



IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: January 23, 2024

+ W.P.(C) 99/2016, CM APPL. 12659/2023

SUNIL KUMAR AND ORS.

..... Petitioners

Through: Dr. K.S. Chauhan, Sr. Adv. with
Mr. Murari Lal, Mr. Ajit Kumar Ekka
and Mr. Abhishek Chauhan, Advs.

versus

UOI AND ORS.

..... Respondents

Through: Mr. Anshuman, SPC for R-1 & R-4
Mrs. Avnish Ahlawat, SC, GNCTD
(Services) with Mrs. Taniya Ahlawat,
Mr. Nitesh Kumar Singh,
Ms. Laavanya Kaushik,
Ms. Aliza Alam and
Mr. Mohnish Sehrawat, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

J U D G M E N T

V. KAMESWAR RAO, J

CM APPL. 12659/2023 (by petitioners under Section 151 CPC seeking permission to file additional documents)

For the reasons stated in the application, the same is allowed and petitioners are permitted to file additional documents. Application is disposed of.

W.P.(C) 99/2016

1. The challenge in this petition is to an order dated October 12, 2015 passed by the Central Administrative Tribunal, Principal Bench, New Delhi ('Tribunal', for short) in the Original Application being OA



No. 726/2013, whereby the Tribunal has dismissed the OA filed by the petitioners herein by stating in paragraphs 26 to 35 as under:

“26. Heard. The learned counsel for both the sides argued more or less in accordance with their pleadings on record, as have been discussed by us in great detail above. No fresh argument beyond the pleadings as already filed and noted by us above was advanced during the course of hearing before us.

27. The learned counsel for the applicants emphasized upon the historical parity having been maintained between the Delhi Police and CPMFs, all of whom come under the MHA while the learned counsel for the respondents had pointed out that the Delhi Police from the level of Constable (Exe) up to the level of Inspector comes under the control of Delhi Government, and it is only the higher posts that come under the control of the MHA-Govt. of India. However, that is not the issue before us.

28. In accordance with the recommendations of the VI CPC, skill upgradation Training Programmes in respect of Group-D employees were imparted in all Departments and Ministries of the Govt. of India, and they were all then placed thereafter in Group-C level posts as MTS, which was a new cadre created, separate from all the other cadres existing at Group-C level till then, after total abolition of Group-D posts. Here, the crux of the matter lies in as to whether the level of Training imparted to the erstwhile Group-D employees of Delhi Police, upgraded to MTS in Group-C posts, is the same so as to qualify to treat them as Combatized, as in the case of “Followers” in CPMFs.

29. Nowhere in their OA, or in the submissions made by the learned counsel for the applicants, any averment has been made that they have been made to undergo the full rigorous training of the type of Training imparted to the new recruits as Constable (Exe) in Delhi Police. Also, no other Training, with or without any relaxation, has been claimed. The only claim of the applicants is that as different from their earlier tasks, some night duties had been assigned to them during the Training



period, while skill upgradation Training was being imparted to them. It is, therefore, clear that the level of Training imparted to the erstwhile Group-D staff of Delhi Police, in the category of the applicants before us, and other similarly placed persons, was different, and they had not been given full Training in use of Arms and Ammunitions, and in duties related to the maintenance of law and order, and knowledge of laws, as is required as part of the compulsory Training imparted to the Constable (Exe) of Delhi Police.

30. The situation has been entirely different in the case of CPMFs. The CPMFs have adopted the Army pattern of having every single individual, even those holding tasks not directly related to the combat operations on a daily basis, being trained and prepared to indulge in combat, to such a level that in case of need they even stand shoulder to shoulder with their counter-parts, who do not perform such other functions. In the case of the Army, a Company Quarter Master Late Hawaldar Abdul Hamid could indulge in fighting and he destroyed enemy tanks, and was awarded a Paramvir Chakra, even though fighting in the battle field was not a part of the normal duty of Company Quarter Master.

31. The nature of Combatisation of the “Followers” in CPMFs has also been such that even while they continue to perform their usual functions as “Followers” also, but they have been imparted full Training to fight, and perform duties which are Para-Military in nature, shoulder to shoulder along with the General Constables of the CPMFs. That has not been the case in the case of the applicants.

