

A STATE OF PUNJAB AND ORS .

V.
JASBIR SINGH AND ORS .

JULY 17 , 2006

B [ARIJIT PASAYAT AND LOKESHWAR SINGH PANTA , JJ .]

Service Law :

C Pay scale - Revision in - Teachers appointed on transfer basis as lecturer - Claim for pay scale of lecturer - Entitlement - Held : Not entitled in terms of Government Order dated 3.8.1990 which categorically mentions that concerned officers were appointed on transfer basis in their own present pay scale and they are not entitled to any monetary benefits .

D Respondents were working as teachers . On the basis of Government Order , certain officials were to be appointed on deputation and on transfer basis , in their present pay scales . Respondents were accordingly posted and on transfer they were appointed as lecturers . They filed writ petition wherein they claimed the pay scales as applicable to lecturers from the date of the initial deputation till absorption as lecturers . High Court held that the E respondents had discharged the duty in the post of lecturers and , therefore , from the date of initial deputation till the actual absorption they were entitled to the revised scale of pay . Aggrieved State filed the present appeal .

Allowing the appeal , the Court

F HELD : 1. It was categorically mentioned in the Government order dated 3.8.1990 that the concerned officers were appointed on deputation and on transfer basis , in their own present pay scale and they were not entitled to any monetary benefit , seniority etc. In view of the clear stipulations , the High Court fell into grave error in holding that the respondents were entitled to pay scale applicable to lecturers . [644 - F , GI

G CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2999 of 2006 .

From the Judgment and Order dated 26.9.2002 of the High Court of Punjab and Haryana at Chandigarh in Civil Writ Petition Nos . 5857/1999 , 3243 and 8774/2000 .

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Sarup Singh , AAG , Punjab and Arun K. Sinha for the Appellants .

Ambhoj Kumar Sinha for the Respondents .

The Judgment of the Court was delivered by

ARIJIT PASAYAT , J. Leave granted .

B

Challenge in this Appeal is to the order passed by a Division Bench of the Punjab and Haryana High Court holding that the respondents are entitled to pay at a scale applicable to lecturer , from the date of the initial deputation till absorption as lecturer .

C

Undisputed background , are essentially as follows :

Respondents were working as teachers designated as masters in the Punjab Education Department . On the basis of the Government order No. 22 / 7 / 90 - Edu.IV - 3577-78 , dated 20.07.90 certain officials were appointed on deputation and on transfer basis in their present pay scale against the post D mentioned against each . Nine persons were accordingly posted and on transfer they were appointed as lecturers . The Government order dated 3.8.1990 is of significance to which we shall advert infra . The respondents made a claim that they were entitled to the pay scales as lecturers since they were on deputation and the experience as lecturer should be computed in the parent department . The High Court held that the claim of arrears of salary for the period^F from 1989 onwards is on account of difference in the scale of pay . The same was found to be belated and accordingly the prayer was rejected . However , it was noticed that the respondents had discharged the duty in the post of lecturers and therefore , from the date of initial deputation till the actual absorption they were entitled to the revised scale of pay .

F

In support of the appeals , learned counsel for the appellants submitted that the order dated 3.8.1990 clearly indicated that the claim for any sort of monetary benefit or experience benefit was not available . After having accepted that the claim was belated the High Court should not have treated it to be a case of continuing cause of action . The claim was highly belated and , G therefore , no relief was available . The effect of the order dated 3.8.1990 has been completely lost sight of by the High Court . Writ Petitions were filed in the year , 1989 , the High Court as noted above , dismissed the claim for arrear of salaries and had directed the present appellants to grant the benefit of salary rendered from the date of initial appointment till the date of regularization

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A Learned counsel for the respondents on the other hand submitted that the respondents having rendered service for a long period cannot be deprived of their legitimate entitlement .

B Learned counsel for the respondents further submitted that the respondents had worked as lecturers and merely because there is some stipulation in the order dated 3.8.1990 relating to deputation and on transfer basis that cannot override the logic of equal pay for equal work .

C Learned counsel for the respondents tried to explain that the true meaning of the descriptive part of the order clearly shows that the respondents were undertaking the jobs of lecturers in the college .

The relevant portion of the order dated 3.8.1990 reads as follows :

D " On the recommendations of the Recruitment Committee for appointment in the (DIET's Faculty) institutes of education and training . The following officials are hereby appointed on deputation and on transfer basis in their own present pay scale against the post mentioned against each . They will not be entitled for any other monetary benefits , seniority , deputation allowance and claim in any way the experience benefit against the post of Lecturer . These orders are issued in compliance with Govt . order No. 22 / 7 / 90 - Edu.IV - 3577 E 78 , dated 20.07.90 . "

F A bare reading of the aforesaid underlined operation clearly shows that the respondents ' claim was clearly unacceptable . It was categorically mentioned in the order extracted above that the concerned officers were appointed on deputation and on transfer basis in their own present pay scale and they were not entitled to any monetary benefit , seniority etc.

In view of the clear stipulations , the High Court fell into grave error in holding that the respondents were entitled to pay scale applicable to Lecturers . That being so the High Court ought not to have entertained the writ petition .

G The appeal is allowed . No orders as to costs .

D.G.

Appeal allowed .