



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

405

CWP-10287-2001 (O&M)
Date of decision: 22.05.2024

Nirmala Devi (deceased) through LRs

....Petitioners

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Vipin Mahajan, Advocate for the petitioner

Mr. Satnam Preet Singh, DAG Punjab

AMAN CHAUDHARY. J. (ORAL)

1. The prayer in the present petition is for directing the respondents to allow the revised scale of Rs.700-1600 to the petitioner as Librarian corresponding the unrevised scale of Rs.300-600 as already allowed vide order dated 28.03.2000.
2. Learned counsel submits that the case of the petitioner is squarely covered by the judgment of the Division Bench of this Court in **Jagdish Chander vs. State of Punjab and Another**,¹ which reads thus:

“This writ petition has been filed for a direction upon the respondents for releasing the pay scale of Rs.700-1600 with effect from 1.4.1980, subsequently revised to Rs.2200-4000 with effect from 1.1.1986, Senior Scale of Rs.3000-5000 with effect from 1.1.1986, selection grade of Rs. 3700-5700 with effect from 1.1.1986 and for a further direction upon the respondents to fix the pay of the petitioner in the revised scales of pay from the due dates and to pay him the difference of arrears of the salary with interest at the rate of 18% per annum from the dates they fell due till the date of payment.

Petitioner was initially working as a Teacher in the Education Department, Punjab and was appointed as Librarian

in the Punjab Advisory Board of Education Library on 3.11.1967. Subsequently, the pay scales of Librarian were revised and separate scales were provided with respect to those Librarians, who had a post graduate degree in the First or Second Division and Third Division with Diploma in Library Science with the requisite experience vide letter dated 7.3.1986 issued by the Secretary to Government, Punjab Education Department. At the relevant time, the petitioner was granted the pay scale of Rs.220-550/- with effect from 3.11.1947 i.e. the date of his joining. Subsequently, the petitioner passed his Diploma in Library science from the Punjab University in May, 1966 and later did his M.A. In Second Division in May, 1970. According to the petitioner he has been treated at par with the Public Librarians and College Librarians by the department itself and was conferred the corresponding pay scale. The petitioner was given the grade of Rs.300-600 with effect from 30.5.1970 when he obtained his post-graduate qualification. whereas he ought to have been given the scales of pay from 3.11.1967 i.e. when he was appointed as a Librarian, inasmuch as a decision was taken by the Government to pay higher pay scales to the College and Public Librarians without insisting on the academic qualifications.

The petitioner having been denied of the pay scales and the respondents having not yielded to his request for treating him equal to the Librarians in College and Public Libraries with regard to the pay scales and other benefits brought a Civil writ Petition No. 2361 of 1980 before this Court for a direction upon the State Government to give him the revised scale of Rs.300-600 from the date of his appointment. The said Civil Writ Petition was allowed by this Court on 21.5.1992 by H.S. Bedi, J. It is alleged that inspite of the directions given by this Court, the petitioner was not paid the arrears with interest. In support of his claim for the grant of revised scales of pay, the petitioner has cited several instructions of the Government issued from time to time granting revised scales of pay to the Librarians. According to the petitioner, his case is squarely covered by the instructions Annexure P-7 dated 25-4-1989 read with Annexure P-8 for the grant of selection grade of Ra. 3700-5700 with effect from 1.1.1986. The petitioner retired from service on superannuation on May 31, 1989. He alleges that in spite of repeated representations to Government, his case has not been considered and he was not granted the pay scales as claimed.

Respondents No. 1 and 2 filed written statement wherein it has been stated that since the petitioner was working against an ex-cadre post, no relief could be granted to him. Their further contention is that the duties and work of the posts of College/Public Librarians are of higher responsibilities than the duties and work of the post of Librarians which was held by the petitioner. It has also been stated that the claim of the petitioner is barred by law of limitation and by the principles of

res judicata.

We have heard the learned counsel for both the parties and gone through the respective pleadings.

