2024:P-HC:079141

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

CWP No.2020 of 2003 (O&M)
Reserved on: 24.05.2024
Pronounced on: 31.05.2024

Dr. Sujan Singh

......Petitioner

Versus

The State of Punjab and others

......Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: Mr. Kanwaljit Singh, Sr. Advocate, with
Mr. K.S. Brar, Advocate, for the petitioner.

Mr. Surya Kumar, AAG, Punjab.

Mr. Deepak Arora, Advocate,
for respondents and 2 and 3.

NAMIT KUMAR, J.

1. Instant writ petition has been filed by the petitioner under Articles 226/227 of the Constitution of India, impugning the order dated 13.12.2002 (Annexure P-11) passed by respondent No.2, whereby it has refused to admit the payment of advance increments granted to the petitioner by the Syndicate of the University. Further a writ of *mandamus* has been sought for directing the respondents to implement the decision of the University, which is based upon the decision taken by the Syndicate of the University.

2. Brief facts, as have been pleaded in the petition, are that the petitioner was appointed as lecturer in Law at Guru Nanak Dev University, Regional Centre, Jalandhar, vide appointment letter dated 28.02.1989. Thereafter, he was granted senior scale of Rs.3000-5000

w.e.f. 16.03.1995 vide order dated 21.12.1995. It is the case of the petitioner that the University had opened its Regional Campus at Gurdaspur and the petitioner was appointed to the post of Reader in Law at Guru Nanak Dev Regional Campus, Gurdaspur, vide appointment letter dated 18.04.2000 in the pay scale of Rs.12000-18300. Thereafter, petitioner submitted representation to the University authorities that since his joining as Co-ordinator and joining as Reader in Laws at Reginal Campus at Gurdaspur, his pay has actually come down and has not been protected as he was drawing salary of Rs.19,202/- in the month of April, 2000 prior to his selection as Reader in the Regional Campus at Gurdaspur and after that his salary has come down to Rs.17590/-. In this manner, the petitioner is suffering a loss of Rs.2234/- per month approximately. The matter was taken up by the Syndicate of the University in its meeting held on 11.08.2000 (Annexure P-4) in which it was resolved that under Statute 41 while fixing the pay according to rules, the petitioner be given six additional/accelerated increments. However, the payment was not admitted by the Deputy Controller, Audit, vide his note No.816 dated 07.06.2001, which reads as under: -

> *"There is no provision under the Service Rules for grant of additional increments at the time of direct appointment, therefore, request of grant of additional increment to you is not admissible."*

The said objection of the Deputy Controller, Audit, was conveyed to the petitioner vide letter dated 03.10.2001 (Annexure P-5). The petitioner served legal notice dated 18.10.2001 for the grant of six additional/accelerated increments as per decision of the Syndicate and since no action was taken on the said legal notice, petitioner filed CWP No.9954 of 2002 – Dr. Sujan Singh v. The State of Punjab and others, which was disposed of by this Court, vide order dated 05.07.2002, with a direction to the respondents to pass an appropriate order on the aforesaid legal notice in the light of the judgment in ***Sardari Lal and others v. State of Punjab and others, 1996(3) S.C.T. 17*** within a period of four months. However, the said claim was rejected by the Examiner, Local Fund Accounts, Punjab, Chandigarh, vide order dated 13.12.2002 (Annexure P-11) by stating that grant of advance increments is not covered under the University guidelines and the petitioner applied for higher post knowing fully well the financial implications and secondly this will enhance the basic pay of the petitioner by Rs.2520/- per month. The said order has been challenged in the present petition. By way of CM No.6316 of 2004 the petitioner has placed on record an office order of the Government of Punjab dated 25.04.2003 that the University is entitled to grant higher pay/accelerated and additional increments. However, in reply to the said CM, it was again denied by the Local Funds Account, Punjab, that the basic pay of the petitioner was not reduced only less allowances were given to him as per rules applicable to all employees posted at Gurdaspur as petitioner himself had chosen to transfer himself from expensive city Amritsar to less expensive city Gurdaspur. By way of CM No.10973 of 2006, the petitioner placed on record Annexures A-2 and A-3 whereby University had granted additional increments to two lecturers, namely, Mr. Sandeep Sood and Mrs. Anu Sheetal. The grant of said increments was approved by the Audit Department, Punjab. Vide CM No.15583 of 2007, the petitioner again made a prayer that the writ petition may be allowed and disposed of as per Annexures A-2 and A-3, keeping in view his retirement. Notice was issued to the State with further direction to pass an order in the light of averments made in CM No.15583 of 2007. Vide Annexure R-3, dated 18-01-2008, again a distinction was made that since those two lecturers have been granted advance increments at the time of fresh appointments on the basis of recommendation of the selection committee and approved by Syndicate the same is covered under Statute 41 of the University calendar however, the allowances of the petitioner were reduced as he was appointed as Reader from expensive city Amritsar to less expensive city Gurdaspur.

