

The State of Rajasthan Vs. Dr. Nihal Singh and anr.

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Court : Rajasthan

Decided On : Oct-26-1981

Reported in : 1981WLN(UC)438

Judge : S.C. Agrawal and; Kanta Bhatnagar, JJ.

Appeal No. : D.B. Civil Special Appeal No. 264/80

Appellant : The State of Rajasthan

Respondent : Dr. Nihal Singh and anr.

Judgement :

S.C. Agarwal, J.

1 This special appeal has been filed by the State of Rajasthan against the judgment dated April 22, 1981, passed by the learned Single Judge in S.B. Civil Writ Petition No. 29 of 1979. The aforesaid writ petition was filed by Dr. Nihal Singh, respondent No. 1, who holds the post of Research Assistant in the University of Udaipur, against the appellant and the University of Udaipur, respondent No. 2 (hereinafter referred to as the University'). In the said writ petition, respondent No. 1 had prayed that an appropriate writ order or direction be issued directing the appellant and respondent No. 2 to give to respondent No. 1, the revised pay scale of Rs. 700-1600 with effect from 1st January, 1973 as it had been given to the other teachers of the University. In the

said writ petition, respondent No. 1 has submitted that the post of Research Assistant in the University was equivalent to the post of Junior Lecturer and that by notification dated 2nd July, 1974, statute 47(1) of the statutes of the University was amended and the words, 'Junior Lecturers' in Clause (v) were substituted by 'lecturers' and in consequence to the aforesaid notification, another notification dated 7th Sept., 1977, was issued by the Registrar of the University, whereby, persons holding the post in the research & extension, were designated as Lecturers. In the said writ petition, it is stated that the University Grants Commission, in its report for the year 1975-76, have recommended the revision of pay scales of University and College teachers and that under the aforesaid recommendations, the revised pay scales for lecturers in the Universities as well as lecturers (Junior Scale), Lecturers (Senior Scales) and Senior Lecturers in the post graduate colleges have been recommended as Rs. 700-1600/-. In the aforesaid writ petition, it is further stated that the Govt. of Raj. had approved the aforesaid recommendations of the University Grants Commission and had given the revised pay scales in accordance with the aforesaid recommendations to all the categories of teachers by giving them cash payment with effect from 1st September, 1976, after placing, them notionally in the revised grade with effect from 1st January, 1973, but the Research Assistants in the University had not been given the benefit of the aforesaid revision and he said denial of revision in the pay scales to research Assistants working in the University is violative of right to equality guaranteed under Articles 14 and 16 of the Constitution. The said writ petition was contested by the appellant and on behalf of the appellant it was submitted that Research Assistant was declared equivalent to lecturer only with effect from 18th April, 1978, when statutes 47(1) and 49(11) of the University, were amended and the post of Research Assistant was declared as equivalent to that of Lecturer. According to the appellant. Research Assistants in the University, could only be given the benefit of the revised pay scales from 18th April, 1978 and that they were not entitled to the aforesaid revised pay scales prior to April 18, 1978.

2. The learned Single Judge, after taking into consideration the documents on record, held that for all intents and purposes a Research Assistant is a lecturer and is a teacher for the purpose of the Udaipur University Act, 1962 (hereinafter

referred to as 'the Act') and the statutes framed thereunder and the various ordinances of the rules and regulations made there under and that the revised pay scale of Rs. 700-1600/- is applicable to them. The learned single Judge was of the opinion that Research Assistants were entitled to the revised pay scale of Rs. 700-1600/- with effect from 2nd July, 1974 i.e. the date of issue of the notification, whereby the word 'lecturer*' was substituted for the word 'Junior Lecturers' and the learned single Judge directed that respondent No. 1 should be given the revised pay scale of Rs. 700-1600/- with effect from 2nd July, 1974 and that he should be placed in the said pay scale from the said date notionally and that he would be entitled to cash payment as per the pay scale of Rs. 700-1600/- from 1st October, 1976 as has been done in the case of other lecturers. Being aggrieved by the aforesaid order passed by the learned Single Judge, the appellant has filed this special appeal.

3. We have heard Shri N.M. Lodha, the learned Deputy Government Advocate and Shri M. Mridul, the learned Counsel for respondent No. 1.

