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SHER SINGH AND OTHERS

v.

UNION OF INDIA AND ORS.

OCTOBER 16, 1995

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[S.P. BHARUCHA, FAIZAN UDDIN AND S.B. MAJMUDAR, JJ.]

C

Service Law—Parity in pay scales—Between the Professional Library Staff and the teaching staff of Delhi University and its colleges—Granted, discontinued and restored prospectively by the govt. under a policy decision—Claim for restoration retrospectively on the ground of acquired vested right of parity and equality of qualification—Held, not entitled as of right to parity—Both belong to different categories and stand on different footing.

D

Administrative Law—Judicial review—Scope of Policy decision—Being not unfair, mala fide and contrary to any statutory directions—Held, not open for the courts to interfere with the policy decisions of the Govt.

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Appellants, qualified librarians employed in the Delhi University and its colleges, had been granted parity with that of the teaching and research staff from 1961 to 1977. The Govt. had discontinued this parity retrospectively with effect from 1.1.73 and restored the same prospectively with effect from 1.4.80 instead from 1.1.73. However, in 1979 the matter was referred to a committee for upgradation of the scales of the professional library staff. Aggrieved by the non restoration of the parity retrospectively appellants approached High Court, which dismissed the

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petition in limine. Hence this appeal.

Appellants contended that the education qualification of the two sets of employees being the same, there is no reason to treat them differently and discriminately. Further, they have the scales of pay at par with the teaching staff which cannot be taken away except with an authority of law. So the restoration of parity should be given retrospectively with effect from 1.1.73. Respondents contended that educational qualifications, nature of work, duties, work load and responsibilities of the two sets of employees are entirely different and parity in pay scales are just coincidental.

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Dismissing the appeal, this Court

HELD : 1. In the instant case it cannot be said that Govt. did not act fairly or acted *malafide* so as to call for any interference by this Court involving the power of judicial review. [405-A]

2. There is no rationale or any justification in the claim of parity between the teaching staff and library staff in Delhi University and its colleges for the simple reason that the two sets of employees belong to different categories of employees who stand on a different footing. The nature of duties, work load, experience and responsibilities of the two sets of employees in question are totally different from each other. The teaching staff has to do some research work, deep study in their respective subjects and to make preparations for the daily lectures in the class room and other academic work while this is not so in the case of library staff. The experience of library staff is totally different from the one which is required for teaching staff. [403-G-H, 404-A-B]

3. If the Govt. as a matter of policy equated the library staff for the purpose of pay scales earlier for a certain period as contended by the appellants, they should be thankful to the government as they could not have claimed the parity as of right. It was the decision of the Govt. which had allowed the equation of pay scales during the period from 1961 to January 1, 1973. Later if Govt. had taken a policy decision to grant parity again with effect from 1.4.1980 and not with retrospective effect from 1.7.1973, when it was disturbed there could be no legitimate grievances for the same because the Govt. has the right to change its policy from time to time, according to the administrative exigencies and demands of the relevant time. [404-C-D]

4. The Court would be slow in interfering with matters of Govt. policy except where it is shown that the decision is unfair, *malafide* or contrary to any statutory directions. There will be no justification for the Court to interfere with the policy of the government merely on the ground of change in policy. If earlier the Govt. took a policy decision to grant parity to the library staff it was the policy of then Govt. and if for a certain reason the Govt. took different policy decision to withdraw the policy and to enforce it again with effect from a certain date it will again be a matter of policy of the Govt. and it is not for the Courts to interfere with such policy decisions of the Govt. [404-D-F]

5. Normally the Courts will not dictate the decision of the statutory

A authority in exercise of its discretion and formulation of its policies. The Court will not direct the statutory authority to exercise the discretion in a particular manner not expressly required by law. The Court can only command the statutory authority by a writ of *mandamus* to perform its duty by expressing its discretion according to law. [404-F-G]

B *U.P. State Road Transport Corporation & Anr. v. Mohd. Ismail & Others*, [1991] 3 SCC 239, relied on.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6150 of 1983.

C From the Judgment and Order dated 13.10.81 of the Delhi High Court in C.W. No. 2312 of 1981.

R. Venkataramani, Satya Mitra Garg and R. Anand Pradmanabhan for the Appellants.

D K. Lahiri, Avatar Singh Rawat and B.K. Prasad for the Union of India.

