

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 29501 of 2006 (K)

PETITIONER(S) :

1. T.K.MADHUSUDHANAN NAIR
BADGE NO.94, EXECUTIVE P.S., HINDUSTAN NEWSPRINT LTD. (HNL), NEWSPRINT NAGAR P.O., KOTTAYAM DIST. PIN-686616, RESIDING AT THEKKUMTHARAMYALIL HOUSE VELLOOR, MEVELLOOR P.O., KOTTAYAM DISTRICT PIN-686616
2. C. RAMAKRISHNAN,
B.NO.1030, EXECUTIVE P.S., H.N.L. NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616 RESIDING AT QR.NO.B22/85, HNL TOWNSHIP, HNL NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
3. M.K. ADVAITHASANKARAN,
B.NO.963, EXECUTIVE (FINANCE) HNL NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616 RESIDING AT QR NO.30/119, HNL TOWNSHIP NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN686616.
4. R. RAJENDRAN,
B.NO.1008, AST.SAFETY OFFICER (EXECUTIVE), HNL NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616 RESIDING AT HOUSE NO.IV.11A, "SREEVALSAM" CANAL BUND ROAD, THIROOR, KOLAZHY P.O. THRISSUR.
5. A. RADHAKRISHNAN,
B.NO.1751, PRIVATE SECRETARY, HNL NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616 RESIDING AT ALLATH HOUSE, ANTHIKAD P.O., TRICHUR DIST.
6. L. LALITHAMBAL,
B.NO.1751, PRIVATE SECRETARY, HNL NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616 RESIDING AT KAINOOR MADOM, MEVELLOOR P.O. KOTTAYAM DIST.
7. T.A. VASANTHY,
B.NO.1706, PRIVATE SECRETARY, HNL NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616 RESIDING AT PANANCHERY HOUSE, VADUKUNNAPUZHA PERUVA P.O., KOTTAYAM DIST.
8. B. GOVINDAN NAIR,
B.NO.1626, PRIVATE SECRETARY, HNL NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616 RESIDING AT `NIYOGAM', ULLALA, THALAYAZHAM P.O. VAIKOM, KOTTAYAM DIST., PIN-686607.

9. K.V. VIJAYAKUMAR,
B.NO. EXECUTIVE (COMMERCIAL), HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT 'ASWATHY', MULAKULAM SOUTH, PERUVA
KOTTAYAM DIST.

10. M. CHANDRAN,
B.NO.1031, PRIVATE SECRETARY, HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT MANAKKADAVATH HOUSE, KOLOLAMBA P.O.
PONNANI TALUK, MALAPPURAM DIST.

11. K.G. MOHANAN,
B.NO.1099, EXECUTIVE (COMMERCIAL) HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT QR.NO.B33/129, HNL TOWNSHIP, HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616.

12. N. ANANDAN,
B.NO.1680, EXECUTIVE (FINANCE), HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT QR.NO.B21/82, HNL TOWNSHIP, HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616.

13. V. VENUGOPALAKRISHNAN,
B.NO.38, EXECUTIVE (LOGYARD), HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT VALIYATHODI (H), EZHUVANTHALA P.O.
NELLAYA, PALAKKAD DIST.

14. P. GEORGE VASHINGTON,
B.NO.873, SENIOR SUPERVISOR (HOSP.LAB), HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT QR.NO.B2/7, HNL TOWNSHIP
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIIN-686616.

15. T.A. ALEYAMMA,
B.NO.788, SENIOR SUPERVISOR (NURSING) HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT KUNNAPPALLIL HOUSE, MULAKKULAM NORTH
ILICKAMUKKADA, PIRAVOM P.O., ERNAKULAM DIST.

16. PHILOMINA JOSEPH,
B.NO.845, SENIOR SUPERVISOR (PHARMA), HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT NIRAVATH HOUSE, MANJOOR P.O.
KURUPPANTHARA, KOTTAYAM DIST.

17. T.P. MOHANAN,
B.NO.1472, PRIVATE SECRETARY, HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT "THOPPIL", 29/1036-C(I), MAJOR ROAD
VYTILA, ERNAKULAM DIST.

18. C.V. SUDHAKAR,
B.NO.1865, EXECUTIVE (FINANCE), HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT QR.NO.B29/114, HNL TOWNSHIP
NEWSPRINT NAGAR P.O., KOTTAYAM DIST.

19. K.A. PAREETH,
B.NO.879, EXECUTIVE (COMML.), HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT KADAVIMADATHIL HOUSE
KULASEKHARAMANGALAM, VAIKOM TALUK, KOTTAYAM DIST.

20. N. ANILKUMAR,
B.NO.2260, ASSISTANT ENGINEER (MECH.WORKSHOP), HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616.

21. A.M.MATHEW,
B.NO.1048, EXECUTIVE (COMML.), HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT QR, NO.B36/142, HNL TOWNSHIP
NEWSPRINT NAGAR P.O., KOTTAYAM DIST.

