

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No(s). 3920-3921/2017

JOGINDER PAL SINGH ETC.

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

O R D E R

UDAY U. LALIT, J

These appeals are directed against the final judgment and order dated 13.01.2014 passed by the High Court of Punjab and Haryana in CWP No.26785 of 2013 and in CWP No.26761 of 2013.

The appellants 1 & 2 were appointed as Studio Assistants in Government College of Arts, Chandigarh in January, 1991 and February, 1990 respectively. Their appointments were in terms of Government College of Arts and Crafts Service (Class III) Recruitment Rules, 1975.

It appears that on 22.01.1986, a decision was taken to grant revised scale of pay to the existing members in the cadre of Studio Assistants in Government College of Arts, Chandigarh. The decision was to the following effect:

"No.F.2-47/81T.2.T-10
Government of India
Ministry of Human Resource Development
Department of Education

New Delhi, the 22nd January, 1986.

To,

The Home Secretary,
Chandigarh Administration,
Chandigarh

Subject: Grant of revised UGC, scale of pay to the faculty of Government College of Art, Chandigarh -Regarding.

Sir,

I am directed to refer to your letter No.43(GOI)-HII(7)-86/889 dated 15.01.86, on the subject mentioned above and to convey the sanction of the President to the grant of revised UGC scales of pay to the following faculty members of Government College of Art, Chandigarh with effect from 1.7.78, the date of affiliation of the College to the Punjab Universities, or from the date of filling up the post, whichever is later, subject to usual conditions attached to the grant of such scales of pay as laid down in the Ministry's letter of even No. Dated 31st December, 1985:-

Designation	Existing scale of pay	Revised UGC pay scale	Revised designation
Photo Litho Artist	Rs.570-1080/-	Rs.700-1600	Lecturer
Studio Assistant	Rs.570-1080/-	Rs.700-1600	Lecturer
Junior Instructor	Rs.510-940/-	Rs.700-1600	Lecturer
Carpentry Instructor	Rs.570-1080/-	Rs.700-1600	Lecturer
Instructor in History of Art	Rs.620-1200/-	Rs.700-1600	Lecturer

The expenditure will be met out of the sanctioned budget provision of the college.

This issues with the concurrence of the Integrated Finance Division Vide their Diary No.865/0/86 I.F.D. dated 21.1.86.

Yours faithfully,
I.S. Sangal
Deputy Educational Advisor (Tech.):"

It is a matter of record that post 1987, three persons including the present appellants were appointed as Studio Assistants. After protracted correspondence between the authorities

in question, finally all the Studio Assistants were re-designated as Lecturers on and with effect from 7.2.2019. It is also a matter of record that the Lecturers have now been upgraded to the level of Assistant Professors. Thus the appellants now stand re-designated and upgraded to the level of Assistant Professors.

The question that falls for consideration is whether are they entitled to the status of Lecturers and Assistant Professors with effect from 7.2.2019 or from an earlier date when the decision in that behalf were taken by the authorities in question.

Mr. P.S. Patwalia, learned senior advocate invited our attention to communication dated 24.07.2017 emanating from the Government of India, Ministry of Human Resource Development, Department of Higher Education, Technical Section-II/C. According to this communication, the Ministry vide letter dated 10.10.2008, had given consent to adjust the posts of Studio Assistants to the level of Lecturers in accordance with the relevant Recruitment Rules. The Relevant portion of the communication is to the following effect:

"Kindly refer to our Ministry letter No.F.26-249/2001-TS-II, dated 8.8.2012 vide which Ministry stand was made clear that the incumbents of Studio Assistants were appointed on the basis of Recruitment Rules, 1975 and therefore, their service conditions should be governed, strictly by those Recruitment Rules, 1975. Further, the Recruitment Rules, 1977, may not have a retrospective effect. The Chandigarh Administration vide their letter dated 12.12.2002 has admitted that these incumbents of Studio Assistants have fulfilled the all essential qualification for the post of Lecturer. The Chandigarh Administration has also accepted in their proposal dated 12.12.2002 that they have erroneously filled up three posts of Studio Assistants instead of Lecturer and requested for approval to adjust these posts to that of Lecturer in their various correspondences. Further, it was also

accepted by the Administration in its letter dated 27.12.2012 that financial implications shall be met out within their sanctioned budget grant. Accordingly, this Ministry vide letter dated 10.10.2008 has given consent to adjust these posts to that of the Lecturer in accordance with the relevant Recruitment Rules. It is pertinent to mention here that Post of Studio Assistant is a teaching post as per the Recruitment Rules, 1975.

