

Form No. J.(2)
Item No.9
Court No. 236
KS

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

HEARD ON: 17.02.2026

DELIVERED ON: 17.02.2026

**CORAM:
THE HON'BLE JUSTICE PARTHA SARATHI SEN**

W.P.A. 5748 of 2022

Avrajyoti Bhowmick & Ors.

Vs.

The State of West Bengal & Ors.

Appearance:-

Mr. Robiul Islam

Ms. Payel Hossain

.....For the Petitioners

Mr. S. R. Saha

Mr. Sourasis Roy

.....For the Respondent No.7

JUDGMENT (ORAL):

PER, PARTHA SARATHI SEN, J.:-

1. By filing the instant writ petition, the writ petitioners have prayed for issuance of appropriate Writ/Writs against the respondent authorities, more specifically against the respondent no.5 authority commanding him to rescind and/or cancel and/or set aside the reasoned order dated 13.09.2021 whereby and whereunder the said respondent no.5 authority declined to consider the writ petitioners' representation for higher remuneration and benefits.
2. By filing the instant writ petition, the writ petitioners have also prayed for issuance of appropriate Writ/Writs against the respondent authorities commanding them to pay

similar scale of pay and other benefits, as have been disbursed to the Assistant Engineers/Sub-Assistant Engineers engaged through 'RANDSTAD'.

3. At the time of hearing, learned advocate appearing on behalf of the writ petitioners, at the very outset, draws the attention of this Court to page nos.28 and 29 of the instant writ petition (Annexure – P1) being a copy of the Memo dated 08.12.2014, as issued by the respondent no.5 authority to the respondent no.7 authority. It is submitted that from the said Memo dated 08.12.2024 it would reveal that the Governor of West Bengal was pleased to accord the necessary approval to the respondent no.7 authority to deploy the suitable candidates as per the eligibility criteria for rendering their services in the different offices/establishments under P.W.D. authority.
4. Drawing attention to page nos.30 and 31 of the instant writ petition (Annexure – P2), being a copy of another Memo dated 08.12.2024, as issued by the respondent no.5 authority in favour of the Pay and Accounts Officer, Kolkata Pay and Accounts, it is argued that from the said Memo it would reveal further that the respondent/State has agreed to pay certain amount together with service tax to the respondent no.7 authority towards payment of remuneration against deployment of the individuals (writ petitioners herein) in the different Departments of P.W.D.
5. At this juncture, drawing attention of this Court to the order dated 19.01.2021, as passed by a Co-ordinate Bench of this Court in W.P.A. 10202 of 2020 it is submitted that in an earlier round of litigation, the said Coordinate Bench while considering the similar prayer of the writ petitioners, directed the respondent no.5 authority to pass a reasoned order with regard to the claim of the writ petitioners regarding similarity of pay and benefits, as have been disbursed to the Assistant Engineers working under P.W.D.

6. At this juncture, attention of this Court is further drawn to the copy of the reasoned order dated 13.09.2021 as have been annexed at page nos.114 to 116 of the instant writ petition, as passed by the respondent no.5 authority and as impugned in this writ petition.
7. It is submitted that the respondent no.5 authority while passing the impugned reasoned order has failed to consider the genuine grievance of the writ petitioners inasmuch as the said respondent no.5 authority did not consider at all that the present writ petitioners, who have been deployed through 'Webel' practically stands in the same footing with the Assistant Engineers/Sub-Assistant Engineers, who have been engaged through another external agency that is 'RANDSTAD'.
8. It is further submitted that in the said impugned reasoned order practically has no reason has been assigned for depriving the writ petitioners with regard to their claim regarding parity of remuneration and other benefits in comparison to the pay and other benefits as have been disbursed to the Assistant Engineer/Sub-Assistant Engineer engaged through 'RANDSTAD'. It is further submitted that the respondent no.5 authority has thus committed serious error of law as well as of fact thereby depriving the writ petitioners from getting equal amount of remuneration and other benefits as have been paid to the Assistant Engineers/Sub-Assistant Engineers engaged through 'RANDSTAD'.
9. It is thus submitted that in the fitness of the case, as placed before this Court, appropriate relief/reliefs may be granted to the writ petitioners in terms of prayers made in the instant writ petition.
10. Per contra, Mr. Saha, learned advocate appearing for the respondent no.7 authority vehemently contended that the present writ petitioners have been deployed by the respondent no.7 authority in different offices of P.W.D. in terms of the requisition made by the respondent/State and from the materials, as placed before this Court, it would reveal

that pursuant to such deployment, the respondent/State has agreed to pay certain amount alongwith service tax to the respondent no.7 authority as would be evident from Memo dated 08.12.2024 (Annexure – P2).

