

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.984 of 2018
In
Civil Writ Jurisdiction Case No.7664 of 1996

1. Md. Salimullah S/o Late Md. Karimullah, Resident of Zaheda Manzil, Saad Purana, PS-Quazi Mohammadpur, District-Muzaffarpur.
2. Moinuddin ahmad, S/o Late Wasiuddin Ahmad, Resident of Village-Manse Xhapra, P.O.-Bhuwan Gupta, P.S.-Khakia, District-East Champaran.
3. Md. Isa Anwar, S/o Md. Ayoub, Resident of Mohalla-Saadpura, P.O.-Ramna, P.S.-Quazi Mohammadpur, District-Muzaffarpur.
4. Ateeque Askari, S/o Ramzan Ali, resident of Baradih, P.S.-Kesariya, District-East Champaran.

... .. Petitioners-Appellant/s

Versus

1. The State Of Bihar through the Chief Secretary, Old Secretariat Building, Patna
2. The Finance Commissioner-Cum-Secretary to Government of the Department of Finance, Old Secretariat Building, Patna
3. The Pay Revision Anomaly Committee through its Chairman, Sri K.P. Sinha, retired I.A.S., C/o Finance Commissioner-cum-Secretary to Government, Old Secretariat Building, Patna
4. The Secretary to Government in the Raj Bhasha Department, Old Secretariat Campus, Patna.
5. The Director, Raj Bhasha, Old Secretariat Campus, Patna.

Respondents/Respondents Ist Set.

6. Naushad Ahmad, S/o Md. Sajjad Ahmad, resident of Nadra Ganj, Ram Sagar Road, Gaya, P.S. Gaya, District-Gaya.
7. Wali Ahmad, S/o Late Mir Hadi Hasan, Resident of Village-Shahpur Junaid, P.S.-Sakra, District-Muzaffarpur.
8. Md. Jalilur Rahaman Quasni, S/o Late Md. Qasun Siddiquie, Resident of Mohalla-Jail Road, P.S.-Muzaffarpur, District-Muzaffarpur.
9. Md. Naseer, S/o Late Abdul Sattar, 'Resident of Ghous Nagar, P.S.-Ghous Nagar, District-Sitamarhi.
10. Bilquse Begum, W/o Syed Quisar Hussain, Resident of Mohalla-Saadpura, P.O.-Ramna, P.S.-Quazi Mohammadpur, District-Muzaffarpur.
11. Shakir Ahmad Khan, S/o Md. Usman kha, Resident of B. Patti, P.S.-Sahebganj, District-Muzaffarpur.
12. Md. Jalaluddin Khan, S/o Md. Jaseem Khan, Resident of Mohalla-Raipura Pathai Toli. P.S.-Fatwah, P.O.-Fatwah, District-Patna.
13. Abul Hasan Ansari, S/o Md. Shamshuddin Ansari, Resident of Village-Haraiyadih, P.O.-Baisadih, P.S.-Piro, District-Bhojpur.



14. Md. Abdul Bari Shaida, S/o Late Shamsuddin, Resident of Chajjoo Mohalla, P.S.-Bihar Sarif, District-Nalanda.
15. Md. Serajuddin Khan, S/o Late Md. A.S. Khan, Resident of Mohalla-Beli Sarai, P.S.-Motihari, District-East Champaran.
16. Fazle Ali Naseem, S/o Late Md. Hashim, Resident of Banars Bank Chowk, P.S.-Muzaffarpur Town, District-Muzaffarpur.
17. Imteyaz Ahmad, S/o Md. Abulais, Resident of Village-Chandauli, P.O.-Belaganj, District-Gaya.
18. M. Mahfooz Rahmani, S/o M.A. Kabiri, Resident of Village-Chewara, P.S.-Chewara, District-Shaikhpora.
19. Shah Waliullah Tarique, S/o Late Syed Shah Azmatullah, Resident of Village-Chandwara, P.S.-Muzaffarpur Town, District-Muzaffarpur.
20. Md. Irfanul Haque, S/o Reyazul Haque, Resident of Barhampura, District-Muzaffarpur.
21. Shahnawaz Jabeen, W/o Latifur Rahman, Resident of Mohalla-Sarai Sayed Ali, P.S.-Quazi Mohammadpur, District-Muzaffarpur.
22. S. Mujtaba Hasan, S/o Late S. Murtaza Hasa, Resident of Sultanganj, P.S.-Sultanganj, District-Patna.
23. Md. Shabbir Ahmad, S/o Abdul Jabbar Hussain, Resident of Village--Kasma, P.S.-Chandauti, District-gaya.
24. Md. Zikrullah, S/o Imdad Elahi, Resident of Village-Meghua, P.O.-Bahlolpur. P.S.-Kalyanpur, District-East Champaran.
25. Syed Tyab Reza, S/o Syed Ali, Ghazanfar, Resident of Village-Gopalpur, P.O.-Hussainganj P.S.-Bakarganj, District-Siwan.
26. Naiyar Alam Siddiquee, S/o Mohamood Alam Siddiquee, Resident of Village-Parshottampur, P.S.-Chauradano, District-East Champaran.
27. Qutubuddin, S/o Syed Zamiruddin, Resident of Kaghzi Mohallah, P.O. and P.S.-Bihar Sharif, District-Nalanda.
28. S.S. Qaisar Rizvi S/o S.S. Serajuddin Rizvi Resident of Mohalla-Shahtoli, P.O.-Danapur, P.S.-Danapur, District-Patna.

