



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

BEFORE

HON'BLE MR. JUSTICE CHANDER BHUSAN BAROWALIA

**Civil WRIT PETITION(ORIGINAL APPLICATION) NO. 6133
of 2019**

Between

**RATTAN LAL BHARDWAJ SON
OF LATE SH. SHANKER RAM**

...PETITIONER

(BY SH ANIL GOD, ADVOCATE)

AND

**1. STATE OF HIMACHAL
PRADESH THROUGH PRINCIPAL
SECRETARY (TECHNICAL
EDUCATION) TO THE GOVT. OF
HIMACHAL PRADESH, SHIMLA-2**

**2. DIRECTOR OF TECHNICAL
EDUCATION, VOCATIONAL &
INDUSTRIAL TRAINING, HP,
SUNDER NAGAR, DISTRICT
MANDI, H.P.**

...RESPONDENTS

**(BY M/S. ARVIND SHARMA & P.K.
BHATTI, ADDITIONAL ADVOCATES
GENERAL WITH MR. MANOJ
BAGGA, ASSISTANT ADVOCATE
GENERAL)**

Reserved on 16.12.2021.

Decided on 06.01.2022.

This petition coming on for hearing this day, the Court passed the following:

J U D G M E N T

By way of present writ petition, the petitioner has prayed for the following substantive reliefs:

“(i) That impugned letter date 01.09.2009, Annexure A-15, and order dated 10.10.2014, Annexure A-17, denying pay parity to the applicant at par with another Librarian, Sh. P.K. Kaushal of the respondent department and Assistant Librarians of Education Department may be quashed.

(ii) That respondents may be directed to allow to the applicant pay scale of Rs. 700-1200 w.e.f 20.12.1983, pay scale of Rs. 1640-2925 w.e.f from 01.01.1986 with further corresponding revision from 01.01.1996 and 01.01.2006, with all consequential benefits.

(iii) That as a result of revision of pay scale of applicant w.e.f 20.12.1983, he may be held entitled to revisions of his retrial benefits on account of his retirement from service as Librarian 31.12.2007 with all consequential benefits.”

2. The petitioner has, inter alia, assailed impugned order dated 1.9.2009, (Annexure A-15), whereby petition (CWP No. 1063 of 2010) filed by him was allowed by this Court, vide judgment dated 2.1.2012, Annexure A-16, with a direction to the respondent-

department to consider the case of petitioner in the light of judgments passed by this Court in P.K. Kaushal Vs. State of HP. It is further averred in the petition that when the case of the petitioner was not considered, he was constrained to file execution petition bearing No. 152 of 2014. In reply to the execution petition, respondent-department rejected the claim of the petitioner. Consequently, the execution petition was disposed of by this Court reserving liberty to the petitioner to challenge the aforesaid rejection order. Hence the present petition.

3. I have heard Mr. Dilip Sharma, learned Senior Counsel for the petitioner and Mr. Arvind Sharma, learned Additional Advocate General and also gone through the records of the case minutely.

4. Mr. Dilip Sharma, Learned Senior Counsel for the petitioner has argued that the respondents have not given the equal pay scale to the petitioner, as is given to the similarly situated person(s) in the Technical Education Department.

5. On the other hand, Mr. Arvind Sharma, learned Additional Advocate General has argued that the Education Department has different pay scales than that of Technical Education Department and so the pay scale cannot be granted to the petitioner,

as the Assistant Librarians who was granted the pay scales equivalent to the Education Department and who was working in the Technical Department was earlier working in the Education Department and that's why the scale was given. ◇

6. To appreciate the arguments, I have gone through the petition in detail. That in or around April, 1968 the Department of Technical Education was separated from the Department of Education and as per Memorandum dated 22.7.1970, pay scales were revised in Himachal Pradesh w.e.f. 1.2.1968. Consequently, in the Department of Education, the pay scale of Librarians was revised from Rs. 150-300 to Rs. 220-500/- and that of Librarians (Community Centre) was revised from Rs. 60-90 to Rs. 125-300/-. The scale of Assistant Librarians was revised from Rs. 80-175/- and Rs. 80-150/- to Rs. 125-300/-. In the Department of Technical Education, the pay scale of Librarians was revised from Rs. 120-200/- and Rs. 60-175 to 125-300/-. It is also averred in the petition that prior to 1973 there were no statutory Rules governing Recruitment & Promotion for the post of Librarians/Assistant Librarians etc. Even in the matter of their pay scales, there was no parity. The Recruitment & Promotion Rules were notified on 11.10.1973 for the post of Librarians in the Department of Technical Education and the Recruitment & Promotion Rules were

also notified on 24.12.1973 for the post of District Librarian and Assistant Librarians etc. in the Department of Education. The essential qualification for the post of Librarian in the Technical Education was prescribed as Matric with certificate in Library Science, but the scale was prescribed as Rs. 160-400/- for the one post and Rs. 125-300 for the other post of Librarian. In the Memorandum dated 27.8.1975, the scale of Rs. 160-400/- for the post of Librarian in the Technical Education Department was also revised to Rs. 125-300/-

7. One of the ground taken by the petitioner is that vide judgment dated 26.3.2009, Annexure A-13, CWP(T) No. 2578/2008 filed by Sh. P.K. Kaushal, who was also working as Librarian in Technical Education Department was allowed by this Court by holding that he was entitled to the pay scale at par with the Assistant Librarians in Education Department with all consequential benefits.

8. Article 39(d) of the Constitution of India provides for equal pay for equal work. This right of the person for equal pay for equal work is recognized as a fundamental right by various pronouncements of the Apex Court and the law is settled that the right to equal pay for equal work is a constitutional enforceable right. Now the duties and responsibilities of the Assistant Librarians, who were

given the higher pay scale and who were working in the Technical Education Department are the same to that of the petitioner and so the petitioner cannot be denied the equal pay for equal work. The petitioner is protracted litigation since long and he has retired from the service in the year 2007 and in these circumstances it is a fit case where the respondents are required to be directed to grant equal pay for equal work and to grant the scale of Assistant Librarian as was given to other similarly situated persons in P.K. Kaushal's case.

9. In these circumstances, the writ petition is allowed and respondents are directed to grant the pay scale of Assistant Librarian to the petitioner as was given to one Sh. P.K. Kaushal with all consequential benefits till his retirement in the year 2007 and thereafter his pension be fixed accordingly. The writ petition is allowed along with costs of Rs. 10,000/- as the petitioner was remained in the Courts for long years of his life including his retirement for more than 13 years. Pending miscellaneous applications, if any, also stand disposed of.

6th January, 2022
(Guleria)

(Chander Bhusan Barowalia)
Judge