
I.S. Laishram and Another Vs Th. Subhash Singh

Writ Appeal No. 178 of 2002 in Contempt Case (C) No. 330 of 2001

Court: Gauhati High Court

Date of Decision: May 2, 2002

Citation: (2002) 2 GLT 605

Hon'ble Judges: R.S. Mongia, C.J; P.G. Agarwal, J

Bench: Division Bench

Advocate: Ashok Potsangbam and S.N. Singh, for the Appellant; B.P. Sahu, for the Respondent

Final Decision: Allowed

Judgement

R.S. Mongia, C.J.

Heard Mr. Ashok Potsangbam, assisted by Mr. S.N. Singh, learned Counsel for the Appellants and Mr. B.P. Sahu,

learned Counsel for the Respondent.

Learned Counsel for the Appellants prays that since this appeal has been filed against certain directions given by the learned Single Judge, vide

order dated 18.4.2002, in Contempt Case (C) No. 330/2001, may be treated as if given in a writ petition and this appeal may be treated as a writ

appeal.

We order accordingly.

2. This appeal has arisen out of the order dated 18.4.2002, passed by the learned Single Judge in Contempt Case (C) No. 330/2001. The facts

necessary to dispose of this appeal may be noticed.

3. An association of Part-time Lecturers of Govt. Colleges in Manipur filed a writ petition claiming regularisation as Lecturers. After the disposal of

the writ petition, the association filed writ appeal No. 152/1997. The Division Bench, vide order dated 3.9.98, gave the following relief to the

association/its members:

In view of that matter, we dispose of this appeal with a direction that the State Government shall pay the minimum of the pay scale prescribed for

the post and it is submitted that it is Rs. 2000. This shall be done within a period of two months from the date of receipt of this order. The

Appellant shall be entitled to receive this benefit of Rs. 2000/- per month from 1.1.1998 only. It is made clear that the Appellant shall be entitled to

this benefit if they are employed nowhere else. It is needless to say that this relief shall be confined only to the Appellant of this case.

Since there was some typographical error in the aforesaid order while mentioning the figure ""Rs. 2000/-"" a Misc. Case No. 418/1998 was filed for

correcting the error and vide order dated 29.10.98, the following correction was made in the order dated 3.9.98 in writ appeal No. 152/1997:

In the penultimate portion of the judgment, figure 2000/- shall be replaced by 2200/- or the minimum scale as may be fixed from time to time.

It may be observed here that the appeal filed by the State of Manipur, i.e. SLP No. 10948/2000, was rejected by the Apex Court on 5.2.2001 on

the ground of delay in filing the appeal.

As a matter of fact, we may observe here that vide the notification dated 29.9.1999 issued by the State Government, the pay scale of Lecturer in

the Government Colleges in Manipur was revised from - ""Rs. 2200-75-2800-100-4000/-"" to ""Rs. 8000-275-13500/-"" with effect from 1.1.1996.

Paragraphs 2 and 3 of the notification dated 29.9.1999 are as follows:

2. These orders shall take effect from 1/1/1996. However, the arrears of pay & allowances for the period from 1/1/1996 to 31/12/1998 shall be

deposited in the respective G.P. Fund Accounts of the Employees concerned after deducting the amount of Income Tax payable according to the

above revision of scales of pay for the period under reference and the balance amount deposited shall not be allowed to be withdrawn for a period

of 3 years from 1/1/1999. Any advance/withdrawal from the GP Fund during the said period of 3 years shall be from the balance accruing from

the normal subscription in the GP Fund Account of the respective employees.

3. The guiding condition for grant of the revised scales of pay and for grant of other amenities shall be as per the consolidated statement/regulation

as in Annexure-I enclosed herewith.

4. The Part-time Lecturers in whose favour the aforesaid judgment of the Division Bench was given filed Contempt Case (C) No. 330/2001, inter

alia, contending that the order of the Division Bench of this Court, upheld by the Apex Court, had not been complied with. The specific averment

made by the Respondents in the contempt case is that the Government of Manipur had paid the remuneration of Rs. 2200/- p.m. to the Part-time

Lecturers. Accordingly to the learned Single Judge, the part-time lecturers were entitled to the minimum of the pay scale of regular lecturer revised

from time to time. The learned Judge further observed that admittedly the revised minimum pay scale of lecturer is Rs. 8000/- p.m. from 1.1.1996,

but according to the order of the Division Bench, dated 3.9.98, read with the order dated 29.10.98, the Part-time Lecturers in the writ petition

would be entitled to Rs. 8000/- p.m. with effect from 1.1.1998. The learned Single Judge further observed that-

The learned Counsel appearing for the Respondents submits that ""the Respondents are going to pay the minimum pay scale of Rs. 8000/- per

month to the Petitioners as and when fund is made available"" and as such they sought for 10 (ten) days time to correct the affidavit-in-opposition

which has already been filed in order to clarify the position.