... .. Petitioners /Respondent/s
2nd Set.

Appearance :

For the Appellant/s : Mr. Abhinav Srivastava, Advocate
Mr. Raushan, Advocate

For the Respondent/s : Mr. Parijat Saurav, AC to AAG-13

**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY**

ORAL JUDGMENT



(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 04-09-2023

The writ petition and the appeal question the legality of the recommendation of the Pay Revision Anomaly Committee (for brevity, 'the Anomaly Committee') which recommendation was contrary to that made by the 5th Pay Revision Committee-cum-Fitment Committee (for brevity, 'the Pay Revision Committee'). The writ petition is filed, according to us, on an afterthought and self determination made by the petitioners, regarding their eligibility to get the higher scale of pay.

2. The learned Single Judge found that the grant of pay scale and creation of posts are issues involving financial implication and are best left within the domain of the executive until such time that any form of patent discrimination is made out by the persons complaining. The learned Single Judge found that there was no discrimination and held that whether it be a recommendation of the Pay Revision Committee or the Anomaly Committee, they are mere recommendations on which the final decision has been taken by the Finance Department.

3. We have heard the learned counsel for the



appellants and also the learned Government Advocate.

4. Following an advertisement published on 18.08.1981 for appointment of 294 Translators, the petitioners applied and the petitioner nos.1 to 15 were appointed as Translators with a pay scale of Rs.296-460/- and the petitioner nos. 16 to 27 were appointed as Assistant Translators in the pay scale of Rs.260-408/- in the Rajbhasha Department. The appointment order itself indicated that the aforesaid scales were pre-revised and the grant of replacement scale was pending with the State Government. On 14.11.1983, a decision was taken by the Finance Department to grant a revised scale of Rs.580-860/- to the Translators and Rs.535-765/- to the Assistant Translators. This was in the teeth of the recommendation of the Pay Revision Committee which recommended replacement scales in the Agriculture Department at Rs.785-1210/- for the Translators, who were also in the pre-revised scale of Rs.296-460/-. A representation was made by the petitioners specifically on the ground that the Pay Revision Committee had recommended a higher scale of Rs.730-1080/- for the Translators and Rs.680-965/- for the Assistant Translators.

5. Before consideration of the representation, there



was again a revision made by the 5th Pay Revision Committee wherein a replacement scale of pay of Rs.1400-2300/- was recommended for the Translators and Rs.1320-2040/- for the Assistant Translators.

6. The petitioners were aggrieved by the fact that despite the 4th and 5th Pay Revision Committee(s) having recommended a higher pay scale, the Anomaly Committee which was constituted only to remove anomalies, reduced the scales of pay thus accentuating the anomaly between the scales of pay granted to the Translators/Assistant Translators in the other Departments and the Rajbhasha Department. The Anomaly Committee, contrary to the 5th Pay Revision Committee recommended a scale of Rs.1320-2040/- to the Translators and Rs.1200-1800 to the Assistant Translators. Immediately, it has to be noticed that even the recommendation of the 4th Pay Revision Committee, treated the Translators/Assistant Translators in the Agriculture Department and the Rajbhasha Department as two distinct categories.