Learned counsel for the petitioner has taken us through the judgment of H.S.Bedi, J., in Civil Writ Petition No. 2361 of 1980. It will appear from the Judgment that the self-same objection was taken before the learned Judge in that case to the effect that no benefit could be granted to the petitioner because of the reason that he was holding an ex-cadre post and the duties and responsibilities of the College and Public Librarians are different than that of the post which was lastly held by the petitioner. It also appears that these contentions did not weigh with the learned Judge and he held that the nature of duties and the qualification of the Librarians working in the Punjab Advisory Board of Education Library, Chandigarh being identical with the Librarians working in other departments, there should not be any discrimination in the matter of granting pay scales to the petitioner as were enjoyed by the other Librarians. Consequently, the writ petition was allowed with a direction to the respondents to refix the pay of the petitioner and to pay him his retiral benefits in the terms indicated within a certain period. It is strange to note that in spite of this order of this Court, the respondents did not grant him the revised pay scales as claimed by him in the earlier writ petition and his retiral benefits have not been worked out after granting him the revised scales of pay. The respondents have come up with the same plea as was taken in the earlier writ petition. It is quite clear that H.S.Bedi, J. treated the petitioner at par with the Librarians working in other departments. Therefore all the benefits which are given to the Librarians of College and Public Libraries are required to be given to the petitioner. The petitioner cannot be treated differently. It is clarified once for all that the petitioner is entitled to get all the benefits which his counter-parts in other departments get.

With regard to the question of delay and laches raised by the respondents, it may be observed that after the decision of writ petition No. 2361 of 1980 by H.S.Bedi, J. on May 21, 1992, the petitioner had filed a contempt petition being C.O.C.P. No. 398 of 1993, as, according to the petitioner, the directions in the above said judgment had not been complied with. disposed of on August 6, 1993. stated that so far as the pension, its commutation and the gratuity were concerned, the matter was under process and directions were given that the necessary payments be made within two months. Since, according to the petitioner, due payments were not made, he filed another C.W.P. No. 14700 of 1993 and the same was disposed of on November 30, 1993, with a direction to the respondents that the writ petition itself be treated as a representation for releasing higher pay scale and the same be disposed of within three months. Another contempt petition followed i.e. C.O.C.P. No. 382 of 1994, as according to the

petitioner, the directions in C.W.P. No. 14700 of 1993 had not been complied with within the stipulated period. However, an order dated May 3, 1994, was produced before the learned Judge hearing the contempt petition to contend that the representation of the petitioner had been considered and rejected. The learned Judge, observed that the petitioner may, if so advised, challenge the order dated May 3, 1994, by resorting to such proceedings as may be permissible. It is under these circumstances that the present writ petition has been filed challenging the order dated May 3, 1994, rejecting the representation of the petitioner. Consequently we find that there is no question of laches arising in the present case.

The perusal of the impugned order dated May 3, 1994, copy Annexure P-12 shows that the grant of the same pay scale to the petitioner as granted to the College Librarians was negatived on the ground that the post of Librarian in Punjab Advisory Board of Education Library, is an Ex Cadre post and the duties of such Librarian are different than those of the College Librarians and the grade of this post accorded by the Government is also different.

As observed in the earlier part of the judgment. that in the writ petition filed earlier by the petitioner, i.e. C.W.P. No. 2361 of 1980, this Court had already held that the nature of duties and the qualification of the Librarians working in the Punjab Advisory Board of Education and the College are identical and, therefore, no discrimination could be made regarding the pay scale of the petitioner. It is strange that in spite of this finding, the petitioner's claim has been rejected on that very ground, which had been negatived in C.W.P. No. 2361 of 1980.

Consequently, we allow this writ petition, quash the impugned order dated May 3, 1994 (Copy Annexure P-12) and direct the respondents to grant and pay to the petitioner the same pay scales and benefits w.e.f. April 1, 1980 onwards according to the revised pay scales from time to time as have been paid to the counter-part of the petitioner in the State Government Libraries. Let these directions be carried out within a period of three months of the receipt of the copy of this order from this Court or a certified copy of the same from the petitioner. Since the petitioner had to approach this Court time and again for redressal of his grievance and taking into consideration the attitude of the respondent in denying the benefit to him, we hold that the petitioner will be entitled to costs of this petition, which are quantified at Rs.3000/- (three thousand)."

3. Learned State counsel despite his best efforts, has been unable to controvert the factual position and draw out any distinctive aspects in the
aforementioned judgment or cite any contrary law.

4. In view of the aforesaid, the present petition is disposed of in terms of the judgment passed in **Jagdish Chander** (supra).

(AMAN CHAUDHARY)
JUDGE

22.05.2024

M.Kamra

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No