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

% **Date of Decision: 16.01.2019**

+ W.P.(C) 13178/2018

BIHAR RPNN LTD. EMPLOYEES UNION AND ORS.

..... Petitioners

Through: Mr. Vikalp Mudgal and Mr.Kshitij
Mudgal, Advocates.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr. Devank Maheshwari, Adv. for
Mr. Jasmeet Singh, CGSC for R-1.
Mr. Paritosh Budhiraja, Ms. Surabhi
Maheshwari and Mr. Ashwani Ahuja,
Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

VIPIN SANGHI, J. (ORAL)

1. The petitioners have preferred this writ petition to assail the order dated 27.09.2018 passed by the Central Administrative Tribunal, Principal Bench, New Delhi ('Tribunal') in OA No.4247/2017. The said Original Application preferred by the petitioners had been rejected by the Tribunal by the impugned order.

2. Petitioner No.1 to 4 are Trade Unions of employees of the respondent-

National Projects Construction Corporation Limited ('NPCC'). Petitioner No.5 is one of the employees of the respondent-NPCC and he is a member of the petitioner No.1-Bihar RPNN Ltd. Employees Union.

3. The petitioners earlier preferred Civil Writ Petition No.1052/2001 before this Court, which was transferred to the Tribunal and renumbered as OA No.4247/2017. The petitioners, in the said petition, sought a direction in the nature of Certiorari to quash the office order No.500137/IDA dated 29.05.1998. By the said office order, the respondent considered the issue of revision of IDA pay-scales and allowances in respect of the employees, who were below Board level Executives, Staff Members in NPCC w.e.f. 01.01.1992. Para 2.3 of the said order specifically excluded, from the said revision, *inter alia*, “*Workman whose wage revision is governed by Instrument of negotiations*”. The petitioners, whose wages were admittedly, governed by instruments of wage revision, were aggrieved by their exclusion from application of the said office order No. 500137/IDA dated 29.05.1998, on the ground, that it violates Articles 14 and 16(1) of the Constitution of India. They claimed that the payscales payable to them under the negotiated settlement were less than those payable to those employees who were covered by the IDA pay-scales. They sought extension

of the benefit of the said office order to them as well.

4. The Tribunal rejected the said Original Application on the ground that so far as the members of the petitioner-Unions are concerned, their Federation i.e. All India NPCC Employees Federation, which was the federation of all the Associations and Unions, had entered into agreements with the respondent-NPCC, which are in force and, therefore, they were bound by the same.

5. The submission of learned counsel for the petitioners is that the petitioners have been discriminated against, inasmuch as, the pay-scales prescribed by the respondent vide office order dated 29.05.1998 are higher, when compared with the pay-scales fixed under the negotiated settlements with the aforesaid Federation. Learned counsel further submits that though the petitioners are Unions and its members, and even though their Federation has been entering into wage settlements with the management of NPCC from time to time – which are valid and binding, the said settlements are a result of an unequal bargaining power between the employer and the employees. Learned counsel also places reliance upon '**State of Punjab and others vs. Jagjit Singh and others**', (2017) 1 SCC 148, and in particular, para 57 and 58 of the said decision, which read as follows:

“57. There is no room for any doubt that the principle of ‘equal pay for equal work’ has emerged from an interpretation of different provisions of the Constitution. The principle has been expounded through a large number of judgments rendered by this Court, and constitutes law declared by this Court. The same is binding on all the courts in India, under Article 141 of the Constitution of India. The parameters of the principle have been summarised by us in paragraph 42 hereinabove. The principle of ‘equal pay for equal work’ has also been extended to temporary employees (differently described as work-charge, daily-wage, casual, ad-hoc, contractual, and the like). The legal position, relating to temporary employees has been summarised by us, in paragraph 44 hereinabove. The above legal position which has been repeatedly declared, is being reiterated by us yet again.

58. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work cannot be paid less than another who performs the same duties and responsibilities. Certainly not, in a welfare state. Such an action besides being demeaning, strikes at the very foundation of human dignity. Any one, who is compelled to work at a lesser wage, does not do so voluntarily. He does so, to provide food and shelter to his family, at the cost of his self respect and dignity, at the cost of his self worth, and at the cost of his integrity. For he knows, that his dependents would suffer immensely, if he does not accept the lesser wage. Any act, of paying less wages, as compared to others similarly situate constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation.”

6. The aforesaid decision is relied upon to submit that the respondent is discriminating by providing different pay-scales in respect of the similarly

situated employees.

