

A VICE CHANCELLOR, G.B. PANT UNIVERSITY OF
AGRICULTURE AND TECHNOLOGY AND ANR.

v.

DR. KEWALA NAND AND ORS. ETC.

B SEPTEMBER 10, 1998

[SUJATA V. MANOHAR AND G.B. PATTANAİK, JJ.]

C *Service Law—Parity in employment and pay scale—Two cadres of Research Assistants and Senior Research Assistants working in appelland-university—Research Assistants appointed in pay-scale of Rs. 350-700 (revised to Rs. 500-900) on the basis of B.Sc qualification while Senior Research Assistant appointed in pay scale of Rs. 700-1600 on the basis of M.Sc qualification—Claim of Research Assistants for parity of pay with Senior Research Assistants and for equating with teachers on the basis of the pay scales of*

D *Research Assistants working in two other universities of the State—However, such Research Assistant working for other universities appointed on the basis of M.Sc. qualification—Pay scale revised to the Research Assistants working for appelland- university at par with Senior Research Assistant having M.Sc. qualification prospectively—Held, there is no legal basis to claim grant of pay of Senior Research Assistants retrospectively—Retrospective parity cannot be*

E *claimed as a matter of right when appointments were made on the basis of different qualifications and different selection—Further, Research Assistants were not declared teachers by the Government and therefore grant of higher scale to them prospectively would not affect seniority to teaching staff like Professors, Junior or Senior Research Officers and Subject-matter*

F *Specialists—U.P. Agricultural University Act, 1958—Section 28(r).*

G **There were two cadres of Research Assistants and Senior Research Assistants working in the appelland-university having pay scales of Rs. 350-700 (revised w.e.f. 1.4.1978 to Rs. 500- 900) and Rs. 700-1600 respectively, with educational qualifications for appointment being B.Sc. and M.Sc. respectively for the said cadres. Research Assistants claimed that they should also be given the pay scale of Rs. 700-1600 from 1.4.1978 and its corresponding revised pay scale of Rs. 2200-4000 w.e.f. 1.1.1986. This was claimed by the cadre of Research Assistants on the basis of the pay scales prevailing in the other two universities in the State with respect to such**

H **Research Assistants. However, these Research Assistants in the other**

universities had unified cadre and were given the pay scale of Rs. 700-900/Rs. 2200-4000 with M.Sc. degree. These Research Assistants also claimed their parity with the teachers who were allowed minimum pay scale of Rs. 700- 1600, and went on strike for the same. It was then, that the Board of Management of the appellant-university on 12.12.1989 declared the Research Assistants as teachers and resolved that they should be sanctioned the pay scale of Rs. 700-1600 w.e.f. 1.4.1978, later revised to Rs. 2200-4000 on the date as fixed by the Indian Council of Agricultural Research. It was made clear that payments would be made only after the issue of Government Orders. This was followed by a Board Resolution dated 16.12.1989 that those Research Assistants who were appointed on regular basis on 1.4.1978 or before and who possessed M.Sc. degree would be paid the revised scale on receipt of the required contribution grant from the Indian Council of Agricultural Research/State Government. This was made clear that these were being implemented only on a provisional basis and in anticipation of the sanction of the State Government. However, appellant-university received a letter from the State Government dated 23.12.1990 conveying the appellant-university that the Government's sanction could not be accorded to the grant of University Grants Commission's pay scale of Rs. 700-1600/2200-4000 to Research Assistants. Sanction was also not accorded to the declaration of Research Assistants as teachers. Later on the appellant-university had revised the pay scale of these Research Assistants along with Technical Assistants and Extension Assistants who possessed M.Sc. degree with minimum second class as prescribed by UGC to : (i) Rs. 500- 900 up to 31.12.1985; (ii) Rs. 1740-3000 from 1.1.1986; and (iii) Rs. 2200-4000 from 12.12.1989 with the sanction of State Government vide its letter dated 7.3.1991. This letter further stated that this benefit would be available to all such incumbents who were in position on 1.4.1978 or earlier.

Since pay scales as per the Order of the appellant- university dated 16.12.1989 were discontinued after March 1990 the Research Assistants filed a writ petition before the High Court claiming the pay-scale of Rs. 700-1600/2200-4000. High Court allowed the said pay scale to the Research Assistants on the ground that such pay-scales had been made available to the Research Assistants of the other two Agricultural Universities of the State. Hence this appeal by the University. Teaching staff of the appellant-university apprehended that by reason of the judgment of the High Court Research Assistants would get seniority over the teaching staff of the appellant-university have also, preferred an appeal.

A Allowing the appeals, this Court

B HELD : 1.1. The High Court has proceeded on a wrong assumption that all Research Assistants in the other Universities were given from inception the pay scale of Rs. 700-1600. In the other two Universities, there was no separate cadre of Senior Research Assistants. Therefore, those possessing M.Sc. degree were given a higher pay scale and those possessing B.Sc. degree were given pay scale of Rs. 500-900 which was also the pay Scale of Research Assistants in the appellant-University at the relevant time. When there were two separate cadre, of Research Assistants and senior Research Assistants, separate minimum qualifications and separate selection, the pay of the two cannot be directed to be identical. Nevertheless, the Research Assistants in the appellant-university have, in fact, been given, with the approval of the Government, the same pay-scale as Senior Research Assistants with effect from 12.12.1989 if they possess an M.Sc. degree-after they were declared as teachers. There is no legal basis for the claim of the Research Assistants for the same pay scale for the period 1.4.1978 to 12.12.1989. [557-G; H; 558-A; B]

C 1.2. As regards the appeal filed by Professors, Junior and Senior Research Officers and Subject-matter Specialists who form a part of the teaching staff of the appellant-University because they apprehended that by reason of the judgment of the High Court Research Assistants would get seniority over the teaching staff of the appellant-university and would claim benefit of various allowances, accommodations etc. on the basis of that seniority, it is made clear that the seniority of teaching staff of the appellant-university consisting of Assistant Professors etc. is not affected in any manner. [558-E; F; G; H; 559-A]

D CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3751 of 1996 Etc.

E From the Judgment and Order dated 18.9.95 of the Allahabad High Court in W.P. No. 11293 of 1990.

F WITH

G C.A. Nos. 3752 or 1996 and 6724 of 1996.

H P.P. Rao, R.K. Jain, V.R. Reddy, (Raj Kumar Gupta) for A.N. Bardiyar, R.K. Upadhyay, C.P. Pandey, Ashok K. Srivastava and Rajesh

for the appearing parties.

A

The Judgment of the Court was delivered by

MRS. SUJATA V. MONOHAR, J. Civil Appeal No. 3751 of 1996 has been filed by the G.B. Pant University of Agriculture and Technology, Pant Nagar, in the State of U.P. against the judgment and order of the Allahabad High Court under which Research Assistants working in the appellant-university have been declared as entitled to payment of salary in the pay-scale of Rs. 700-1600 and the subsequently revised pay-scale of Rs. 2200-4000 from the date from which the said pay-scales have been given to the Research Assistants of two other agricultural universities in the State, namely Narendra Deva University of Agriculture and Technology, Faizabad and Chandrashekhar Azad University of Agriculture and Technology, Kanpur. Civil Appeal No. 6724 of 1996 is an appeal filed by the State of U.P. against the same judgment and order of the Allahabad High Court while Civil Appeal No. 3752 of 1996 is filed by the Association of Teachers in the G.B. Pant University of Agriculture and Technology against the same judgment and order of the Allahabad High Court.

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In the appellant-university there are two cadres in the research wing. There is a cadre of Research Assistants and there is cadre of Senior Research Assistants. Prior to 1.4.1978 the minimum qualification prescribed for a Research Assistant was a B.Sc. degree while the minimum qualification prescribed for a Senior Research Assistant was an M.Sc. degree. The scale of pay of Research Assistant was Rs. 350-700. With effect from 1.4.1978 the pay-scale of Research Assistants was revised to Rs. 500-900. The pay-scale of Rs. 700- 1600 which was given to Senior Research Assistants has been revised with effect from 1.1.1986 to Rs. 2200-4000.