3. Learned Senior counsel for the petitioner submitted that the claim of the petitioner for release of payment on grant of six additional/accelerated increments has wrongly been rejected by the Deputy Controller, Audit, which was duly approved by the Syndicate of the University in terms of Statute 41, which empowers the Syndicate or the Vice-Chancellor or the Registrar as the case may be to sanction a higher start than the minimum of the grade pay, accelerated increments, allowances etc. He further submitted that once the Syndicate of the University has granted the said benefit, the audit authorities have no jurisdiction not to admit the payment of the same. He further submitted that the case of the petitioner is squarely covered by a Division Bench

judgment of this Court in ***Sardari Lal's*** case (supra), which has been upheld by the Hon'ble Supreme Court in ***State of Punjab and another v. Sardari Lal and others, 2003(10) SCC 253***, which has further been followed by this Court in a bunch of writ petitions and the lead case being ***CWP No.1329 of 2020 – Balvir Singh Garcha v. State of Punjab and others*** **–** decided on 16.05.2024.

4. *Per contra*, learned State counsel has submitted that the State Government which bears the financial burden has right to examine as to whether the benefit granted by the University is to be admitted or not.

5. Learned counsel for the respondent-University has supported the claim of the petitioner.

6. I have heard learned counsel for the parties and perused the relevant record with their able-assistance.

7. Before proceeding further, the relevant provisions of the Guru Nanak Dev University Act, 1969 and the Statutes may be noticed.

8. The University was established and incorporated by Punjab Act no.21 of 1969. Under section 14(5) of the Act, the Syndicate shall be the principal executive body of the University and shall have the management and administration of revenue and property of the University. Section 19 provides for the making, amendment, repeal and operation of statutes, which reads as under: -

> *"19.(1) The first Statutes of the University shall be made by the state Government and noticed in the official Gazette.*

(2) The Syndicate may, from time to time, make new or additional Statutes or may amend or repeal the Statutes.

(3), (4) and (5)... ...omitted.

(6) Every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require approval of the Chancellor who may sanction, disallow or remit it for further consideration."

9. Sections 23 and 25 to which a reference has been made in the written statement filed on behalf of the respondents are in the following terms:-

"23.(1) The State Government may, from time to time, provide such amounts by way of grants for meeting the capital, recurring or other expenditure of University as it may deem fit.

(2) Without prejudice to the generality of foregoing provision, the State Government shall provide a minimum annual grant of fifty lac rupees to the University for meeting its recurring expenditure:

Provided that if during any financial year the entire amount of the aforesaid grant is not utilised for meeting the recurring expenditure, the unutilised balance may, with the previous consent of the State Government, be utilised for meeting capital expenditure of the University.

25. The accounts of the income and expenditure of the University shall be submitted once in every year to the Government for such examination and audit as the Government may direct. The accounts, when audited, shall be published in the Official Gazette."

10. A perusal of the above provisions leaves no doubt that the first Statutes of the University were promulgated by the State Government. However, the Syndicate has the power to make new Statutes as also to amend or repeal the existing Statutes. It is further

provided in sub-section (6) of Section 19 that the Statutes framed by the Syndicate required the approval of the Chancellor. Section 23 authorises the State Government to provide grants for meeting the expenditure. Under section 25, the accounts of the incomes and expenditure of the University have to be submitted to the state government for examination and audit. No provision has been pointed out which may show that the Government is entitled to interfere with the day-to-day administration of the University or the grant of benefits to the employees.

11. Furthermore, it appears that the conditions of service governing the employees are embodied in Statutes. Statute 41 provides as under:-

> *"41. The Syndicate or the Vice Chancellor or the Registrar, as the case may be, shall have the power to sanction a higher start, than the minimum of the grade, accelerated increments, allowances, etc. as it or he may deem fit."*

12. A Division Bench of this Court while considering the similar issue of grant of accelerated increments as per Statute 41 in ***Sardari Lal's*** case (supra) has held as under*:* -

> *"14. On a perusal of the provisions of the Act and Statute 41, it is obvious that the syndicate is the principal executive body of the University. It exercises the power of administration and management of the revenue and property of the University. It is responsible for the conduct of administrative affairs of the University. The State Government is obliged to provide funds. Once in a year, the University has to submit the accounts of incomes and expenditure to the State Government for examination and*

audit. However, there is no provision which may authorise the State Government to interfere with the day-to-day administration or the grant of benefits to the employees. It is further apparent that the conditions of service of the employees of the University in the teaching and non-teaching departments are governed by the Statutes contained in Chapter II. Statute 41 specifically vests the power with regard to the grant of accelerated increments in the Authorities of the University. The State Government has not been given any power of control or supervision in this behalf.

