

20.12.2023.
Court No.13
Item No. 5
ap

W.P.A. No. 4510 of 2021

**Tapas Kumar Kundu & Ors.
Versus
The State of West Bengal & Ors.**

Mr. Soumya Majumder,
Mr. Soumik Dey.

...For the petitioners.

Mr. Arindam Chattopadhyay.

...For the DPSC, Nadia.

Mr. Ranjan Saha,
Mr. Arindam Mitra.

...For the State.

1. The subject matter of the writ petition is a claim of Law Assistants working with the District Primary School Council across the State for equal pay with the Law Assistants of the offices of the Legal Remembrancer of the State and/or Law Officers with the Law Department of the State.

2. The petitioners are categorized as Law Assistant and are posted to deal with all and every legal matters in connection with the District Primary School Council in various districts across the State. The petitioners are selected through a Direct Recruitment Process, approved by the State and as per rules prescribed therefor. The petitioners are all functioning in the sanctioned posts.

3. There is no irregularity in any of their recruitment. In fact, it is seen from the pleadings on record that the work load of the petitioners is higher if not similar and

much higher to the Law Assistants attached to the Office of the Legal Remembrancer of the State and the Law Officers in the Ministry of Law of the State Government.

4. The only difference is that the post of Law Assistant is a promotional post from that of senior most UDCs having a LLB Degree and engaged as Law Assistant.

5. In so far as the Law Officers in the State are concerned, they are directly recruited through a selection procedure conducted by the Public Service Commission. The basic qualifications are the same for all three posts.

6. In the recent past and for a substantial period of time, continuously pressing and intense legal issues arise at the District Level with the DPSC and it is these Law Assistants that are vitally involved in addressing them. It is found that the petitioners/Law Assistants in the DPSC get the level-9 Scale of Pay in the State whereas the Law Assistants under the Legal Remembrancer Office get level-15 and the Law Officers of the Law Department get level-16.

7. It is now well settled that denial of equal pay for equal work, would clearly amount to discrimination and denial of equality under Articles 14 and 16 of the Constitution of India.

8. The Law Assistants at the DPSC, as already stated hereinabove, perform the same quantum of work if not much higher than the Law Assistants with the Office

of the Legal Remembrancer. The work of the Law Assistants with the Law Department of the State, may not be similar to that of the petitioners but involves the same amount of work and intensity. The Law Assistants of the Law Department of the State, perform both deskwork, and provide opinions and also instructions to Advocate based on the Circulars, Guidelines and the Laws of the State. The petitioner's category of work, albeit with a slight difference, involves similar work in much higher volumes.

9. In those circumstances, this Court is of the clear view that the lesser scale being paid at level-9 to the petitioners, and a higher scale of level-15 and level-16 being paid to Law Assistants with the Legal Remembrance Office and the Law Officers with the Law Department, is arbitrary and illegal.

10. There is no rational basis for the discriminatory classification. There is no rational nexus between such differentiation of Pay Scale and the object sought to be achieved thereby.

11. In the above circumstances, this Court is of the view that the petitioners shall be entitled to at least level-15 Pay Scale equivalent to the Law Assistants working with the Office of the Legal Remembrancer in the State.

12. There shall be a writ of mandamus directing the State of West Bengal, particularly, the Principal Secretary, School Education Department, Government

of West Bengal to accord Pay Level-15 to the petitioners with immediate effect and prospectively from date. The Principal Secretary, Finance Department, Government of West Bengal shall make necessary provisioning and extend funds to the concerned DPSCs towards re-fixation and release of the petitioners' Pay Scale from level-9 to level-15 immediately.

13. With the aforesaid directions, the instant writ petition is allowed and disposed of.

14. There will be no order as to costs.

15. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)