4. The learned Deputy Government Advocate has not disputed that respondent No. 1 is entitled to the revised pay scale of Rs. 700-1600/- as recommended by the UGC from 18th April, 1978. The submission of the learned Deputy Government Advocate, however, was that the learned single Judge has erred in holding that respondent No. 1 is entitled to be placed notionally in the revised pay scale of Rs. 700-1600/- from 2nd July, 1974 and that he is entitled to cash payments on the basis of the aforesaid fixation from 1st September, 1976, as has been done in the case of other lecturers. According to the learned Deputy Government Advocate, the Research Assistants were declared as equivalent to Lecturers only by notification dated April 18, 1978 and that they are entitled to the revised pay scale of Rs. 700-1600/- only from the date of the issue of the aforesaid notification. According to the learned Deputy Government Advocate, the post of Research Assistant could not be treated as equivalent to that of lecturer prior to issue of notification dated 18th April, 1978.

5. Shri Mridul, on the other hand, has submitted that even prior to this issue of the notification dated 18th April, 1978, the post of Research Assistant in the University

was being treated as equivalent to the post of Junior Lecturer and since the post of Junior Lecturer was re-designated as lecturer by notification dated 2nd July, 1974, the post of Research Assistant should be treated as equivalent to the post of lecturer from 2nd July, 1974, and Research Assistants are entitled to the same benefits which have been given to Junior Lecturers on the basis of the Notification dated 2nd July, 1974.

6. In view of the arguments aforesaid, the question which arises for consideration is whether the Research Assistants are entitled to the revised pay scales from a date earlier than 18th April, 1978 on the basis that the post of Research Assistant was being treated as equivalent to the post of junior Lecturer prior to 2th July, 1974, and by virtue of the notification dated 2nd July, 1974, the post of Research Assistant became equivalent to the post of lecturer with effect from 2nd July, 1974.

7. In the matter of revision of ,pay scales on the; UGC pattern for teachers of the University it may be observed that the Assistant Director General, Indian Council of Agricultural Research, by his letter (Annexure-9) dated 28th June/1st July, 1977 addressed to the Agricultural Production Commissioner, Government of Rajasthan, had pointed out that the Indian Council of Agricultural Research had agreed in principle to extend the benefit of revision of pay scale to teachers in Agricultural Universities and clarified that the Council made no distinction between academic research and extension in Agricultural Universities and decided to extend the benefit to to Research/Extension Assistants in the revised scale of Rs. 700-1600/- also, provided they possess the same qualifications as the lecturers and are recognized as teachers as per statute of the University. By letter (Ex. r/2) 17th December, 1977, the Under Secretary (Education), Indian Council of Agricultural Research wrote to the Deputy Secretary t,6 the' Government of Rajasthan, Agricultural (Grade-H) Department, that only such research arid extension staff who are declared as 'teachers' under the University statute, are eligible for revised pay scales and that the UGC Scales' Could hot Be extended to those who are not declared as 'teachers' under the. University Statute. It is not disputed that by order (Ex. R/1) dated 18th April 1978, whereby Statutes 47(1) and 49(11) were amended, the Post of Research Assistant was expressly declared as equivalent to the post of Lecturer and was inculded amongst the teachers

enumerated in Statute 47(1) and the Research Assistants are entitled to revised pay scales with effect from 19th April, 1978. Can it be said that even prior to the amendments that were introduced in Statutes 47(1) and 49(11) by order dated 18th April, 1978, Research Assistants were being recognised as teachers under the statutes of the University?

8. The expression 'teacher' has been defined in Section 2(j) of the Act as under:

(j) 'Teacher' means a person appointed or recognised by the University for the purpose of instruction or conducting and guiding research or extension programmes and includes a person who may be declared by the statutes to be a teacher.

9. The teachers, as defined in Section 2(j) of the Act, have been classified in Statute 4/into two categories, viz. (i) teachers appointed, and (ii) teachers recognised. Clause (1) of Statute 47, as it stood prior to 2nd July, 1974, provided as under:

(1) Teachers Appointed:

(i) Professors

(ii) Associate Professors

(iii) Associate Readers

(iv) Assistant Professors

(v) Junior Lecturers

(vi) Instructors

10. By Notification (Annexure I) dated 2nd July, 1974, the words '(v) Junior Lecturers' in Clause (i) of Statute 47 were substituted by the word '(v) Lecturers'.

11. Statute 49 prescribes the manner of appointment of the teachers in the University and Clause (11) of Statute 49 as it stood prior to 18th April, 1978, provided as under:

(11) The Deans/Directors/Associate Deans are authorised to invite applications through advertisement, and to make appointments to the posts of Junior Lecturers (including equivalent posts in Research and Extension) with the approval of the Vice Chancellor on the recommendation of a Selection Committee consisting of:

(i) The Dean/Director/Associate Dean concerned (Chairman)

(ii) Head of the Department concerned.

