

Raghuraj Singh and others v. The State of Haryana and another
(V. Ramaswami, C.J.)

the result of re-evaluation can, in any case be available before the date set for the PET.

- (ii) If the re-evaluation result is available before the date set for the PET, the re-evaluated result shall substitutedly govern the eligibility.
- (iii) In case the re-evaluated result is not available by the date set for the PET, the candidate shall provisionally be allowed to sit in the PET subject to his candidature being regulated after the declaration of the re-evaluated result, and
- (iv) the qualifications and exceptions aforementioned be enlivened by suitable alterations/amendments in the University Calendar as also the prospectus as, otherwise, paragraph 5(b) of the prospectus would come within the mischief of Article 14 of the Constitution being arbitrary, unreasonable and unfair, tainted with the vice of discrimination.

For what has been said above, this petition is fated to be accepted and a direction is issued to the University to regulate the candidature of the petitioner on the re-evaluated result since that result had been announced prior to the holding of the PET. The interim orders permitting the petitioners to appear in the PET at their own risk were also passed by this court before the date set for the PET. The petitioners are thus held entitled to the substituted result and the consequential benefits. The petitioners shall have their costs.

S. C. K.

Before V. Ramaswami, C.J. and Ujagar Singh, J.

RAGHURAJ SINGH AND OTHERS,—Petitioners.

versus

THE STATE OF HARYANA AND ANOTHER,—Respondents.

Civil Writ Petition No. 9809 of 1987

January 4, 1988.

Constitution of India, 1950—Art. 14—Petition by untrained Masters—Some of them qualifying B.Ed. examination after original

appointment—Claim for running scale as applicable to trained Masters—Nature of work and duties of trained and untrained teachers—Whether can be equated—Principle of 'equal pay for equal work'—Applicability of—Claim for payment of running scale for a period prior to passing B.Ed. examination—Competency of such claim.

Held, that it cannot be contended that the work turned out by a trained teacher is the same as the work turned out by an untrained teacher. If the work is to be treated as equal, then there is no need for prescribing the necessary qualifications at all. A permanent employee and a temporary employee doing the same work may not be distinguished, but certainly there is a distinction so far as the work or duties of a trained and untrained teacher is concerned. It would be something like treating a professor and a Lecturer, in a College, for the purpose of payment of salary on the ground that they give the same lecture on the same subject and therefore, they have to be paid equal salary. The teaching of a trained teacher cannot be said to be the same as that of an untrained teacher, for invoking of the doctrine of equal pay for equal work. Neither of the groups of the petitioners are entitled to be paid the same pay scales as trained Masters. (Para 1).

Petitions under Articles 226 and 227 of the Constitution of India praying that :—

- (i) *That the Respondents be directed to place the entire record before this Hon'ble Court.*
- (ii) *That this Hon'ble Court may issue a writ in the nature of Mandamus or any other appropriate writ, order or direction directing the Respondents to grant regular running pay scale of Masters with effect from the date of their original entry into the Government Servant as Masters as is being given to the trained Masters, and may give further direction to fix the salary of the petitioners as well as to grant them the arrears thereof in consequence of such fixation.*
- (iii) *That the petitioners be awarded costs of the petition.*

J. M. Sethi, Advocate, for the petitioner.

JUDGMENT

V. Ramaswami, C.J.

1. This writ petition has been filed by a group of Masters, totalling 28 in number, praying for a writ of *mandamum*, directing the State of Haryana to grant them running scale of masters from

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the date of their original entry into Government service, as is being allowed to all other trained Masters. This group falls into two categories one group of Masters who were originally appointed as untrained Masters, but subsequently qualified B.Ed. Examination and given the running scale of Masters and the second group who were employed as untrained Masters and did not qualify themselves for the B.Ed. Examination. The first group of Masters contended that though they were paid the salary as trained Masters from the date on which they passed the B.Ed. Examination, they are not given the same salary as trained Masters for the period prior to their qualifying the B.Ed. Degree. The other group of Masters claim that they are entitled to be paid the same running scale of Masters as trained Masters. Their claim is based on the ground that although they are untrained Masters. Yet they do the same work or duty of trained Masters. On the principle of equal pay for equal work, they are eligible to be paid the same running scale of trained Masters. In this connection, the learned counsel relies upon certain decisions of this Court and those of the Supreme Court. In *Jeet Singh v. M.C.D.*, (1), the Supreme Court held that a person who was appointed temporarily is entitled to be paid the same salary and allowances as are paid to regular and permanent employees on the principle of equal pay for equal work. There can be no doubt that this decision is not applicable to the present case, because it cannot be contended that the work turned out by a trained teacher is the same as the work turned out by an untrained teacher. If the work is to be treated as equal, then there is no need for prescribing the necessary qualifications at all. A permanent employee and a temporary employee doing the same work may not be distinguished, but certainly there is a distinction so far as the work or duties of a trained and untrained teacher is concerned. It would be something like treating a professor and a Lecturer, in a College, for the purpose of payment of salary on the ground that they give the same lecture on the same subject and therefore, they have to be paid equal salary. If this principle is to be applied in respect of a trained and an untrained teacher. The decision in *Bhagwan Dass v. State of Haryana*, (2) related to the appointment of temporary Masters as in *Jeet Singh's* case (supra). The same principles were laid down in

(1) AIR 1987 S.C. 1781.

(2) A.I.R. 1987 S.C. 2049.

this decision also, but as already stated, the question for determination is, whether the work is equal in order to get equal pay. As we said earlier, we are not satisfied that the teaching of a trained teacher can be said to be the same as that of an untrained teacher, for invoking of the doctrine of equal pay for equal work. In the other unreported decision of the Supreme Court the Civil Appeals No. 31 and 32 of 1985, decided on 17th December, 1984, the situation was entirely different. A Single Judge of this Court in *Tilak Raj, Math Master v. State of Punjab*, (3), held that the pay scale of a trained Master ought to be the same as that of an untrained Master. The State Government did not appeal against this decision and gave effect to that judgment in respect of certain untrained Masters. However, later a Division Bench of this Court in *Shervinder Kaur v. State of Punjab*, (4), overruled the decision of the learned Single Judge and held that a trained Master and an untrained Master cannot be equated as doing equal work and that an untrained Master cannot be paid the same salary as of a trained Master. On the basis of this judgment, the State Government refused to give effect to *Tilak Raj's* case (supra) in respect of untrained Masters to whom the ratio of the judgement was not given effect to and that question arose only on the ground that it offends Article 14 of the Constitution of India. The Supreme Court accepted this contention so far as that group of untrained Masters are concerned on the ground that they, along with untrained Masters to whom the State Government gave effect formed one group and giving effect to one group and denying to the other, was not valid. We are unable to see how this judgement is relied upon by the learned counsel. In fact the decision of the Division Bench of this Court in *Shervinder Kaur's* case (supra) is against the contention of the learned counsel. That judgment has become final and it has not been appealed against and in a way, that being a Division Bench judgement, it is binding on us and therefore, we are unable to accept the contention that in this particular case, either of the groups of petitioners are entitled to be paid the same pay scales as trained Masters. The writ petition is accordingly dismissed.

S.C.K.

(3) C.W.P. 656 of 1977 decided on May 18th, 1977.

(4) C.W.P. 3676 of 1977 decided on Sept. 12th, 1979.