

A UTKAL UNIVERSITY AND ANR.
v.
JYOTIRMAYEE NAYAK AND ORS.

APRIL 2, 2003

B [SHIVARAJ V. PATIL AND ARIJIT PASAYAT, JJ.]

Service Law:

C *Claim for regular pay scale—Respondents employed as Library Assistants and Library Attendants on a consolidated monthly salary—Later, claiming regularisation and regular pay scale on par with similarly placed regular employees—High Court allowing claim for similar pay scale but rejecting claim for regularisation—Subsequently their services terminated—Held, under the circumstances, claim for regularisation does not survive—As regards,*
D *payment of salary on par with similarly placed regular employees, respondents do not have any appointment orders on the basis of which they could claim pay scale or a regular salary—One sentence in the Office order that respondents could ‘draw their salary accordingly as per rules’ cannot give any right to them. The sentence in the office order cannot be read in isolation—It must be read in the light of the appointment order issued to the respondents—Direction*
E *of High Court to the effect that respondents are entitled to salary as admissible to similarly placed employees set aside—Regularisation.*

CIVIL APPELLATE JURISDICTION : Civil Appeal. No. 13415 of 1996.

F From the Judgment and Order dated 9.11.95 of the Orissa High Court in O.J.C. No. 1210 of 1995.

Vinoo Bhagat for the Appellants.

Shiv Sagar Tiwari, for the Respondents.

G The following Order of the Court was delivered :

Not satisfied with and aggrieved by the order dated 9.11.1995, passed by the Division Bench of the High Court, this appeal is filed, calling in question the correctness and validity of the directions given to the appellants

to pay salary to the respondents as admissible to similarly placed employees of the University, including their arrears. A

The respondents were serving as Library Assistants and Library Attendants in the Seminar Library of the Centre for Advanced Study in Psychology, Post-graduate Department, Utkal University. They filed writ petitions seeking directions to the appellant to treat them as regular employees and pay them salary on par with the similarly placed employees working in the University on regular basis. The High Court while rejecting the contentions of the respondents for regularisation of their services, gave directions to the appellants to pay salary to the respondents as admissible to similar employees of the University. B C

The learned counsel for the appellants pointed out to letters of appointment of the respondents to the effect that their appointments were made on a consolidated salary of Rs. 600 and Rs. 400 per month, initially and subsequently on the same terms and conditions but increasing the amount to Rs. 1000 per month. In the absence of any appointment order appointing the respondents on regular pay-scale, the respondents were not entitled to any regular pay scale as was admissible to the similarly placed employees of the University. According to the learned counsel, merely looking to the office order dated 2.12.1994 wherein reference is made to appointment orders but it is said that they shall draw their salary accordingly as per rules, they were not entitled for salary as per regular pay-scale. Learned counsel also pointed out to subsequent order dated 16.1.1995, in which it is stated that the consolidated remuneration of Rs. 1000 per month was to be paid; mere reference to the payment as per rules in the order dated 2.12.1994 cannot be read in isolation. D E

Per contra, the learned counsel representing the respondents relying on the office order dated 2.12.1994, submitted that the order passed by the High Court is perfectly valid and sustainable. The learned counsel also brought to our notice that subsequent to the passing of the impugned order the services of the respondents were terminated and challenging the order of termination of their services they have filed separate writ petitions which are pending before disposal in the High Court. F G

Under these circumstances, the question of regularisation of services of the respondents does not survive. At any rate the High Court was right in rejecting their claims for regularisation and the respondents have not challenged the same by filing any appeal against that order. As regards the directions for H

A payment of salary on par with the similarly placed employees in the University, we find it difficult to sustain the direction given by the High Court. It is not disputed that the respondents do not have any appointment orders on the basis of which they could claim pay-scales or a regular salary. Except the office order dated 2.12.1994, there is nothing to support the claims of the respondents for payment of salary as is admissible to the regular employees of the University. One sentence in the order dated 2.12.1994, that the respondents could “draw their salary accordingly as per rules”, cannot give any right to them. That sentence cannot be read in isolation. The said office order must be understood in the light of the appointment orders issued to the respondents.

C In this view, we have no hesitation to set aside the direction given by the High Court to the effect that the respondents are entitled to salary as admissible to the similarly placed employees of the University. The appeal is allowed. The impugned order, so far as it relates to giving direction in regard to payment of salary, is set aside. No costs.

D R.P.

Appeal allowed.