A. Mairarputham, Mrs. Aruna Mathur and Ajay Kapoor for the Respondent No. 3.

E The Judgment of the Court was delivered by

FAIZAN UDDIN, J. 1. The short question that arises for consideration in this appeal is whether the appellants who are qualified Librarians employed in the University of Delhi and its constituent colleges in different grades are entitled to the parity in the pay scales between the professional library staff and the teaching staff of the University of Delhi and its colleges recognised and established since January, 1961.

2. The appellants case is that in the year 1957 the University Grants Commission constituted a Committee appointed by University Grants Commission, respondent No. 2 under the Chairmanship of Dr. S.R. Ranganathan. The said Committee recommended that the status and the salary scales of the library staff should be the same as that of the teaching and research staff. Further case of the appellants is that in the year 1961 University Grants Commission, the respondent No. 2 took decision to give effect to the aforesaid recommendations of Ranganathan Committee.

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Consequently, the respondent No. 2 conveyed its decision to the University of Delhi, respondent No. 3 by its letter dated January 18, 1961 that professionally qualified library staff are for purposes of salary revision to be treated as academic staff. The respondent No. 2 revised the scale of pay of different categories of professionally qualified library staff equating them with the corresponding categories of the teaching staff in the University and its colleges by its letter dated 1.5.1962. In the year 1968 when there was further revision of the pay scales of the teaching staff as well as the professionally qualified library staff, the parity was maintained between the two classes. The appellants have further stated that the Third Central Pay Commission also reiterated the principle of parity in regard to the scales of pay of school librarians which was accepted by the Central Government, respondent No. 1 herein. Consequently, the respondent No. 2 by its letter dated 11.1.1974 conveyed the decision of the respondent No. 1 to the respondent No. 3, the University of Delhi to revise the pay scales of teachers of the University of Delhi and its colleges with effect from 1.1.1973. Appellants further case is that in the year 1974 the University of Delhi appointed two Committees - one under the Chairmanship of the then Pro Vice Chancellor, Prof. V.P. Dutt and the other under the Chairmanship of Prof. A.N. Kaul and both these Committees recommended continuance of the said parity in the pay scales and allowances of the librarians with that of the teaching staff, consequently the Executive Council of the University adopted these recommendations in its resolutions dated 10.4.1974 and 23.5.1974. Again in the year 1977 on the recommendations of respondent No. 2, Union of India, respondent No. 1 ultimately decided to revise the scales of pay of librarians in Central Universities and in the colleges of the University of Delhi vide its letter dated 7.1.1977.

3. The appellants grievance is that the respondent No. 1 abruptly and arbitrarily disturbed the parity of the pay scales of the teaching staff and the library staff except the Librarian of the University of Delhi with retrospective effect from 1.1.1973 and with a single stroke of pen the parity enjoyed by the said categories of professional library staff from 1961 till 1977 was done away with retrospectively with effect from 1.1.1973. Consequently, the appellants made several representations to the respondent Nos. 1 and 2 as well as to the Minister of Education in response to which the respondent No. 2 replied that the matter was under consideration of the Government. However, the respondent No. 1 restored the parity prospectively with effect from 1.4.1980 instead of 1.1.1973. In the

A meanwhile in the year 1979 the respondents had referred the question to a Committee for upgradation of the scales of the professional library staff who possessed the qualifications prescribed by respondent No. 1. There was no further response till the year 1980 from the respondents. The appellant No. 67, therefore, made representation on 12.2.1980 to the then Union Minister of Education and another representation on 28.4.1981 but no response was received. The appellants ultimately filed a Civil Writ Petition No. 2312/1981 in the High Court of Delhi which was dismissed in limine on 13.10.1981 which led to the filing of this appeal by the appellants.

4. The respondents have opposed the claim of the appellants. The Under Secretary in the Ministry of Education and Culture has filed Counter-Affidavit on behalf of the Union of India, respondent No. 1 opposing the case set up by the appellants. In the Counter Affidavit it has been stated that the sanction of identical scales to the teaching staff and the library staff in the Delhi University and its colleges were just co-incidental. The Committee for Library Staff and Physical Education personnel had not recommended parity in their pay scale with those of the Professors, Readers and Lecturers on account of the fact that educational qualifications, nature of work, duties and work-load and responsibilities of the two sets of employees are entirely different. It has been stated that it is not a fact that these scales were given to library staff because there existed some parity between them and that making the same scales available to the library staff was not based on any scientific justification. Regarding the recommendations of the Third Pay Commission it has been stated that the recommendation did not suggest absolute parity or opposed such parity as a principle in determining the pay scales of the library staff nor it would be correct to say that each and every recommendation of the Third Pay Commission was accepted by the Government. It has been further stated that the Government subsequently reviewed the entire question and took the decision in principle to upgrade the scales of pay of librarians and Director of Physical Education in the Universities and colleges generally with effect from 1.4.1980 vide letter of Ministry of Education & Culture (Annexure 3) dated 15.12.1982 and this decision of the Government was implemented in all the Universities including the Delhi University after a process of consultation with the State Governments who are responsible for the maintenance of most of the Universities in the country.

