

Kawaljeet Singh & Ors vs Guru Nanak Institute Of Management And ... on 8 May, 2020

Author: Prateek Jalan

Bench: Prateek Jalan

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 7881/2018

KAWALJEET SINGH & ORS. Petitioners
Through: Mr.Rajat Aneja & Ms.Vandna
Aneja, Advocates.

versus

GURU NANAK INSTITUTE OF MANAGEMENT
AND INFORMATION TECHNOLOGY & ORS. Respondents
Through: Mr.Jasmeet Singh and
Ms.Tejaswani, Advocates
for R-1 & R-2.
Mr.Anil Soni, Standing Counsel
for R-3/AICTE

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% 08.05.2020 CM APPL.10687/2020 (exemption from filing affidavits of the petitioners)
Exemption allowed, upon learned counsel for the petitioners undertaking to make good the defects within two weeks after resumption of the regular functioning of the Court.

The application stands disposed of.

CM APPL.4886/2020 (for impleadment)

1. Although this application is not on board today, it has been taken up for disposal with the consent of learned counsel for the parties.

2. This is an application for impleadment in the present petition, filed by Ms.Prabhjot Kaur. The six petitioners are members of the faculty and staff of an educational institution managed by respondent No.1, and have raised certain grievances in respect of the salary being paid to them. The applicant is a lecturer in the same institution and is, therefore, identically placed with the writ petitioners.

3. Mr.Jasmeet Singh, learned counsel appearing for the respondent Nos.1 & 2 and Mr.Anil Soni, learned counsel appearing for respondent No.3, have no objection if the applicant is impleaded as petitioner No.7 in the writ petition.

4. The application is allowed, and Ms.Prabhjot Kaur is impleaded as petitioner No.7 in the writ petition. The amended memo of parties filed along with the application is taken on record.

5. The application is disposed of.

CM APPL.10686/2020 (for seeking urgent interim directions against respondent No.1 & 2 for release of salaries to the petitioners)

1. The petitioners have filed the present application for release of arrears of salary. It is stated therein that the petitioners have not been paid their salaries by respondent No.1 after December, 2019.

2. Mr.Rajat Aneja, learned counsel for the petitioners, draws my attention to the orders passed by this Court from time to time directing the respondents to pay the salaries of the petitioners. The order dated 26.04.2019, passed in the present petition, specifically records that the respondents would continue to pay current salaries of the petitioners. Similarly, by an order dated 08.01.2020, respondent Nos.1 & 2 assured the Court that the entire arrears of salaries and other dues of the petitioners would be cleared within seven days. Mr.Aneja has also cited an order dated 24.04.2020, passed by the Division Bench in LPA No.2/2020 [Simranjeet Kaur & Ors. vs. Directorate of Education & Ors.] and other connected matters. The said appeals concern payment of salaries to faculty and staff of schools run by respondent No.2 herein. The Division Bench directed as follows:

"... The grievance of the appellants in these applications is that they have been serving in the schools run by the respondent No.3 to 5 as teachers. Their salaries, even as per the Sixth Pay Commission, have not been paid for various periods. In respect of appellants in LPA2/2020, salaries have not been paid for December, January, February and March, except an amount of Rs.15,000/- which has been paid only yesterday as ad-hoc amount. This LPA relates to teachers serving at three schools situated at Fateh Nagar, Tilak Nagar and Nanak Piao. In respect of appellants in LPA 78/2020, who are serving at the school situated at Hargobind Enclave, the salaries of the appellants have not been paid for March 2020. In respect of the appellants in LPA 48/2020 - who are serving in the school run by the respondents No.3 to 5 at India Gate, their salaries have not been paid for the month of January, February and March, except to the extent of 85% for the month of January 2020.

In our view, there can be no justification for non- payment of salaries to the appellants for the aforesaid periods. The respondent Nos. 3 to 5 charge fee from the students studying in their schools aforesaid. It cannot be a ground for the respondents to claim that arrears of fee from the students have accumulated and so the salaries cannot be paid. We, therefore, grant two weeks time, as prayed for by

respondents no.3 to 5, to positively clear and pay all the arrears to all the appellants in these matters. No further time shall be granted for the said purpose."

3. Mr. Jasmeet Singh, learned counsel for respondent Nos.1 & 2 submits that the said respondents have passed a resolution dated 06.05.2020, regarding payment of salary to the faculty and staff by the respondent-institution. The resolution contemplates payment of arrears of salaries for the months of January and February, 2020 within fifteen days from today. Mr. Singh states that the resolution further contemplates that the salaries for the months of March and April, 2020 will be paid at reduced levels in view of the fact that the institute has not been able to recover fees from its students during the current COVID-19 pandemic. He submits that minimal online classes are being held during this period and no practical laboratory work or regular administrative work is being performed. Mr. Singh states that 50% of the salary for the month of March, 2020 will be paid on the basis of the resolution within 30 days from today and 50% of the salary for the month of April, 2020 will be paid within 45 days from today.

4. Mr. Aneja submits that respondent Nos.1 & 2 be directed to pay salaries for the months of March and April, 2020 and further salaries in full. He states that the present writ petition seeks enhancement of the salaries in terms of the recommendations of the 6th and 7th Pay Commissions, whereas the petitioners are in fact being paid salaries only in terms of the scales recommended by the 5th Pay Commission.

5. Respondent Nos.1 & 2 are directed to file a reply to this application within one week, including therein a copy of the resolution dated 06.05.2020. Rejoinder thereto, if any, be filed within one week thereafter.

6. As far as arrears of salaries upto February, 2020 are concerned, the respondents are directed to release the same to the petitioners (including petitioner no.7 impleaded above) within fifteen days from today as submitted by Mr. Singh. As far as the salaries for the months of March and April, 2020 are concerned, respondent Nos.1 & 2 will release 50% of the salary in accordance with the resolution and the petitioners will be entitled to accept it without prejudice to their rights and contentions. The issue of the remainder of the salary for the months of March and April, 2020 and further periods will be considered after the pleadings in this application are complete.

7. List before the appropriate bench on 26.05.2020.

PRATEEK JALAN, J MAY 08, 2020 'hkaur'