

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-234-2017 (O&M)
Date of Decision: 11.01.2023

State of Punjab and others

. . . . Appellants

Vs.

Dr.M.K. Bandlish and others

. . . . Respondents

CORAM: HON'BLE MR JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MRS JUSTICE SUKHVINDER KAUR

Present: Mr.D.K. Singal, Addl. A.G., Punjab, for the appellants.

Mr.B.S. Patwalia, Advocate, for the respondents.

Mr.Arihant Goyal, Advocate, for respondents No.70, 92, 96 & 99.

M.S. RAMACHANDRA RAO, J. (ORAL)

This Letters Patent Appeal is preferred against the order dt.04.04.2016 passed in CWP 2645-1995 by learned Single Judge of this Court.

CWP-2462-1995 filed by the respondents

The Writ Petition had been filed by the writ petitioners, who are working as Professors, Assistant Professors and Senior Lecturers in the Government Medical Colleges, who are governed by the Punjab Medical Education State Services (Class-I), Rules 1978 and Class II Rules 1979. They had all been promoted from the posts of Medical Officers, Senior Medical Officers to which they were initially appointed to the said posts after 01.01.1986.

The State of Punjab revised the pay scales of the employees working in various services in that State by Rules called Punjab Civil

Services (Revised Pay) Rules, 1988 [for short '1988 Rules'] notified on 09.09.1988 but enforced w.e.f. 01.01.1986.

According to the Writ Petitioners, as per Rule 8 of the 1988 Rules, they are entitled to minimum two increments while fixing their pay in the scale of the higher post to which they were promoted, but they were wrongly denied this benefit by the State.

The State refuted this contention while pointing before the learned Single Judge that such benefit cannot be extended to these individuals in view of Rule 2(2)(d) of the 1988 Rules which prohibits employees whose scales of pay have been determined on the "recommendations" of the UGC for getting the benefit under the said Rules.

The State relied on notification dt.12.03.1989 (P3) issued by the State of Punjab, Department of Health and Family Welfare, revising scales of pay of teaching personnel of the Punjab State Medical/Dental Colleges and contended that since the pay revision benefit was given to the Writ Petitioners as per the "recommendations" of the UGC, they are not entitled to the said benefit in view of Rule 2(2)(d) of the 1988 Rules.

The learned Single Judge, while considering respective contentions, held that the words "the President of India is pleased to revise the scales of pay of the teaching Personnel of Punjab State medical/Dental Colleges on the "pattern" of UGC referred to Annexure P3 imply that the revised pay scales were granted under Annexure P3 on the 'pattern' of the UGC, but not on its 'recommendations', and so the Writ Petitioners would be entitled to grant of two additional increments on promotion as per Rule 8 of the 1988 Rules.

Contentions of the appellant in LPA

Counsel for the appellant-State contended that this view of the learned Single Judge is erroneous, since a comparison of the pay scales revised vide notification Annexure P8 dt.12.01.1988 for teaching personnel of the University and Colleges and those revised w.e.f. 01.01.1986 vide Annexure P3 notification dt.12.03.1989 for teaching personnel of the Punjab State Medical/Dental Colleges show that largely the revision of pay scales given to persons like the respondents/Writ Petitioners is in tune with 'recommendations' of UGC contained in Annexure P8 notification dt.12.01.1988.

He further contended that the learned Single Judge had erred in basing his judgment only on the difference in the use of language i.e. meaning of the word 'pattern' and 'recommendation', and the learned Single Judge should have taken into account the actual benefit in the revision of pay given to the respondents/Writ Petitioners and whether it matches what was recommended by the UGC in Annexure P8.

Contentions of the respondents in LPA

Counsel for the respondents refuted the said contentions and supported the order passed by the learned Single Judge. They contended that the language used in Annexure P3 is that the scales of pay of teaching personnel of the Punjab State Medical/Dental Colleges were revised on the 'pattern' of the UGC w.e.f. 01.01.1986, and the word 'recommendation' was not used therein, and therefore, the appeal be dismissed.

Consideration of this Court

We have considered the respective contentions of the parties.

No doubt, Annexure P8 notification dt.12.01.1988 issued by the Government of Punjab mentions that the scales of pay of teaching

personnel of University and Colleges were revised on the “recommendations” of UGC, while Annexure P3 notification dt.12.03.1989 issued by the State Government revising scales of pay of the Punjab State Medical/Dental Colleges states that said revision had been made on ‘pattern’ of the UGC w.e.f. 01.01.1986.

But notwithstanding the difference in language used between the two, we notice that the pay scale revision of some posts is on similar lines to those recommended by the UGC.

Annexure P8 dt.12.01.1988 revises the scale of pay of Lecturer (Senior Scale) to 3000-100-3500-125-5000, Lecturer (Selection Gd.) to 3700-125-4950-150-5700, Reader to 3700-125-4150-150-5700 and Professor to 4500-150-5700-200-7300.

Annexure P3 notification dt.12.03.1989 revises the scales of pay of Senior Lecturers to 3000-195-5500-125-5000, Assistant Professor 3000-195-5500-125-5000, Associate Professor 3750-180-4950-150-5700, and Professors 3700-185-4950-150-5700.

When we compare the two, it is clear that as regards the posts of Seniors Lecturers and Assistant Professors in the Punjab State Medical and Dental Colleges, the pay scales revision is equivalent to what is recommended to Senior Lecturers by UGC; while for Associate Professors in Punjab State medical and Dental College, it is almost equivalent to what is provided for the posts of Readers in the University and colleges. Only for the posts of Professors, there is a substantial discrepancy in the revision of pay between the Professors employed in the Punjab State Medical/Dental Colleges and Professors employed in other University Colleges.

Conclusion

In our opinion, emphasis ought not to be made on the word 'pattern' used in Annexure P3 notification dt.12.03.1989 to decide whether the pay revision has been done as per the 'recommendations' of the UGC or not, and one needs to look at the actual pay revision made and see whether it is on par or akin to those recommended by the UGC in Annexure P8 notification dt.12.01.1988. The word 'pattern' in the Annexure P3 notification dt.12.03.1989 appears to have been loosely used to convey that it is 'on same lines' as per 'recommendations' of the UGC, and the learned Single Judge erred in not looking at the actual revision in scales of pay given to the Writ Petitioners in Annexure P3 notification dt.12.03.1989 while comparing it with Annexure P8 notification dt.12.01.1988 issued by the State of Punjab revising scale of pay for teaching personnel of the University and its colleges.

Since there is an obvious parity in the revisions of pay scales as between Senior Lecturers, Assistant Professors and Associate Professors in Punjab State Medical/Dental Colleges with the teaching personnel holding the positions of Senior Lecturers and Reader in the University Colleges mentioned in the Annexure P8 notification dt.12.01.1988, we are of the view that such of the respondents/non-applicants, who are holding the positions of Senior Lecturers, Assistant Professors and Associate Professors in Punjab State Medical/Dental Colleges, would not be entitled to the benefit under Rule 8 of the 1988 Rules, but such of the respondents/non-applicants holding the posts of Professors in the Punjab State Medical/Dental Colleges would be entitled to the benefit of Rule 8 of

the 1988 Rules since their pay revision is not on lines recommended by the UGC and is much less than what was recommended by the UGC.

Therefore, to the above extent, the judgment of the learned Single Judge is set aside and the appeal is partly allowed.

Pending application(s), if any, shall stand disposed of.

(M.S. RAMACHANDRA RAO)
JUDGE

(SUKHVINDER KAUR)
JUDGE

11.01.2023

Vivek

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |