

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(109) LPA-724-2024 (O&M)
Decided on : 24.04.2024

State of Haryana & othersAppellant(s)
Versus
Balwinder Singh & anotherRespondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI

Present: Mr.Deepak Balyan, Addl.A.G., Haryana for the appellant (s).
Mr.Suresh Ahlawat, Advocate, for the respondents.

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-1785-LPA-2024

1. Allowed as prayed for.
2. CM stands disposed of.

CM-1784-LPA-2024

3. Application for condonation of delay of 50 days in refiling the present appeal, is allowed, in view of the averments made in the application, duly supported by affidavit of the official, same is allowed. Delay of 50 days in refiling the appeal is hereby condoned.

4. CM stands disposed of.

CM-1786-LPA-2024

5. Application for condonation of delay of 52 days in filing the present appeal, is allowed, in view of the averments made in the application, duly supported by affidavit of the official, same is allowed. Delay of 52 days in filing the appeal is hereby condoned.

6. CM stands disposed of.

LPA-724-2024

7. Consideration in the present appeal is to the judgment dated 21.07.2023 passed by the Learned Single Judge in CWP-15114-2021 wherein the writ petition was allowed and Clause no.11 of the policy dated 04.03.2020 (Annexure P-2) was declared illegal which fixed the remuneration to the retired Teachers who had been appointed as eligible Extension Lecturers in Government Colleges at Rs.35,400/- per month. Resultantly, directions were issued that remuneration should be paid at Rs.57,700/- per month to the writ petitioners from the date of their appointment as Extension Lecturers and release the arrears of difference of remuneration to them within a period of six weeks.

8. State Counsel has vehemently argued that the writ petitioners constituted a separate category being retired Lecturers and therefore, could not claim the same amount of remuneration as was being paid to the other eligible Extension Lecturers since they were already drawing pension from the State and therefore, could not be benefitted twice.

9. The said argument was duly considered by the Learned Single Judge and rightly been rejected by keeping in mind the fact that the writ petitioners were performing the same duties as being performed by the eligible Extension Lecturers who had got retired. The pension which was being drawn by them was for the service rendered by them in the Department for a period of 21 years. The amount which they were entitled was for the work being done by them pursuant to the engagement and the two were not inter-connected. The drawing of pension could not have a bearing on the remuneration to be paid for the work being done as Extension Lecturers since the engagement was based purely upon their

eligibility in terms of the policy and the instructions issued. The distinction to be drawn by categorizing them as separate class was misplaced and irrational and had no nexus with the object of employing Extension Lecturers to meet the teaching workload. The payment of lesser remuneration to the retired teachers/writ petitioners amounted to practicing discrimination against them and treating equals as unequals and the State cannot shirk from its duty to pay all eligible Extension Lecturers who form one class equally for the same work done by them in compliance of the Constitutional mandate of equality enshrined in Articles 14 & 16 of the Constitution of India. The writ petitioners had filed the writ petition stating that they were being discriminated by payment of lesser remuneration of Rs.35,400/- per month w.e.f. January, 2021 instead of Rs.57,700/- per month on account of status of employee which was not permissible. It is their pleaded case that same was on account of the policy guidelines dated 04.03.2020 (Annexure P-2) and they had been appointed as Extension Lecturers in Punjabi Subject.

10. Apparently, they filed an application for increase of their remuneration keeping in view the fact that their qualification was MA/Ph.D and claimed the necessary additional amount on the ground that they were retired Teachers and qualified and could not be compared with the ineligible Extension Lecturers. It was specifically pleaded that all additional duties and responsibilities were given to the retired Teachers who were engaged as Extension Lecturers and that other Extension Lecturers were not retired and there is no reason for the said discrimination. They placed reliance upon **State of Punjab & others Vs.**

Jagjit Singh & others, 2017 (1) SCC 148 qua 'equal work, equal pay'.

11. The stand of the Principal, Government College who had filed the written statement on behalf of respondents No.1 to 3 is that the instructions dated 06.07.2019 would have no relevance after the issuance of the policy guidelines dated 04.03.2020 which was in supersession of all the instructions whereby on an earlier occasion, all eligible Extension Lecturers were to be given Rs.57,700/- per month provided that there was adequate workload and they were to continue provided there was workload for the one academic session.

12. A perusal of the instructions dated 04.03.2020 (Annexure P-2) would go on to show that the remuneration was fixed under Clauses 8 to 11 and it had been mentioned that the eligible Extension Lecturers were to be paid Rs.57,700/- per month w.e.f. 27.06.2019 on the principle of 'equal work, equal pay' and no allowances were to be paid. They were to perform all additional duties at par with the regular Assistant/Associate Professors but the duties involving financial responsibilities were not to be allotted to them. The ineligible ones were to be paid Rs.35,400/- per month including those who had got interim protection by this court till the final outcome of the litigation. Thus, specific categorization has been made regarding the ineligible and the eligible to put the ineligible at a lesser platform at Rs.35,400/- per month. The classification in that case is thus based on that ground. The writ petitioners are the eligible ones who had earlier served the State and having retired, got the benefit of appointment but keeping in view the provisions that they were to be paid remuneration at Rs.35,400/- per month. Relevant clauses read as under:

“B. Remuneration

8. The eligible extension lecturers shall be paid @ Rs. 577001- per month w.e.f. 27-6-19 (on the principle of equal work equal pay)

and no allowances are to be paid. They shall be given teaching workload as per State Govt. norms. Further, they shall also perform all additional duties (at par with regular Assistant/Associate Professor). However, duties involving financial responsibilities shall not be allotted to them.

9. However, all those incumbents who are not eligible as per UGC/State Government norms but are still working as being protected by the orders of Hon'ble High Court, will be paid a remuneration of Rs 35,400/- per month and will be meeting complete workload and all other duties as well till the final outcome in Civil Writ Petitions.

10. Wherever, an Extension Lecturer is engaged and still working as being protected by the orders of Hon'ble High Court and there is less workload as per stipulated norms they will be paid Rs 35,400/- per month.

11. The remuneration to be paid to such retired teachers will be Rs. 35,400/- p.m.”

13. It is thus apparent that the State is openly discriminating against similarly situated set of persons who were performing the same type of work. The argument raised by the State Counsel that they were receiving pension has been rightly rejected by the Learned Single Judge. The pension which was being received was not on account of the service rendered at present but was on account of the earlier long service and cannot be considered a ‘Bounty’ in any manner. The Apex Court in Jagjit Singh (supra) has already elaborated on the issue of ‘equal pay for equal work’ and granted even the temporary employees right to claim wages at par with the minimum of the pay scales of Government employees holding the same duties.

14. In **State of Punjab & others Vs. Devinder Singh & others, 1998 (8) SCC 595**, the writ petitioners were Ledger Keepers/Ledger Clerks and claimed salaries and allowances as being paid to the regular

employees and doing the same work as has been taken from the regular employees and this Court accepted the said prayer on the principle of 'equal pay for equal work' and the Apex Court modified it to the extent that the petitioners were entitled for minimum of the pay scales of Ledger Keepers. The Apex Court in Jagjit Singh (supra) had fallen back upon Article 7 of the International Covenant on Economic, Social and Cultural Rights, 1966 that there has to be fair wages and equal remuneration for work of equal value without distinction of any kind. Thus, keeping in view the fact that temporary employees were discharging the responsibilities as by regular employees, the Apex Court had gone on to give benefit to all of them while granting minimum of the pay-scales of the regularly engaged Government employees.

15. In such circumstances, in the absence of any specific reply or stand taken by the State that the writ petitioners were doing work lesser than the similarly situated extension Lecturers, we do not see any tangible reason why different view is to be taken which the Learned Single Judge had taken by applying the provisions of Articles 14 & 16 of the Constitution of India. The Apex Court has time and again held that the power of judicial review in the matters of financial implications may be limited but in a case of gross arbitrariness or infirmities, by which the parties have been aggrieved, the Writ Court would step in to redress the grievances to the rights which are provided under the Constitution of India. It is not the case where the matter is complex or it has to be examined by the expert body or there is any gross error while deciding the issue by the Learned Single Judge. The services of all Extension Lecturers were engaged as per the policy dated 04.03.2020 and only candidates who are

the retired Teacher, have been put in the lower slab while equating them wrongly with the ineligible candidates who were continuing work on account of the fact that they had interim orders.

16. It is not disputed that all ineligible Extension Lecturers would necessarily have to give way in view of Clause 2 of the policy which provides that the ineligibles had to be weeded out. The said policy has been upheld by the Division Bench in **Suman Devi Vs. State of Haryana & others, 2020 (4) SCT 523**. The Division Bench in the said case was testing the validity of the policy which was subject matter of challenge but the issue of discrimination had been raised for the first time in the present litigation.

17. Therefore, keeping in view the above discussion, we do not feel any valid reason why the order of the Learned Single Judge would require interference by this Court. Resultantly, finding no merit in the present appeal, the same is hereby dismissed. All pending application(s) also stand disposed of.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

24.04.2024
Sailesh

Whether speaking/reasoned :	Yes	
Whether Reportable :	Yes	