Supreme Court of India
Bhanu Prakash Singh And Ors vs Haryana Agricultural University on 17 August, 1994
Bench: K. Ramaswamy, S.C. Agrawal

CASE NO.:
Appeal (civil) 3108 of 1983

PETITIONER:
BHANU PRAKASH SINGH AND ORS.

RESPONDENT:
HARYANA AGRICULTURAL UNIVERSITY

DATE OF JUDGMENT: 17/08/1994

BENCH:
K. RAMASWAMY & S.C. AGRAWAL

JUDGMENT:

JUDGMENT 1994 SUPPL. (2) SCR 712 The following Order of the Court was delivered :

The 28 appellants while working as Lecturers in Haryana Agriculture University were selected to undergo Ph.D. Course in the year 1978. They joined in July and November, 1978. They were permitted as in-service candidates to undergo the course according to the leave of the Kind due to them. They pursued the course of study upto 1980-81. They were not paid the leave salary and that, therefore, they filed the Civil Writ petition no. 702 of 1980. The Division Bench of the High Court of Punjab & Haryana by its order dated May 10, 1992 dismissed the writ petition holding that during the relevant period due to financial stringency the University had prohibited the in-service candidates to pursue their course of study and they are not in a position to pay the full pay etc. to them. Thereafter, the said conditions was withdrawn on January 10, 1979. Since the appellants had joined during the period of prohibition, they are not eligible to get their full pay except in accordance with the leave of the kind due to them.

2. Shri Govind Mukhoty, the learned senior counsel for the appellants had contended that statute 21(3) of the Haryana & Punjab Agriculture University Act, 1970 Act No. 16 of 1970 entitles the in-service candidates who have been granted admission to undergo higher course of study in a specialised subject full pay and allowances on admission into the course. Under section 16(11) the salary and allowances payable to the teacher cannot be determined and with held by the Vice Chancellor except With the approval of the Board. Since no such approval was given, the prohibition made by the Vice Chancellor is without authority of law. By operation of Statute 21(3), they are entitled to full pay and allowances. It is also further contended that after the prohibition from January 10, 1979, the University had paid full pay to the teachers permitted to undergo the Ph.D. Course. Non payment to the appellants constitute discrimination offending Art. 14. We find no force in the contention.

3. It is true that the appellants have been permitted to undergo Ph.D. Coarse as in-service candidates during the relevant period. The Vice Chancellor in his proceedings dated October 27,

1972 had stated that the director of research informed the Vice Chancellor that there are financial stringency for admission of the teacher to Ph.D. programme and that, therefore, he requested not to recommend the candidates to undergo the Ph.D. Course. The Vice Chancellor accepting the recommendation has ordered, "Deans/directors should please made sure that no in-service can-didates are recommended for admission to Ph.D. in any subject during the current year." It would appear that the same prohibition continue upto January 10,1979, the date of which the prohibition was lifted as indicated hereinbefore. It is seen that the order which was produced before the High Court and marked as annexure 1 permitting them to undergo the course of study clearly mentioned that they ate entitled to the leave of the kind due them. When the appellants were permitted to undergo the course of study subject to the condition, then they cannot have any right higher than what were permitted to avail of. It is not in dispute that by virtue thereof, they are not eligible to draw the salary and full allowances during the period from 1978-79 upto 1980-81 during which period they have undergone the course of study. It is also stated in the counter affidavit filed in this Court that after the relieving of the appellants to undergo the course of study, they have employed new teachers in place of the appellants. No doubt, the appellants sought to explain that some of the teachers appointed had not worked during the full course or worked only a partial time as indicated in the rejoinder affidavit. But since the appellants have come forward only in the rejoinder affidavit, the State had no opportunity to controvert it. It is clear that the appellants having gone to the course of study for the relevant period according to the leave of the kind due to them, they cannot have higher right then what was permitted to avail of.

4. It is true that the Statute 21(3) provides the eligibility to seek admission and on making such an admission they became eligible for full salary and allowances but it would be subject to the conditions that may be imposed by the University. Statute 16(11) is inapplicable to the facts in this case. There in it would appear that in fixation or determination of the salary and allowances, the Vice Chancellor has to discharge that function with the approval of the Board. That would be relatable to the initial fixation of the pay and allowances but it has not relation to the payment of full salary and allowances when the teachers were admitted to undergo the course of Ph.D. and that, therefore, the Statute 16(11) is inapplicable.

5. Art. 14 also has no application to the facts in this case. It is seen that after the lifting of the prohibition on January 10, 1979, teachers sent thereafter were paid full salary and allowances. It is true that few teachers who were found to be ineligible and were selected along with the appellants but were not admitted to the course of study in the later year had been paid the full salary and allowances. It is not the case of the appellants that any one of the teachers though were prohibited to draw the full salary and allowances except in accordance with the leave of the kind due to them, were made payment of the full salary and allowances. They are not entitled to salary and allowances though other teachers after lifting the prohibition were permitted to undergo the course of study with full pay and allowances. Under these circumstances, there is not invidious discrimination or arbitrary or unjust action violating equality enshrined in Art. 14.

6. The appeal is accordingly dismissed without costs.