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It seems that the Research Assistants of the appellant-university agitated for the pay-scale of Rs. 700-1600 instead of their pay-scale of Rs. 500-900 and they also claimed the revised pay-scale of Rs. 2200-4000 from 1.1.1986. Apparently the pay-scale of Rs. 700-1600 was claimed because as per the recommendations of the University Grants Commission, the minimum pay-scale for teachers was Rs. 700-1600. In respect of the agricultural universities which come under the Indian Council of Agricultural Research, the said council had, by its circular of 4.7.1977, informed the agricultural universities that assistance from the Indian Council of Agricultural Research would be available to all academic, research and extension

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A staff who are recongnised as teachers under the universities', statutes. The Research Assistants in the appellatant-university were, however, not recognised as teachers under the statutes of the appellatant-university. Therefore, they were not given the U.G.C. pay-scale of Rs. 700-1600.

B The Research Assistants of the appellatant-university carried on an agitation and went on strike for being given the pay-scale of Rs. 700-1600, later revised from 1.1.1986 to Rs. 2200-4000. It is the case of the appellatant-university that giving in to this agitation the Board of Management of the appellatant-university at its meeting held on 12.12.1989 declared the Research Assistants as teachers and resolved that they should be sanctioned the pay- scale of Rs. 700-1600 with effect from 1.4.1978, later revised to Rs. 2200-4000 on the date as fixed by the Indian Council of Agricultural Research. The resolution further provided that this pay-scale would be available only to those who possess an M.Sc. degree and that the pay-scales would be admissible from the date from which the prescribed qualification of an M.Sc degree was obtained. The actual payment, however, in the said pay-scales would be from 1.12.1989 after fixing the salary notionally in the said pay-scales from 1.4.1978. The resolution further noted that the salary for the strike period shall not be paid and the period would be adjusted as specified in the resolution.

E The resolution has further noted the Joint Secretary, Agriculture's opinion that payment should be made only after the issue of Government Orders. This note is on account of the statutes of the University framed under Section 28(r) of the U.P. Act 45 of 1958. Under the Statutes which have been framed by the appellatant-university, Clause 3(a) of Chapter 25 provides for emoluments of the academic staff. It provides that the emoluments of the academic staff shall be such as may be approved by the Board of Management on the basis of the recommendations of the University Grants Commission provided that no grants to meet any portion of the emoluments shall be admissible from the State Government unless their prior written approval to the proposed emoluments is obtained by the Vice Chancellor and placed before the Board. The appellatant-university, therefore, required prior approval of the State Government for granting the above emoluments to the Research Assistants after declaring them as teachers and, therefore, a part of the academic staff, in order to be eligible for a grant for this purpose from the State Government.

H Pursuant to the Board resolution of 12.12.1989, an order was issued

by the university through the office of the Chief Personnel Officer dated 16.12.1989. Clause (1)(ka) of the order stated that all those Research Assistants who were appointed on regular basis on 1.4.1978 or before and who possess a Masters degree in the second division in the related field or its equivalent, are sanctioned the benefit of the pay-scale of Rs. 700-1600/2200-4000 on the conditions prescribed in the order and in anticipation of the sanction of the State Government. The arrears would be payable on receipt of the required contribution grant from the Indian Council of Agricultural Research/State Government. The order expressly stated that it was purely provisional and was being implemented in anticipation of the sanction of the State Government. It also stated that whatever were the final orders received from the State Government would be applied. Pursuant to this order the Research Assistants were paid the new pay-scales from December 1989 to March 1990. On 25.4.1990 the university issued an order staying the resolution of 12.12.1989 including the declaration that Research Assistants were teachers.