Then the learned Single Judge goes on to observe as under:

From the affidavit filed on 3.4.2002 it appears that the Respondents deliberately made an attempt to conceal the fact of the minimum scale of pay

of Rs. 8000/- in the objection but situation compelled them to confess to the said truth as available from order sheet dated 3.4.2002.

In the aforesaid circumstances, it could easily be inferred that the Respondents had never exhibited any innocent bona-fide, rather always the

Respondents exhibited mala fide and deliberate hindrance to the admitted facts to avoid compliance of this Court's order.

In this situation, I am compelled to draw up a contempt proceeding against the Respondent No. 1, namely, I.S. Laishram, and the Respondent No.

2, namely, Shri V. Chhibber, under the Contempt of Courts Act, 1971, according to the format prescribed in the High Court Rules.

The Respondents No. 1 and 2, namely, Shri I.S. Laishram and V. Chhibber, are to furnish a bond of Rs. 25,000/- (twenty five thousand) each,

with one surety of the like amount making an undertaking that they would not leave the State of Manipur without the prior permission of the Court

and they would make themselves available before the Court as and when called for. In default, they are to be kept in Civil Prison in the central Jail,

Imphal.

5. While issuing notice of motion in this appeal, the motion Bench had stayed further proceedings in the Contempt Case.

6. Learned Counsel for the Appellants argued that the notification dated 29.9.1999 was modified by a later notification dated 14.2.2000, while

revising the pay scales of the employees of the Manipur University, including Lecturer. Paragraphs 2 and 3 of the notification dated 14.2.2000

read as under:

2. The above revised scales of pay in respect of different categories of posts under the manipur University shall take effect from 1.1.1996 and

50% of the arrear for the period from 1.1.1996 to 31.8.1999, after adjusting the income tax payable at source on the total arrear amount, shall be

deposited into the National Savings Scheme Account, 1992. The balance amount may be released in cash.

3. The guiding conditions for grant of revised scales of pay and for grant of other amenities as in Annexure-I to this order shall be in addition to the

guiding conditions contained in this Government order of even no dated 29.9.1999 and shall be followed for the employees of both the Manipur

University and Government Colleges, as may be applicable.

7. From the above paragraph 3 (supra), learned Counsel for the Appellants argued that the revised pay scale from 1.1.1996 is not automatically

permissible to University Lecturers and other employees as well as to the Lecturers of the Government Colleges. The Lecturers of the Government

Colleges have to fulfil certain guidelines/conditions mentioned in Annexure-I to the notification dated 29.9.1999 as also in Annexure-I to the

notification dated 14.2.2000 to the extent they are applicable to any Government College Lecturer. Learned Counsel argued that only those Part-

time Lecturer would be entitled to the minimum of the pay scale of regular Lecturer who fulfill the criteria/conditions as contained in Annexure-I to

the notifications dated 29.9.1999 and 14.2.2000. This, according to the counsel, is evident from paragraphs 3 of the notifications dated 29.9.1999

and 14.2.2000 (supra).

8. There may not be any doubt and, in fact, we had disposed of writ appeals Nos. 37/2002, 40/2002 and 113/2002 on 1.5.2002 and writ appeal

No. 179/2002 today (2.5.2002) holding that the Part-time Lecturers would be entitled to the minimum of pay scale of regular Lecturer if they had

the requisite qualifications at the time of their recruitment/engagement, which qualifications are required for a direct regular appointee as Lecturer.

However, the question now which calls for consideration is, the enhancement of the pay scale to a regular Lecturer and consequently the minimum

of the pay scale payable to a Part-time Lecturer, after the enhancement of the pay scale, is automatic or subject to fulfilling certain conditions as

contained in Annexure-I to the notifications dated 29.9.1999 and 14.2.2000? In the present case, the pay scale of regular Government College

Lecturer has been revised from 1.1.1996 subject to fulfilling certain conditions as mentioned in Annexure-I of the Notifications of the State

Government dated 29.9.1999 and 14.2.2000. (See paragraph 3 of both the notifications quoted above). In other words, the regular Lecturers

working in the Government Colleges would not ipso facto be entitled to the enhancement due to the revised pay scale unless they fulfill the

conditions applicable as per Annexure-I of the State Government notifications dated 29.9.1999 and 14.2.2000.

9. Learned Counsel for the Respondents, however, argued that the notification dated 29.9.1999, coupled with the notification dated 14.2.2000,

would ipso facto apply to the existing incumbents and they need not fulfill the conditions as laid down in Annexure-I to the notifications dated

29.9.1999 and 14.2.2000. On the parity of this reasoning, learned Counsel argued that a part-timer would also get the minimum of the revised pay

scale irrespective of whether he fulfills the conditions prescribed in Annexure-I to the aforesaid two notifications.

