

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP- 16092-1995 (O&M)
Date of Decision : 01.07.2015**

D.P.Yadav and others

..... Petitioners

versus

The State of Haryana & anr.

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Ramesh Hooda, Advocate
for the petitioners.

Mr. Gaurav Jindal, Addl. A.G., Haryana.

Mr. Pankaj Gupta, Advocate
for respondent No.2.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (ORAL)

By this writ petition the petitioners have claimed the pay scale of Rs.2200-4000/- instead of Rs.2000-3500/- which was granted to them.

The claim is based on the fact that petitioners were working as Assistant Engineers in the respondent No.2-Haryana State Electronics Development Corporation Ltd. (hereinafter referred as 'Corporation'). As per the petitioners the respondent No.2 had passed a resolution that it would give pay to its employees at par with the Government but as regards the petitioners this resolution was not

followed. The stand of the respondent No.2-Corporation on the other hand is that the petitioners are claiming equivalence with the post of Assistant Engineer in the Government whereas neither the qualification nor the hierarchy is the same. As per the respondent No.2-Corporation, the qualification in the Government is that the applicant must have a bachelor degree in Engineering but in the Corporation this is not the minimum qualification and some of the petitioners are in fact diploma holders and some are M.Sc. Further it is stated that in the Government the lowest post is that of Junior Engineer and the post of Assistant Engineer is the next higher post whereas in the respondent No.2-Corporation the post of Assistant Engineer is the lowest post. Further in the Government the post higher to that of Assistant Engineer is the post of Assistant Executive Engineer but in the respondent No.2 it is the Deputy Engineer. In the Government the next higher post is that to Executive Engineer whereas in the respondent No.2-Corporation it is Senior Engineer. In the circumstances, as per the respondents there being no identity of qualification or nomenclature or hierarchy, the claim has to be rejected.

Learned counsel for the respondent No.2 has relied upon ***“Harbans Lal and others Vs. State of Himachal Pradesh and others, 1989 (3), Judgements Today 296”*** wherein it was held as under :-

“In the first place, even assuming that the petitioners' jobs are comparable with the counterparts in the Govt. service, the petitioners cannot enforce the rights to “equal

pay for equal works". The discrimination complaint of must be within the same establishment owned by the same management. A comparison can not be made with counterparts in other establishments with different management, or even in establishments in different geographical locations though owned by the same master. Unless it is shown that there is a discrimination amongst the same set of employees by the same master in the same establishment, the principle of "equal pay for equal work" can not be enforced. This was also the view expressed in Mewa Ram Canojia vs. A.I.I.M.S. (1989 (2) SCC 235 at 245). In the instant case, the petitioners are employed by a company incorporated under the Companies Act. They cannot claim wages payable to their counterparts in Government service."

He has further relied upon the decision of this Court in CWP bearing No.2420 of 1982 titled as "**Baldev Singh and others vs. Punjab State Electricity Board**" decided on 14.09.1982 wherein it was held as under :-

"Different pay for different posts provides no occasion for invoking the writ jurisdiction of this court even if at one time they may have happened to be in the same scale of pay. The challenge here is to the different scales of pay for Under Secretaries and Accounts Officers. Both these posts belong to different administrations, namely, the Secretariat Administration and the Account Administration. The duties, responsibilities, qualifications and experience for these two posts are clearly different and distinct from each other. IN the matter of pay scales the respondent-Punjab State Electricity Board has broadly followed the pattern accepted

by the Punjab Government, particularly in respect to corresponding categories of posts. There is, thus no warrant for granting to the petitioners the relief claimed. This writ petition is accordingly dismissed in limine.”

In my opinion the arguments of the learned counsel for the respondents have to prevail. The perusal of the above facts reveals that both on the ground of qualification and hierarchy the posts of the petitioners are not equivalent to that of Assistant Engineer in the Government. The judgments cited also support this conclusion. Resultantly they can not be granted parity.

No other argument has been raised by the learned counsel for the petitioners.

In the circumstances the petition is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

01.07.2015

Pooja Sharma-I

**(AJAY TEWARI)
JUDGE**