

State of Bihar and ors. Vs. Prof. Dr. Amarnath Singh

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Court : Patna

Decided On : Aug-23-2005

Judge : Narayan Roy and Mridula Mishra, JJ.

Acts : [Constitution of India](#) - Article 14

Appeal No. : L.P.A. Nos. 500, 505, 523, 528, 575, 659 and 825 of 2002

Appellant : State of Bihar and ors.

Respondent : Prof. Dr. Amarnath Singh

Advocate for Def. : Shyama Prasad Mukherji, S.N. Jha, Ganesh Pd. Singh, Sr. Advs., Jayanardan Singh, S.K. Sharma, Shanti Pratap, A.K. Pathak, Rakesh Kumar Shrivastava and Manoj Kumar, Advs.

Advocate for Pet/Ap. : Syed Alamdar Hussain, SC 6

Disposition : Appeal dismissed

Judgement :

Narayan Roy and Mridula Mishra, JJ.

1. Heard learned counsel for the respective parties.

2. All these Letters Patent Appeals are directed against order dated 14.2.2002 passed in CWJC Nos. 12449, 12581, 14141, ,12725, 13543, 15786 of 2001 and

310 of 2002 by a learned Single Judge of this Court.

3. Before noticing the submissions of learned counsel for the parties it would be necessary to notice certain facts giving rise to the writ applications and Letters Patent Appeals.

4. The matter revolves round the question of implementation of 1996 UGC scales and the revised scales granted by the University Grants Commission (hereinafter referred to as 'UGC') to the teachers of the Universities with effect from 1.1.1986. The benefits of U.G.C. scales were made available to the teachers of the State of Bihar vide notification No. 1044 HRD dated 7.8.1989, wherein different scales were made available to the Lecturers, Readers and University Professors. UGC again revised pay scales of teachers vide UGC notification of the year 1998 with effect from 1.1.1996. The teachers of the different colleges of the State started demanding for grant of revised 1996 UGC scales. The State Government having considered the demands of the teachers finally decided to grant revised scales to the teachers in the manner disclosed in letter No. 15/MF-218/98 (HE) 1300 dated 20th July, 2001 addressed to the Vice Chancellors of all the Universities putting certain riders in paragraphs 14 and 15 of the letter. The teachers of the Universities being aggrieved by the aforesaid riders challenged the same in this Court in batch of writ petitions.

5. The writ petitions were heard by a learned Single Judge of this Court, and ultimately, the writ applications were disposed of by the impugned order.

6. The learned Single Judge of this Court having heard learned counsel for the parties and on scrutiny of the riders put by the State Government in paragraphs 14 and 15 of the letter aforesaid held that the condition imposed by the State Government in paragraph 14 of the Secretary's letter dated 20th July, 2001 for implementation of 1996 UGC scales is bad, illegal and violative of Article 14 of the Constitution, as it purports to make a classification, which is unreasonable, arbitrary and discriminatory adversely affecting the teachers promoted under the time bound statutes. The learned Single Judge further held that the consequential conditions put in paragraphs 15, 16 and all other provisions as laid down in the letter aforesaid also fall to the ground as being consequential conditions laid down

in paragraph 14 of the letter aforesaid.

7. The learned Single Judge of this Court further directed the State Government to give the respective replacement scales to the teachers promoted as Readers/University Professors under the Time Bound Statutes like all other teachers and to implement 1996 UGC scale without further delay.

8. Mr. S.A. Hussain, learned counsel appearing on behalf of the appellants, contended that the riders put in paragraph 14 of the Government letter dated 20th July, 2001 intended to make a classification of teachers in the grades of Readers and University Professors. The object of classification was to reward the meritorious and to leave the non-meritorious unrewarded teachers and the whole exercise was aimed at raising the academic standards in the University and the colleges of the State. It is further contended by learned counsel that the underlined object of the rider put in paragraph 14 was to give the teachers better emoluments without any recovery of the excess amount paid to them. Mr. Hussain in the light of the submissions stated that with a view to achieve the object of the rider put in paragraph 14 of the letter of the State Government, therefore, the same could not have been set aside. It is also contended that the teachers of the Universities for getting the avenues of promotion would be considered under the merit promotion scheme of 1995, which shall include Readers promoted under Merit Promotion Scheme only, and, therefore, the condition stipulated in paragraph 14 of the letter of the State Government is not unwarranted in view of the deteriorating standard of higher education in the State.

9. Learned counsel for the respondents while justifying the order impugned passed by the learned Single Judge of this Court contended that the riders put in paragraph 14 are patently illegal and violative of the respondents right to equality guaranteed under Article 14 of the Constitution. It is further contended that all promotional avenues are based on Statutes including time bound promotion, merit based promotion, or career advanced promotion and they have been made workable in the same manner and all have a common source of law. The schemes, thus, acquire enforceable legal status of Statutes on being approved by the Chancellor, and, therefore, no classification is permissible amongst the

promotes under different promotional Statutes. It is also contended that there was absolutely no difference in the work of the Readers/Professors promoted under different statutes and at no point of time any distinction was made in between the Readers or Professors, whether recruited directly or promoted under different, Statues. The rider put in paragraph 14 of the letter aforesaid, therefore, would be a negation of the right to equality guaranteed under Article 14 of the Constitution, and, thus, no unreasonable classification is permissible.

10. While summing up the submission learned counsel for the respondents submitted that the right, which was conferred upon the Readers and Professors by different Statutes cannot be taken away by putting certain conditions in the resolution of the State Government, as referred to in the letter dated 20th July, 2001 and, thus, the same is not sustainable, otherwise it will create an anomalous situation by creating class within class.

11. Having appreciated the submissions made at the bar and in view of the findings recorded by the learned Single Judge, we come to an irresistible conclusion that no rationale, whatsoever, has been shown for the conditions put in paragraph 14 of the letter of the State Government nor the same has been done with a purpose to achieve any object, which would subserve the purpose of the State vis-a-vis University teachers.

12. Keeping in view the respective submissions of the parties and the findings arrived at by the learned Single Judge, we are of the view that the conditions put in paragraph 14 dated 20th July, 2001 are not rational, rather the same are violative of the right guaranteed to the teachers under Article 14 of the Constitution, and, thus we uphold the order passed by the learned Single Judge.

13. In the result, these appeals are dismissed. No order as to costs.