

CWP No. 631 of 2014

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 631 of 2014 (O&M)
Reserved on: March 20, 2023
Pronounced on: April 13, 2023

Poonam

...Petitioner

Versus

B.P.S. Mahila Vishwavidyalaya and another

...Respondents

CWP No. 1371 of 2014 (O&M)

Santro Devi and another

...Petitioners

Versus

B.P.S. Mahila Vishwavidyalaya and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Yash Paul Malik, Advocate
for the petitioners in both the cases

Mr. Sudarshan Kumar, Advocate,
for the respondents in both the cases.

JAISHREE THAKUR, J.

1. By way of this common judgement, this court proposes to decide two writ petition i.e. Civil Writ Petition Nos. 631 and 1371 of 2014, as common question of law and fact are involved therein. However, for the sake of brevity, the facts are being taken from Civil Writ Petition No 631 of 2014 *Poonam Vs B.P.S. Mahila Vishwavidhalya and another*.
2. The petitioner was appointed as Hostel Warden on 13.10.2005 (Annexure P/1) in P.S.D. Girls Law College, Khanpur Kalan, which then

CWP No. 631 of 2014

became the constituent institution of the University and renamed as Department of laws, B.P.S. Mahila Vishwavidhalya Khanpur Kalan. Thereafter, the petitioner was brought in the regular cadre of the respondent University w.e.f. 27.02.2009, vide order dated 22.7.2009 (Annexure P/2) as Hostel Supervisor on a consolidated salary. The educational qualification for this post was graduation. The petitioner completed her graduation in May 2010 and a regular pay scale was granted to the petitioner by the respondent University, vide letter dated 03.09.2012 (Annexure P/3) w.e.f. 15.6.2012. As the petitioner had acquired essential educational qualification of Bachelor of Arts, as required to hold the post of Hostel Supervisor in May 2010, she represented that she may be given the regular pay scale from the said date instead of 15.6.2012. The petitioner served a legal notice dated 9.11.2013 (Annexure P/4) through her counsel but to no avail, hence the writ petition.

3. Learned counsel for the petitioner would argue that the petitioner herein who had been appointed on a regular pay scale with P.S.D. Girls Law College, Khanpur Kalan, would be entitled to a regular pay scale from the date she acquired the qualification to hold the post of Hostel Supervisor. It is argued that the Executive Council of the respondent University had taken a decision in its meeting held on 23.06.2008 to the effect that *“the staff which is not qualified may be given consolidated salary till such time they acquire the required qualifications. Lower post may be considered wherever possible.”* It is submitted that based on the decision of the Executive Council, several persons have been given the benefit of

CWP No. 631 of 2014

regular pay scale on acquiring required educational qualifications. One such person is Smt. Ram Bhateri, who was serving as Hostel Attendant and was initially regularised on consolidated salary, but on acquiring the required educational qualification of Matric, essential for the post of Hostel Attendant, she was granted regular pay scale by regularizing her services in the regular pay scale. This was done based on the decision of the Executive Council dated 23.06.2008 reproduced above. Learned counsel would argue that the petitioner herein is entitled to the same benefit and claims parity with Smt. Ram Bhateri. The petitioner acquired the necessary qualification of graduation to hold the post of Hostel Supervisor in May 2010 and, therefore, ought to have been granted regular pay scale from that day.

4. Per contra, learned counsel appearing on behalf of the respondents would submit that the claim of the petitioner for a regular salary from the date she acquired the qualification cannot be acceded to. It is submitted that the petitioner, who was working as a Hostel Supervisor in a Law College run by erstwhile private management, became the part of the University. As per the decision of the government dated 21.9.2006, the staff working on aided posts in the educational institutions were to continue as such till the final decision was taken in that regard. The petitioner continued to work on a consolidated salary in the respondent University. Subsequently, the State Government accepted the University's proposal of rationalization of various posts and 10 posts of Hostel Warden in the pay scale of ₹ 9300–34,800+3300 grade pay was sanctioned to adjust old hostel staff of the erstwhile private management. However, a minimum

CWP No. 631 of 2014

qualification for post of Hostel Warden was Post Graduate Degree with 5 years experience of supervising hostels. The petitioner did not fulfill the qualification as she was not even a graduate. The Executive Council by resolution dated 23.06.2008 decided as under:-

“5. The staff which is not qualified may be given consolidated salary till such time they acquire the required qualifications. Lower post may be considered wherever possible.

6. Hostel Wardens with at least Matric qualification may be re-designated as Hostel Supervisors with consolidated salary of ₹4500/- per month with 10% increase after every five years. Those with less than Matric to get minimum wages with 10% increase after every five years of service.”

Thus, the University rationalized the petitioner's service as Hostel Supervisor on consolidated salary against the sanctioned post of Hostel Warden w.e.f. 27.2.2009. This arrangement was to continue till the lower post of Hostel Supervisor became available and the petitioner acquired the requisite qualification. Minimum qualification for the post of Hostel Supervisor was graduation with one year experience of supervising hostels. There was no post of Hostel Supervisor available in the Department of laws in May 2010 when the petitioner graduated. Eight posts of Hostel Supervisors and 16 posts of Hostel Attendants were sanctioned on 8.5.2012 and it was proposed to rationalize services of the old staff who had been kept in a consolidated salary against the newly created post of Hostel Supervisors and Hostel Attendants. The proposal was approved by the Executive Council by resolution dated 15.6.2012 and thereafter on the creation of posts of Hostel Supervisor, the services of the petitioner were

CWP No. 631 of 2014

regularised w.e.f. 8.5.2012 along with others.