32. We do not discern from the facts of the case as presented before us, and from the elaborate pleadings of the applicants, that any such equivalent nature of rigorous Arms and Ammunition Training, and Physical Standards Training, along with Training in Laws, has been imparted to them before moving them from the erstwhile Group-D posts to the posts of MTS at Group-C level. Therefore, there appears to be merit in the contention of the respondents that neither the Training imparted to them, nor the duties assigned to them after such Training, have, in any manner, been of such a nature that they



could be treated to have been Combatised.

33. The word “Combatised” has a specific connotation attached to it, and someone who has been Combatised should be fully capable and enabled to enter into a combat even single handly, by himself also, whether it is during a complete war, or in the handing, maintenance and use of artillery and ammunitions in time of peace, by way of peace-keeping operations etc., and for maintenance of law and order. We do not discern from the facts of the case that the applicants before us can in any manner lay a claim to have been Combatised, to have come at par 100% even with the Constable (Exe) of Delhi Police. When the applicants cannot be treated to be 100% at par even with the Constables of Delhi Police, they certainly cannot cite some historical parity between Constables of Delhi Police with Constables of CPMFs, which has since been disturbed, over the last two Central Pay Commissions slightly, in order to be able to claim parity in pay with CPMFs also.

34. Therefore, we are convinced that the applicants have not been able to make out any case whatsoever for the grant of Grade Pay of Rs.2000/-, after being placed at par fully even with the Constable (Exe) of Delhi Police, or with the erstwhile “Followers” of CPMFs, who have since been imparted full Para-Military Training, and brought at par with the other Combatised personnel of the CPMFs, which has not been the case in the case of the applicants before us.

35. Therefore, we find no merit in the OA, and the same is, therefore, dismissed. No costs.”

2. The facts as noted from the record are that the petitioners herein were aggrieved before the Tribunal by the order dated August 6, 2012 passed by the respondent No.1 and the subsequent order dated November 29, 2012 passed by the respondent No.3, whereby decision of the respondent No.1 was implemented and the application of the petitioner No.2 herein to grant him and rest of the petitioners the grade



pay of ₹2,000 w.e.f. January 1, 2006, after the conversion of their post to Group-C post, was rejected.

3. It was the case of the petitioners before the Tribunal that the respondents herein be directed to grant the petitioners the grade pay of ₹2,000/- instead of ₹1,800/-, as the grade pay of ₹2,000 is the lowest grade pay payable to the new employees who are being recruited or have been already working in Delhi Police and as such, following reliefs were sought before the Tribunal:-

"(A) Quash the orders dated 06.08.2012 passed by Respondent No.1 and 29.11.2012 passed by Respondent No.3 as per the decision of Respondent No.1 rejecting the representations of Applicant No.2 for grant of Grade Pay of Rs.2000/- w.e.f. 01.01.2006 after their conversion to Group C posts;

(B) Direct the Respondents to re-designate the Applicants as Constable (Tradesmen) and grant them the grade pay of Rs.2000/- instead of Rs. 1800/- as the Grade Pay of Rs.2000/- is the lowest Grade Pay payable to employees being recruited or working in Delhi Police.

(C) Pass any other appropriate order or relief which this Hon'ble Tribunal deems fit and proper".

4. It was also the case of the petitioners that they were enrolled in Delhi Police under the respondent No.3, in various trades in Group-D, viz. Barber, Daftry, Mali, Carpenter, Washerman, Water Carrier, Tailor, Sweeper, Cook and Cobbler etc., on various dates from 1980 onwards and were known as 'Tradesmen' employees in general. Till, 5th Central Pay Commission ('5th CPC', for short), the petitioners were drawing pre-revised pay scales and since the Delhi Police has come under the charge of respondent No.1, a complete parity has existed



between the Central Para-Military Forces ('CPMFs', for short) and Delhi Police and the parity has also been maintained by the 6th Central Pay Commission ('6th CPC', for short), vide recommendations mentioned at paragraph 7.19.50 of its report.