7. On the other hand, counsel for the respondent has pointed out that the pay-scales prescribed by the office order dated 29.05.1998 are in respect of the Non-Executive, Supervisory and Executive posts. The classification is not premised on unskilled, semi-skilled, skilled or highly skilled categories of workmen. Thus, it would not be correct to compare the revised pay-scales of workmen/members of trade unions – as agreed in the settlement with their Federation, with the revised pay-scales prescribed in the office order dated 29.05.1998. He has argued that there is no discrimination, as these are distinct classes of workman, whose classification is reasonable – as those governed by wage settlement agreements on the one hand, and those who are not so governed, for the purpose of prescribing the pay scales.

8. Having heard learned counsel for the petitioners and after perusing the impugned order and the record, we are of the considered view that there is no merit in this petition.

9. The terms of settlements entered into between the Federation of Unions have to be read comprehensively. The said negotiated settlements not only prescribe the revised pay-scales in respect of the unskilled, semi skilled, skilled and highly skilled categories of workmen, they also cover

other aspects of emoluments, such as Dearness Allowance, Variable DA, Fitment benefit, Fitment formula etc. Thus, it would not be correct to pick out only the bare revised pay-scales prescribed in respect of the aforesaid four categories of workmen to claim that the same are less than pay-scales prescribed by the office order dated 29.05.1998 in respect of employees who are not covered by negotiated settlement agreements.

10. The settlement dated 11.10.1996 stipulated in Clause (19), that *“This settlement will be in force from 01.01.1987 to 31.12.1996 and thereafter shall continue to be operative till it is terminated by the process of law”*. The said settlement has been followed up with subsequent settlements arrived at between the Federation of Unions and workers of NPCC, and the NPCC. A fresh wage settlement was entered into by the said Federation of Unions on 21.12.2010, which was to be effective from 01.01.2007 and remained effective till 31.12.2014 or thereafter, till terminated by the process of law. This settlement itself recorded that, for the period between 01.01.1997 to 31.12.2006, wage revision stood settled and no arrears were to be paid. A further settlement was entered into between the Federation of Unions of Employees of NPCC, and the NPCC on 28.02.2018. The said settlement provides in Clause (25) that the same would be enforced from 01.01.2017 to

31.12.2026 and thereafter, shall continue till it is terminated by the process of law. Thus, the position is that even now there is a current, valid and enforceable settlement between the workmen of NPCC represented through its Federation of workers unions on the one hand, and the NPCC on the other hand.

11. Reliance placed by learned counsel for the petitioners on ***Jagjit Singh*** (supra) is misplaced. There cannot be any dispute with the proposition that the principle of equal pay for equal work is binding on all Courts in India under Article 141 of the Constitution of India, and is a facet of Article 14 of the Constitution of India. Where, however, there are two different sets of employees in an organisation, one which is governed by one pattern of pay-scale and the other is governed by another pattern of pay-scale, it cannot be said that different norms with regard to payment of salary and allowances cannot be prescribed in respect of such different classes of workmen/employees. Workmen/employees falling in each of the two sets would constitute two separate classes, and such classification is reasonable, *inter alia*, for the purpose of fixation of the salary/wages and allowances. Thus, there is no discrimination made out and no breach of Articles 14 and 16 made out.

12. What the petitioners are endeavouring to do – by raising the aforesaid issue, is to walk out of the settlements entered into by them through their Federation with the employer-NPCC. In our view, this cannot be permitted, as it would amount to discrediting such settlements and destroying their sanctity. The same would upset the industrial environment and peace.

13. Learned counsel for the petitioners has urged that the subsequent settlements of the years 2010 and 2018 would not be for the benefit of those, who have retired before the said settlements were entered into. We do not find any merit in this submission. Pertinently, the petitioners have not clearly stated whether such retired employees are part of their Unions or not. Secondly, no such retired employee has come forward to raise any such claim. If such a claim were to be raised, it would have been adjudicated in appropriate proceedings. Though the petitioners claim that their federation did not have equal bargaining power with the employer while arriving at negotiated settlements, we cannot agree with this submission. The Federation of Unions would have had representations of the elected Union leaders. They had no compulsion to accept the wage settlement offered by the NPCC if the same was not acceptable to them. This submission of the petitioners cannot be entertained in these proceedings as it involves

determination of factual aspects of coercion and undue influence.

14. We, therefore, find no merit in this petition. It is accordingly dismissed.

VIPIN SANGHI, J

A. K. CHAWLA, J

JANUARY 16, 2019/nn