7. Learned counsel for the respondents would further submit that in the case of Smt. Ram Bhateri, who was serving as Hostel Attendant, she was initially rationalized in consolidated salary w.e.f. 27.2.2009. She acquired the requisite qualification of Matric for the post of Hostel Attendant on 10.06.2010 and at that time one post of Hostel Attendant was vacant and accordingly her services were regularised and she was brought in the regular strength of the College of Education against the post.

8. I have heard the counsel for the parties and with their assistance have gone through the pleadings of the case.

9. The petitioner herein is seeking regular pay scale on the post of Hostel Supervisor w.e.f. May 2010 as she acquired the necessary qualification of being a graduate. Initially, she had been appointed as Hostel Warden on 13.10.2005 in P.S.D. Girls Law College, Khanpur Kalan, which then became the constituent institution of the University and renamed as Department of Laws, B.P.S. Mahila Vishwavidhalya, Khanpur Kalan. The petitioner continued to work on a consolidated salary with the University and completed her graduation in May 2010. It is on the basis of having done her graduation in 2010, that the petitioner seeks regular pay scale and regularization to be effective from the said date.

10. Admittedly, the petitioner who was working with PSO Girls Law College, Khanpur Kalan, Sonipat since 2005 came to be part of respondent University once it was established vide Ordinance dated 18.8.2006. The staff, teaching and non-teaching, working in the educational

institutes was to be absorbed in the University. Till such time as the rules were formulated for the respondent University, the rules as applicable to Maharishi Dayanand University, Rohtak, were to be followed. On 08.05.2012, a decision was taken to create eight posts of Hostel Supervisor and 16 posts of Hostel Attendant with the pay and qualification for the post of Hostel Supervisor to be on the pattern of Maharishi Dayanand University, Rohtak and that of Hostel Attendant on the pattern of B.P.S. Mahila Vishwavidhalya Khanpur Kalan, Sonapat. Ten posts of Hostel Warden in the pay scale of ₹9300–34800+3300 Grade Pay were sanctioned for adjustment of all old staff in the respective colleges/institutions. As none of the incumbents had the necessary qualification of Hostel Warden, that is Post Graduate with at least 5 years experience of supervising hostels, a decision was taken that instead of downgrading the post of Hostel Warden, the Executive Council be requested to allow the rationalization of the old hostel staff against the newly sanctioned posts and the decision was then taken to advertise the 10 posts of Hostel Warden, 4 posts of Hostel Supervisor and 11 posts of Hostel Attendant with the qualification of Post Graduate with at least 5 years experience of supervising hostel for the post of Hostel Warden, at least Graduate with 1 year experience of supervising hostel for the post of Hostel Supervisor and 10+2 for the post of Hostel Attendant. On the creation of the said post of Hostel Supervisor, the petitioner was appointed as such and she gave an undertaking that she would not claim any arrears as well as benefit of notional pay fixation from the date of her initial appointment with the University.

CWP No. 631 of 2014

11. It would be relevant to note that it was necessary to be a Graduate with 1 year's experience of supervising hostels to be appointed as Hostel Supervisor. The petitioner became a Graduate in May 2010 on which date the post of Hostel Supervisor was not vacant, and additional posts came to be created by a decision of the Executive Council only in May 2012 by which time the petitioner had acquired the necessary qualification. Merely because the petitioner had become a Graduate in May 2010, she cannot claim a regular pay scale from the said date as neither did she had 1 year's experience of supervising hostels from the date of acquiring a Graduate degree nor was there a vacant post.

12. In CWP No.1371 of 2014, the claim of the petitioners is that they were initially appointed as Hostel Wardens with Kanya Gurukul Sr. Secondary School, Khanpur Kalan, which became a constituent institution of the respondent University. On 22.7.2009 (Annexure P/4) they were brought on the regular cadre of the University with effect from 27.2.2009 on the consolidated pay scale of ₹4500/- and were regularised. Subsequently, they were brought on the regular strength of the University as Hostel Attendant w.e.f 15.6.2012 but were entitled to the pay scale w.e.f. 27.2.2009. As per the written statement filed, both the petitioners did not have the necessary qualifications. Petitioner No. 1 did her Matriculation in October 2010, and petitioner No. 2 in 2009. At that time, there was no vacancy of Hostel Attendant. As and when posts were sanctioned, the petitioners were regularised as per their qualifications.

13. The petitioners only acquired the essential qualifications to be

CWP No. 631 of 2014

appointed against their respective posts subsequent to joining the University. At the time of acquiring the essential qualifications, there was no vacancy. After the creation of additional posts, the petitioners have been regularised and are being paid regular salary. Consequently, they cannot claim regular salary from the date they acquired qualification, as on that date there was no vacancy.

14. The writ petitions stand dismissed.

April 13, 2023
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No