

mala fides have been raised against the Bank in the matter of selection made or established and thus the selection of candidates shown in Annexure P-4 cannot be quashed on this ground.

(7) For the reasons recorded above, finding no merit in the writ petition, the same is dismissed. However, there will be no order as to costs.

R.N.R.

Before : S. S. Sodhi and J. B. Garg, JJ.

HINDU COLLEGE, AMRITSAR,—*Petitioner.*

versus

N. D. MALHOTRA & ANOTHER,—*Respondents.*

Civil Writ Petition No. 20 of 1991

July 30, 1992

Constitution of India 1950—Article 226—Gratuity—Denial thereof by privately Managed Government Aided Colleges to employees on plea that no aid was extended to them—Mandamus sought for grant of such aid from the State for payment of gratuity—No case arises for issuance of such direction.

(Para 7)

Held, that no case thus arises for the issuance of any direction of the kind sought by the appellants namely that aid should be provided by the State Government to privately managed Government Aided schools to meet their liability towards gratuity payable to their employees. This is a policy matter for the State Government to decide.

Appeal Under Clause X of the Letters Patent Appeal against the judgment of Hon'ble Mr. Justice Ashok Bhan, dated 8th November, 1990 in C.W.P. No. 10460 of 1988.

H. L. Sibal, Sr. Advocate, R. K. Chhibbar, Sr. Advocate with Anand Chhibbar, Advocate, for the appellants.

H. S. Riar, Addl. A.G. for the State, Romesh Kumar, Advocate, for No. 1, for the Respondents.

JUDGMENT

S. S. Sodhi, J.

(1) Denial of gratuity to their retiring teachers by privately managed Government Aided Colleges on the plea that no aid had

been extended to them towards their liability on this count was the issue raised in this Letters Patent Appeal, while in the connected writ petitions, these colleges seek a direction to the State Government to grant them aid for payment of gratuity to their employees.

(2) Liability for payment of gratuity of privately managed Government aided colleges, towards their teachers and employees, under the relevant University Regulations and Ordinances, was never questioned and now further Mr. Hira Lal Sibal Senior Counsel, appearing for the appellants was constrained to refrain from taking any exception to the learned Single Judge holding such colleges liable for payment of gratuity to their teachers even in the absence of any grant from the Government to meet such liability. This being founded upon the view expressed by the Supreme Court in *Shri Anandi Mukta Sadguru S.M.V.S.J.M.S. Trust v. V. R. Rudani* (1), where it was observed :—

“Under the relationship of master and servant, the management is primarily responsible to pay salary and other benefits to the employees. The management cannot say that unless and until the State compensates, it will not make full payment to the Staff.”

(3) The only point canvassed by the counsel for the appellants was with regard to directions to Government as sought in the writ petition that 95 per cent aid be provided to privately managed government aided colleges also towards meeting their liability for payment of gratuity to their employees. In support Counsel sought to contend that the words ‘salary’ in this context deserve to be construed as inclusive of rights flowing from salary like gratuity, dearness allowance and interim relief. No such construction is indeed warranted. The expressions ‘salary’ and ‘gratuity’ have a well established different and distinct meaning and they cannot, therefore, be treated as being part of the same. i.e. within the expression ‘salary’ alone.

(4) Next Counsel sought to press in the provisions of Article 41 of the Constitution, which reads as under :—

“41. Right to work, to education and to public assistance in certain cases.—The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public

assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want."

(5) The answer here is provided by the judgment of the Supreme Court in *The State of Assam and another v. Ajit Kumar Sharma and others* (2), where it was observed, "what grants the State should make to private educational institutions and on what terms are matters for the State to decide."

(6) Later, in *Union of India v. Tejram Prashramjibomhate* (3), it was held that no Court or Tribunal can compel the Government to change its policy involving expenditure. It was so held while dealing in a matter concerning posts and payment of salaries to school teachers.

(7) No case thus arises for the issuance of any directions of the kind sought by the appellants namely that aid should be provided by the State Government to privately managed Government aided schools to meet their liability towards gratuity payable to their employees. This is a policy matter for the State Government to decide.

(8) Both the Letters Patent Appeals as also the writ petition are consequently hereby dismissed with costs. Counsel fee Rs. 1,000 (one set only).

J.S.T.

Before : R. S. Mongia, J.

NARINDER SINGH,—Petitioner.

versus

THE STATE OF PUNJAB AND ANOTHER,—Respondents.

Civil Writ Petition No. 1781 of 1985

August 13, 1992.

Constitution of India, 1950—Art. 226—Equality in pay scale—Petitioner working as Technical Officer—Petitioner seeking parity in pay scale with that of Assistant Director, Industrial Training Department—Held that Doctrine of equal work for equal pay applies to a set of persons similarly placed—Pay to depend upon nature of duties, responsibilities and job requirements.

(2) A.I.R. 1965 S.C. 1196.

(3) 1991 (3) S.C. Cases 11.