

PETITIONER:
STATE OF PUNJAB AND OTHERS

Vs.

RESPONDENT:
DALBIR KAUR KALYAN

DATE OF JUDGMENT: 03/05/2000

BENCH:
D.P.Wadhwa, Ruma Pal

JUDGMENT:

D.P. WADHWA, J.

We grant leave to appeal.

Fourth appellant Daljit Kaur Chadha, a teacher, was granted State Award on 5.9.1988 in recognition of valuable services rendered by her to the community as a teacher of outstanding merit. At the time of the grant of Award she was working as a Principal in the Government Senior Secondary School, Sector 8, Chandigarh. She was to retire on 28.2. 1999 on attaining the age of superannuation. A notification dated 26.2.1999 was accordingly issued retiring her on 28.2.1999. However, on the basis of the State Award and recognition of her outstanding merit she was re-employed with effect from 1.3.1999 for one year. This was by order dated 9.3.1999 of the State of Punjab, the first appellant. The order of re-employment was issued by the Secretary Education, Punjab with the approval of the Department of Personnel and Administrative Reforms. For extension of services for one year State Government had relied on its instructions dated 9.10.1989.

This order of the State Government dated 9.3.1999 extending the services of Daljit Kaur Chadha was challenged by the respondent Dalbir Kaur Kalyan in a writ petition in the Punjab and Haryana High Court. Respondent had contended that extension of service of Daljit Kaur Chadha was illegal being in contravention of the later Government instructions dated 6.5.1997. High Court agreed with the contention of the respondent, allowed the writ petition and quashed the order dated 9.3.1999. It, however, directed that no recovery be made from Daljit Kaur Chadha from the emoluments paid/payable in lieu of services rendered by her on re-employment/extension in service till the date of the judgment, i.e., dated 11.10.1999. Against this judgment of the High Court present appeal has been filed.

On 6.5.1997 Government of Punjab, Department of Personnel and Administrative Reforms issued a letter to all its departments communicating decision of the Government that in future in no eventuality extension in service be given to any employee and in this connection reference was made to three letters issued by the State Government earlier, these being dated 17.2.1967, 4.1.1985 and

23.11.1990. This letter we reproduce: -

"Subject: Reg. giving extension in service to Govt. Employees after attaining superannuation.

Sir,

I have been directed on the aforesaid subject to bring to your notice, Punjab Govt. D.O. Letters 727[4]- 67/4841, dated 17.2.1967, No. 16/36/34-4 PP-1/162 dated 4.1.1985, No. 16/24/90-4PP/1.20218 dated 23.11.1990, that the Govt. have taken decision that in future in no eventuality no extension in service be given to any employee.

2. Please comply these instructions strictly and receipt of this letter be sent.

Sincerely,

Sd/- Karam Chand Ahuja, Jt. Secy. Personnel."

It will be seen that this letter dated 6.5.1997 of the State Government does not refer to the letter dated 9.10.1989 under which extension of service is granted to teachers, who are winners of State Award. This letter we also reproduce: -

"Subject: Incentive to the State Awardee Teachers of the State of Punjab- policy regarding. -----

Reference on the subject noted above.

2. Sanction of the President of India is hereby accorded to the grant of one year re-employment in service after superannuation to teachers of Punjab Education Deptt. who are winners of State award, if they are physically and mentally fit, purely on the basis of their merit as adjudged by their winning of the State Award.

3. The State Awardees who are re-employed may be asked to deposit the principal amount of the award money received by them, an undertaking in writing may be taken that interest at such rate as may be decided by Government, will also be payable by the awardee while principal amount of award will have to be recovered from the Awardee initially after this decision.

4. This issue with the concurrence of the Finance Deptt. conveyed vide letter dated 30.7.1987.

5. This policy will take off on the 5th."

High Court in its impugned judgment has held that letter dated 9.10.1989 has also been impliedly withdrawn by letter dated 6.5.1997. Reference was made to the minutes of the meeting dated 26.2.1997 of the Council of Ministers, Government of Punjab, whereby it was "decided that after amending the already issued instructions in no eventuality in future, no extension be given to any employee". State Government in its counter affidavit in the High Court submitted that Punjab Government had laid a policy issued by its letter dated 9.10.1989 "which clearly shows to the grant of one year re-employment in service after superannuation to

teachers of Punjab Education Department who are winners of State Award". It was submitted that it was only on that basis that the case of Daljit Kaur Chadha was examined and decision was taken to extend her services for another year. When the letter dated 6.5.1997 does not at all refer to letter dated 9.10.1989 it is difficult for us to appreciate as to how the High Court could say that this letter also impliedly stood revoked by decision of the Council of Ministers of the State of Punjab. Teachers clearly fall in category of their own for the purpose of extension of their service. Instructions dated 6.5.1997 do not apply to teachers who are winners of the State Award.

We, therefore, allow the appeal, set aside the impugned judgment of the High Court and dismiss the writ petition filed by the respondent. There shall be no order as to costs.