22. P.M. BABY,
B.NO.1066, ASSISTANT MANAGER (COMML.), HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT PLACHERIL, THALAYOLAPARAMBU P.O.
KOTTAYAM DIST.

23. V.N. LAKSHMANAN NAIR,
B.NO.95, EXECUTIVE (COMML.), HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT SABARI, VELLOOR, MEVELLOOR P.O.
KOTTAYAM DIST.

24. V.K. ANOD,
B.NO.2259, ASSISTANT ENGINEER (MECH.WORKSHOP), HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT AYODHYA, KALOOR-EDAPPALLY ROAD
PALARIVATTOM, ERNAKULAM DIST.

25. G. MOHANAKRISHNAN,
B.NO.848, ASST.MANAGER (COMML.), HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT QR.NO.B25/97, HNL TOWNSHIP
NEWSPRINT NAGAR P.O., KOTTAYAM DIST.

26. K.K. SUDHAKARAN,
B.NO.412, SENIOR SUPERVISOR, HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT MANJUVILLA, PERUVA P.O., VAIKOM TALUK
KOTTAYAM DIST.

27. XAVIER K.JOSEPH,
B.NO.291, EXECUTIVE (LOGYARD), HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT KODALIL HOUSE, THALAYOLAPARAMBU P.O.
KOTTAYAM DIST.

28. LUCIAMMA JOSEPH,
B.NO.1455, SENIOR SUPERVISOR, HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT MANALEL HOUSE, PERUVA P.O., KOTTAYAM DIST.

29. GEORGE JOSEPH M.,
B.NO.231, EXECUTIVE (COMML.) (RETD), HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT MURAMTHOOKIL CHITILAKATTU
MULAKULAM SOUTH P.O., KOTTAYAM DIST.

30. M.P. JOSE,
B.NO.1783, EXECUTIVE (FORESTRY), HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT MANJALY HOUSE, KOZHUR P.O., MALA
TRICHUR DIST.

31. S. KRISHNAN,
B.NO.494, EXECUTIVE (COMML.), HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT SOUTH COLONY STREET, URKAD P.O.
AMBASAMUDRAM TALUK, THIRUNELVELI DIST., TAMIL NADU.

32. T.G.VIJAYAKUMAR,
B.NO.840, SENIOR SUPERVISOR, HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT THEJUS, THALAYOLAPARAMBU P.O.
KOTTAYAM DIST.

33. H. PARAMESWARAN,
B.NO.864, EXECUTIVE (LOGYARD) (RETD), HNL
NEWSPRINT NAGAR P.O., KOTTAYAM DIST., PIN-686616
RESIDING AT HARI NIVAS, EXTN.DOOR NO.XX/184
TRIPUNITHURA P.O., ERNAKULAM DIST.

BY ADVS.SMT.SUMATHI DANDAPANI (SR.)
SRI.MILLU DANDAPANI

RESPONDENT (S) :

1. HINDUSTAN PAPER CORPORATION LTD
75-C PARK STREET, KOLKATA-700 016, REPRESENTED BY
ITS CHAIRMAN AND MANAGING DIRECTOR.

2. HINDUSTAN NEWSPRINT LIMITED,
NEWSPRINT NAGAR-686616, KOTTAYAM DISTRICT
KERALA STATE, REPRESENTED BY ITS MANAGING DIRECTOR

3. UNION OF INDIA,
REPRESENTED BY THE SECRETARY, DEPARTMENT OF
PUBLIC ENTERPRISES, BLOCK 14 CGO COMPLEX, LODHI ROAD
NEW DELHI.

R,R3 BY ADV. SRI.MAJNU KOMATH, ADDL.CGSC
R,R2 BY ADV. SRI.E.K.NANDAKUMAR
R,R2 BY ADV. SRI.A.K.JAYASANKAR NAMBIAR
R,R2 BY ADV. SRI.K.JOHN MATHAI
R,R2 BY ADV. SRI.P.BENNY THOMAS
R,R2 BY ADV. SRI.ANIL D. NAIR
R,R3 BY ADV. SRI. N. NAGARESH, ASG OF INDIA
R BY SRI.U.K.RAMAKRISHNAN SC FOR HNL
R BY SRI.U.K.RAMAKRISHNAN SC FOR HNL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
08-04-2015, ALONG WITH WPC. 2476/2007, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

APPENDIX IN WPC 29501/2006

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF THE CHART SHOWING TRANSFER OF PERSONNEL FROM THE DEPARTMENT TO OTHER DEPARTMENT

EXT.P2: -DO- OF OFFICE MEMORANDUM BEARING NO: O.M.NO:2(49)/98/DPE (WC) DT.25.6.1999 ISSUED BY THE 3RD RESPONDENT

EXT.P3: -DO- O.M.NO:2(11)/96-DPE/WC DT.14.1.1999 ISSUED BY THE 3RD RESPONDENT

EXT.P4: -DO- MEMORANDUM OF SETTLEMENT ARRIVED BETWEEN THE 2ND RESPONDENT AND WORKMEN

EXT.P5: -DO- COMPARATIVE STATEMENT SHOWING THE LOSS SUSTAINED BY THE PETITIONERS IN THE EFFLUX OF TIME IN THE BASIC PAY

EXT.P6: -DO- OFFICE ORDER DT.29.3.2001 ISSUED BY THE 2ND RESPONDENT

EXT.P7: -DO- CIRCULAR DT.7.12.2000 ISSUED BY B.H.E.L.