5. The 6th CPC has in its Chapter – 2.2.9 of its report further recommended that the Group-D pay scales under the respondent No.1 would also stand upgraded to Group-C along with the existing incumbents and it was also stipulated that no further recruitments would take place in any of the existing Group-D post. The 6th CPC had also prescribed the minimum qualification for fresh recruitment to the Group-C posts. However, the same was modified for the existing incumbents by prescribing that the existing Group-D employees, who did not possess the minimum qualification for Group-C post, would be retained and placed in Pay-Band-I and would undergo training as may be prescribed for upgradation of their scales. It is stated that till the upgradation of the Group-D employees, they were recommended to be placed in Pay-Band-I, though, they were being granted the financial benefits of 6th CPC w.e.f January 1, 2006. It was the case of the petitioners that as their posts have been converted into Group-C posts w.e.f. January 1, 2006, they should be granted the Pay-Band-I of ₹5,200 to ₹20,200/- with the Grade Pay of ₹2000/- from the appointed date.

6. It was also their case that in the past also, parity had existed between the Delhi Police and CPMFs and in paragraph 7.19.50 of the report, the 6th CPC has specifically recommended the same Pay-Band and Grade Pay, for all the employees of Delhi Police, as was being paid to the employees of CPMFs. Further, in order to maintain parity, the



pay-scales of the constables of Delhi Police were recommended to be placed in the Pay-Band-I with Grade-Pay of ₹2,000/-. So, as per the petitioners, all of them are entitled not only to be treated as Constables (Tradesmen) but are also to receive the Grade Pay of ₹2,000/- as recommended by 6th CPC, for lowest Group-C personnel, i.e., Constables in a combatised force.

7. It was their case that personnel in all the governmental organizations who are equivalent to the petitioners, have also been granted the Grade Pay of ₹2,000/-. The erstwhile 'Followers' i.e. Group 'D' employees in the Central Reserve Police Force ('CRPF', for short), who, despite being placed in Group C, were being granted only a Grade Pay of Rs. 1800/-, and therefore, the matter was referred by the CRPF to respondent No.1, highlighting that all the other Group-C, Constables in CRPF were getting the Grade Pay of ₹2,000/- apart from the 'Followers', who had been converted to Group-C Post and were duly combatised. Subsequent thereto, the respondent No.1 had placed all the posts of the 'Followers' which had been converted into Group-C Post in Pay-Band-I with Grade Pay of ₹2,000/-. Later on, an internal audit wing of respondent No.1 observed that the revised Grade Pay of ₹2,000/- should have been granted to the erstwhile Group- D personnel w.e.f. January 1, 2006, instead of October 29, 2009, and the matter was taken up by the Deputy Director General (Administration) of CRPF, however, the recommendation was not accepted immediately. Thereafter, a **Writ Petition (C) No.3930/2011** was filed before this Court by the erstwhile Group-D employees of CRPF, who had since been converted into Group-C employees. After considering the matter



extensively, this Court had allowed the Writ Petition vide its judgment dated September 28, 2011 and directed the respondent No.1 herein and the CRPF to maintain parity and to pay the Grade Pay of Rs.2,000/- per month to the petitioners therein w.e.f. January 1, 2006 itself.

8. It is further stated that the main grievance of the petitioners before the Tribunal was that the respondents have refused to treat the petitioners as Constable (Tradesmen) of Delhi Police and at par with 'Followers' of CPMFs and have continued to pay them the Grade Pay of ₹1,800/-. Even the newly recruited Constables in Delhi Police, i.e., in a Group-C Post, are being paid the Grade Pay of ₹2,000/- as opposed to the petitioners who are paid the lesser Grade Pay of ₹1,800/-.

9. It was their case that there has been a complete parity between the CPMFs and the Delhi Police and the same has been directed to be maintained by the 6th CPC and since the 'Followers' of CPMFs are being paid the Grade Pay of ₹2,000/-, the petitioners should not have been denied the benefit of same Grade Pay. So, when the newly recruited Group-C Constables (Tradesmen) in the Delhi Police are paid the Grade Pay of ₹2,000/- as it is evident from the advertisement dated January 17, 2013 and also when the 6th CPC has in its recommendations in paragraph 7.19.50, directed that parity should be maintained and also when the respondents have implemented a Judgment of this Court in the case of CRPF, the petitioners herein cannot be denied the benefit of 6th CPC.

10. Whereas, it was the case of the respondent Nos. 2 and 3 before the Tribunal that a proposal was also sent by them for treating the Multi-Tasking Staff ('MTS', for short) of the various tradesmen to be



treated at par with their professional equivalent 'Followers' in the CPMFs, but the proposal was not fructified, as the duties, functions, formations and the manner of deployment of the Delhi Police personnel were not like CPMFs personnel, but are like any other State Police Force. So, the petitioners were given the correct Grade Pay.

11. It was also their case that the 6th CPC had recommended that the 'Followers' in CPMFs should also be combatised like the positions existing in the Defence Forces and it was also recommended for the abolition of the separate cadre of 'Followers' in CPMFs. Accordingly, the existing post of 'Followers' were upgraded and combatised and as such higher Grade Pay of ₹2,000/- was granted to them w.e.f. January 1, 2006. Moreover, there was no separate recommendation by the 6th CPC in respect of Group-D Posts of Delhi Police (Now MTS), as these posts in Delhi Police are totally non-combatised. So, no parity can be found between the 'Followers' of CPMFs (combatised and called as Constable / Tradesmen) and the upgraded Group-D employees of Delhi Police (MTS). The 6th CPC only recommended that parity to be maintained in the Pay-scales from the level of Constables up to the rank of Inspector and as such there was no mention about the parity to be maintained between the 'Followers' and the upgraded erstwhile Group-D employees of Delhi Police. It was their case that if any such intention had been there, the same ought to have found a mention in the report of the 6th CPC.

12. It was further their case that as the erstwhile Group-D employees (now MTS) of Delhi Police are non-combatised, they have rightly been granted the Grade Pay of ₹1,800/-, as they have neither



been put at par with the Constables of Delhi Police nor with the 'Followers' or Constables of CPMFs. As per the recommendation of 6th CPC, the MTS of Delhi Police have been correctly placed in the relevant pay scales as per the OM dated April 30, 2012. Only general Duty Constable in Delhi Police are imparted Arms Training and as such they have been made combatants. Whereas non-matric Group-D employees (now MTS) have already been imparted three months training, to make their educational standard equivalent to matric or ITI, in order to fix their pay in Pay-Band-I with Grade Pay of ₹1,800/- Moreover, there is a lot of difference in their role from the combatised 'Followers' of CPMFs, and their roles can only be compared with the role of other equivalent persons in the other State Police Forces. Even earlier, no parity had existed between the 'Followers' and the Group-D employees of Delhi Police. So, it cannot be said that the Grade Pay of the upgraded MTS and that of the Constables shall be same in Delhi Police.

13. In the rejoinder submissions, it was the case of the petitioners that it is not correct that the MTS of Delhi Police are not like the 'Followers' of CPMF. The very fact that the 6th CPC had recommended the pay scale of Delhi Police only from the rank of Constable to the rank of Inspector clearly manifests that the recommendation for abolishment of 'Followers' cadre in CPMF has to be followed in the case of Delhi Police by combatising the petitioners and treating them as Constable with the Grade Pay of ₹2,000/-. It was their case that the issue is not as to what kind of training is being imparted to Constable (Executive) in Delhi Police and to the petitioners



herein, but the issue is regarding parity being sought between the erstwhile 'Followers' cadre in CPMF with those in Delhi Police. Even the Internal Finance Department of MHA had agreed with the proposal to convert the petitioners' Group-D Posts in Delhi Police to Group-C Post with the Grade Pay of ₹2,000/- as in CPMFs. But, it was only the Ministry of Finance / respondent No.4 herein, which had rejected the proposal. In other words, the petitioners are required to be treated as combatised though the respondents have erroneously designated them as MTS, which post does not exist in the CPMFs.