Reading of paragraph 2 of the notifications dated 29.9.1999 and 14.2.2000 (supra) would clearly indicate that on revision of pay scales of the

existing employees, 50% of their arrears so calculated from 1.1.1996 to 31.8.1999 is to be deposited in the National Savings Scheme Account,

1992. Paragraph 3 of the aforesaid notification dated 14.2.2000 (supra) specifically provides that the guiding conditions for grant of revised scales

of pay and for grant of other amenities as in Annexure-I to the notification dated 14.2.2000 are in addition to the guiding conditions contained in

the Government notification dated 29.9.1999 and is to be followed both for University employees as well as the employees of Government

Colleges.

(Emphasis supplied).

10. Accordingly to us, the revision of pay scale with effect from 1.1.1996 is conditional, i.e., it will only be revised in case of those persons who

fulfill the conditions mentioned in Annexure-I to the notification dated 29.9.1999 as well as to the notification dated 14.2.2000. Learned Counsel

for the Respondent would be right that if there are no such conditions as mentioned above and the existing incumbent may not be having the

requisite qualifications as may be prescribed later on after his recruitment initially yet he would be entitled to the revised pay scale. At the behest of

repetition we may observe that the revision of pay scale will always be subject matter of interpretation of the notification revising the pay scales. If

there are certain condition laid down, those conditions must be adhered to. Consequently, we are of the view that a regular employee for getting

the revision of pay scale under the aforesaid notifications must abide by the conditions mentioned in Annexure-I to both the aforesaid notifications.

11. For arriving at this conclusion, we may also refer to the notification of the Ministry of Human Resource Development, Govt. of India, dated

27.7.98, wherein the Government of India had undertaken to provide financial assistance to the extent of 80% to the State Government on the

revision of pay scales for a period of five years, but it was specifically laid down that it will be subject to the conditions that the entire scheme of

revision of pay scales together with the conditions laid down in this regard by the University Grants Commission, has to be adopted by the State

Government. What the notification dated 14.2.2000 does is to incorporate the conditions laid down by the University Grants Commission. This

will further go to show that the revision of pay scale is subject to fulfilling certain conditions. Faced with this situation, learned Counsel for the

Respondent argued that even if the above is the position in law, the conditions imposed vide Annexure-I to both the notifications need not be

applied or adhered to by a Part-time Lecturer because he is to get only the minimum of the pay scale of a regular incumbent. There is a fallacy in

this argument. Suppose there is a regular incumbent in the unrevised scale of pay of Rs. 2200-4000/- and is at the maximum of the pay scale; but

somehow, he does not fulfill the conditions mentioned in Annexure-I to the aforesaid notifications. As held by us, he would not be entitled to

revision of pay scale and he will keep on getting Rs. 4000/- p.m. If the learned Counsel for the Respondents argument is accepted, then, even if

the part-timer does not fulfill the conditions laid down in Annexure-I to the aforesaid notifications, and he is to get the minimum of the pay scale of

a regular incumbent, then he would start getting Rs. 8000/- p.m., whereas the regular incumbent would be getting Rs. 4000/- p.m., because he

does not fulfill the requisite conditions.

12. For the foregoing reason, we are of the view that the learned Single Judge was not correct in directing that the Respondents herein are entitled

to Rs. 8000/- p.m. ipso facto, as the minimum of the pay scale. The learned Judge had observed that the payment of the minimum of the pay scale

of Rs. 8000/- p.m. should be from 1.1.1998, because it was so stated by the Division Bench in the judgment in the writ appeal. It was because the

Division Bench judgment was prior to the notification dated 29.9.1999 revising the pay scales with effect from 1.1.1996. We are of the view that

now the Respondents would be entitled to the minimum of the revised pay scale w.e.f. 1.1.1996 (the date of the revision of pay scales) or from

their dates of appointment, whichever is later, subject to their fulfilling the conditions mentioned in Annexure-I to the notifications dated 29.9.1999

and 14.2.2000. If they are found to be so entitled, the methodology of payment of the arrear etc. will be as provided in the notifications mentioned

above.

For the foregoing reasons, we allow this appeal and set aside the order of the learned Single Judge.

13. To avoid any further litigation on this point, we direct the Appellants now to consider the case of the Respondents for their entitlement to the

minimum of the revised pay scale of Lecturers in Government Colleges with effect from 1.1.1996 keeping in view the observations made above,

within a period of three months, Whoever is found entitled to the minimum of the pay scale of the regular employee, the arrears be released

according to the notifications within a further period of one month thereafter.