

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal No.538 of 2015

1. Dr. K. M. Sharma S/o Shri Vishnu Prasad Sharma, aged about 47 years R/o Rajapara Ward, P.S. Kanker, Tahsil and District Kanker (Chhattisgarh)
2. Ku. Namita Jain D/o Shri B. R. Jain, aged about 40 years R/o Rajapara Ward, P.S., Kanker, Tahsil and District Kanker (Chhattisgarh)
3. Smt. Nilmani Dixit W/o Shri Mahesh Dixit, aged about 41 years R/o Rajapara Ward, P.S. Kanker, Tahsil and District Kanker (Chhattisgarh)
4. Abdul Vajid S/o Shri Abdul Hamid, aged about 43 years R/o Rajapara Ward, P.S. Kanker, Tahsil and District Kanker (Chhattisgarh)
5. Smt. Pushpa W/o Shri Mahendra Kumar, aged about 47 years R/o Rajapara Ward, P.S. Kanker, Tahsil and District Kanker (Chhattisgarh)
6. Tufail Ahmad Razvi S/o Ramjan Ahmad, aged about 41 years R/o Behind Maszid, P.S. Kanker, Tahsil and District Kanker (Chhattisgarh)
7. Seema Nag W/o Satyendra Nag, Aged About 37 Years R/o Near Doodhnadi Colony, P.S. Kanker, Tahsil and District Kanker (Chhattisgarh)
8. Smt. Meena Netam W/o Sujit Singh Netam, Aged About 39 Years R/o Near Doodhnadi Colony, P.S. Kanker, Tahsil and District Kanker (Chhattisgarh)

---- Appellants

versus

1. State of Chhattisgarh Through Secretary of State Urban Administration & Development, Mahanadi Bhawan, New Mantralay, District Raipur (Chhattisgarh)
2. State of Chhattisgarh Through Commissioner, Scheduled Tribe, Scheduled Cast and OBC Development Department, Mahanadi Bhawan, New Mantralay, District Raipur (Chhattisgarh)
3. Joint Director Regional Office, Urban Administration & Development, Subhash Stadium, Raipur (Chhattisgarh)
4. Chief Municipal Officer Municipality, Kanker, District North Bastar Kanker (Chhattisgarh)

---- Respondents

For Appellants	:	Shri Prakash Tiwari, Advocate
For State/Respondents	:	Shri Prafull N. Bharat, Additional Advocate General

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

Per Navin Sinha, Chief Justice

1/12/2015

1. The present appeal arises from order dated 6.10.2015 dismissing Writ Petition (S) No.3198 of 2014. The Learned Single Judge declined to interfere with the order of the State Government dated 27.12.2013 rejecting the representation of the Petitioners appointed as Shiksha Karmis for grant of equal pay scale as admissible to teachers appointed in Municipal services under the Municipal Employees (Recruitment and Conditions of Service) Rules, 1968 (hereinafter called 'the Municipal Employees Rules') observing that the Petitioners could not claim parity since they were appointed under the Chhattisgarh Municipalities Shiksha Karmi (Recruitment and Conditions of Service) Rules, 1998 (hereinafter called 'the 1998 Rules') now substituted by the Chhattisgarh Shikshak (Nagriya Nikay) Samvarg (Bharti Tatha Sewa Ki Sharte) Niyam, 2013 and therefore entitlement for pay scale would be according to the latter Rules and not the former.

2. Learned Counsel for the Appellants contended that Rule 7 of the 1998 Rules provided for appointment on probation for three years. After successful completion of probation, they were to be appointed in the regular pay scale of the Municipality. Thus, after confirmation they are entitled to the pay scale paid to those appointed under the Municipal Employees Rules, while during the probation period, they were to be paid under the 1998

Rules. Both of them performed teaching work.

3. Learned Additional Advocate General, supporting the order under appeal, submitted that equal pay for equal work was an abstract doctrine which could not apply to persons who were appointed under different set of rules containing different procedures, eligibility etc. No materials have been brought on record in support of the claim for parity in pay with Municipality teachers.

4. We have considered the submissions on behalf of the parties and find no reason to differ with the conclusions arrived at by the Learned Single Judge that the Appellants having been appointed under the 1998 Rules, their regular pay scale will have to be determined under the same and not at par with those appointed under the Municipal Employees Rules.

5. The Learned Single Judge has aptly referred to more than one judicial precedent on the issue for a claim of pay parity and we may only supplement the same from (2006) 9 SCC 321 (State of Haryana v. Charanjit Singh) observing as follows:

“19. Undoubtedly, the doctrine of "equal pay for equal work" is not an abstract doctrine and is capable of being enforced in a Court of law. But equal pay must be for equal work of equal value. The principle of "equal pay for equal work" has no mechanical application in every case. Article 14 permits reasonable classification based on qualities or characteristics of persons recruited and grouped together, as against those who were left out. Of course, the qualities or characteristics must have a reasonable relation to the object sought to be achieved. In service matters, merit or experience can be a proper basis for classification for the purposes of pay in order to promote efficiency in administration. A higher pay scale to avoid stagnation or resultant frustration for lack of promotional avenues is also an acceptable reason for pay differentiation. The very fact that the person has not gone through the process of recruitment may itself, in certain cases, make a difference. If the educational qualifications are different, then also the doctrine may have no application. Even though persons may do the same work, their quality of work may differ. Where persons are selected by a Selection Committee on the basis of merit with due regard to seniority a higher pay

scale granted to such persons who are evaluated by competent authority cannot be challenged. A classification based on difference in educational qualifications justifies a difference in pay scales. A mere nomenclature designating a person as say a carpenter or a craftsman is not enough to come to the conclusion that he is doing the same work as another carpenter or craftsman in regular service. The quality of work which is produced may be different and even the nature of work assigned may be different. It is not just a comparison of physical activity. The application of the principle of "equal pay for equal work" requires consideration of various dimensions of a given job. The accuracy required and the dexterity that the job may entail may differ from job to job. It cannot be judged by the mere volume of work. There may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference. Thus normally the applicability of this principle must be left to be evaluated and determined by an expert body. These are not matters where a writ court can lightly interfere.”

6. We therefore find no merit in the appeal. The appeal is dismissed.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE