award of Ph.D. in Library Science.

9.8.1 (i) Assistant Librarian/College Librarian acquiring the degree of Ph.D. at any time while in service, in the discipline of library science from a university complying with the process prescribed by the UGC in respect of enrolment, course-work and evaluation shall be entitled to 3 non-compounded advance increments. (ii) However, persons in posts of Assistant Librarian/College Librarian or higher positions who have already been awarded Ph.D. in library science at the time of coming into force of these Regulations or having already undergone course-work as well as evaluation, if any, and only Notification in regard to the award of Ph.D. is awaited, shall also be entitled to the award of 3 non-compounded increments even if the university awarding such Ph.D. has not yet been notified by the UGC as having complied with the process prescribed by the Commission.

9.8.2 In respect of every other case of persons in the posts of Assistant Librarian/College Librarian or higher positions who are already enrolled for Ph.D. shall avail the benefit of 3 non-compounded increments only if the university awarding the Ph.D. has been notified by the UGC to have complied with the process prescribed by the Commission for the award of Ph.D. in respect of either coursework or evaluation or both, as the case may be.

9.8.3. Assistant Librarian/College Librarian and others in higher Library positions in service who have not yet enrolled for Ph. D. shall therefore derive the benefit of 3 non-compounded increments on award of Ph.D. while in service only if such enrolment is with a university which complies with the entire process, including that of enrolment as prescribed by the UGC.

9.8.4. Two non-compounded advance increments shall be admissible for Assistant Librarian/College Librarian with M.Phil. degree in Library Science at the entry level, Assistant Librarian/College Librarian and those in higher positions 73 acquiring M. Phil. degree in Library Science at any time during the course of their service shall be entitled to one advance increment.

9.9 Five non-compounded advance increments shall be admissible to Assistant Director of Physical Education and Sports/College Director of Physical Education and Sports who are recruited at entry level with Ph.D. degree in the discipline of Physical Education from a university complying with the process prescribed by the UGC in respect of enrolment, course work and evaluation process for the award of Ph.D. in Physical Education.

9.10. Notwithstanding anything in the foregoing clauses, those who have already availed the benefits of advance increments for possessing Ph.D./M.Phil. at the entry level under the earlier Schemes/Regulations shall not be entitled to the benefit of advance increments under these Regulations.

9.11. Teachers, Library and Physical Education cadres who have already availed the benefits of increments as per the then existing

policy for acquiring Ph.D./M. Phil while in service, shall not be entitled to advance increments under these Regulations.

9.12. For posts at the entry level where no such advance increments were admissible for possessing Ph.D./M. Phil under the earlier Schemes/Regulations, the benefit of advance increments for possessing Ph.D./M. Phil shall be available to only those appointments which have been made on or after the coming into force of these Regulations.

8. The issue thus is as to whether the petitioner has to be taken to be recruited in the year 2003 or in 2009. In view of the fact that the petitioner has already enjoyed pay protection for having worked with the respondent-University from the year 2003 to 2009, the petitioner cannot claim to have been recruited in the year 2009 and, thus, the aforesaid regulations which came w.e.f. 01.09.2008 cannot be pressed into service to claim the aforesaid incentives.

9. At this stage, Mr. Arora, submits that if the aforesaid interpretation is extended further and it is presumed that the petitioner was not Ph.D holder on the date when he was recruited and had been done Ph.D after 2009, he would have been entitled for 03 non-compounded increments as contemplated under Clause 9.4 of UGC Regulations, 2010.

10. Though, at the first blush, the argument put forth by Mr. Arora, seems to be attractive but even that situation would not have arisen as the Regulation still would not have been applicable.

11. In view of the above, no ground is made out to interfere in the present writ petition and the same is hereby dismissed.

May 15, 2023		(Pankaj Jain)
Anjal		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No