

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **WRIT PETITION (CIVIL) No. 7162/2016**

Reserved on: 19th April, 2017

% **Date of Decision:** 22nd September, 2017

HIRA NAND

....Petitioners

Through Mr. Shakil Akhtar with Ms. Kusum Sanahi,
Advocates.

Versus

UNION OF INDIA AND OTHERS

...Respondents

Through Mr. Vikas Mahajan, Central Government
Standing Counsel with Mr. S.S. Rai, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE A.K. CHAWLA

SANJIV KHANNA, J.

This is a second round of litigation by Hira Nand, the writ petitioner, who has prayed for quashing of Memorandum dated 5th March, 2004 issued by the Ministry of Home Affairs, Memorandum dated 10th June, 1999 issued by the Directorate General of Security, Addendum dated 1st September, 1987 issued by the Cabinet Secretariat, Government of India, and order dated 8th February, 1999, passed by the Cabinet Secretariat being arbitrary, discriminatory and violative of Article 14 of the Constitution of India.

2. In nutshell, the prayer of the petitioner is that there cannot be any discrimination in the pay-scale of matriculate and non-matriculate Constable (General Duty) for they perform similar and identical work and duties.

Divergence of payscales would be violative of the principle of “equal pay for equal work”.

3. The petitioner had earlier challenged the Memorandum dated 5th March, 2004, vide W.P. (C) No. 13349/2005, which was admitted and had remained pending till 1st February, 2016. This petition was disposed of, without examining the contentions and issues on merits, observing that the writ petitioner, namely, Constable Hira Nand, had only challenged the aforesaid Memorandum and not the Addendum dated 1st September, 1987, issued by the Government of India. The petitioner, it was held, was seeking piecemeal relief. The petitioner was permitted to withdraw the writ petition reserving his right to assail Recruitment Rules and the captioned Addendum/Memorandum.

4. The petitioner, in fact, still earlier had approached the Central Administrative Tribunal vide OA No.2852/2004, which was dismissed for want of jurisdiction giving liberty to the petitioner to agitate his cause before the appropriate forum.

5. The petitioner, who is a non-matriculate and is 8th standard pass, was appointed and had joined Special Service Bureau, as a Constable (General Duty) vide memorandum dated 14th December, 1988 in the pay-scale of Rs.825-15-900-EV-20-1200. The said appointment was on a temporary post of Constable (General Duty). The aforesaid pay-scale was fixed in terms of the Cabinet Secretariat's Addendum dated 1st September, 1987.

6. After nearly 15 years of joining, the petitioner submitted a representation dated 2^{9th} November, 2003 that some of his batch mates, who were matric pass, had been appointed in the pay-scale of Rs.950-20-1150-EB-25-1400. He had requested that his case be considered and pay of non-

matriculate Constables (General Duty) be fixed at par with matriculate Constables (General Duty). The aforesaid representation was rejected vide communication dated 5th March, 2004 on the ground that pay-scale of the petitioner was the correct pay-scale, applicable to non-matriculate Constable (General Duty). As per the Memorandum dated 10th June, 1999 non-matriculいたes were entitled to matric scale after they completed fifteen years service in non-matric grade and were assessed as fit. This has been granted and therefore the issue is only regarding increments.

7. Subsequently, the petitioner submitted another representation dated 1^{3th} April, 2004, seeking fixation of pay in the higher pay-scale, asserting that similar benefit had been granted to Constable Paramjit, who was a non-matriculate and had joined the Indo-Tibetan Border Police (ITBP) in August, 1990. The petitioner was thereafter vide letter dated 1^{8th} October, 2004 of the respondents, asked to furnish complete particulars and address of Constable Paramajit so as to verify under what circumstances Paramjit was granted the scale payable to a matriculate Constable. There was exchange of communications between the authorities on the question of grant of matric scale to non-matric Constables. However, the controversy was not resolved in favour of the petitioner. The ITBP vide letter dated 3rd March, 2005 had informed that prior to 1987, the educational qualification prescribed for Constables was 8th class pass, whereas thereafter onlyatriculいたes were recruited as Constables. Further, all recruited Constables were entitled to pay-scale of Rs.825-15-900-20-1200 (pre-revised) and Rs.2750-70-3800-75-4400 (revised) with effect from 1st January, 1996. On the recommendation of the Fifth Pay Commission, Constables were raised to the pay-scale of Rs.3050-4590 on rationalization of pay-scales of Non-

Gazetted Combatised personnel with the officers of Delhi Police with effect from 1^{0th} October, 1997.

