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DR. K. M. SHARMA & ORS.

v.

THE STATE OF CHHATTISGARH & ORS.

(Civil Appeal No. 3030 of 2022)

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MAY 20, 2022

[M. R. SHAH AND B. V. NAGARATHNA, JJ.]

- Service Law: Pay scale – Entitlement to – Principle of equal pay for equal work – Appellants appointed as Shikha Karmis under the 1998 Rules, claiming parity in pay scales with that of the employees of the Municipality/Municipal teachers appointed under the 1968 Rules – Held: Shiksha Karmis and Municipal Teachers are appointed under different rules and there are different methods of selection and recruitment, thus, parity in pay scale cannot be claimed – Shiksha Karmis, governed by the 1998 Rules entitled to pay-scales under the 1998 Rules only – Chhattisgarh Municipalities Shiksha Karmis (Recruitment and Conditions of Service) Rules, 1998 – Municipal Employees (Recruitment and Conditions of Service) Rules, 1968.*

Dismissing the appeal, the Court

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HELD: On a fair reading of Rule 7 of the Chhattisgarh Municipalities Shiksha Karmis (Recruitment and Conditions of Service) Rules, 1998, it is clear that on completion of the probation period, the Shiksha Karmis shall be confirmed as Shiksha Karmis only and they shall be put in the regular pay-scale of the

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Municipality as Shiksha Karmis and not as the Municipal teachers. Municipal teachers are appointed under the Municipal Employees (Recruitment and Conditions of Service) Rules, 1968. As per Rule 4 of the 1998 Rules, Shiksha Karmis shall have to be paid the scales of pay as given in the Schedule I to the said

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Rules. The respective Shiksha Karmis are paid the pay-scales as per Schedule I of Rule 4. Therefore, when the Municipal teachers and the Shiksha Karmis are appointed under different Rules and there are different methods of selection and recruitment, a Shiksha Karmi cannot claim parity in pay-scale with that of Municipal teachers on the principle of equal pay for

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equal work. Thus, Shiksha Karmis, who are governed by the

Shiksha Karmis Rules, 1998 under which they were appointed, are entitled to pay-scales under the **Shiksha Karmis Rules, 1998** only, which are being paid to them. There is no error committed either by the Single Judge or by the Division Bench of the High Court in refusing to grant the pay-scales of Municipal teachers to the appellants. [Paras 7 and 8] | 723-G-H; 724-A-C]

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State of Haryana and Ors. v. Charanjit Singh and Ors. (2006) 9 SCC 321 : [2005] 4 Suppl. SCR 57 – referred to.

Case Law Reference

[2005] 4 Suppl. SCR 57 referred to Para 4.5 C

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 3030
of 2022.

From the Judgment and Order dated 01.12.2015 of the High Court of Chhattisgarh at Bilaspur in Writ Appeal No. 538 of 2015.

Kaustubh Shukla, Ms. Nancy Shamith, V. Purushodhaman Reddy, Ms. Isra Vatsa, Abhay Singh, Ms. Ankita Agarwal, Lakshmeesh Kamath, Ms. Samriti Ahuja, Advs. for the Appellants.

Sumeer Sodhi, Arjun Nanda, Ms. Tanya Verma, Vikrant Singh Bais, Rakesh Shruti, Yogesh Tiwari, Advs. for the Respondents.

The Judgment of the Court was delivered by

M. R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court of Chhattisgarh at Bilaspur in Writ Appeal No. 538 of 2015 by which the High Court has dismissed the said appeal and has not interfered with the judgment and order passed by the learned Single Judge dismissing the writ petition in which the appellants – original writ petitioners prayed for grant of equal pay-scale as admissible to teachers appointed in the Municipal services under the Municipal Employees (Recruitment and Conditions of Service) Rules, 1968 (hereinafter referred to as “Rules, 1968”), the original writ petitioners – Shiksha Karmis have preferred the present appeal.

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2. At the outset, it is required to be noted that respective petitioners were appointed as Shikha Karmis under the Chhattisgarh Municipalities

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- A Shiksha Karmis (Recruitment and Conditions of Service) Rules, 1998 (hereinafter referred to the “Shiksha Karmis Rules, 1998”). The Shiksha Karmis Rules, 1998 were subsequently substituted by the Chhattisgarh Shiksha (Nagriya Nikay) Samvarg (Bharti Tatha Sewa Ki Sharne) Niyam, 2013. That the original writ petitioners submitted representations praying for grant of equal pay-scale as admissible to teachers appointed in Municipal services, which came to be rejected. The respective appellants filed the writ petition before the High Court. The Learned Single Judge dismissed the said writ petition. The appellants - original writ petitioners preferred writ appeal before the Division Bench of the High Court. By the impugned judgment and order, the Division Bench of the High Court C has dismissed the said appeal, hence the present appeal has been filed by the appellants – original writ petitioners – Shiksha Karmis.

