A HARYANA STATE ADHYAPAK SANGH AND ORS. ETC.

v.

STATE OF HARYANA & ORS.

JULY 28, 1988

B [R.S. PATHAK, CJ AND G.L. OZA, J.]

Teachers employed in recognised, aided private schools must be given same Scales of Pay and Dearness Allowance as teachers in Government Schools.

C The Kothari Commission appointed by the Government of India to examine the conditions of service of teachers with the object of improving the standards of education in the country recommended *inter alia* that the scales of pay of school teachers belonging to the same category but working under different managements such as Government, local bodies or private organisations should be the same, and, D falling in line with other States, the State of Haryana decided to implement the same with effect from 1 December, 1967. As the deficit between the original grades and the revised grades was found too burdensome for the managements of the aided schools to bear, the State decided to meet the increased expenditure entirely in regard to Pay and Dearness Allowance. The State Government followed the principle of E parity between the teachers working in aided schools and Government schools until 1979. In 1979, the pay scale of teachers in Government schools was revised by the State after the report of the Pay Commission, but in the case of the teachers of aided schools the revision was effected two years later. The appellants and the writ petitioners, who were teachers employed in various recognised aided private schools, alleged F that the salary and other emoluments such as Dearness Allowance, House Rent Allowance, City Compensatory Allowance, Medical Reimbursement, Gratuity, etc., paid to them had fallen far behind the emoluments paid to the teachers in Government schools and this Court should interfere in order to remove such discrimination since the constitutional responsibility of providing education in schools devolved G on the Government and it exercised deep and pervasive control over the running of aided schools.

Disposing of the appeal and petitions,

HELD: There is general agreement between the parties that there H is no reason for discrimination between the teachers employed in aided

schools and those employed in Government schools so far as the salaries and Additional Dearness Allowances are concerned. The State Government has expressed its readiness to reimburse the payment of ten instalments of the Additional Dearness Allowance, but not the twenty five Additional Dearness Allowance instalments released after 1 April, 1981. In our opinion, the teachers of aided schools must be paid the same pay scale and Dearness Allowance as teachers in Government schools for the entire period claimed by the petitioners, and that the expenditure on that account should be apportioned between the State and the Management in the same proportion in which they share the burden of the existing emoluments of the teachers. [685B-C, E-G]

The State Government will also take up with the managements of the aided schools the question of bringing about parity between the teachers of aided schools and the teachers of Government schools so that a scheme for payment may be evolved after having regard to the different allowances claimed by the petitioners. [686C]

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 2366-67 of 1988 etc.

From the Judgment and Order dated 21.2.1985 of the Punjab and Haryana High Court in C.W.P. No. 5353 of 1984.

Pankaj Kalra, B.S. Gupta, P.C. Kapur and S. Mitter for the Appellants.

Rajinder Sachar, D.K. Garg, Mahabir Singh and A.K. Goel for the Respondents.

The Judgment of the Court was delivered by

PATHAK, CJ. Special leave to appeal is granted in both the special leave petitions.

The petitioners are teachers employed in various recognised aided private schools in the State of Haryana. The schools are maintained under private management. They receive financial aid from the State Government. The petitioners have come to Court alleging that teachers employed in Government aided private schools are entitled to parity with the teachers employed in Government schools in the matter of pay scales and other emoluments such as Dearness Allowance, House Rent Allowance, City Compensatory Allowance,