8. A few more aspects are required to be noted as they are relevant. The petitioner was initially appointed as a Constable in Group Centre, Special Service Bureau, Bhuj. His appointment in the non-matric pay-scale, which was different from the pay-scale applicable to matriculate Constables, was as per the rules applicable in Special Service Bureau. To this extent, there is no lis or dispute. With effect from 1st January, 1996, the petitioner was placed in the fitment pay-scale of Rs.2750-4400 applicable to non-matriculate Constables. It may be relevant to state that the Special Service Bureau was under the administrative control of the Cabinet Secretariat at the relevant point of time, whereas ITBP was under the administrative control of Ministry of Home Affairs. There was a change in the administrative ministry from Cabinet Secretariat to Ministry of Home Affairs with effect from 15th January, 2001 after which the role of the organisation changed from a stay behind role to that of a border guarding force. It was given the mandate to man the Indo-Nepal Border and subsequently the Indo-Bhutan Border. The contention of the respondents is that the comparison of pay-scale between SSB and ITBP cannot, therefore, be made.

9. The principle of “equal pay for equal work” as enshrined in Articles 14 and 16 of the Constitution, has been subject matter of several decisions.

10. In *State of Punjab and Ors. Vs. Jagjit Singh and Ors.* (2017) 1 SCC 148, a very detailed analysis of the principle of “equal pay for equal work”, with reference to several situations in which the said doctrine has been invoked or not applied accepting or rejecting the claim, has been made. The

Supreme Court thereafter delineated the following parameters which the court/tribunal should apply while dealing with an issue of this nature:-

“42.1. The “onus of proof” of parity in the duties and responsibilities of the subject post with the reference post under the principle of “equal pay for equal work” lies on the person who claims it. He who approaches the court has to establish that the subject post occupied by him requires him to discharge equal work of equal value, as the reference post (see *Orissa University of Agriculture & Technology case* [*Orissa University of Agriculture & Technology v. Manoj K. Mohanty*, (2003) 5 SCC 188 : 2003 SCC (L&S) 645] , *UT Chandigarh, Admn. v. Manju Mathur* [*U.T. Chandigarh, Admn. v. Manju Mathur*, (2011) 2 SCC 452 : (2011) 1 SCC (L&S) 348] , *SAIL case* [*SAIL v. Dibyendu Bhattacharya*, (2011) 11 SCC 122 : (2011) 2 SCC (L&S) 192] and *National Aluminium Co. Ltd. case* [*National Aluminium Co. Ltd. v. Ananta Kishore Rout*, (2014) 6 SCC 756 : (2014) 2 SCC (L&S) 353]).

42.2. The mere fact that the subject post occupied by the claimant is in a “different department” vis-à-vis the reference post does not have any bearing on the determination of a claim under the principle of “equal pay for equal work”. Persons discharging identical duties cannot be treated differently in the matter of their pay, merely because they belong to different departments of the Government (see *Randhir Singh case* [*Randhir Singh v. Union of India*, (1982) 1 SCC 618 : 1982 SCC (L&S) 119] and *D.S. Nakara case* [*D.S. Nakara v. Union of India*, (1983) 1 SCC 305 : 1983 SCC (L&S) 145]).

42.3. The principle of “equal pay for equal work”, applies to cases of unequal scales of pay, based on no classification or irrational classification (see *Randhir Singh case* [*Randhir Singh v. Union of India*, (1982) 1 SCC 618 : 1982 SCC (L&S) 119]). For equal pay, the employees concerned with whom equation is sought, should be performing work, which besides being functionally equal, should be of the same quality and sensitivity (see *Federation of All India Customs and Central Excise Stenographers case* [*Federation of All India Customs and Central Excise Stenographers v. Union of India*,

(1988) 3 SCC 91 : 1988 SCC (L&S) 673] , *Mewa Ram Kanojia case* [*Mewa Ram Kanojia v. All India Institute of Medical Sciences*, (1989) 2 SCC 235 : 1989 SCC (L&S) 329] , *Grih Kalyan Kendra Workers' Union case* [*Grih Kalyan Kendra Workers' Union v. Union of India*, (1991) 1 SCC 619 : 1991 SCC (L&S) 621] and *S.C. Chandra case* [*S.C. Chandra v. State of Jharkhand*, (2007) 8 SCC 279 : (2007) 2 SCC (L&S) 897 : 2 SCEC 943]).

