

Devendra Kumar Pandey Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Dec-21-2012

Appellant : Devendra Kumar Pandey

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. Sanjayram Tamrakar

Judgement :

W.P.No.20893/2012 21/12/2012 Shri Sanjayram Tamrakar, learned counsel for the petitioners Shri Ved Prakash Tiwari, learned Panel Lawyer for respondents State Government.

Petitioners in this writ petition have prayed for the relief on the parity with the Government Teacher.

Petitioners are working as employees in the Government aided Institution.

Petitioners have claimed the benefit of directing the respondents to ensure full payment of salary.

Further direction is sought to give benefit of 5 th Pay Commission w.e.f.1.1.1996 and the same rate of Dearness Allowance and House Rent Allowance.

Matter has been dealt with by this Court in number of decisions and direction has been issued to the respondents to give the benefit of the similar pay scale at par

with the corresponding categories of employees in the Government schools.

The school in question is affiliated to the Board of Secondary Education.

The Regulation 73 of Board of Secondary Education reads as under :- Regulation 73 : The scale of pay of the staff in educational Institution, which are in receipt of Government Grant shall not be less than those sanctioned for the corresponding staff in Government Institution.

In the case of Educational Institution which are not aided there shall be scale of pay the minimum of which shall not be less than that in Govt.

Educational Institution.

Rule 33 of the revised Grant-in-aid rules reads thus :- Rule 33 : The scale of pay of the Teachers including head of the institution and other employees of an Educational Institution which is in receipt of Government Grant shall be in accordance with those sanctioned for the corresponding categories of employees in Government Educational Institution.

M.P.Ashaskiya Shikshan Sansthan (Adhyapakon Tatha Anya Karmachariyon Ke Vetano Ka Sandaya) Adhiniyam, 1978, defines the salary thus :- 2(j) Pay and dearness allowance payable to a teacher or employee.

The definition of salary has been amended by amendment Act 26/2.

The amended definition is quoted below :- Pay and other allowance payable to the teachers or employee as may be defined by the Institution.

As the school is affiliated with the Board of Secondary Education, similar pay scale has to be given.

In W.P.S.No.6006/2001 - Kundan Singh Parihar versus State of M.P.& ORS.this Court has granted relief to the petitioner of similar pay scale, same rate of Dearness Allowance and House Rent Allowance.

In W.P.S.No.1841/2001 - Indore Regional Shikshak Karmachari Sangh versus State of M.P., decided on 18.11.2003, similar pay scale, dearness allowance and house rent allowance from 1.1.1996 to 31.3.1996 was granted, which was the prayer made in the said writ petition on the ground of parity.

In M.P.No.862/1990 - Madhya Pradesh Ashaskiya Mahavidyalayin Ashaikshinik Karmachari Sangh versus State of M.P.& Ors., decided on 2.1.2000, same scale of pay, dearness allowance and addl.

Dearness allowance was imposed.

In W.P.S.No.2029/2000 - V.V.Asthana and ORS.versus State of M.P.& Ors., decided on 29.1.2003, benefit of similar pay scale has been extended.

L.P.A.No.48/2003 against the decision of V.V.Asthana (Supra) was dismissed by the Division Bench of this court on 16.6.2003.

In W.P.No.2013/2000 - Prof.

R.K.Malviya & ORS.versus State of M.P.& Ors writ petitions, similar decision has been issued.

In W.P.No.277/2001 - R.P.Rai & ORS.versus State of M.P.& Ors., decided on 7.5.2004, decision rendered in V.V.Ashthana (Supra) has been followed.

In W.P.No.1902/2003 - Kanchan Kumar Adhamane & ORS.versus State of M.P.& Ors., this Court granted some relief on consideration of definition of salary, Rule 33 (1) of Revised Grant-in-Aid Rules, Regulation 65 framed by the Board of Secondary Education and on consideration of the decision of Suresh Kumar Dwivedi versus State of M.P.1994 JLJ 73.which was remitted by the Supreme Court and decided afresh by the Division Bench on 18.10.1994 against which SLP No.920/1995 was dismissed by the Apex Court.

The decision of the Apex Court in Frank Anthony Public School Employees' Association versus Union of India and ORS.- AIR 198.SC 311.Haryana State Adhyapak Sangh versus State of Haryana & ORS.- 1988 (4) SCC 57.and Haryana State Adhyapak Sangh & ORS.versus State of Haryana - 1990 (Supp) SCC

306.State of Haryana & ORS.versus Raipal Sharma & ORS.- 1996 (5) SCC 273.Chandigarh Administration & ORS.versus Rajni Vali (Mrs.) & ORS.- 20000 (2) SCC 42.State of Haryana versus Ram Chander - 1997 (5) SCC 253.State of Maharashtra V.

Manubhai Pragaji Vashi - 1995 (5) SCC 730.were considered.

This Court has laid down thus : 7.

Thus, in view of the above discussion, it is clear that the teachers of the non-government institutions are entitled for the similar pay scale and dearness allowance as is being paid to the government schools of the corresponding category are entitled for the same benefits.

Let the arrears be worked out and payment be made within six months.

The liability of the State of M.P.and the Management shall be as per the scheme of grant-in-aid and the final order which may be passed as to scheme of grant-in-aid by the Apex Court as to the extent of the liability, but, the payment has to be made as per prevailing rate of grant-in-aid time to time.

Petitioners have to be treated similarly in the light of the directions made in the above writ petitions.

With the aforesaid direction writ petition is disposed of.

(Rajendra Menon) Judge nd

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