7. Again representations were filed and in **CWJC No.1757 of 1994 titled Md. Mojahidul Islam v. The State of Bihar**, disposed of on 23.05.1995, a direction was issued by a



learned Single Judge to consider the representations filed; which the State Counsel submitted were pending consideration. It was based on the consideration made thereunder that the Finance Department came out with the Resolution dated 14.11.1995, fixing a pay scale of Rs.1320-2040/- as against the Translators and Rs.1200-1800/- as against the Assistant Translators. Though the decision was taken on 14.11.1995, the writ petition was filed in the year 2018. The main plank of grievance was with respect to the Anomaly Committee having interfered with the recommendations made by the Pay Revision Committee. The ground of discrimination was also raised since the Translators/Assistant Translators in the other Departments of the State Government were given a different pay scale, that too higher than that in the Rajbhasha Department. Specific reference is made to the pay scales granted to the Translators/Assistant Translators in the Agriculture Department to buttress the ground of discrimination.

8. The State resisted the contention, especially noticing the specific rejection of the ground of discrimination raised; in the decision in **Md. Mojahidul Islam** (supra). The claim of parity of pay scales raised therein was as applicable



to the Assistant-cum-Translators and Assistant Translators posted to the Rajbhasha Department at the Headquarters. The learned Single Judge held so on the principle of 'equal pay for equal work':

“The question of equal pay for equal work arise only when all things are equal and the persons are holding identical qualification, identical post and similar duties under the same employer. The doctrine of equal pay for equal work is not an abstract one. It is open to the employer to prescribe different pay for different posts having regard to the educational qualifications, duties and responsibilities of the post. Even if the duties and functions are similar in nature but the educational qualification prescribed for the two posts are different and there is difference in manner of responsibilities, the principles of equal pay for equal work would not apply.”

9. It was found that the qualification for appointment and the nature of duties were different and the decision taken to provide a lower pay scale for the petitioners cannot be said to be arbitrary or violative of the doctrine of equal pay for equal work. Despite the aforesaid finding since the revision of pay was under consideration of the Government; it was directed that a final decision would be taken. On the very same grounds, negatived earlier, the petitioners have again approached this Court, claiming parity with the Translators of



yet another Department; the Agriculture Department.

10. In fact, there was a revision of pay scales made after the decision in **Md. Mojahidul Islam** (supra) but not giving parity as against the pay scales of Translators/Assistant Translators either in the Headquarters of the Rajbhasha Department or those in the Agriculture Department.

11. The learned Single Judge specifically noticed that the Rajbhasha Department and the Finance Department filed a counter affidavit exhaustively dealing with the matter, specifically pointing out the meticulous consideration made by the Finance Department to both the recommendations; of the Pay Revision Committee as well as the Anomaly Committee.

12. We perfectly agree with the finding of the learned Single Judge that a case of discrimination was advanced by the petitioners without any details being given as to the actual work of Translators/Assistant Translators, who were engaged in the various Departments. The decision taken by the order dated 14.11.1995 was, after considering the grievance of the petitioners and the recommendation made both by the Pay Revision Committee as well as the Anomaly Committee. We agree with the learned Single Judge that in the



context of the claim raised, there is no valid ground to apply the principle of 'equal pay for equal work'. We had observed at the outset that the claim raised is an afterthought and based on the self determination of the petitioners' worth or work.

13. We emphasized afterthought because even at the time of appointment, the petitioners were aware that the Rajbhasha Department itself had different scales for Translators/Assistant Translators. Equal pay for equal work does not apply across the board in all the Departments of the Government and the principle applicable is that unequals cannot be treated equal. Having applied for the post in the Rajbhasha Department with open eyes, pursuant to an advertisement specifying the pay scales applicable, no ground of discrimination can be raised based on the scales applicable to the post of Translators/Assistant Translators in the other Departments.

14. We say, that the claim is based on the self determination, since, the learned Single Judge observed there are no details provided as to the work available in both the Departments and merely by the nomenclature of the Translators/Assistant Translators, the petitioners assert their entitlement to a higher pay scale, contrary to the stand of their



employer; the Government.

15. We also agree with the finding of the learned Single Judge that the recommendations made, whether it be by the Pay Revision Committee or the Anomaly Committee are mere recommendations, which translate into decisions only when it is taken by the Government; in the present case by the Finance Department of the State Government.

16. We find absolutely no reason to interfere with the judgment passed on 22.02.2018 in CWJC No.7664 of 1996. Letters Patent Appeal stands dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sunil/-

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