42.4. Persons holding the same rank/designation (in different departments), but having dissimilar powers, duties and responsibilities, can be placed in different scales of pay and cannot claim the benefit of the principle of “equal pay for equal work” (see *Randhir Singh case* [*Randhir Singh v. Union of India*, (1982) 1 SCC 618 : 1982 SCC (L&S) 119] , *State of Haryana v. Haryana Civil Secretariat Personal Staff Assn.* [*State of Haryana v. Haryana Civil Secretariat Personal Staff Assn.*, (2002) 6 SCC 72 : 2002 SCC (L&S) 822] and *Hukum Chand Gupta case* [*Hukum Chand Gupta v. ICAR*, (2012) 12 SCC 666 : (2013) 3 SCC (L&S) 493]). Therefore, the principle would not be automatically invoked merely because the subject and reference posts have the same nomenclature.

42.5. In determining equality of functions and responsibilities under the principle of “equal pay for equal work”, it is necessary to keep in mind that the duties of the two posts should be of equal sensitivity, and also, qualitatively similar. Differentiation of pay scales for posts with difference in degree of responsibility, reliability and confidentiality, would fall within the realm of valid classification, and therefore, pay differentiation would be legitimate and permissible (see *Federation of All India Customs and Central Excise Stenographers case* [*Federation of All India Customs and Central Excise Stenographers v. Union of India*, (1988) 3 SCC 91 : 1988 SCC (L&S) 673] and *SBI case* [*SBI v. M.R. Ganesh Babu*, (2002) 4 SCC 556 : 2002 SCC (L&S) 568]). The nature of work of the subject post should be the same and not less onerous than the reference post. Even the volume of work should be the same. And so also, the level of responsibility. If these parameters are not met, parity cannot be claimed under the principle of “equal pay for equal work” (see *State of U.P. v. J.P. Chaurasia* [*State of U.P. v. J.P. Chaurasia*, (1989) 1 SCC 121 : 1989 SCC (L&S) 71] and *Grih*

Kalyan Kendra Workers' Union case [*Grih Kalyan Kendra Workers' Union v. Union of India*, (1991) 1 SCC 619 : 1991 SCC (L&S) 621]).

42.6. For placement in a regular pay scale, the claimant has to be a regular appointee. The claimant should have been selected on the basis of a regular process of recruitment. An employee appointed on a temporary basis cannot claim to be placed in the regular pay scale (see *Orissa University of Agriculture & Technology case* [*Orissa University of Agriculture & Technology v. Manoj K. Mohanty*, (2003) 5 SCC 188 : 2003 SCC (L&S) 645]).

42.7. Persons performing the same or similar functions, duties and responsibilities, can also be placed in different pay scales. Such as — “selection grade”, in the same post. But this difference must emerge out of a legitimate foundation, such as — merit, or seniority, or some other relevant criteria (see *State of U.P. v. J.P. Chaurasia* [*State of U.P. v. J.P. Chaurasia*, (1989) 1 SCC 121 : 1989 SCC (L&S) 71]).

42.8. If the qualifications for recruitment to the subject post vis-à-vis the reference post are different, it may be difficult to conclude that the duties and responsibilities of the posts are qualitatively similar or comparable (see *Mewa Ram Kanojia case* [*Mewa Ram Kanojia v. All India Institute of Medical Sciences*, (1989) 2 SCC 235 : 1989 SCC (L&S) 329] and *State of W.B. v. Tarun K. Roy* [*State of W.B. v. Tarun K. Roy*, (2004) 1 SCC 347 : 2004 SCC (L&S) 225]). In such a case the principle of “equal pay for equal work” cannot be invoked.

42.9. The reference post with which parity is claimed under the principle of “equal pay for equal work” has to be at the same hierarchy in the service as the subject post. Pay scales of posts may be different, if the hierarchy of the posts in question, and their channels of promotion, are different. Even if the duties and responsibilities are same, parity would not be permissible, as against a superior post, such as a promotional post (see *Union of India v. Pradip Kumar Dey* [*Union of India v. Pradip Kumar Dey*, (2000) 8 SCC 580 : 2001 SCC (L&S) 56] and *Hukum Chand Gupta*

case [*Hukum Chand Gupta v. ICAR*, (2012) 12 SCC 666 : (2013) 3 SCC (L&S) 493]).

