

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE N.BALAYOGI

+ Writ Petition No.16386 of 2017

% Date: 27-6-2018

1. B.Jhansi Lakshmi Bai D/o. Late B.Bajrang Prasad,
Aged 48 years, Occ: Deputy Section Officer,
R/o. H.No.9-3-385, Regimental Bazar,
Secunderabad-500 025

2. K.Raghu Swamy Reddy S/o. K.Pulla Reddy,
Aged 40 years, Occ: Computer Operator,
R/o. Plot No.80, S.S. Reddy Nagar,
Almasguda, RR District, Hyderabad

3. P.Srinivasa Rao S/o. P.Rama Mohan Rao,
Aged 45 years, Occ: Computer Operator,
R/o. H.No.10-4-126/5, Biramalguda,
Sarooranagar, Hyderabad-500 035

4. P.V. Satish Kumar S/o. P.Krishna Murthy,
Aged 41 years, Occ: Computer Operator,
R/o. Plot No.65, Kalyanpuri Colony,
Sainikpuri, Secunderabad-500 094

... Petitioners

Vs.

\$ 1. High Court of Judicature at Hyderabad for the
State of Telangana and the State of Andhra Pradesh,
High Court Bldgs., Hyderabad,
Rep. by its Registrar (Admn.)

2. State of Telangana, Finance Dept.,
Telangana Secretariat, Hyderabad,
Rep. by its Secretary

3. State of Andhra Pradesh, Finance Dept.,
A.P. Secretariat, Velagapudi, Amaravathi,
Guntur Dist., Rep. by its Secretary

... Respondents

! Counsel for Petitioners: Mr. G.Vidya Sagar, Senior Counsel,
representing Smt. K.Udaya Sri

Counsel for Respondent No.1: Mr. Swaroop Oorilla, Standing Counsel

Counsel for Respondent No.2: Govt. Pleader for Finance
(Telangana)

Counsel for Respondent No.3: Govt. Pleader for Finance
(Andhra Pradesh)

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> Head Note:

? Cases referred:

1. (2003) 6 SCC 250
2. (2007) 8 SCC 279

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AND
HON'BLE SRI JUSTICE N.BALAYOGI

Writ Petition No.16386 of 2017

Order: (per V.Ramasubramanian, J.)

The first petitioner, who is working as Deputy Section Officer and the other petitioners, who are working as Computer Operators in the High Court have come up with the above writ petition challenging the rejection of their claim for rectification of the pay anomaly that occurred in PRC-2010.

2. We have heard Mr. G.Vidya Sagar, learned Senior Counsel appearing for the writ petitioners, Mr. Swaroop Oorilla, learned Standing Counsel appearing for the Registry of this Court, the learned Government Pleader for Finance (Telangana) for the 2nd respondent and the learned Government Pleader for Finance (Andhra Pradesh) for the 3rd respondent.

3. The Andhra Pradesh High Court Service Rules, 1975 declares under Rule 3 that the service shall consist of 3 Divisions of posts, with Gazetted posts falling under Division-I, Non-Gazetted posts falling under Division-II and miscellaneous posts falling under Division-III. Division-I comprises of 6 different categories of posts, Division-II comprises of 5 categories of posts and Division-III comprises of 5 categories of posts.

4. Category 3 in Division-II comprises of 2 posts viz.,
(i) Assistant Section Officers and (ii) Computer Operators.

The post of Computer Operators was sanctioned for the first time in the year 1996.

5. As per the table under Rule 5 of the Rules, the post of Computer Operators falling under Clause (b) of Category 3, can be filled up by way of promotion from Categories 4 and 5 (Assistants, Readers/Examiners, Telex Operator, Telephone Operator are under Category 4 and Typists and Copyists are under Category 5), in the ratio of 2:1 in every cycle of 3 vacancies.

6. While the first petitioner was appointed as Assistant on 24-6-2002 and promoted as Computer Operator on 04-10-2008, the petitioners 2, 3 and 4 were appointed as Assistants respectively on 11-3-2002, 10-11-2000 and 26-4-2004 and they were promoted as Computer Operators respectively on 24-7-2010, 26-10-2010 and 27-7-2011.

7. Rule 21(3) of the Andhra Pradesh High Court Service Rules, 1975 declares that the posts in the High Court Services shown in column No.1 of Schedule-III to the Rules, shall correspond to the posts in the Secretariat of the Government of Andhra Pradesh specified in column No.2 of the same Schedule.

8. In Schedule-III to the Andhra Pradesh High Court Service Rules, the posts of Assistant Section Officers and Computer Operators are included at serial No.9 in column No.1. The corresponding post in the Secretariat, is indicated

in column No.2 to be Assistant Section Officer in the Secretariat.

9. According to the petitioners, Assistant Section Officers and Computer Operators in the High Court Services are always treated on par with the Assistant Section Officers in the Secretariat, for the purposes of Scales of Pay and other benefits and that the High Court has also been adopting the Scales of Pay. For the purpose of easy reference, the petitioners have provided in the Affidavit in support of their writ petition the Scales of Pay of the posts of Computer Operators and Assistant Section Officers, in the years 1993, 1999 and 2005. They were just the same.

10. By G.O.(P).No.52, Finance Department, dated 25-02-2010, the Government of Andhra Pradesh revised the Scales of Pay of the employees of the State Government. In accordance with the paragraph-9(3) of the said G.O., the Government issued a separate order in G.O.Ms.No.277, Finance Department, dated 11-8-2010, with regard to the officers and staff of the High Court, after consultation with the High Court in terms of Article 229 of the Constitution. By this G.O., a set of Rules known as Andhra Pradesh High Court Officers and Staff Scales of Pay Rules, 2010 were issued and they were deemed to have come into effect from 01-7-2008 with monetary benefits from 01-02-2010.

11. Under Schedule-I to the 2010 Pay Rules, Computer Operators at serial No.27 were granted a revised scale of pay

of Rs.11,860-34,050, whereas the Assistant Section Officers at serial No.28 were granted the scale of pay of Rs.12,910-36,700.

12. Claiming that a disparity is suddenly brought in the scales of pay, the Computer Operators made representations. The High Court also sent its recommendation to the State Government for rectification of the anomaly and for providing to the Computer Operators, the same scale of pay under PRC-2010 on par with Assistant Section Officers.

13. While the recommendation was pending, the State Government constituted the 10th Pay Revision Commission. The Computer Operators made representations to the said Commission pointing out the anomaly and seeking rectification. Realising the mistake, the 10th Pay Revision Commission recommended the restoration of parity. Eventually, the Scales of Pay Rules, 2015 were issued by the Government under G.O.Ms.No.149, Finance Department, dated 08-10-2015. These Rules were deemed to have come into force on and from 01-7-2013 with monetary benefits from 02-6-2014. Under these Rules, the scale of pay of the post of Computer Operator was revised to Rs.26,600-77,030, on par with Assistant Section Officers who were also granted the same scale of pay.

14. But the anomaly that crept under the 2010 Rules which came into force on 01-7-2008 with monetary benefits from 01-02-2010, remained unrectified up to the date of issue

of the 2015 Rules. When the petitioners requested the High Court and the Government to rectify the same, the High Court rejected the request by a one line order dated 02-9-2016. Therefore, the petitioners have come up with the above writ petition.

15. The contentions of Mr. G.Vidya Sagar, learned Senior Counsel for the petitioners, are – (i) that the post of Computer Operator was always treated on par with Assistant Section Officers in the High Court as well as the Secretariat Service, (ii) that even under Schedule-III read with Rule 21(3) of the Andhra Pradesh High Court Service Rules, the post of Computer Operators was equated to the post of Assistant Section Officer in the Secretariat, (iii) that from the date of creation of the post of Computer Operator in 1996, up to the date of coming into force of Revised Scales of Pay Rules, 2010 with effect from 01-7-2008, the scales of pay of the posts of Assistant Section Officer and Computer Operator remained the same, (iv) that even under the Revised Scales of Pay Rules, 2015, which came into force on 01-7-2013, the scale of pay of the post of Computer Operator was brought on par with that of Assistant Section Officer and (v) that therefore the refusal of the Government despite the recommendation of the High Court to rectify the anomaly for the brief period from 2008 to 2013 is completely arbitrary and unjustified offending Article 14 of the Constitution of India.

16. The Registry of the High Court has filed a counter affidavit, confirming a majority of the averments contained in the Affidavit of the petitioners and also admitting that the High Court recommended to the Government for the rectification of the pay anomaly. But since the pay anomaly was rectified under the Revised Scales of Pay Rules, 2015, the Registry thought fit to reject the representation.

17. The Governments of Telangana and Andhra Pradesh have filed independent counter affidavits, but almost on identical lines. It is their common contention that there was no category of Computer Operator in the Secretariat Service and that therefore there was no question of parity between the post of Computer Operator in Category 3(b) of Division-II of the High Court Service with the post of Assistant Section Officer in the Secretariat. It is further contended by the State Governments in their counter affidavits that the representations of the petitioners were duly considered by the 10th Pay Revision Commission and that once the same has been considered by the Pay Revision Commission and Revised Rules issued, it is not open to the petitioners to seek any further relief. As per the counter affidavits, it is claimed that any attempt to grant relief to the petitioners for the period from 2008 to 2013, would have a cascading effect, leading to the other employees coming up with similar claims and that therefore the same cannot be accepted.