14. After taking into consideration, the case put up by the petitioners and the respondents herein before the Tribunal, the Tribunal dismissed the OA filed by the petitioners herein in the manner, as can be seen from paragraph 1 above.

15. Suffice to state that, Dr. K.S. Chauhan, learned Senior counsel appearing on behalf of the petitioners as well as Mr. Anshuman, appearing on behalf of the Union of India and Mrs. Avnish Ahlawat, learned Standing Counsel, GNCTD (Services), appearing on behalf of respondent Nos.2 and 3, have largely made the same submissions as were made by the counsel of petitioners and respondents appearing before the Tribunal.

16. Having heard the learned counsel for the parties, the only issue which arises for consideration is whether the Tribunal was justified in rejecting the claim of the petitioners for grant of Grade Pay of ₹2,000/-. As per the 6th CPC report, the Group-D post was abolished and as such the same stood upgraded to Group-C. It was decided that all the employees working in Group-D posts in Delhi Police would continue to



hold the said posts till such time they acquire the qualifications as required for Group-C posts and thus, they were continued to be paid ₹1,800/- as Grade Pay.

17. It is stated that the only ground on which the petitioners have sought the Grade Pay of ₹2,000/- is that the erstwhile 'Followers' or 'Constables' (now), working in CPMF are getting the Grade Pay of ₹2,000/-.

18. We have seen the justification for the respondent Nos.1 and 4 for granting the Grade Pay of ₹2,000/- to Constables/'Followers' working in CPMF. The said reasoning is justifiable for the reason that the Constables/Followers working in CPMF are liable to be transferred all over India and holds a Combatised position, unlike MTS/petitioners herein, in Delhi Police, who are not involved in Combatised functions.

19. If that be so, there is a clear difference in the duties of MTS/petitioners in Delhi Police and a Constable in CPMF and this itself is a justifiable ground to deny the Grade Pay of ₹2,000/- to the petitioners.

20. Suffice to state, even the recommendation of 6th CPC in its paragraph 7.19.45, stipulates that all the posts in CPMFs should be combatised like the position existing in Defence Forces. Accordingly, it was recommended that the cadre of 'Followers' be abolished. Moreover, they were also recommended to be given proper training to make them combatised and as such, on completion of such training, they were further recommended to be absorbed in the grade pay of combatant constable against regular vacancies. The paragraph 7.19.45 is reproduced as under for ready reference:-



*“Recommendations
promotional
prospects for
Followers*

7.19.45 CPMFs have a category called Followers who are Group D employees either in the scale of Rs.2550-3200 or Rs.2610-3540 with the higher grade existing for skilled followers in CRPF and CISF. In BSF, all Followers are in the pay scale of Rs.2550-3200. It is observed that Followers are either combatised or non-combatised. The combatised Followers are called enrolled Followers and have to undergo basic training like other recruits. The minimum educational qualification prescribed for Followers is 8th Pass. The Commission is of the view that all the posts in CPMFs should be combatised like the position existing in the Defence Forces. The Commission, accordingly, recommends abolition of the cadre of Followers. Any further recruitment in the grade of Followers should be cease immediately. The existing Followers should initially be placed in the -1S pay band (separately being recommended by the Commission for all Group D categories till the time they are re-trained and re-deployed in the Group C posts). Proper training should be given to make them combatised and on successful completion of such training, they should be absorbed in the grade of



combatant Constables against regular vacancies. This will also address the problem of stagnation and career progression of the existing personnel employed as Followers. It is seen that Followers are also being used for non-essential jobs as Peons, Farashes for cleaning furniture and equipment, Civilian Sweepers as static locations, Khojies in BSF for identifying foot-prints in areas like deserts etc. and Mid-wives. All these functions can either be outsourced with proper security clearance or given on contract without any operational problems. The Commission, accordingly, recommends that all non-essential jobs that can be done by outsiders without any operational problems but are presently being done by Followers, should henceforth be contracted out or outsourced.”

21. The above recommendation of the commission reveals that it specifically concern the employees in CPMFs and thus, as noted by the respondent No.4 also, that such a specific recommendation was not in respect of Group D post of Delhi Police (now, MTS), which are non-combated unlike CPMFs in which all posts including the ‘Followers’ are combated. Therefore, no parity, as such, exists between the ‘Followers’ of CPMFs (Tradesmen/Constables) and Group D employees (now, MTS) of Delhi Police.