- 3. Learned counsel appearing on behalf of the appellants – original writ petitioners has submitted that the respective appellants are serving as teachers. That they are the persons, who were appointed in the year D 1998 under the Shiksha Karmis Rules, 1998 to teach in the schools under the control of the respondent Municipality. It is submitted that they are not the persons whose nature of appointment was ever in the form and manner of contract employees.

- 3.1 It is submitted that as per Rule 7 of the Shiksha Karmis Rules, E 1998, the probation period for a Shiksha Karmi would be for 3 to 5 years. That after the probation period is over and the respective Shiksha Karmis are confirmed as per Rule 7, they are entitled to “regular pay-scale” as applicable to Municipality teachers from the date of appointment. It is submitted that in the present case, the respective Shiksha Karmis were appointed under Rule 5 and were confirmed in the year F 2001 after completion of their probation period. It is contended that therefore, they are entitled to the “regular pay-scale”, which is being paid to the Municipality Teachers, as per the mandate of Rule 7 of the Shiksha Karmis Rules, 1998.

- 3.2 It is urged by learned counsel appearing on behalf of the G appellants that though the Shiksha Karmis and the teachers appointed by the Municipality under the Rules, 1968 are performing the same/ similar duties, as per the 7th Pay Commission recommendation, they are put in the pay-scale of Rs.9300-34800/- for Grade I Class 9 to 12, against which the Municipality teachers are given 3% increment every year on H the pay-scale of Rs.9300-34800/-.

It is submitted that the Municipality teachers are also getting HRA/ DA/SA/Medical/Old Pension Scheme/GPF/Ex-Gratia/Every 10 Year Promotion. However, so far as the Shiksha Karmis are concerned, no such benefits are given to them. It is submitted that when the Shiksha Karmis are performing the same kind of work; teaching the similar class; having similar educational qualification; similar syllabus; similar Education Board and under the same controlling authority, not being paid the same pay-scale as being paid to the teachers of the Municipality is discriminatory and violative of Article 14 of the Constitution of India.

3.3 Relying upon Rule 11 of the Shiksha Karmis Rules, 1998, it is further submitted that as conditions of services of Shiksha Karmis are the same as applicable to other employees of the Municipality therefore, the Shiksha Karmis are also entitled to the same pay-scale which is admissible to the other employees of the Municipality/Municipal teachers.

3.4 Making the above submissions, it is prayed that the appellants are entitled to the same pay-scale, which is made available to the teachers of the Municipality.

4. While opposing the present appeal, learned counsel appearing on behalf of the respondents have vehemently submitted that the appellants are appointed as Shiksha Karmis under the Shiksha Karmis Rules, 1998 and therefore, they are being governed under the said Rules. It is submitted that so far as the teachers working in the Municipalities are concerned, they are appointed under the Rules, 1968 and therefore they are governed by the Rules, 1968. It is submitted that the appellants are being paid the pay-scales as provided under Rule 4 of the Shiksha Karmis Rules, 1998.

4.1 It is contended that submission on behalf of the appellants - original writ petitioners that on completion of the probation period as provided under Rule 7, they are entitled to the pay-scale as available to the Municipality teachers is concerned, the same is on a mis-reading and/or mis-interpretation of Rule 7. It is submitted that on completion of the probation period, their services are confirmed as Shiksha Karmis only and not as Municipal teachers.

4.2 It is urged that the pay-scales of Shiksha Karmis have been prescribed under Rule 4 of the Shiksha Karmis Rules, 1998 and they are being paid by the Municipality as per the pay-scales provided under Schedule I of the said Rules.