42.10. A comparison between the subject post and the reference post under the principle of “equal pay for equal work” cannot be made where the subject post and the reference post are in different establishments, having a different management. Or even, where the establishments are in different geographical locations, though owned by the same master (see *Harbans Lal case* [*Harbans Lal v. State of H.P.*, (1989) 4 SCC 459 : 1990 SCC (L&S) 71]). Persons engaged differently, and being paid out of different funds, would not be entitled to pay parity (see *Official Liquidator v. Dayanand* [*Official Liquidator v. Dayanand*, (2008) 10 SCC 1 : (2009) 1 SCC (L&S) 943]).

42.11. Different pay scales, in certain eventualities, would be permissible even for posts clubbed together at the same hierarchy in the cadre. As for instance, if the duties and responsibilities of one of the posts are more onerous, or are exposed to higher nature of operational work/risk, the principle of “equal pay for equal work” would not be applicable. And also when the reference post includes the responsibility to take crucial decisions, and that is not so for the subject post (see *SBI case* [*SBI v. M.R. Ganesh Babu*, (2002) 4 SCC 556 : 2002 SCC (L&S) 568]).

42.12. The priority given to different types of posts under the prevailing policies of the Government can also be a relevant factor for placing different posts under different pay scales. Herein also, the principle of “equal pay for equal work” would not be applicable (see *State of Haryana v. Haryana Civil Secretariat Personal Staff Assn.* [*State of Haryana v. Haryana Civil Secretariat Personal Staff Assn.*, (2002) 6 SCC 72 : 2002 SCC (L&S) 822]).

42.13. The parity in pay, under the principle of “equal pay for equal work”, cannot be claimed merely on the ground that at an earlier point of time the subject post and the reference post, were placed in the same pay scale. The principle of “equal pay for equal work” is applicable only when it is shown, that the incumbents of the subject post and the reference post, discharge similar duties and responsibilities (see *State of W.B. v. Minimum Wages Inspectors*

Assn. [State of W.B. v. W.B. Minimum Wages Inspectors Assn., (2010) 5 SCC 225 : (2010) 2 SCC (L&S) 1]).

42.14. For parity in pay scales under the principle of “equal pay for equal work”, equation in the nature of duties is of paramount importance. If the principal nature of duties of one post is teaching, whereas that of the other is non-teaching, the principle would not be applicable. If the dominant nature of duties of one post is of control and management, whereas the subject post has no such duties, the principle would not be applicable. Likewise, if the central nature of duties of one post is of quality control, whereas the subject post has minimal duties of quality control, the principle would not be applicable (see *U.T. Chandigarh, Admn. v. Manju Mathur* [*U.T. Chandigarh, Admn. v. Manju Mathur*, (2011) 2 SCC 452 : (2011) 1 SCC (L&S) 348]).

42.15. There can be a valid classification in the matter of pay scales between employees even holding posts with the same nomenclature i.e. between those discharging duties at the headquarters, and others working at the institutional/sub-office level (see *Hukum Chand Gupta case* [*Hukum Chand Gupta v. ICAR*, (2012) 12 SCC 666 : (2013) 3 SCC (L&S) 493]), when the duties are qualitatively dissimilar.

42.16. The principle of “equal pay for equal work” would not be applicable, where a differential higher pay scale is extended to persons discharging the same duties and holding the same designation, with the objective of ameliorating stagnation, or on account of lack of promotional avenues (see *Hukum Chand Gupta case* [*Hukum Chand Gupta v. ICAR*, (2012) 12 SCC 666 : (2013) 3 SCC (L&S) 493]).

42.17. Where there is no comparison between one set of employees of one organisation, and another set of employees of a different organisation, there can be no question of equation of pay scales under the principle of “equal pay for equal work”, even if two organisations have a common employer. Likewise, if the management and control of two organisations is with different entities which are independent of one another, the principle of “equal

pay for equal work” would not apply (see *S.C. Chandra case* [*S.C. Chandra v. State of Jharkhand*, (2007) 8 SCC 279 : (2007) 2 SCC (L&S) 897 : 2 SCEC 943] and *National Aluminium Co. Ltd. case*[*National Aluminium Co. Ltd. v. Ananta Kishore Rout*, (2014) 6 SCC 756 : (2014) 2 SCC (L&S) 353]).”

11. Paragraph 42.7 holds that persons performing same or similar duties and functions can be placed in different pay-scales but the said difference must emerge out of a legitimate foundation, such as merit, seniority or some other relevant criteria. Reference was made to *State of U.P. Vs. J.P. Chaurasia* (1989) 1 SCC 121. *J.P. Chaurasia* (supra) related to question of pay-scales of Bench Secretaries and Section Officers in the Allahabad High Court. It was observed that Bench Secretaries may be doing the same work, but their quality of work may differ and therefore, the classification made under the Rules cannot be held to be violative of “equal pay for equal work”. This was notwithstanding the fact that subsequently the State Government had granted equal pay-scale to both posts.