22. The law with regard to the concept of equal pay for equal work



is well settled. The Supreme Court in *Union of India v. Indian Navy Civilian Design Officers Assn.*, 2023 SCC OnLine SC 173, has held as under:

“9. Before advertng to the rival contentions raised by the learned counsels for the parties, it deserves to be noted that the power of judicial review of the High Courts in the matter of classification of posts and determination of pay scale is no more res integra. It has been consistently held by this Court in plethora of decisions that equation of posts and equation of salaries is a complex matter which is best left to an expert body unless there is cogent material on record to come to a firm conclusion that a grave error had crept in while fixing the pay scale for a given post and the interference of the Court was absolutely necessary to undo the injustice.

10. In State of U.P. v. J.P. Chaurasia , while answering the questions as to whether the Bench Secretaries in the High Court of Allahabad were entitled to pay scale admissible to the Section Officers and whether the creation of two grades with different scales in the cadre of Bench Secretaries who were doing the same and similar work was violative of the right to have “equal pay for equal work”. This Court observed as under:—

“18. The first question regarding entitlement to the pay scale admissible to Section Officers should not detain us longer. The answer to the question depends upon several factors. It does not just depend upon either the nature of work or volume of work done by Bench Secretaries. Primarily it requires among others, evaluation of duties and responsibilities of the respective posts. More often functions of two posts may appear to be the same or similar, but there may be difference in degrees in the performance. The quantity of work may be the same, but quality may be different that cannot be determined by relying upon averments in affidavits of interested parties. The equation of posts or equation of pay must be left to the executive Government. It must be determined by expert bodies like Pay Commission. They would be the best judge



to evaluate the nature of duties and responsibilities of posts. If there is any such determination by a Commission or Committee, the court should normally accept it. The court should not try to tinker with such equivalence unless it is shown that it was made with extraneous consideration.”

11. The afore-stated ratio was followed by this Court in Union of India v. Makhan Chandra Roy . Again, in Secretary, Finance Department v. West Bengal Registration Service Association , the claim of Sub-Registrars of West Bengal Registration Service claiming parity in pay scale with Munsiffs on the basis that Sub-Registrars were conferred gazetted status, was examined by this Court. It was elaborately observed in para 12 as under:—

“12. We do not consider it necessary to traverse the case law on which reliance has been placed by counsel for the appellants as it is well settled that equation of posts and determination of pay scales is the primary function of the executive and not the judiciary and, therefore, ordinarily courts will not enter upon the task of job evaluation which is generally left to expert bodies like the Pay Commissions, etc. But that is not to say that the Court has no jurisdiction and the aggrieved employees have no remedy if they are unjustly treated by arbitrary State action or inaction. Courts must, however, realise that job evaluation is both a difficult and time-consuming task which even expert bodies having the assistance of staff with requisite expertise have found difficult to undertake sometimes on account of want of relevant data and scales for evaluating performances of different groups of employees. This would call for a constant study of the external comparisons and internal relativities on account of the changing nature of job requirements. The factors which may have to be kept in view for job evaluation may include (i) the work programme of his department (ii) the nature of contribution expected of him (iii) the extent of his responsibility and accountability in the discharge of his diverse duties and functions (iv) the extent and nature of