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- A 4.3 It is submitted that so far as reliance being placed upon Rule 11 of the Shiksha Karmis Rules, 1998 is concerned, Rule 11 is only with respect to general conditions of services other than those mentioned in the Rules. It is submitted that Rule 11 of the Shiksha Karmis Rules, 1998 clearly states that conditions of services other than those mentioned in the said Rules will be the same as applicable to the other employees of the Municipality. That other conditions of service as per Rule 11 means that the Shiksha Karmis will have parity with regard to leave, age, superannuation, provident fund, disciplinary enquiry, etc., which are otherwise not defined under the Shiksha Karmis Rules, 1998.
- B 4.4 Now, so far as the contention on behalf of the appellants that they are entitled to the pay-scales, which may be available to the Municipal teachers on the principle of equal pay for equal work is concerned, it is submitted that the Shiksha Karmis and the Municipal teachers are appointed under different Rules and there are different methods of selection and recruitment so far as the appointment of Shiksha Karmis and Municipal Teachers are concerned.
- C 4.5 Relying upon the decision of this Court in the case of **State of Haryana and Ors. Vs. Charanjit Singh and Ors., (2006) 9 SCC 321**, it is submitted that as the Shiksha Karmis and the Municipal Teachers are appointed under different Rules and there are different methods of selection and recruitment, the appellants / Shiksha Karmis are not entitled to the pay-scale as admissible to the Municipal teachers, as they are appointed under different Rules.
- D 4.6 Making the above submissions, it is prayed to dismiss the present appeal.
- E 5. We have heard the learned counsel appearing for the respective parties at length.
- F 6. The respective appellants, who are/were serving as Shiksha Karmis are claiming parity in the pay-scale with that of the employees of the Municipality/Municipal teachers. However, it is to be noted that Shiksha Karmis are appointed under different Rules namely, Shiksha Karmis Rules, 1998 and the Municipal teachers are appointed under different Rules namely, the Rules, 1968. Therefore, all Shiksha Karmis appointed under the Shiksha Karmis Rules, 1998 shall be governed by the provisions of the said Rules, 1998. Rules, 4, 7 and 11, which are relevant for our purpose are extracted as under:-

“4. Classification and Pay Scale- Classification of Shiksha Karmis and their scales of pay shall be as given in the Schedule I. Number of posts shall not be increased except with the prior approval of the Government or an Officer duly authorised by the Government.

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7. Probation - Every person directly recruited to the post of Shiksha Karmi shall be initially appointed on probation of three years, extendable up to five years for a particular school so that the Shiksha Karmis serves in that school for full probation period. The performance will be assessed by the appointing authority at the end of each year. After three years, the Shiksha Karmi may be appointed in the regular pay-scale of the Municipality on the basis of his work, conduct and performance. In case the performance is not found satisfactory, he may be allowed to continue on the probation for another one to two years to improve after which his performance will be assessed again at the end of extended period and if not found satisfactory his services shall be terminated. But in no case the probationary period shall be extended beyond that maximum period of five years. Shiksha Karmi will be paid fixed pay equivalent to minimum of the pay scale with admissible dearness allowance during the probation period.

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11. General conditions of Service- Conditions of service other than mentioned above, shall be the same as applicable to the other employees of the Municipality.”

7. Heavy reliance is placed on Rule 7 and it is the case on behalf of the appellants that after completion of the probation period as mentioned in Rule 7, Shiksha Karmis will have to be paid the pay equivalent to the pay-scale of the Municipal teachers. The aforesaid submission has no substance. On a fair reading of Rule 7, it is clear that on completion of the probation period, the Shiksha Karmis shall be confirmed as Shiksha Karmis only and they shall be put in the regular pay-scale of the Municipality as Shiksha Karmis and not as the Municipal teachers. As observed hereinabove, Municipal teachers are appointed under the Rules, 1968. As per Rule 4 of the Shiksha Karmis Rules, 1998, Shiksha Karmis shall have to be paid the scales of pay as given in the

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- A Schedule I to the aforesaid Rules. The respective Shiksha Karmis are paid the pay-scales as per Schedule I of Rule 4. Therefore, when the Municipal teachers and the Shiksha Karmis are appointed under different Rules and there are different methods of selection and recruitment, a Shiksha Karmi cannot claim parity in pay-scale with that of Municipal teachers on the principle of equal pay for equal work. Therefore, it is observed and held that Shiksha Karmis, who are governed by the Shiksha Karmis Rules, 1998 under which they were appointed, are entitled to pay-scales under the Shiksha Karmis Rules, 1998 only, which are being paid to them.
- B 8. In view of the above, no error has been committed either by the learned Single Judge or by the Division Bench in refusing to grant the pay-scales of Municipal teachers to the appellants herein being Shiksha Karmis. We are in complete agreement with the view taken by the High Court.
- C 9. In view of the above discussion and for the reasons stated above, present appeal fails and the same deserves to be dismissed and is accordingly dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs.

Nidhi Jain
(Assisted by : Shashwat Jain, LCRA)

Appeal dismissed.