The appellant-university received a letter from the State Government dated 23.12.1990 conveying to the university that the Governments sanction could not be accorded to the grant of U.G.C. pay-scale of Rs. 700-1600/2200-4000 to Research Assistants. Sanction was also not accorded to the declaration of Research Assistants as teachers. However, by a letter dated 7.3.1991 addressed to the Vice Chancellor of the appellant-university the State Government conveyed to the appellant-university the sanction of the State Government to the revision of pay-scale of Research Assistants in the following manner:-

- (1) Rs. 500-900 upto 31.12.1985;
- (2) Rs. 1740-3000 w.e.f. 1.1.1986 to 11.12.1989; and
- (3) the pay-scale of Rs. 2200-4000 w.e.f. 12.12.1989 to the Research Assistants, Technical Assistants and Extension Assistants of the appellant-university who possessed the academic qualification of M.Sc. with a minimum of second class as prescribed by the U.G.C. and the Indian Council of Agricultural Research.

The letter further stated that this benefit would be available to all such incumbents who were in position on 1.4.1978 or earlier. We are not concerned with the other terms and conditions of that order.

Since pay-scales as per the order of the university dated 16.12.1989

A were discontinued after March 1990 the Research Assistants filed a writ petition in May 1990 before the Allahabad High Court claiming the pay-scales of Rs. 700-1600/2200-4000. The High Court by the impugned order has allowed these pay-scales mainly on the ground that such pay-scales had been made available to the Research Assistants in the other two agricultural universities in the State, namely, the said university at Kanpur and the said university at Faizabad.

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C The appellants have pointed out that the High Court's assumption that Research Assistants in the other two universities are given the said higher pay-scales or that they are occupying a position comparable to the position of Research Assistants in the appellant-university, is unwarranted. In the appellant-university there are two separate cadres of Research Assistants and Senior Research Assistants. The minimum qualification for the former is a B.Sc. degree in agriculture and other allied subjects while the minimum qualification for the latter is an M.Sc. degree in agriculture or other allied subjects. The pay-scales of the two cadres are also different.

D It is the cadre of the Senior Research Assistants who possess an M.Sc. degree, that is given the pay-scale of Rs. 700-1600 which later became Rs. 2200-4000. The Research Assistants are required to possess only a B.Sc. degree and they were given the pay-scale of Rs. 500-900. It has been later increased to the pay-scale of Rs. 1740-3000 with effect from 1.1.1986 for those who possess an M.Sc. qualification, and Rs. 2200-4000 with effect from 12.12.1989 to those who possess an M.Sc. qualification. The respondents want the pay-scale of Rs. 2200-4000 and its earlier corresponding scale of Rs. 700-1600 from 1.4.1978 on the basis that the Research Assistants in the other two agricultural universities get it. However, from the documents on record, it appears that the position of Research Assistants in the Kanpur and Faizabad Universities is not comparable to the position of Research Assistants in the appellant-university.

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F Both in Kanpur and Faizabad Universities, the persons who were in the subordinate agricultural service of the State Government in Groups I, II and III were transferred and absorbed in the said two universities. In the subordinate agricultural service, out of the three Groups, Groups I and II require a minimum qualification of B.Sc. in agriculture while Group III requires a minimum qualification of an intermediate in agriculture. The old pay-scales for Groups II and III were Rs. 280-460 and Rs. 230-385 respectively. Persons belonging to Groups II and III when absorbed as

Research Assistants in the Kanpur Agricultural University were, if they possessed a B.Sc. degree, designated as Research Assistants and were given the pay-scale of Rs. 500-850 which was later changed to Rs. 500-900 which is the same pay- scale given to Research Assistants in the appellant-university. In respect of those formerly belonging to Group I drawing a salary in the pay-scale of Rs. 350-700, if they possessed an M.Sc. degree, they were given the pay-scale of Rs. 700-1600 in the Kanpur Agricultural University. There were also certain Senior Research Assistants who were in the Government Service drawing a pay-scale of Rs. 350-700 like persons in Group I. These were also given the pay-scale of Rs. 700-1600, if they possessed an M.Sc. degree.