EXT.P8: -DO- ORDER DT.27.6.2002 ISSUED BY THE 1ST RESPONDENT

EXT.P9: -DO- JUDGMENT DT.10.3.2006 IN O.P[.NO:24923/2002 OF THIS HONOURABLE COURT.

EXT.P10: -DO- REPRESENTATION DT.19.4.2006 SUBMITTED BY THE 1ST PETITIONER BEFORE THE RESPONDENT

EXT.P11: -DO- ORDER DT.18.7.2006 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER

EXT.P12: PHOTOCOPY OF PAY REVISION ORDER VIDE NO:HNL/HR/STK/169 DT.19.5.2009 OF THE 2ND RESPONDENT REFERRED TO IN THE AFFIDAVIT

EXT.P13: -DO- DT.6.7.2011 OF THE 2ND RESPONDENT

RESPONDENTS' EXTS:

EXT.R2A: -DO- OF THE CIRCULAR DT.16.4.2001 ISSUED BY HPC

EXT.R2B: -DO- LIST OF OFFICERS WHO HAD FILED REPRESENTATIONS

EXT.R2C: -DO- LETTER DT.31.5.2006 ISSUED BY THE HINDUSTAN NEWSPRINT OFFICERS ASSOCIATION WITH ITS ANNEXURES

EXT.R2D: -DO- OF THE REPLY DT.27.7.2006 ITO SHRI.GEEVARGHESE, SUPERVISOR

EXT.R2E: -DO- ORDER DT.27.7.2006 GRANTING STEPPING UP OF PAY TO C.K.KARTHIAYANI

JJ

/TRUE COPY/

P.S.TO JUDGE

K. SURENDRA MOHAN, J.

W.P(C) NOS: 29501/2006 &
2476 OF 2007

Dated this the 8th April, 2015.

JUDGMENT

These writ petitions are filed complaining of an anomaly that has occurred while fixing the pay of the petitioners who belonged to the supervisory cadre under the second respondent. The second respondent is a subsidiary of the first respondent. The petitioners belong to the supervisory and executive cadres working under the second respondent establishment. They complain that, they are being paid lesser salary than the workers of the establishment whom they have to supervise. The counsel for respondents 1 and 2 submit that, the anomaly has occurred for the reason that the pay of workers are fixed on the basis of bipartite settlements entered into between the management and the representatives of the trade unions. The pay and other allowances of persons belonging to the supervisory and executive categories are fixed by the Central Government. Since the pay fixed for the petitioners are less respondents 1 and 2 are not in a position to rectify the said

anomaly, in violation of the directions issued by the Central Government. Another contention that is put forward is that, the workers and the petitioners belonged to two separate categories. Therefore the disparity in their pay cannot be described as an anomaly that requires to be corrected or rectified.

2. The learned Senior Counsel Smt. Sumathi Dandapani places reliance on the Division Bench decision of the Gauhati High Court dated 21.2.2013 in W.A.151/2009, a copy of which has been handed over to me across the Bar. The Bench has in the said appeal, considered the grievances of a set of supervisory personnel working under the first respondent. In the said case also, the workers were being paid higher salary and benefits than the supervisory staff. After considering the contentions of the respective parties, the Division Bench has held as follows:–

“On due consideration, we find that the employees in higher cadre cannot get lesser pay than the employees in the feeder cadre. There is merit in the contention raised that the appellants have to be paid at least one rupee higher than the

employees in the feeder cadre.

Accordingly, we allow this appeal and direct the respondent Corporation to pass appropriate order to remove the anomaly determining the pay of employees in the higher cadre at least one rupee higher than the pay scale of its employees in the feeder cadre within three months from the date of receipt of a copy of this order.”

Though a Special Leave Petition had been preferred to the Supreme Court against the above judgment, as SLP 26083/2013 and 26084/2013, the SLP's have been dismissed on 30.8.2013. It is not in dispute that, pursuant to the dismissal of the SLP, the anomaly has been rectified and the benefits have been extended to the supervisory cadre also.

3. In view of the above, the petitioners in these writ petitions are also entitled to succeed. In these cases, the petitioners have sought benefits with effect from 1.1.1997. They are also entitled to be granted the said benefits.

These writ petitions are accordingly allowed. The respondents are directed to pass appropriate orders removing the anomaly and

determining the pay of the petitioners and other employees in the supervisory and executive cadre of the second respondent, with effect from 1.1.1997.

Sd/-
K. SURENDRA MOHAN
Judge

jj

/True copy/

