

CASE NO.:
Appeal (civil) 2624 of 2002

PETITIONER:
STATE OF HARYANA & ORS.

RESPONDENT:
KEWAL KRISHAN NAGPAL & ORS.

DATE OF JUDGMENT: 26/02/2008

BENCH:
H.K. SEMA & MARKANDEY KATJU

JUDGMENT:
JUDGMENT

O R D E R

The short question involved in this appeal is as to whether a Typewriter Instructor is a Teacher or not.

We have heard the parties at length.

According to the University Calender the Teacher shall include Principal, Lecturer, Lecturer in Physical Education, Tutor, Demonstrator, Instructor and Librarian in the service of a Non-Govt. College.

It appears that by a letter dated 12.2.1999 an instruction has been issued to clarify the confusion created with regard to the entitlement of vacations by the category of staff such as SLA/JLA/Typewriter Instructor/Tabla Player and Laboratory Attendant as to whether they are entitled to full vacations like Teaching staff or they are non-teaching staff and like any other Government staff they are entitled only to casual leave or other vacations during the year.

Clause (1) of the said instructions clearly states that if any University Rules are contrary to the aforesaid instructions they must be amended accordingly. It is stated that the aforesaid Government Circular has been challenged by the respondent before the High Court by filing a writ petition. The High Court has held that the typewriters are entitled to the benefits available to the teaching staff and, therefore, no amendment has been carried out in consonance with the direction contained in the Government order dated 12.2.1999.

Having regard to the peculiar facts that some of the respondents have been enjoying the facilities since more than 13 years in accordance with the University Calender we do not want to interfere with the impugned order. We, however, leave the question of law open. We also allow the appellant State to amend the University Calender in terms of the Government order dated 12.2.1999. Such amendment if any carried out pursuant to the Government order shall be prospective. If any such amendment is made it shall cover all cases of the Typewriter Instructors including the case of the respondents herein.

This appeal is disposed with the direction indicated above. We make it clear that the University and other authorities are, however, allowed to amend the Rules in consonance with the Government Order dated 12.2.1999.