A Medical Reimbursement and Gratuity, etc. It appears that prior to 1967 there was considerable disparity in the emoluments of teachers employed in the same State, and the Government of India appointed the Kothari Commission to examine the conditions of service of teachers with the object of improving the standards of education in the country. Among other things, the Kothari Commission recommended B that the scales of pay of school teachers belonging to the same category but working under different managements such as Government, local bodies or private organisations should be the same. Almost all the States, including the State of Haryana, decided to implement the recommendations of the Kothari Commission. The State of Haryana declared in January, 1968 that the revised rates, suggested by the Kothari Commission would be made effective from 1 December, 1967, C and that the grades of teachers of privately managed schools would be revised on the pattern of the grades of teachers working in Government schools. As the deficit between the original grades and the revised grades was found too burden some for the managements of the aided schools to bear, the State decided to meet the increased expendi- D ture entirely in regard to Pay and Dearness Allowance. The State Government followed the principle of parity between the teachers working in aided schools and Government schools until 1979. In 1979, the pay scale of teachers in Government schools was revised by the State after the report of the Pay Commission, but in the case of the teachers of aided schools the revision was effected two years later. The E petitioners allege that the salary and other emoluments paid to the teachers of aided schools have fallen far behind the emoluments paid to the teachers in Government schools and this Court should interfere in order to remove such discrimination. We are told that there are about sixty thousand teachers in Government schools while a mere four thousand teachers are employed in aided schools. According to F the petitioners, to provide education in schools is the constitutional responsibility of the Government, and this is reflected in the deep and pervasive control exercised by the Government over the running of aided schools. It is pointed out that the control is exercised over almost all areas of management. The Committee of management has to be approved by the State Government, so have the strength of the teach- G ing and the other staff as well as the qualifications and other conditions of eligibility for appointment to the staff. The mode of selection and the determination of seniority are subject to the directions of the State Government and teachers cannot be dismissed, removed or reduced in rank without the prior approval of the State authorities. The tuition fee, as well as free-ships, concession and scholarships are fixed by the H State Government, which is also empowered to give instructions in

regard to the time table, working hours, pupil ratio, attendance and workload. The financial resources and the heads of income and expenditure are indicated by the State Government.

We have heard learned counsel for the parties at considerable length, and we find general agreement between the parties that there is no reason for discrimination between the teachers employed in aided schools and those employed in Government schools so far as the salaries and Additional Dearness Allowances are concerned. The State Government does not accept the claim to parity in respect of other heads of allowance put forward by the petitioners. We were at one time disposed to ruling on the question whether the responsibility for providing education in schools belongs to the State Government, and therefore whether there is a corresponding responsibility on the State Government to ensure that in aided schools the teachers are entitled to the same emoluments as are provided for teachers in Government schools. We do not, however, propose to enter upon this question in these cases as we are satisfied from the developments which have followed after the hearing on the merits that it would be more appropriate to dispose of these cases by a short order. The State Government has expressed its readiness to reimburse the payment of ten instalments of the Additional Dearness Allowance, but not the twenty five Additional Dearness Allowance instalments released after 1 April, 1981. It appears that the grant-in-aid given by the State Government to these aided schools covers the deficit to the extent of seventy five per cent of the approved expenditure. The approved expenditure extends to the salaries paid to the teaching and non-teaching staff, which includes the Pay and Dearness Allowance and Interim Relief before 1 April, 1981 and the Pay and Additional Dearness Allowance beyond 1 April, 1981, the deficit expenditure minus income and certain other items, but does not include House Rent Allowance, Medical Allowance, City Compensatory Allowance and the other heads claimed by the petitioners. In our opinion, the teachers of aided schools must be paid the same pay scale and Dearness Allowance as teachers in Government schools for the entire period claimed by the petitioners, and that the expenditure on that account should be apportioned between the State and the Management in the same proportion in which they share the burden of the existing emoluments of the teachers. The State Government meets the Dearness Allowance liability to the extent of seventy five per cent of the amount. Ten instalments representing the State Government's liability shall be paid by the State Government in two equal parts, the first part being payable within three months from today and the remaining part being pay-

A able by 31 March, 1989. The State Government shall also pay the remaining twenty five instalments, the entire amount being payable in five equal parts, each part being paid every six months, the first such part being payable by 30 September, 1989. The State Government shall not be liable to pay for the period covered by these 35 instalments
B any amount on account of House Rent Allowance, City Compensatory Allowance and the other allowances claimed by the petitioners.

The State Government will also take up with the managements of the aided schools the question of bringing about parity between the teachers of aided schools and the teachers of Government schools for the period following that to which the aforesaid thirty five instalments
C relate, so that a scheme for payment may be evolved after having regard to the different allowances claimed by the petitioners.

In the case of teachers who have retired or who have died in service during the pendency of these cases, payment of the first ten instalments shall be made to the retired teachers and to the legal
D representatives of the deceased teachers within three months from today.

The appeals and the writ petitions are disposed of accordingly.

H.L.C. Appeals & Petitions disposed of.