freedoms/limitations available or imposed on him in the discharge of his duties (v.) the extent of powers vested in him (vi) the extent of his dependence on superiors for the exercise of his powers (vii) the need to co-ordinate with other departments, etc. We have also referred to the history of the service and the effort of various bodies to reduce the total number of pay scales to a reasonable number. Such reduction in the number of pay scales has to be achieved by resorting to broad banding of posts by placing different posts having comparable job charts in a common scale. Substantial reduction in the number of pay scales must inevitably lead to clubbing of posts and grades which were earlier different and unequal. While doing so care must be taken to ensure that such rationalisation of the pay structure does not throw up anomalies. Ordinarily a pay structure is evolved keeping in mind several factors, e.g., (i) method of recruitment, (ii) level at which recruitment is made, (iii) the hierarchy of service in a given cadre, (iv) minimum educational/technical qualifications required, (v.) avenues of promotion, (vi) the nature of duties and responsibilities, (vii) the horizontal and vertical relativities with similar jobs, (viii) public dealings, (ix) satisfaction level, (x) employer's capacity to pay, etc. We have referred to these matters in some detail only to emphasise that several factors have to be kept in view while evolving a pay structure and the horizontal and vertical relativities have to be carefully balanced keeping in mind the hierarchical arrangements, avenues for promotion, etc. Such a carefully evolved pay structure ought not to be ordinarily disturbed as it may upset the balance and cause avoidable ripples in other cadres as well. It is presumably for this reason that the Judicial Secretary who had strongly recommended a substantial hike in the salary of the Sub-Registrars to the Second (State) Pay Commission found it difficult to concede the demand made by the Registration Service before him in his capacity as the Chairman of the Third (State) Pay Commission. There can, therefore, be no doubt that



equation of posts and equation of salaries is a complex matter which is best left to an expert body unless there is cogent material on record to come to a firm conclusion that a grave error had crept in while fixing the pay scale for a given post and Court's interference is absolutely necessary to undo the injustice.”

12. In *State of Haryana v. Charanjit Singh*, a three-judge Bench in a referred matter considered whether the doctrine of “equal pay for equal work”, was an abstract doctrine, and observed thus:—

“19. Having considered the authorities and the submissions we are of the view that the authorities in the cases of Jasmer Singh [(1996) 11 SCC 77 : 1997 SCC (L&S) 210 : AIR 1997 SC 1788 : (1997) 2 LLJ 667], Tilak Raj [(2003) 6 SCC 123 : 2003 SCC (L&S) 828], Orissa University of Agriculture & Technology [(2003) 5 SCC 188 : 2003 SCC (L&S) 645 : (2003) 2 LLJ 968] and Tarun K. Roy [(2004) 1 SCC 347 : 2004 SCC (L&S) 225] lay down the correct law. Undoubtedly, the doctrine of “equal pay for equal work” is not an abstract doctrine and is capable of being enforced in a court of law. But equal pay must be for equal work of equal value. The principle of “equal pay for equal work” has no mechanical application in every case. Article 14 permits reasonable classification based on qualities or characteristics of persons recruited and grouped together, as against those who were left out. Of course, the qualities or characteristics must have a reasonable relation to the object sought to be achieved. In service matters, merit or experience can be a proper basis for classification for the purposes of pay in order to promote efficiency in administration. A higher pay scale to avoid stagnation or resultant frustration for lack of promotional avenues is also an acceptable reason for pay differentiation. The very fact that the person has not gone through the process of recruitment may itself, in certain cases, make a difference. If the educational qualifications are different, then also the doctrine may have no application. Even though persons may do the same work, their quality of work may differ.



Where persons are selected by a Selection Committee on the basis of merit with due regard to seniority a higher pay scale granted to such persons who are evaluated by the competent authority cannot be challenged. A classification based on difference in educational qualifications justifies a difference in pay scales. A mere nomenclature designating a person as say a carpenter or a craftsman is not enough to come to the conclusion that he is doing the same work as another carpenter or craftsman in regular service. The quality of work which is produced may be different and even the nature of work assigned may be different. It is not just a comparison of physical activity. The application of the principle of “equal pay for equal work” requires consideration of various dimensions of a given job. The accuracy required and the dexterity that the job may entail may differ from job to job. It cannot be judged by the mere volume of work. There may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference. Thus normally the applicability of this principle must be left to be evaluated and determined by an expert body. These are not matters where a writ court can lightly interfere. Normally a party claiming equal pay for equal work should be required to raise a dispute in this regard. In any event, the party who claims equal pay for equal work has to make necessary averments and prove that all things are equal. Thus, before any direction can be issued by a court, the court must first see that there are necessary averments and there is a proof. If the High Court is, on basis of material placed before it, convinced that there was equal work of equal quality and all other relevant factors are fulfilled it may direct payment of equal pay from the date of the filing of the respective writ petition. In all these cases, we find that the High Court has blindly proceeded on the basis that the doctrine of equal pay for equal work applies without examining any relevant factors.”

