

SMT. P. GROVER

v.

STATE OF HARYANA AND ANR.

August 18, 1983

[O. CHINNAPPA REDDY AND E. S. VENKATARAMIAH, JJ.]

*Civil Service—Can a person promoted to a post on acting basis be denied the benefit of the scale of pay attached to the post?*

The appellant was promoted as an acting District Education Officer but the order of promotion contained a super-added condition that she would continue to draw her salary in her existing scale of pay as a teacher. She filed a writ petition contending that she was entitled to the pay of a District Education Officer but the same was dismissed by the High Court.

Allowing the appeal,

HELD : The counter affidavit filed on behalf of the Government of Haryana offers no rational explanation for denying the pay of District Education Officer to the appellant after she was promoted to act as District Education Officer. In the absence of any rule justifying such refusal to pay to an officer promoted to a higher post the salary of such higher post, the appellant is entitled to be paid the salary of a District Education Officer from the date she was promoted to the post. [655 F-G]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6229 of 1983.

Appeal by Special leave from the Judgment and Order dated the 29th May, 1980 of the Punjab and Haryana High Court in C.W.P. No. 1225 of 1980.

*K.G. Bhagat, Addl. Solicitor General* and *K. K. Mohan* for the appellant.

*R. N. Poddar* For the Respondent.

The Judgment of the Court was delivered by :

CHINNAPPA REDDY, J. Special leave granted.

Smt. P. Grover was an outstanding teacher. In 1968-69, the Government of Haryana honoured her by presenting the State Award for teachers. She attained the age of superannuation on August 20, 1978. About two years before she attained the age of superannuation, she was promoted as acting District Education Officer with effect from July 19, 1976. The Government of Haryana had taken a policy decision as early as in 1965 that the Services of teachers, who had received the National or State Awards, should be extended until they attained the age of 60 years, on an year by year basis, if their service record continued to be good otherwise. Pursuant to the policy decision, Smt. Grover's services were extended first by one year and later by another year. During the period of extension of service, she worked as Principal, Government Higher Secondary School, Mahendergarh. She finally retired from service on August 31, 1980.

We mentioned that she was promoted as an acting District Education Officer with effect from July 19, 1976. The order of promotion contained a super-added condition that she would draw her own pay scale which apparently meant that she would continue to draw her salary on her pay scale prior to promotion. The initial order extending her services recited that she was an acting District Education Officer, but contained a super-added condition that her pay would not be more than the maximum of the Principal's grade. Smt. Grover claims that having been promoted as District Education Officer, she was entitled to the pay of a District Education Officer and there was no justification for denying the same to her. A writ petition filed by her was dismissed by the High Court of Punjab and Haryana and she is before us by way of special leave under Art. 136 of the Constitution. The counter-affidavit filed on behalf of the Government of Haryana offers no rational explanation for denying the pay of District Education Officer to Smt. P. Grover after she was promoted to act as District Education Officer. All that was said in the counter-affidavit was that there were no Class-I post available and therefore, she was not entitled to be paid the salary of District Education Officer. We are unable to understand the reason given in the counter-affidavit. She was promoted to the post of District Education Officer, a Class-I post, on an acting basis. Our attention was not invited to any rule which provides that promotion on an acting basis would not entitle the officer promoted to the pay of the post. In the absence of any rule justifying such refusal to pay to an officer promoted to a higher post the salary of such higher post (the

▲ validity of such a rule would be doubtful if it existed), we must hold that Smt. Grover is entitled to be paid the salary of a District Education Officer from the date she was promoted to the post, that is, July 19, 1976, until she retired from service on August 31, 1980. The appeal is accordingly allowed with costs.

B

H.L.C.

*Appeal allowed.*