

Civil Writ Petition No.227/96
Sohanlal Singhal Vs. State & Ors.

Date of Order ::: **31/05/2005**

Hon'ble Mr.Justice Ajay Rastogi

Mr.C.L.Saini for petitioner
Mr.B.K.Sharma, Dy.Govt.Advocate for the State

Petitioner, who was working as Principal and retired from Non-Government Aided Educational Institution, has claimed parity of pensionary benefits as admissible to employees of State Government.

Initially, petitioner joined service on 30/08/65 as Principal in Shri Chirawa Senior Secondary School, Chirawa, which is Non-Government aided educational institution. On completion of 29 years' services, he retired on 31/07/94 and was paid a sum of Rs.2,96,074/- on 01/08/94 & 09/11/95 towards provident fund benefits, to which he was entitled for under the Rules.

Petitioner pleaded in his petition that in view of decision of this Court in Prakash Chaturvedi Vs. State of Rajasthan (SB CWP No.5447/92 decided on 09/02/93) (Ann.3), respondents were under obligation to frame pension rules by extending terminal benefits to employees of Non-Government aided educational institution.

Respondents in their reply have submitted that in view of aforesaid decision, to protect rights of employees of recognized educational

institutions, the Rajasthan Non-Government Educational Institutions (Recognition, Grant-in-aid & Service Conditions etc.) Rules, 1993 ('Rules, 1993') has been promulgated with effect from 01/04/93 in exercise of powers conferred by S.43 of Rajasthan Non-Government Educational Institutions Act, 1989 ('Act, 1989'). According to respondents, petitioner is only entitled for benefits which are extended to employees of aided educational institutions being covered under the Act, 1989 & its Rules; and as per existing provisions of the Act, 1989, there is no statutory provision, which grants pensionary benefits to the employees/teachers of the recognized educational institutions, and S.16 of Act, 1989 confers power upon State Government to regulate terms & conditions of employees of aided institutions.

Shri B.K.Sharma Dy.Govt. Advocate for State urged that in the absence of any provisions made in the Act, 1989 & its Rules, 1993, employees of aided educational institutions are not entitled for pensionary benefits.

Having considered contentions of both the parties and perused material on record, I find that this facts remained undisputed that petitioner retired from service from aided educational institution and whatever retiral benefits which he was entitled for, and admissible to employees of aided educational institutions under Grand-in-aid Rules, 1963, were extended to petitioner and after the Act, 1989 came into force, service conditions of

employees & teachers of Non-Government Educational institutions were protected but there is no provision for grant of pension to such employees. S.29 read with S.34 of the Act, 1989 only provide for pay & allowances admissible to such employees of Non-Government educational institutions, equal to what is admissible to employees of State Government. In the absence of any provisions in the Act, 1989 or its Rules, 1993, in my opinion, no direction can be issued to the State Government to grant pension to retired employees of Non-Government aided educational institutions. That apart, whatever benefits due to petitioner were already paid to him under provident fund scheme admissible as he was not holding pensionable post and in the absence of provision to the effect, no parity with employees of State Government can be claimed, in so far as it relates to payment of retiral benefits, particularly pension.

Decision of Apex Court in **K.Krishnamachar yulu Vs. Sri V.H.College of Engineering (1997(3) SCC 571)** does not help the petitioner because in that case, parity in pay scales with employees of Government institutions was claimed by employees of non-aided private educational institution on the basis of Government instructions which entitled pay scale equal to their counter parts in government institutions and that apart, Management of the College was already paying salaries on a parity with government employee, whereas in present case, there

has been no such Government instructions and contrarily service conditions of employees of Non-Government aided Educational institutions like petitioner are regulated by promulgation of the Act, 1989 and Rules, 1993 framed thereunder. Further, since at relevant point of time, services conditions of Non-Government aided educational institutions were governed by Grant in-aid Rules, 1963, and service conditions of employees/teachers are now protected under present legislation (*supra*), wherein no provisions for grant of pension to employees of aided educational institutions have been envisaged. In this view of legislative intent, no mandamus can be issued.

Consequently, this petition fails and is hereby dismissed with no order as to costs.

(Ajay Rastogi), J.

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