

A

STATE OF HARYANA AND ANR.

v.

D.L. UPPAL AND ORS.

AUGUST 24, 1995

B

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

Service Law :

C

Physical Training Instructors—Appointment by Central Government—Subsequent appointment and absorption in State Government—Directions regarding payment of D.A. etc. as on the date of absorption—Issued.

D

The respondents working as Physical Training Instructors with the Central Government were subsequently appointed and absorbed in the service of State of Haryana as P.E.Ts. or D.P.Es. with effect from July 1, 1976. The terms of appointment provided that (i) from the date of absorption in State service they will be entitled to all allowances as admissible to other State Government employees; (ii) pay and allowances viz. Dearness allowance, Dearness Relief, Interim Relief and Additional Dearness Allowances received under the State will be protected; and (iii) the expenditure incurred in that behalf will be reimbursed by Central Government till absorption by State Government. The respondents laid claim for payment of D.A. etc. as on the date of absorption, and it was allowed by the High Court. Hence this appeal by the State Government.

E

Disposing of the appeal, this Court

F

HELD : The claim laid by respondents in respect of dearness Allowance etc. would be given to them as on the date of their absorption i.e. October, 1976. The State Government in turn would be entitled to reimbursement from the Central Government. [44-A-B]

G

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7977 of 1995.

From the Judgment and Order dated 4.8.92 of the Punjab & Haryana High Court in C.W.P. No. 2558 of 1991.

H

Ms. Suruchi Agrawal for Ms. Indu Malhotra for the Appellants.

The following Order of the Court was delivered :

Leave granted.

We have heard the counsel on both sides. This appeal by special leave arises from the order of the Division Bench of the High Court of Punjab and Haryana dated August 4, 1994 made in C.W.P. No. 2558 of 1991. It is not in dispute that the respondents were appointed as Physical Training Instructor by the Central Government. At the Instance of the Union of India, the respondents came to be appointed on October 14, 1976 by the State Government of Haryana in N.D.S.I. Scheme. The order of appointment, which is Annexure R-V to the petition is the proceedings dated October 15, 1976 of the Director of Public Instruction (Education Department), Haryana. It would show that consequent upon the decision of the Government of Haryana to absorb the N.D.S. Instructors in the State Service with effect from 1.7.1976, they were appointed as PTI (NFC) D.P.E. on temporary basis in the pay scale of Rs. 125-5-150-250 and Rs. 220-6-300/10-400 respectively. Condition No. 9 specified that "From the date of absorption in the State Service he/she will be entitled to all allowances as admissible to other State Government employees of this Cadre." Condition No. 10 stated: "The pay & allowance he/she gets under the Central Government at the time of absorption in the State Service will be protected, for this purpose the allowances to be protected are Dearness Allowance, Dearness Pay, Interim Relief and Additional Dearness Allowances." Para 15 said : "The total expenditure on pay, allowances, etc. of the N.D.S. Instructors will continue to be reimbursed by the Government of India to the State Government till they remain in the cadre of P.E.T. in which they are absorbed by the State Government."

Thus, it would be clear that the respondents who were hitherto working with the Central Government are absorbed in the service of the State of Haryana in the Education Department as P.E.Ts., or D.P.Es. with effect from July 1, 1976, will be entitled to the pay on par with the State Government employees and allowances, namely, the Dearness Allowances, Interim Relief etc. will be as admissible to the Central Government employees and as on the date of absorption. The expenditure incurred by the State Government in that behalf will be reimbursed by the Central Government till they remain in the cadre of the P.E.T. only.

In that view of the matter, the claims, whatever they may be, laid by

A the respondents in respect of dearness allowance etc. as enumerated in clause 10 of the Order of appointment, would be given to the respondents as admissible as on the date of their absorption, i.e., October 1976. The State Government in turn would be entitled to reimbursement from the Central Government. The Appeal is accordingly disposed of.

B Respondent Nos. 28, 84 and 90 are reported to be dead. So, the appeal as against them stands abated. No costs.

T.N.A.

Appeal disposed of.