15. It is true that the State Government bears the financial burden of the expenses incurred by the University to a considerable extent. However, in the absence of a provision specifically authorising the Government to interfere with the orders of the competent Authority, it cannot be said that it had the power to stop the grant of accelerated increments to the employees. Nor is there any provision which may oblige the University to follow the policy of the State Government or "the general principles of administration applicable to the employees of the State Government". If the Syndicate or the Vice Chancellor or the Registrar of the University considers it appropriate to reward the deserving employees as falling within their respective jurisdiction by the grant of accelerated increments for the good work done by them, as at present, the State Government has no jurisdiction to interfere with their orders.

16. The provision contained in Statute 41 has a salutary purpose to serve. It authorises the competent Authority to encourage a deserving employee. In normal course, every employee earns the increment at the end of the year. Under the present system, every official gets promotion virtually in his turn. There is hardly any chance for a *meritorious candidate to steal a march over his seniors. In practice, the archaic rule of seniority is scrupulously followed with the result that there is no incentive for a person to work hard and excel. The provision in Statute 41 provides a method by which the competent Authority can encourage a deserving person. It provides an incentive for the employees to put in their best so that they may have the satisfaction of earning a little more than others. It contemplates the recognition of merit. It may be that the Government has taken a policy decision to give cash rewards to its employees. Such a decision, however, it is in no way binding on the University.*

17. Admittedly, a large number of employees are working in the University. Out of them, a few appear to have been selected for the grant of accelerated increments. This has been done to reward them for good work. The expense involved is not such as may amount to extravagance. It has not been shown that the Authorities have been indiscriminately sanctioning the grant of accelerated increments to all and sundry. In case it was found that the power was being misused, it may become necessary for the appropriate Authority to amend the Statute or to incorporate other provisions. However, in the circumstances of the present case, it is not possible to accept the suggestion made on behalf of the respondents that the Government was forced to intervene as the University Authorities were sanctioning increments extravagantly.

18. In view of the above, the question posed at the outset is answered in the negative. It is held that the State Government has no jurisdiction to interfere with the order regarding the grant of accelerated increments passed by the Vice Chancellor or Registrar

19. Accordingly, the writ petition is allowed. The impugned action of the respondents is set aside. It is directed that the orders regarding grant of accelerated increments to the petitioners shall be implemented. Consequential reliefs in the nature of arrears of salary should be paid to them within one month of the receipt of a copy of this order."

13. The abovesaid judgment was challenged by the State of Punjab before the Hon'ble Supreme Court and the Division Bench judgment of this Court was upheld in case titled as ***State of Punjab and another Vs. Sardari Lal and others : 2003(10) SCC 253***, while observing as under :-

"1. In these appeals by the State of Punjab, the common question that arises for consideration is whether the State Government has any power to override the decision of the appropriate authority of the University when such power is not conferred directly upon the State Government under the Statute or any regulation framed thereunder?

2. The State Government being the authority which funds the University for several purposes sought to rely upon the provisions of Sections 19, 23 and 25 of the Guru Nanak Dev University Amritsar Act, 1969 (for short "the Act") and it was contended that the provisions of the aforesaid sections if read together, it would appear that the State Government retains the power of control, particularly when it relates to the funds being spent by the University for various purposes including the grant of accelerated increment and allowance to its employees.

3. Under the University Statute, Statute 41 deals with the grant of accelerated increment and allowance and power is conferred upon the Syndicate or the Vice Chancellor or the Registrar. The power of the State Government under

Section 25 of the Act to get the accounts of the University audited will not include within its sweep any power to nullify a decision of the appropriate authority of the University in the matter of grant of accelerated increment or allowance which has been specifically conferred upon the authorities of the University. The power of the State Government under Section 23 of the Act is to the effect that the State Government may provide such amounts by way of grants for meeting the capital recurring or other expenditure of University as it may deem fit. Merely because the State Government has been conferred power to provide amounts by way of grant for meeting the expenditure of the University will not clothe the State Government any further control in the matter of expenditure or the service condition of the employees which is specifically provided for in the Statute itself and the Statute confers powers on the Vice Chancellor, the Syndicate or the Registrar and not on the State Government. The University is an autonomous body and, therefore, the State Government will not be entitled to interfere with the internal administration of the University notwithstanding the fact that the State Government is the funding body until and unless the University Statutes provides for the same or there is any Act of Legislation conferring that power on the State Government. In course of arguments, the learned Counsel appearing for the State Government brought to our notice the provisions of Section 10 of the Haryana and Punjab Agricultural Universities Act in support of the contention that since the Vice Chancellor has certain power of control and that power must be held to be with the State Government as the Vice Chancellor exercises that power in aid and advice of the State Government. This provision is not there either in the Statute of the Guru Nanak Dev University or Punjab

University. But even for the Haryana and Punjab Agricultural University also the aforesaid power on a plain reading cannot be held to be conferring power on the State Government to take any decision in the internal administration of the University which the Statute itself does not provide. The impugned judgment in C.A. No. 5088/96 clearly indicates that no provision has been pointed out which may show that the Government is entitled to interfere with the internal administration of the University or the grant of benefit to the employees.