13. In Union of India through Secretary, Department of Personnel, Public Grievances and Pensions v. T.V.L.N



Mallikarjuna Rao , this Court reiterated the said position:—

“26. The classification of posts and determination of pay structure comes within the exclusive domain of the executive and the Tribunal cannot sit in appeal over the wisdom of the executive in prescribing certain pay structure and grade in a particular service. There may be more grades than one in a particular service.”

14. In view of the afore-stated legal position, it clearly emerges that though the doctrine “equal pay for equal work” is not an abstract doctrine and is capable of being enforced in a Court of Law, the equal pay must be for equal work of equal value. The equation of posts and determination of pay scales is the primary function of the Executive and not of the Judiciary. The Courts therefore should not enter upon the task of job evaluation which is generally left to the expert bodies like the Pay Commissions which undertake rigorous exercise for job evaluation after taking into consideration several factors like the nature of work, the duties, accountability and responsibilities attached to the posts, the extent of powers conferred on the persons holding a particular post, the promotional avenues, the Statutory rules governing the conditions of service, the horizontal and vertical relativities with similar jobs etc. It may be true that the nature of work involved in two posts may sometimes appear to be more or less similar, however, if the classification of posts and determination of pay scale have reasonable nexus with the objective or purpose sought to be achieved, namely, the efficiency in the administration, the Pay Commissions would be justified in recommending and the State would be justified in prescribing different pay scales for the seemingly similar posts. A higher pay scale to avoid stagnation or resultant frustration for lack of promotional avenues or frustration due to longer duration of promotional avenues is also an acceptable reason for pay differentiation. It is also a well accepted position that there could be more than one grade in a particular service. The classification of posts and the determination of pay structure, thus falls within the exclusive domain of the Executive, and the Courts or Tribunals cannot



sit in appeal over the wisdom of the Executive in prescribing certain pay structure and grade in a particular service.

15. So far as the facts of the present case are concerned, it is not disputed that the Recruitment Rules governing the JDOs are as per the SRO 367 dated 08.12.1996, as amended by SRO 246 dated 21.11.2002, whereas the Recruitment Rules governing the CTOs (Design) are as per the SRO 132 dated 12.05.1982. The probation period in case of CTOs is longer than that of JDOs. The duties and responsibilities of both the posts are different and the promotional avenues also have different duration and different criteria. There was not a single error, much less grave error pointed out by learned Senior Advocate. Mr. Khurshid, in the fixation of the pay scales for the JDOs and CTOs, which would have justified the interference of the Tribunal.

16. Much emphasis was placed by the learned senior advocate Mr. Khurshid on the noting made by the Officer of the Naval Department in the file recommending pay scale of JDOs equivalent to that of CTOs, however, it may be noted that a noting recorded in the file is merely an expression of opinion by a particular officer, and by no-stretch of imagination such noting could be treated as a decision of the Government.

17. **The powers of judicial review in the matters involving financial implications are also very limited. The wisdom and advisability of the Courts in the matters concerning the finance, are ordinarily not amenable to judicial review unless a gross case of arbitrariness or unfairness is established by the aggrieved party.**

18. **In that view of the matter, we are of the opinion that the Tribunal and the High Court had committed gross error in interfering with the pay scales recommended by the Fifth Central Pay Commission and accepted by the appellant for the posts of JDOs and CTOs, and in upgrading the pay scale of JDOs making it equivalent to the pay scale of CTOs.**

19. Consequently, the impugned orders passed by the High Court and the Tribunal are quashed and set aside. The appeal stands allowed accordingly. ”

(emphasis supplied)



23. We have already reproduced the finding of the Tribunal rejecting the O.A.

24. We are of the view that the Tribunal is justified in rejecting the O.A. on justifiable grounds. The writ petition being without merit, the same is dismissed.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

JANUARY 23, 2024*/aky/ds*