

State Of Bihar And Ors. vs Bihar State Workshop Superintendents ... on 9 February, 1993

Equivalent citations: 1994(2)BLJR801, JT1993(4)SC148, (1993)ILLJ1091SC, 1993(1)SCALE561, 1993SUPP(2)SCC368

Bench: L.M. Sharma, N.M. Kasliwal

JUDGMENT

1. Special leave granted.

2. As identical questions of law are raised in all the above appeals, the same are disposed of by one common order. In all these appeals the question arising for consideration is whether the respondents who were Workshop Superintendents in the various Engineering Colleges or the Government Polytechnics under the State Government were entitled to U.G.C. scales of pay.

3. One Baijnath Gupta who was Workshop Superintendent at one of the Government Polytechnic Institutes filed a writ petition claiming inter alia that he being a teaching employee was entitled to U.G.C. pay-scale. The said writ petition was allowed in part and thereafter he filed a Letters Patent Appeal No. 30 of 1987 before the Division Bench of the High Court. The High Court decided the said Letters Patent Appeal by order dated 19.1.1990 and held that the appellant Baijnath Gupta was a teaching employee of Government Polytechnic and the State Government had decided to implement U.G.C. pay-scale to the teaching employees of Polytechnics and Engineering Colleges, and as such, the appellant's case was at par with them. The High Court also placed reliance in this regard on the earlier two decisions of that Court and held that the appellant was entitled to U.G.C. pay-scale, i.e. Rs. 1200-1900 with effect from 1.4.1973.

4. The State of Bihar filed a Special Leave Petition No. 4639 of 1991 before this Court against the aforesaid order of the High Court in Baijnath Gupta's case and the same was dismissed by order dated 8.3.1991 on the ground that no sufficient cause had been shown for condonation of delay. As the application for condonation of delay had been dismissed, as such the Special Leave Petition was also dismissed. Thereafter representations were filed by Bihar State Workshop Superintendents Federation before the State Government to grant U.G.C. scale with effect from 1.4.1973 and other consequential benefits. The State Government by order dated 8.4.1991 rejected the representations. Some of the Workshop Superintendents individually as well as the Bihar State Workshop Superintendents Federation filed writ petitions in the High Court claiming the U.G.C. scale and all those writ petitions have been allowed by the High Court and the order of the Government dated 8.4.1991 rejecting the representations has been quashed. All the above appeals have now been filed by the State of Bihar against the orders of the High Court dated 6.9.1991, 19.9.1991 and 31.7.1991.

5. It has been contended on behalf of the appellant State Government that the Special Leave Petition No. 4639 of 1991 filed against the judgment of the High Court in Baijnath Gupta's case was not

decided on merits, but was dismissed on the ground of delay and as such the said decision cannot be a precedent and the State Government was entitled to challenge the orders of the High Court on merits. It was also submitted that the post of Workshop Superintendent was not a teaching post and as such there was no question of granting U.G.C. scale of pay which could only be made applicable to a member of the teaching staff employed in a College run by the University. It was also submitted that the All India Council for Technical Education (in short 'AICT') had also taken the stand that the Workshop Superintendent was not a teaching post. It was also submitted in this regard by the learned Counsel for the appellants that the respondents were not engineering graduates, but Only diploma holders and were not qualified to be appointed for any teaching post.

6. On the other hand Mr. Sibal, learned Counsel for the respondents submitted that the All India Council for Technical Education has now shifted its stand with regard to the post of Workshop Superintendents and other similar posts in engineering colleges offering degree courses and in Polytechnics offering diploma courses not only as regards their pay-scales but also as regards their qualifications. This stand has been taken to deprive the respondents of their legitimate claims. It was also submitted that the AICT has concealed from this Hon'ble Court about the nature of the recommendations made by it earlier which alone would be relevant in the facts and circumstances of the cases of the respondents who are holding such posts of Workshop Superintendents for nearly two decades and most of the respondents have since been retired at the age of 58 years and it is not a case of persons seeking fresh recruitment on the basis of any qualifications now prescribed. It has been submitted that the Ministry of Scientific Research and Cultural Affairs, Government of India, on the recommendations of the All India Council for Technical Education in its letter dated 12th April, 1959 sent to all the State Governments and Union Territories had clearly included the post of Workshop Superintendent as one of the teaching posts and had equated it with an Assistant Professor in the pay-scale as Rs. 600-1150 in the case of engineering colleges, and had equated with lecturers in the pay-scale of Rs. 350-850 in the Polytechnics conducting the diploma courses. It was thus submitted that it was not a case of the AICT in 1959 that the Workshop Superintendent was not a teaching post and on the contrary it had recommended higher pay-scales treating the Workshop Superintendents as teachers and had equated such posts with the teaching posts of Assistant Professors and lecturers.

7. It was also pointed out that so far as the qualifications are concerned, the Government of India, Ministry of Education, on the recommendations of AICT laid down the qualifications of teaching staff in their letter dated 10.10.1966. In this letter the qualifications for Workshop Superintendent has been laid down as first class diploma in engineering with 8 years' experience or a second class degree with five years' experience. It is thus contended that it does not lie in the mouth of the All India Council for the Technical Education now to contend that so far as the respondents are concerned, they are neither to be considered as teaching staff nor they had the requisite qualification for the post and emoluments as claimed. It was also pointed that there are only 15 Workshop Superintendents who would be benefited under the above pay-scale and it is a dying cadre and the respondents are not concerned in case any new pay-scales and new qualifications are prescribed for fresh appointments on the post of Workshop Superintendents. It has also been submitted that even the lecturers who were in the lower pay-scale to the Workshop Superintendents earlier, have now become entitled to higher pay-scale than the respondents under the U.G.C.

pay-scales. It has also been submitted that even if the respondents are not held entitled to U.G.C. pay-scale given to Associate Professors, the respondents are at least entitled to the U.G.C. pay-scale given to Assistant Professors. It was also pointed out that admittedly in both Bihar College of Engineering, Patna and R.I.T. Jamshedpur, the Workshop Superintendent have been granted the U.G.C. pay-scale of Associate Professor.

8. We have taken note of the peculiar facts and circumstances of the cases of the respondents. It is an admitted position that they are working as Workshop Superintendents for the last several decades on the basis of the terms and conditions and pay-scales in vogue for all this period. It cannot be denied that the All India Council for Technical Education as well as all the other authorities were treating the posts of Workshop Superintendents as teaching posts and had fixed them in the pay-scale equivalent to Associate Professors. So far as educational qualifications are concerned, diploma holders with 8 years' experience as well as degree holders with five years' experience were eligible for such posts. So far as this category of respondents is concerned, it is a dying cadre and even if in terms, they are not entitled to the grant of U.G.C. scale which can only be made applicable in case of teaching staff serving in the colleges run by the university, we find no justification so far as the respondents are concerned not to allow them the benefit of the pay-scales at least equivalent to the post of Assistant Professors. In view of the historical background and the terms and conditions of the service and pay-scales remaining applicable to the respondents for a considerable long period of time, we hold that in order to do complete justice, the respondents are entitled to the revised pay-scales allowed to the Assistant Professors (Senior Scale) i.e. 3000-100-3500-125-5000.

9. In view of these circumstances, we allow these appeals in part and modify the relief granted to the respondents to the extent that they would be entitled to the revised scales of pay as allowed to the Assistant Professors (Senior Scale) with all consequential benefits. The appellant State of Bihar shall take suitable steps in this regard within 3 months from the date of this order. In the facts and circumstances of the case, we make no order as to costs.