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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 27.07.2017

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W.P.(C.) No. 5536/2017

VIMAL PRASAD SEMWAL & ORS.

..... Petitioner

Through: Mr. M.K. Bhardwaj, Adv.

versus

UNION OF INDIA & ORS

.....Respondent

Through: Mr. Ajay Digpaul, CGSC for
R-1

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

VIPIN SANGHI, J. (ORAL)

1. The petitioners have impugned the order dated 03.12.2016 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No. 4074/2014, whereby the said Original Application of the petitioner has been dismissed.

2. The petitioners - who are 23 in number, had preferred the Original Application to seek a direction for grant of pay scale of Rs. 330-480 (pre-revised) as given to the other optical workers, vide order dated 01.08.2013 in pursuance of the order passed by the Allahabad Bench of Central Administrative Tribunal (Allahabad Tribunal) in O.A. No.s 956-960/2008 on 08.02.2011.

3. The petitioners after completion of training of 3½ years as Boy Artisans, were appointed as Optical Workers (Skilled), during the years 1984-1988, in the pay scale of Rs. 260-400 /950-1500. It is the case of the petitioners that even though they were appointed towards the said post; they were made to discharge different kinds of duties as per requirement, including the duty of Photo-Etcher (Graticule).

4. The petitioner claimed that they are similarly placed as the applicants before the Allahabad Bench of the Tribunal in O.A. No.956-960/2008, and are, therefore, entitled to be granted the same pay scale of Rs. 330-480 with all consequential benefits including arrears of pay, as granted to the applicant before the Allahabad Bench of the Tribunal.

5. The Tribunal, while dismissing the Original Application, has taken note of the fact that even though the present petitioners, and the applicants before the Allahabad Bench of the Tribunal were all appointed as Optical Workers, the applicants before the Allahabad Bench of the Tribunal were actually performing the duties of Photo-Etcher (Graticule), which the petitioners could not establish to be performing. Hence, the case of the petitioners stood on a different footing. In the impugned order, the Tribunal has observed as under:

“5. Admittedly, the applicants in the instant OA and those before the Allahabad Bench of this Tribunal were all appointed as Optical Workers. The applicants before the Allahabad Bench were actually performing the duties of Photo-Etcher (Graticule). The Allahabad Bench accepting their plea and following the principle of ‘equal pay for equal work’ granted them the relief and directed the respondents to place them in

the pay scale of Photo-Etcher (Graticule) and the same has been implemented. The plea of the applicants in the instant OA that they are entitled for the same relief that has been granted by the Allahabad Bench is not tenable. Two cases are entirely different. The applicants before the Allahabad Bench were in fact performing the duties of Optical Workers Photo-Etcher (Graticule). In the light of these stark realities, we are of the view that there is no merit in the OA and the OA is liable for dismissal. Accordingly, the OA is dismissed.”

6. The submission of learned counsel for the petitioners is that the petitioners were performing the same duties as the applicants before the Allahabad Bench of the Tribunal and thus, in light of the principle of ‘equal pay for equal work’ were entitled to the same financial upgradation as given to the applicants before the Allahabad Bench of the Tribunal vide office order dated 01.08.2013. Learned counsel for the petitioner has sought to place reliance upon ***Purnendu Mukhopadhyay and Ors. vs. V.K. Kapoor and Anr.*** in Civil Appeal No. 4862 of 2007 (Arising out of SLP (Civil) No. 145 of 2003) decided by the Supreme Court on 12.10.2007, wherein it was held that similarly situated employees cannot be treated differently and orders implemented in relation to one cannot be refused for another.

7. There can be no quarrel with the proposition that employees discharging the same functions would be entitled to the same pay, at least till they continue to perform the same functions and shoulder the same responsibilities.

8. The admitted position, however, is that the applicants before the Allahabad Bench of the Tribunal, although appointed as Optical Workers, were actually performing the duties of Photo-Etcher (Graticule) and,

consequently, following the principle of 'equal pay for equal work' were placed in the pay scale of Photo-Etcher (Graticule). It is also an admitted fact that the petitioners were appointed as Optical Workers similar to the applicants before the Allahabad Bench of the Tribunal. However, in the present case, the petitioners have not been able to establish that they are performing the duties and functions of photo etchers, which the applicants before the Allahabad Bench of the Tribunal had established. Thus, they could not claim parity with the applicants before the Allahabad Bench of the Tribunal.

9. The Tribunal has observed, and rightly so, that the case of the petitioners is entirely different from the applicants before the Allahabad Tribunal and the principle of 'equal pay for equal work' could not be invoked by them. Reliance placed on the judgment of the Supreme Court in *Purnendu Mukhopadhyay (supra)* is of no avail.

10. For the aforesaid reasons, we are not inclined to interfere with the impugned order. The petition is, accordingly, dismissed.

VIPIN SANGHI, J.

REKHA PALLI, J.

JULY 27, 2017