In fact, the Research Assistants in Kanpur University had filed a writ petition claiming that they should also be given the pay- scale of Rs. 700-1600/2200-4000. The Allahabad High Court, by its order dated 11.8.1995 has directed the State Government to reconsider their representation. Therefore, the position of Research Assistants in the Agricultural University at Kanpur is not comparable to the position of Research Assistants in the appellant-university.

In the Agricultural University at Faizabad also persons belonging to subordinate agriculture service in the State were transferred and absorbed in the said university. Those who were in Groups II and III of the subordinate agriculture service drawing old pay of Rs. 280-460 and Rs. 230-385, were absorbed as Research Assistants in the U.G.C. pay-scale of Rs. 500-900, if they possessed a B.Sc. in agriculture. There were also some posts of Senior Research Assistants in the pay-scale of Rs. 350-700. These persons were given the pay-scale of Rs. 700-1600. In the Agricultural University at Faizabad also there were no two separate cadres of Research Assistants and Senior Research Assistants with their own qualifications and pay.

Therefore, the High Court has proceeded on a wrong assumption that all Research Assistants in the other universities were given from inception the pay-scale of Rs. 700-1600. In the other two universities, there was no separate cadre of Senior Research Assistants. Therefore, those possessing an M.Sc. degree were given a higher pay-scale as set out above. Those possessing a B.Sc. degree were given the pay-scale of Rs. 500-900 which was also the pay-scale of Research Assistants in the appellant

- A** University at the relevant time. When there are two separate cadres of Research Assistants and Senior Research Assistants, the pay of the two cannot be directed to be identical when separate minimum qualifications are prescribed and there is a separate selection for these two cadres. Nevertheless, the Research Assistants in the appellant-university have, in
- B** fact, been given, with the approval of the Government, the same pay-scale as Senior Research Assistants with effect from 12.12.1989 if they possess an M.Sc. degree after they were declared as teachers. There is no legal basis for the claim of the Research Assistants for the same pay- scale for the period 1.4.1978 to 12.12.1989.
- C** The State of U.P. in C.A. No. 6724 of 1996 has supported the stand of the appellant-university. The State has pointed out that no retrospective operation can be given to the declaration of Research Assistants as teachers for the purpose of pay-scales without the approval of the State Government. The University had also stayed the declarations till the orders
- D** of the State Government. Therefore, the State Government has given a prospective application to the declaration by granting to the Research Assistants the pay-scale of Rs. 2200-4000, if they possess an M.Sc. degree, with effect from 12.12.1989, the date of declaration.
- E** The third Civil Appeal No. 3752 of 1996 is filed by Professors, Junior and Senior Research Officers and Subject-matter Specialists who form a part of the teaching staff of the appellant-university because they apprehended that by reason of the said impugned judgment of the Allahabad High Court Research Assistants would get seniority over the teaching staff of the appellant-university and would claim benefit of various allowances, accommodation etc. on the basis of that seniority. The State Government,
- F** however, even while granting U.G.C. scale of Rs. 700-1600 to Senior Research Assistants with effect from 1.4.1978, has by its G.O. of 6.6.1981 made it clear that Senior Research Assistants, even if they get the pay-scale of Rs. 700- 1600 with effect from 1.4.1978 will not rank as Senior to
- G** Assistant Professors, Junior and Research Officers appointed prior to 1.4.1978. The university has also stated that Research Assistants will not rank above Assistant Professors etc. in seniority for allotment of housing and other benefits even if some of them draw a higher salary, because they belong to a separate cadre. Since we are setting aside the impugned
- H** judgment of the Allahabad High Court the seniority of the teaching staff

of the appellant-university consisting of Assistant Professors etc. is not affected in any manner. A

In the premises, the appeals are allowed and the impugned judgment and order of the Allahabad High Court is set aside and the writ petition before the Allahabad High Court is dismissed. There will, however, be no order as to costs. B

R.K.S.

Appeals allowed.