18. We have carefully considered the pleadings and the rival contentions. Fortunately, there is no dispute of facts. The scales of pay of the posts of Computer Operator and Assistant Section Officer were just the same from 1996 to 2008 and also from 2013 onwards. It is for a brief period between 01-7-2008 and 01-7-2013 that the scale of pay of the post of Computer Operator became lesser than that of the post of Assistant Section Officer. This can be seen from the following table:

Period	Scale of Pay of the post of	
	Computer Operator	Asst. Section Officer
1. As per PRC-1995	2375-5040	2375-5040
2. As per PRC-2000	4550-9600	4550-9600
3. As per PRC-2005	6675-15500	6675-15500
4. As per PRC-2010	11860-34050	12910-36700
5. As per PRC-2015	26600-77030	26600-77030

19. Therefore, it is clear even on admitted facts that an anomaly crept in for a brief period of 5 years from 01-7-2008 to 01-7-2013. But the question to be decided by us is as to whether all kinds of anomalies are capable of being rectified by this Court or not.

20. In general, anomalies arising after the implementation of the recommendations of Pay Commissions are referred to Anomalies Committee. In this case, obviously the anomaly that arose in PRC-2010 was not referred to any Anomalies Committee. However, even admittedly, the grievance of the petitioners was placed before PRC-2015 and in its recommendations, PRC-2015 rectified the anomaly,

albeit with prospective effect from the date of implementation of PRC-2015.

21. In other words, the grievance of the petitioners with regard to the anomaly had been taken note of by the Pay Revision Commission of 2015. Once they have taken note of the same and decided to rectify the same only under PRC-2015, this Court sitting in writ jurisdiction, may not be able to provide any further relief to the petitioners.

22. In ***State of U.P. v. U.P. Sales Tax Officers (Grade-II) Association***¹, the Supreme Court reiterated that the decisions of expert bodies like the Pay Commission cannot be ordinarily subjected to judicial review.

23. Cautioning the Courts against fixing pay scales by applying the principle of equal pay for equal work, it was stated by the Supreme Court in ***S.C. Chandra v. State of Jharkhand***², as follows:

“26. In our opinion fixing pay scales by courts by applying the principle of equal pay for equal work upsets the high constitutional principle of separation of powers between the three organs of the State. Realising this, this Court has in recent years avoided applying the principle of equal pay for equal work, unless there is complete and wholesale identity between the two groups (and there too the matter should be sent for examination by an Expert Committee appointed by the Government instead of the court itself granting higher pay).

27. It is well settled by the Supreme Court that only because the nature of work is the same, irrespective of educational qualification, mode of appointment, experience and other relevant factors, the principle of equal pay for

¹ (2003) 6 SCC 250

² (2007) 8 SCC 279

equal work cannot apply vide Govt. of W.B. v. Tarun K. Roy [(2004) ILLJ 421 SC].

28. Similarly, in State of Haryana v. Haryana Civil Secretariat Personal Staff Assn. [(2002) Supp.1 SCR 118] the principle of equal pay for equal work was considered in great detail. In paras 9 and 10 of the said judgment the Supreme Court observed that equation of posts and salary is a complex matter which should be left to an expert body. The courts must realise that the job is both a difficult and time consuming task which even experts having the assistance of staff with requisite expertise have found it difficult to undertake. Fixation of pay and determination of parity is a complex matter which is for the executive to discharge. Granting of pay parity by the court may result in a cascading effect and reaction which can have adverse consequences vide Union of India v. Pradip Kumar Dey. [(2000) 8 SCC 580] (emphasis added)"

24. We are conscious of the fact that the petitioners are not pitching their claim on the principle of equal pay for equal work on par with Assistant Section Officers. Their only claim is that if 2 different posts have always carried the same scales of pay with the qualifications and method of recruitment being the same, no anomaly could be allowed to be crept in, for a brief period of time.

25. Though the aforesaid argument is quite appealing, the same could have been considered by this Court, if the grievance of the petitioners had never been considered by an expert body. In this case, even as per the averments contained in paragraph-8 of the Affidavit of the writ petitioners, their grievance was considered by the PRC-2015. It was rectified only with prospective effect. Once this has

been done by an expert body, the role of the Court would cease.

26. Therefore, we find no justification to grant relief to the petitioners. Hence, the writ petition is dismissed. The interlocutory applications, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

N.BALAYOGI, J.

27th June, 2018.
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AND
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Writ Petition No.16386 of 2017
[For Orders - per VRS, J.]



27th June, 2018.
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