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IN THE HIGH COURT OF DELHI AT NEW DELHI

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LPA 360/2013

AS RAWAT & ORS

..... Appellant

Through: Mr. Pradeep Kataria, Advocate.

Vers us

GOVT OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Siddharth Dutta, Advocate for
R-1/GNCTD.

Mr. Vikram Nandrajog, Adv. for R-5.

Mr. S.N. Choudhari with Ms. Shruti Choudhri and
Ms. Ruby Singh, Advocates.

Ms. Avnish Ahlawat, Advocate for DPCL.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

16.09.2015

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1. Counsel for the appellant submits that he has no instructions in the matter since the file has been taken away. There is no other appearance on behalf of the appellants.
2. The appeal is directed against a judgment and order of the learned Single Judge dated 23.05.2012 whereby the present appellants sought a direction that they should be given the pay scales equivalent to that allowed by the National Informatics Centre ("NIC") w.e.f. 01.01.1986. The appellants had also sought for arrears in that regard.
3. All the appellants were regular Key Punch Operators ("KPOs")

engaged by the erstwhile Delhi Electricity Supply Undertaking (“DESU”). Their job was to function as electronic data processing staff. DESU, the predecessor entity of Delhi Vidyut Board (“DVB”) has introduced computerisation in various areas such as accounting, management control functions which necessitated engagement of Key Punch Operators (“KPOs”). They were said to be at par with the Data Entry Operators (“DEOs”) Grade ‘B’ whose pay scales recommended by the NIC were adopted by other Departments of the Government, i.e., ₹1350-2200. The appellants had contended that NIC had opened a channel for promotion from this grade to higher grades, i.e., Grades C,D&E. Each of these higher grades carried a higher pay scale. The appellants’ claim that they repeatedly sought the intervention of the authorities to ensure extension of pay scales equivalent to those given by the NIC. In these circumstances, they approached the Court. The DESU which was replaced by the DVB had then succeeded by four power distribution companies, i.e., BSES Rajdhani Power Limited, BSES Yamuna Power Limited, North Delhi Power Limited and Indraprastha Power Generation Limited, stated that the claim of the appellants was not founded. It is stated that the pay scales of erstwhile DVB employees’ were not covered by the 4th Pay Commission’s recommendations and instead relied upon the recommendations of the Justice J.D. Jain’s Committee which had gone into the pay scales of the KPOs (DEOs). This Committee had recommended automatic pay enhancement after completion of specified period of service. The respondents also relied upon the DESU Wage Revision Committee constituted in 1994 which had

considered the appellants'/petitioners' demands.

4. The learned Single Judge after noticing the contentions of the parties was of the opinion that the Justice Jain's Committee had considered the demand of the DVB staff for introduction of NIC pay scales and thereafter the recommendations of that Committee were duly accepted by the erstwhile DESU/DVB. The reasoning of the learned Single Judge is as follows: -

“30. The Justice J.D.Jain Committee considered the demand of DEP staff for introduction of NIC pay scale and thereafter accepted the recommendations. The grievance of the KPOs is that in DESU their pay scale was ₹1200-2190 whereas EDP Staff in Central Government is in the pay scale of ₹1350-30-1440-40-1800-EB-50-2200. So, they want that same scale should be given to them in DESU also. It is pointed out that there is no avenue of promotion for this post. Citing the pay scales of Central Government as a precedent, it is submitted that the EDP staff in the Central Government is given the next scale after completing a period 5 years in a post in the following manner:-

₹1350-2200 (Initial scale)

₹1400-2300 (After five years)

₹1600-2660 (After five more years)

₹2000-3500 (After five more years)

31. The committee recommended that their initial pay scale is ₹1150-1500 and not ₹1350-2200. The later pay scale is an entry scale for graduates, who initially join this post. The minimum eligibility qualifications in the DESU for the post of Key Punch Operators at entry level is Matriculation, although some higher qualified persons also joined this cadre at their own. However, that would be no ground for a distinctive scale for them.

32. Moreso, issue raised in the instant petitioner has already

been considered by two committees namely Mr.N.P.Rao committee and Justice J. D. Jain Committee. Therefore, comparative at par benefits with the Central Government has no basis and cannot be given to the petitioners, as respondents have their own pay scales. 33. It is pertinent to mention here that the scales and promotional avenues for the erstwhile DVB employees were more than the NIC employees at one point of time as under:-

<i>Post</i>	<i>Pay Scale (₹)</i>	<i>NIC</i>	<i>DESU/DVB Scales (₹)</i>
<i>Data Entry Operator Grade A</i>	<i>1150-1500</i>	<i>This will be entry grade for Higher Secondary with knowledge of data entry work.</i>	<i>1200-2190 (KPO)</i>
<i>Data Entry operator Grade B</i>	<i>1350-2200</i>	<i>This will be entry grade for Graduates with knowledge of data entry work or promotional grade for Data Entry Operator Grade A</i>	<i>1320-2950 (UDC)</i>
<i>Data Entry Operator Grade C</i>	<i>1400-2300</i>	<i>Promotional Grade</i>	<i>1640-3275; Asstt Console Operator/AG-I to be given to KPOs on completion of 18 years'</i>

			<i>service.</i>
<i>Data Entry Operator Grade D</i>	<i>1600-2660</i>	<i>Promotional Grade</i>	<i>1800-2750 Console Operator/S.O.</i>
<i>Data Entry Operator Grade E</i>	<i>2000-3500</i>	<i>Promotional Grade</i>	<i>2200-3900</i>

34. The DVB unbundled on 01.07.2002 and the service benefit, their seniority and everything were protected by the new companies came in existence. Therefore, the issue is not of the discrimination as the DBV were given these benefits and the new companies are not given.”

The main submission in the grounds of appeal urged by the appellants is that since the nature of work of the KPOs (DEOs) in both the organisations, i.e., erstwhile DVB - as succeeded by the four companies is similar or identical with what is discharged by the personnel of NIC, denial of uniformity amounts to discrimination. In other words, the general ground is that the inability of the electricity companies (and the erstwhile DVB) in extending pay parity has resulted in discrimination and infraction of the Article 14 and 16 of the Constitution of India.

5. This Court is of the opinion that the mere fact that there is similarity in work, as between the two sets of employees working in different organisations *ipso facto* cannot lead to a conclusion that they are entitled to the same pay scales. The judgment of the Supreme Court in *State of U.P. & Ors. v. J.P. Chaurasia*, AIR 1989 SC 19 uniformly suggests that the task of the Court while examining such claims is not merely to address itself to the question of broad

generality of the work but also to other aspects such as nature of the organisations involved; cadre structure or hierarchy positions, promotional avenues etc. Given all these circumstances, the Court is of the opinion that since DVB consciously took a decision to adopt a pattern dissimilar to that of NIC and that such decision was based upon the recommendations of the separate expert Committee, the appellants' claim could not have been succeeded merely on the basis of their assertion of equal work. Having considered the materials on the record, we are of the opinion that the grounds urged do not call for any interference with the impugned judgment of the learned Single Judge.

6. Consequently, the appeal has to fail and is accordingly dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

SEPTEMBER 16, 2015

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