
(2013) 10 P&H CK 0346

High Court Of Punjab And Haryana At Chandigarh

Case No: CWP-21928-2012 (O and M)

Smt. Promila Arora and Another

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision: Oct. 8, 2013

Hon'ble Judges: M.M.S. Bedi, J

Bench: Single Bench

Advocate: Vikas Malik, for the Appellant; R.D. Sharma, DAG., Haryana and Mr. Sumeet Goel, Advocate, for the Respondent

Final Decision: Disposed Off

Judgement

M.M.S. Bedi, J.

Petitioners have preferred this writ petition under Articles 226 & 227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing order dated 19.3.2009 (Annexure P6) in which retrospective approval of termination of the petitioners has been granted by respondent No. 2, Commissioner and Director General School Education, Haryana, Chandigarh.

The order Annexure P6, reads as follow:-

In exercise of powers conferred upon me under Rule 51(4) of Haryana School Education Rules 2003 and u/s 8(3) of Haryana School Education Act 1995 approval of the discharged employees/teachers of Vidya Mandir Sr. Sec. School Sector 15-A, Faridabad, an institution of Adarsh Mahila Shiksha Pratishthan Society, is hereby granted as the matter has been considered afresh as per Hon"ble High Court orders dated 17.12.2008 in CWP No. 14331, 14333, 14699, 14707, 14734 of 2007 and CWP No. 2923, 2924, 3182, 3183 of 2008 in the facts and present circumstances of the cases on the basis of application submitted by the School Society and on the basis of report of District Education Officer Faridabad. But it will be in the interest of discharged teachers/ employees that all the pensionary benefits under Rule 10 of Haryana Aided Schools (Special Pension and Contributory Provident Fund) Rules,

2001 may be granted to the discharged/terminated teachers/staff of Vidya Mandir Sr. Sec. School, Sector 15-A Faridabad, for the service rendered by them on the aided sanctioned posts upto 31.3.2006 and necessary action may be initiated by the School Society accordingly as per rules and all the dues, if any, found payable to the discharged employees on the part of school management, may also be paid by the School Society immediately as per rules.

Anurag Rastogi
Commissioner & Director General School
Education, Haryana, Chandigarh.

2. The petitioners claim that they had been employed by respondent No. 4, Managing Committee of Vidya Mandir Senior Secondary School, Sector 15-A, Faridabad, Haryana, having joined on 24.2.1979 and 19.5.1980 respectively but their services have been terminated w.e.f. 31.3.2006 after service of 23 years and 13 years respectively.

3. It is apt to refer to the judgment of this Court Annexure P7, passed in CWP No. 17710 of 2009, titled Smt. Raj Bala and others Vs. State of Haryana and others, decided on 18.11.2010. In the above petition, the office order Annexure P6, dated 19.3.2006, was challenged by the co-employees of the petitioners. In the said writ petition the termination of similarly circumstanced teachers was held to be valid w.e.f. 19.3.2009. They were deemed to be in service till then. It was held that they would be entitled to emoluments/salary at the admissible rates from the date of initial termination i.e., till the date of grant of approval i.e., 19.3.2009. It was directed that the claims of the said petitioners will be determined and paid within a period of three months. The LPA No. 938 of 2012 filed by Vidya Mandir Senior Secondary School was dismissed on 15.1.2013.

4. Mr. R.D. Sharma, learned State counsel has submitted that the State cannot be foisted with any liability with grant-in-aid as sanction has already been stayed w.e.f. 1.4.2006. The said fact has already been mentioned in Annexure P6 and stands decided vide judgment in case Smt. Raj Bala and others (supra).

5. The petitioners had earlier filed a writ petition in which a direction was issued that the case of the petitioners will be considered in the light of judgment in case Smt. Raj Bala and others (supra). The judgment in above case has not been followed by the respondents while passing order Annexure P8. The order Annexure P8 also deserves to be set aside.

6. In view of above said circumstances, this petition deserves to be disposed of in the same terms as in Smt. Raj Bala and others (supra). Following the judgment in above case, it is held that the services of the petitioners will be deemed to have been validly terminated w.e.f. 19.3.2009. They will be deemed to be in service till then. It is further held that the petitioners are entitled to the emoluments/salary at the permissible rates from the date of initial termination till the date of grant of

approval i.e., 19.3.2009. It is directed that the claim of the petitioners will be determined by the respondents afresh within a period of three months. The order Annexure P8 is also quashed. Disposed of as stated above.