4. Having considered the different provisions of the Act and the Statute which had been placed before us, we are unable to accept the contention raised by the learned Counsel appearing for the State Government that the provisions of Sections 23 and 25 of the Act could be construed to have conferred the power on the State Government in the garb of controlling the funds which the State Government grants for the running of the University, to have a control over the internal administration of the University. In the aforesaid circumstances, we see no infirmity with the impugned judgments of the High Court to be interfered with by this Court. These appeals accordingly fail and are dismissed."

14. To the similar effect is the judgment of this Court ***in G.S. Negi Vs. Punjabi University, Patiala : 1996 (3) S.C.T. 446***, wherein the benefit of special allowance granted to the employees of the University was ordered to be stopped on the direction of the State Government also. In the said judgment it was held as under :-

"4. In Civil Writ Petition No. 4990 of 1985 (Dr. Rai Jasbir Singh and others v. State of Punjab and others,) 1996(1) SCT 571(P&H) decided on 6.11.1995, I had an occasion to consider a similar question involving claim of the

petitioners to be paid benefit of arrears of revised pay-scale w.e.f. 1.1.1973. The petitioners who were working as research Assistants were given the benefit of revised grade of Rs. 700-1600 with effect from 1.1.1973 but on the basis of the letter written by the Government to the University, arrears were denied to the petitioners for the period between 1.1.1973 and 8.1.1978. One of the pleas raised by the University was that in the light of the direction given by the Government it could not accept the claim of the petitioners to be given arrears w.e.f. 1.1.1973. After making reference to the provisions of the Guru Nanak Dev University Act, 1969 and the Statutes framed by the University, it has been held:-

> *"From the provisions of the Act and the Statutes it is clear that it is the Syndicate of the University which is empowered to prescribe the pay- scales and allowances etc. payable to the employees who are connected with teaching and research work. This being the position, it was not at all justified for the University to have sought sanction from the Government for giving benefit of revised pay-scale to the petitioners with effect from 1.1.1973, particularly when the Syndicate and the Senate of the University had unequivocally resolved to give the benefit of the pay-scale of Rs. 700-1600 with effect from 1.1.1973."*

5. In the light of the two decisions, referred to hereinabove, it is held that the Syndicate of the University has acted illegally in rescinding its earlier decision to give special allowance of Rs. 80/- per month to the petitioners. The Resolution (Annexure P-12) passed by the Syndicate amounts to abdication of its authority to the Government and the same is legally unsustainable.

6. For the reasons mentioned above, the writ petition is allowed. Annexure P-12 is quashed. It is declared that the petitioners are entitled to be paid special allowance of Rs. 80/- per month on premise that Resolution (Annexure P-12) was never passed. The respondent-University is directed to pay the consequential monetary benefits to the petitioners within a period of three months of the submission of the certified copy of this order before the Registrar."

15. The said judgments have been followed by this Court in ***Balvir Singh Garcha's*** case (supra), wherein the dispute was with regard to secretariat pay which was granted by the Syndicate of the University, however, the payment of the same was not admitted by the audit authorities and the said action was set aside by this Court and it was directed to grant the benefit of secretariat pay to the University employees.

16. In the present case, admittedly, the benefit of six additional/accelerated increments has been approved by the University in its meeting held on 11.8.2002 and it was resolved as under: -

"ITEM NO.	*RESOLUTION*
37.	*Resolved that under Statute 41, while fixing the pay according to Rules, Shri Sujan Singh, Reader in Laws, be given additional/accelerated increments, which approval is accorded."*

17. Once, the Syndicate of the University, which is a supreme body, has granted the benefit of six additional/accelerated increments under Statute 41, the audit authorities have no jurisdiction to interfere in the said decision. Consequently, the present writ petition is allowed. The action of the audit authorities in not admitting the payment of six

additional/accelerated increments is held to be illegal and is hereby set aside with further direction to respondents No.1 and 2 to release the necessary benefits to the petitioner, within a period of three months from the date of receipt of certified copy of this order.

(NAMIT KUMAR)
JUDGE

31.05.2024
R.S.

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No