(iii) Project leader (if the post is under project)

(iv) One expert.

for a period which the Dean/Director/Associate Dean may think proper.

It appears that no corresponding alteration was made in the aforesaid Clause by notification dated 2nd July, 1974 and the words 'Junior Lecturers' in Clause (11) were substituted by the word 'lecturer' by order dated 18th April, 1978.

12. A perusal of the definition of teacher contained in Section 2(j) of the Act shows that a person who has been appointed by University for the purpose of conducting and guiding research falls within the ambit of the said definition. A research Assistant is employed for the purpose of conducting and guiding research, and must, therefore, be regarded as a teacher for the purpose of Section 2(j) of the Act. It is true that a Research Assistant was not included amongst the various categories of teachers specified in Clause (1) of Statute 47, as it stood prior to 18th April, 1978, but the words 'including equivalent posts in Research and Extensions' within brackets after the words 'Junior Lecturers' in Clause (11) of Statute 49, as it stood prior to 18th April, 1978 indicate that prior to 18th April, 1978, the post of Junior Lecturer included the equivalent posts in research and extension. We are, therefore, of the opinion that even prior to 18th April, 1978, the words 'Junior Lecturers' and 'Lecturers' in Sub-clause (v) of Clause (1) of Statute 47 included the equivalent posts in research and extension and if the post of Research Assistant had been declared as equivalent to the post of Junior Lecturer prior to 2nd July, 1974, or equivalent to the post of Lecturer after 2nd July 1974, but prior to 18th April, 1978, a Research Assistant can be said to have been included within the

category of teachers enunciated in Clause (1) of Statute 47, as it stood prior to 18th April, 1978.

13. The question of equivalence between Research Assistant and Junior Lecturers was considered by the Council of Deans of the University at their meeting held on 13th September, 1964 and at the said meeting the council of Deans recommended that the post of Research Assistant should be treated as equivalent to that of Junior Lecturer (Annexure 12). The afore said recommendation of the council of Deans was accepted by the Executive committee of the University at its meeting held on 20th October, 1964 1 (Annexure 11). This would show that the post of Research Assistant in the 1 University was being treated as equivalent to the post of Junior Lecturer prior 1 to 2nd July, 1974 and was included in the post of Junior Lecturer prior to 2nd July, 1974 and after the redesignation of the post of Junior Lecturer as Lecturer vide notification (Annexure 1) dated 2nd July, 1974, the post of Research Assistant was included in the post of lecturer. Once it is held that the post of Research Assistant was included in the post of Junior Lecturer prior to 2-7-1974 and that with effect from 2nd July, 1974 the post of Research Assistant was included in the post of lecturer, Research Assistant must be held to be entitled to the same benefit in the matter of revision of pay scale which has been extended to the lecturers of the University we are, therefore, of the opinion that the learned Single Judge has rightly held that research Assistants, being included amongst lecturers, were teachers of the University and are entitle to be fixed in the revised pay scale of Rs 700-1600/- notionally from 2nd July, 1974 and are also entitled to cash payment as per pay scale of Rs. 70,160/- from 1st September, 1976 as has been done in the case of other lecturers of the University.

14. The learned Deputy Government Advocate has urged that the learned Single Judge has committed an error in giving the direction that respondent No. 1 should be placed in the pay scale of Rs. 700-1600/- notional from 2nd July, 1974. The I earned Deputy Government Advocate has point out that respondent No. 1 had admittedly been appointed as Research Assistant in the year 1975 and that he could not be placed in the revised pay scale of Rs. 700-1600/- from a date earlier than the date of his appointment on the point of Research Assistant. Shri Mridul does not dispute that responded No. 1 was appointed as Research Assistant in

the year 1975 and he can placed notionally in the revised scale of Rs. 700,1600/- only from the date his appointment as Research Assistant and that the direction given by the Learned Single Judg. in that regard is not correct to this extent. Shd mridul his. lowever submitted this the writ petition which was tiled by respondent No. 1, had been hide in a representative capacity on behalf of all Research Assistant and that the directions given by the Learned Single Judge can be applicable to those Research Assistants who has been appointed as Research Assistant prior to 2nd July, J974. We would therefore, modify the direction given by the Learned Single Judge to this extent that respondent No. 1 should be placed nationally in tae revised pay scale of Rs. 700-1600/ with effect from the date of his appointment as Research Assistant and subject to the aforesaid modification, the order passed by the Learned Single Judge is affirmed and the special appeal is dismissed.

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