5. The respondent No. 2, University Grants Commission has also opposed the claim of the appellants by filing a separate Counter-Affidavit. The respondent No. 2 has also taken also almost the similar stand as the one taken by the respondent No. 1. It has been stated that the qualification is not the only criteria for determining the scales of pay for different categories of posts but other factors such as experience, nature of duties and responsibilities and work-load, etc. has to be taken into account. The respondent No. 2 has taken the stand that it cannot be said that same qualifications are prescribed for the posts of library staff and the teachers in Delhi University and its colleges. It has been emphatically stated by the respondent No. 2 that the nature of work, duties and responsibilities as well as the type of experience and the period of work of the two sets of employees are altogether different and that both these categories can on no account be equated.

6. Learned counsel for the appellants took pains in persuading us that the librarian and Library staff play a vital role in the development of the institutions of higher learning and they are of real and immense help to research work and advance studies. The educational qualifications of the two sets of employees are also the same and, therefore, there is no reason to treat them differently and with discrimination. He submitted that the appellants have acquired a vested right to have the scales of pay at par with the teaching staff of the University and its colleges which parity had been given to them earlier on sound academic considerations and after due deliberations which they enjoyed for over a decade and a half since 1961 and that this vested right cannot be taken away except with an authority of law. Learned counsel submitted that having regard to the facts and circumstances of the case, as stated above, there was no justification with the Government to restore the parity only with effect from 1.4.1980 and not retrospectively with effect from 1.1.1973 when the same was disturbed.

7. After a serious and anxious consideration on the submissions made by the learned counsel for the appellants, according to us there appears to be no rationale or any justification in the claim of parity between the teaching staff and the library staff in the Delhi University and its colleges for the simple reason that the two sets to employees belonged to different categories of employees who stand on a different footing. The nature of duties, work-load, experience and responsibilities of the two sets of employees in question are totally different from each other. The teaching

A staff has to do some research work, deep study in their respective subjects and to make preparations for the daily lectures in the class rooms and other academic work while this is not so in the case of library staff. The experience of library staff is totally different from the one which is required for the teaching staff. Working pattern of the two sets of employees cannot be said to be identical so as to claim parity between the library staff and the teaching staff. If the Government as a matter of policy had equated the library staff for the purposes of pay scales earlier for a certain period as contended by the appellants, they should be thankful to the government as they could not have claimed the parity as of right. In any case that was the decision of the Government which had allowed the equation of pay scales during the period from 1961 to January 1, 1973. Later, if the Government had taken a policy decision to grant parity again with effect from 1.4.1980 and not with retrospective effect from 1.7.1973 when it was disturbed there could be no legitimate grievance for the same because the Government has the right to change its policy from time to time, according to the administrative exigencies and demands of the relevant time. As a matter of fact the Courts would be slow in interfering with matters of Government Policy except where it is shown that the decision is unfair *malafide* or contrary to any statutory directions. There will be no justification for the Court to interfere with the policy of the Government merely on the ground of change in the policy. If earlier the government took a policy decision to grant parity to the library staff with the teaching staff it was the policy of the then Government and if for certain reasons the Government took a different policy decision to withdraw the parity and to enforce it again with effect from a certain date it will again be a matter of policy of the Government and it is not for the Courts to interfere with such policy decision of the Government. Normally the Courts will not dictate the decision of the statutory authority in exercise of its discretion and formulation of its policies. The Court will not direct the statutory authority to exercise the discretion in a particular manner not expressly required by law. The Court can only command the statutory authority by a Writ of Mandamus to perform its duty by exercising the discretion according to law. This was also the view expressed by the Court in *U.P. State Road Transport Corporation & Anr. v. Mohd. Ismail & Ors.*, [1991] 3 SCC 239. In the present case we find that there is no judicial or quasi-judicial duty or any obligation imposed on the Government to equate the library staff with the teaching staff, on the basis of which the enforcement thereof could be

claimed by the appellants. In such a situation it cannot be said that the Government did not act fairly or acted *malafide* so as to call for any interference by this Court invoking the power of Judicial review. A

8. For the reasons stated above we find no merit in this appeal. It is accordingly dismissed. No order as to costs.

R.A.

Appeal dismissed. B