In view of the above facts, the Chandigarh Administration was asked to withdraw the orders dated 26.03.2012 and dated 01.08.2012 vide which denying adjustment of incumbents of Studio Assistant and requested to issue an appropriate order in the light of Administration's earlier stand and policy decision already approved by the President of India conveyed to the Chandigarh Administration vide this Ministry letter dated 22.01.1986. Sh. Joginder Pal Singh and others has filed Special Leave Petition in Hon'ble Supreme Court of India for appeal against the final judgment and order dated 13.01.2014 of the Punjab & Haryana High Court at Chandigarh passed in CWP No.26785 of 2013 and 26761 of 2013. The Hon'ble Supreme Court has admitted the petition. Further, in petition for Special Leave to appeal, the Hon'ble Supreme Court has passed the following orders:

"Heard. Leave granted. Hearing of the Appeals is expedited."

In view of the position explained above, it is reiterated that the incumbents of Studio Assistants be promoted to the post of Lecturers in the light of the Recruitment Rules, 1975 or be adjusted against the post of Lecturers in the light of the Administration's earlier stand and policy decision already approved by the President of India conveyed to the Chandigarh Administration vide this Ministry letter dated 22.01.1986 to avoid any adverse structure to be passed by the Hon'ble Supreme Court of India in the above petition."

This was followed by another letter dated 14.9.2017 addressed to the Secretary, Technical Education, Chandigarh Administration, Chandigarh which recited the facts that the sanction of the President of India to the grant of UGC Scale of Pay and revised designation to certain categories of posts was accorded on

28.2.1986 and also referred to subsequent correspondence between the authorities. The communication further stated:

"After comprehensively examining the issue at the Ministry Level, the matter has been resolved. Therefore, sanction is hereby accorded to re-designate three posts of Studio assistant of Government College of Art, Chandigarh to Lecturer and UGC scale of pay as revised from time to time is granted to them w.e.f. 01.07.1978 or from the date of filling up the post, whichever is later. It is further directed that in future no post of Studio Assistant may be created."

The decision was thus clear that the sanction was accorded to re-designate three posts of Studio Assistants of Govt. College of Arts, Chandigarh to the level of Lecturers w.e.f. 1.7.1978 or from the date of filling up of posts whichever is later.

Mr. Patwalia fairly submitted that the interest of the present appellants would stand secured and they would be willing to accept the upgradation not exactly from their initial date of appointment but from the date when the proposal actually firmed up and crystalised. It was expressed by the learned counsel that the appellants who are going to retire in August, 2020 and February, 2021 respectively may get better retiral benefits if the upgradation is given from the date of decision rather than from 7.2.2019. We see force in the submission of learned senior counsel.

Since the communication dated 24.07.2017 recites that the consent was given by the Ministry vide letter dated 10.10.2008, in our view, that date must be the date to be reckoned in order to consider the effect of re-designation in so far as those three posts of Studio Assistants are concerned.

We, therefore, direct:

(a) The three posts of Studio Assistants shall stand re-designated on and w.e.f. 10.10.2008 to the level of Lecturers.

(b) However, none of the incumbents including the appellants shall be entitled to any arrears of pay on account of such upgradation till 7.2.2019, nor shall they be entitled to claim any seniority on account of such re-designation being given effect to from 10.10.2008.

(c) Since the re-designation to the post of Lecturer is given effect to from 2008, if there be any regularly appointed lecturer during the period from 10.10.2008 to 7.2.2019, the three incumbents including the appellants shall not be entitled to claim seniority over such appointees.

(d) However, their services shall be reckoned from the concerned date i.e. 10.10.2008 as Lecturers and appropriate benefits including the scale of pay, upgradation and retiral benefits shall be afforded to the three incumbents including the appellants.

With these observations, the appeals are disposed of.

.....J.
(UDAY UMESH LALIT)

.....J.
(VINEET SARAN)

New Delhi,
July 31, 2019.

ITEM NO.13

COURT NO.7

SECTION IV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 3920-3921/2017

JOGINDER PAL SINGH

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No. 34899/2018 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 54251/2019 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 31-07-2019 These matters were called on for hearing today.
CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE VINEET SARAN

For Appellant(s) Mr.P.S.Patwalia, Sr. Adv.
Mr. Tushar Bakshi, AOR
Mr. Shovit Singh, Adv.
Mr. Dhruv Sheoran, Adv.
Mr. Harshika Verma, Adv.

For Respondent(s) Ms. Kiran Suri, Sr.Adv.
Mr. S.S. Ray, Adv.
Mr. Vibhu Shankar Mishra, Adv.
Mr. Deepak Goel, Adv.
Mr. G.S. Makker, Adv.
Mr. Sangram S. Saron, Adv.
Mr. Shree Pal Singh, AOR

Mr. Anil Soni, Adv.
Mr. Harish Pandey, AOR

Ms. Binu Tamta, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are disposed of in terms of the signed order.

(INDU MARWAH)
COURT MASTER

(SUMAN JAIN)
BRANCH OFFICER

(Signed order is placed on the file)