12. In *State of Mysore and Another versus P. Narasinga Rao*, AIR 1968 SC 349, the Constitution Bench of five Judges had reversed decision of the High Court granting non-matriculate respondents benefit of revised higher pay scales applicable to matriculate Tracers. It was opined that higher educational qualification was a relevant consideration while fixing higher pay scale for Tracers who had passed the relevant examination. Classification of two grades, one for matriculate with higher pay scale and the other for non-matriculate with lower pay scale, was not violative of Article 14 or 16 of the Constitution of India.

13. In ***M.P. Rural Agriculture Extension Officers Association versus State of M.P. and Another***, (2004) 4 SCC 646, three Judges of the Supreme Court, referring to the test of valid classification, held that it does not forbid reasonable classification based on intelligible differentia and that differentia must have a rational relation to the object sought to be achieved. Reference was made to the Constitution Bench decision in ***P. Narasinga Rao*** (supra) and decisions in ***Mewa Ram Kanojia versus All India Institute of Medical Sciences and Others***, (1989) 2 SCC 235 and ***V. Markendeya and Others versus State of Andhra Pradesh and Others***, (1989) 3 SCC 191 to hold that it was open for the State to classify employees on the basis of qualifications, duties, and responsibilities and if such classification has a reasonable nexus with the object sought to be achieved, i.e., efficiency in administration, the State would be justified in prescribing different pay scales. Unequals cannot claim equality. Prayer for 'equal pay for equal work' can be granted only if it was demonstrated that the State has practised invidious discrimination by prescribing two different pay scales for two different classes of employees without reasonable classification. The onus was on the employee and the principle of 'equal pay for equal work' cannot be enforced in abstract. Several other cases were referred to come to the conclusion that educational qualification could be and constitute a valid classification for higher pay scale, though it was the contention that all employees in the post were performing same functions and duties. In such cases it was held that doctrine of 'equal pay for equal work' may not be invoked.

14. In ***Sohan Singh Sodhi versus Punjab State Electricity Board, Patiala***, (2007) 5 SCC 528 difference in pay scales for diploma holders and non-diploma holders was held to be not discriminatory and valid at the

promotional post, even when there was parity of pay scale in the induction post. It was held that different scales of pay for employees on the basis of educational qualification was not *per se* discriminatory. Similar view had been expressed in ***U.P. State Sugar Corporation Limited and Another versus Sant Raj Singh and Others***, (2006) 9 SCC 82 wherein again it was reiterated that possession of higher qualification could be treated to be a valid basis for classification in grant of higher pay scale even if no such qualification was prescribed at the time of recruitment.

15. In ***State of Madhya Pradesh and Ors. Vs. Ramesh Chandra Bajpai*** (2009) 13 SCC 635, the Supreme Court reversed the decision of the Division Bench of the High Court granting pay-scale of a Teacher to the Physical Training Instructor. The Supreme Court found error in the reasoning given by the High Court mainly on the premise that identical orders were passed in other cases of Physical Training Instructors, which had not been assailed. It was held that the doctrine of “equal pay for equal work” applies only when the employees were similarly situated and similarity in designation, nature or quantum of work was not determinative of equality in the matter of pay-scales. The Court has to consider the factors like the source and mode of recruitment/appointment, qualification, the nature of work, value thereof, responsibilities, reliability, experience, functional need etc. Equality or parity can be invoked only when there was wholesome identity. This decision quotes from an earlier judgment in the case of ***Government of West Bengal Vs. Tarun K. Roy*** (2004) 1 SCC 347, which makes reference to Article 39 (d) of the Constitution and had held as under:-

“14. Article 14 read with Article 39(d) of the Constitution of India envisages the doctrine of equal pay for equal work. The said doctrine, however, does not contemplate that only because the nature of the work is same, irrespective of an educational qualification or irrespective of their source of recruitment or other relevant considerations the said doctrine would be automatically applied. The holders of a higher educational qualification can be treated as a separate class. Such classification, it is trite, is reasonable. Employees performing the similar job but having different educational qualification can, thus, be treated differently.”

Subsequently, while dealing with the aspect of difference in educational qualification and whether the doctrine of equality can be invoked, it was held:-

“30. The respondents are merely graduates in Science. They do not have the requisite technical qualification. Only because they are graduates, they cannot, in our opinion, claim equality with the holders of diploma in Engineering. If any relief is granted by this Court to the respondents on the aforementioned ground, the same will be in contravention of the statutory rules. It is trite that this Court even in exercise of its jurisdiction under Article 142 of the Constitution of India would not ordinarily grant such a relief which would be in violation of a statutory provision.”

16. In *Union of India and Another versus T.V.L.N. Mallikarjuna Rao*, (2015) 3 SCC 653, the Supreme Court reiterated that different pay scales for different grades of Data Entry Operators, besides mode and manner of recruitment to and qualification for each entry grade post as well as eligibility and experience for promotional grades, does not violate constitutional protection against hostile or arbitrary discrimination.

17. In the present case, reference can be made to the notification/memorandum dated 24th December, 2001, which would reflect

that the pay-scale of Rs.950-1400 (pre-revised) and Rs.3050-4590 (revised) applicable to matric pass Constables was also the pay-scale applicable to the promotional post of Lance Naik and Naik. Any interference or grant of relief to the petitioner would have necessary consequences. It would create an anomaly in the promotional post of then Lance Naik, with the post of Constable (non-matric) having the same pay-scale. Grant of pay-scale of Rs.950-1400 (pre-revised) and Rs.3050-4590 (revised) to matric pass Constables in the aforesaid circumstances could be justified for the reason that the respondents wanted induction of persons with higher qualification at the post of Constables. Grant of higher pay scales, equal to the promotional post was specific to those with matric qualification. Accepting the petitioner's contention would equate his pay scale with the promotional post of Lance Naik and even Naik. In 1998, posts of Lance Naik and Naik were merged with Constable and Head Constable, respectively.

18. It is almost impossible for the respondents to gather information and details as to why and what reason had prevailed for having two different pay-scales depending upon the educational qualification for the post of Constable (General Duty). The petitioner, had belatedly raised the aforesaid issue for the first time only in 2003, i.e. nearly 15 years after his appointment. He had by then cleared second class departmental examination and other courses which were necessary for promotion to the post of Head Constable. One possible reason, though it is difficult to say so with certainty, may have been that there was a general understanding that recruitment with matriculate qualification at the post of Constable as the minimum eligibility qualification was unacceptable and undesirable, though those with higher qualification, i.e. matric, were entitled to higher pay

scales. Direct induction was at the stage of Constables. We have already noted that the pay-scale of Constable with matric was identical to the higher post of Lance Naik and even Naik. Noticeably, the post of Head Constable was in the pre-revised pay-scale of Rs.975-1650 and revised pay-scale of Rs.3200-4900. Subsequently, the post of Lance Naik and Naik were abolished.

19. Now, we come to the question of discrimination on the ground that in ***Bichitrananda Mohanty and others versus Union of India*** in OA No.57/1986 the petitioners were granted higher scales by the Central Administrative Tribunal, Cuttack Bench. This order was upheld by the Supreme Court in Civil Appeal No. 8567/1993. ***Bichitrananda Mohanty*** (supra) was a case of Constables in Aviation Research Centre under the Cabinet Secretariat. The applicants therein were appointed in 1970 and 1971. They had claimed parity with those appointed between 1971 and 2nd May, 1973 and were drawing higher pay-scale on account of being matriculate, whereas applicants therein were non-matriculate. The difference in pay-scale of matriculates and non-matriculates was prescribed by the Field Officer Service Rules notified on 26th April, 1976. The Tribunal referred to judgments on “equal pay for equal work” and came to the conclusion that there was no difference in nature of work and duties which were the same. What had, however, also weighed with the Tribunal was the change in the service conditions after appointment of the applicants. It was noticed that 1976 Rules, which had drawn distinction between the pay-scales, were enacted subsequent to the date of appointment of the applicants and the private respondents. These Rules, it was held, were not retrospective and were prospective. The applicants were, therefore, held to be entitled to

the same pay-scale as applicable to matriculates. The civil appeal was dismissed by the Supreme Court observing that the order of Tribunal was correct and required no interference. The Court had made specific reference to the fact that the applicants were Constables, who were recruited prior to 1st January, 1973 and, therefore, should be paid identical pay-scales, especially when there was nothing to show that matriculates and non-matriculates were performing different duties.

20. In view of the aforesaid position, we do not find any merit in the present writ petition and the same is dismissed. In the facts of the case, there would be no order as to costs.



(SANJIV KHANNA)
JUDGE

(A.K. CHAWLA)
JUDGE

SEPTEMBER 22nd, 2017
NA/ssn