11. It is further submitted by Mr. Saha that pursuant to such deployment, the present writ petitioners are paid their remuneration as have been agreed at the time of selection of the present writ petitioners.
12. It is further argued by Mr. Saha that by no stretch of imagination, the present writ petitioners can be equated with the Assistant Engineers/Sub-Assistant Engineers, who have been engaged through RANDSTAD. Mr. Saha thus submitted that this is a fit case for dismissal of the instant writ petition.
13. This Court has meticulously perused the entire materials, as placed before this Court. This Court has given due consideration over the submissions of the learned advocates for the contending parties.
14. On careful perusal of the entire materials, as placed before this Court and after hearing the learned advocates for the contending parties, it appears to this Court that for effective adjudication of the instant *lis*, this Court is duty bound to consider as to whether the action of the respondent/State as well as the respondent no.7 authority passed the test of 'reasonable classification' within the meaning of Article 14 read with Article 16 of the Constitution of India as well as in the case of the writ petitioners, the 'principle of equal pay for equal work', is at all applicable or not.
15. In order to arrive at a logical conclusion of instant *lis*, this Court, at the very outset, proposes to look into the judgment as passed in the case of *State of Bihar & Ors. Vs. Bihar State 'Plus -2' Lecturers Associations & Ors.* reported in (2008) 7 SCC 231, wherein the Hon'ble Apex Court had occasion to consider the test of reasonable classification in terms

of the provision of Article 14 of the Constitution of India and in doing so, the Hon'ble Supreme Court has held thus:-

"11. Now, it is well settled and cannot be disputed that Article 14 of the Constitution guarantees equality before the law and confers equal protection of laws. It prohibits the State from denying persons or class of persons equal treatment; provided they are equals and are similarly situated. It, however, does not forbid classification. In other words, what Article 14 prohibits is discrimination and not classification if otherwise such classification is legal, valid and reasonable.

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19. *The Constitution Bench of this Court stated: (P. Narasinga Rao case, AIR p. 351, para 4) [AIR 1968 SC 349]*

"4. ...It is well settled that though Article 14 forbids class legislation, it does not forbid reasonable classification for the purposes of legislation. When any impugned rule or statutory provision is assailed on the ground that it contravenes Article 14, its validity can be sustained if two tests are satisfied. The first test is that the classification on which it is founded must be based on an intelligible differentia which distinguishes persons or things grouped together from others left out of the group, and the second test is that the differentia in question must have a reasonable relation to the object sought to be achieved by the rule or statutory provision in question. In other words, there must be some rational nexus between the basis of classification and the object intended to be achieved by the statute or the rule."

(emphasis supplied)

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32. In our judgment, the law appears to be well settled. There is a clear distinction between a trained teacher (lecturer) and an untrained teacher (lecturer). Such a distinction is legal, valid, rational and reasonable. Trained lecturers and untrained lecturers, therefore, can neither be said to be similarly circumstanced nor they form one and the same class. The classification is reasonable and is based on intelligible differentia which distinguishes one class (trained) included therein from the other class (untrained) which is left out. Such classification or differentia has a rational nexus or reasonable relation to the object intended to be achieved viz. imparting education to students. It, therefore, cannot be successfully contended that different pay scales cannot be fixed for trained lecturers on one hand and untrained lecturers on the other hand. Prescribing different pay scales, under the circumstances, cannot be held illegal, improper or unreasonable infringing Article 14 of the Constitution."

16. In the case of *State of Haryana & Ors. Vs. Charanjit Singh & Ors.* reported in (2006) 9 SCC 321, the Hon'ble Supreme Court had also occasion to consider the Principle of 'equal pay for equal work' and in doing so, the following view was expressed by the Hon'ble Supreme Court.

"19. Having considered the authorities and the submissions we are of the view that the authorities in the cases of Jasmer Singh [(2004) 1 SCC 347], Tilak Raf [(2003) 5 SCC 188], Orissa University of Agriculture & Technology [(2003) 11 SC 31] and Tarun K. Roy [(1998) 9 SCC 595] 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 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.

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24. Thus it is clear that persons employed on contract cannot claim equal pay on the basis of equal pay for equal work. Faced with this situation it was submitted that all these persons were in fact claiming that their respective appointments were regular appointments by the regular process of appointment but that instead of giving regular appointments they were appointed on contract with the intention of not paying them regular salary. It was admitted that the petitions may be badly drafted and such a contention was not put forth specifically. The High Court has disposed of these petitions also on the footing that the principle of equal pay for equal work applied. We therefore set aside the impugned orders in these cases also and remit the matters back to the High Court for disposal. The High Court shall permit these petitioners to amend their petitions to make necessary averments and will also permit the respondents in these cases to file replies to the amended petitions."

[Emphasis Supplied]

17. Keeping in mind, the proposition of law as decided in the case of **Bihar State 'Plus -2'**

Lecturers Associations & Ors. (supra) and Charanjit Singh & Ors. (supra), if I look to the

factual aspects, as involved in the instant writ petition, it appears to this Court that from the materials, as placed before this Court, it would reveal that the present writ petitioners being Assistant Engineers/Sub-Assistant Engineers have been selected by the respondent no.7 authority for the purpose of deployment in different projects of P.W.D. authority. It further appears to this Court that in terms of an agreement between the respondent/State and the respondent no.7 authority, the respondent/State has agreed to pay a certain amount plus service tax in favour of the respondent no.7 authority for payment of remuneration and other benefits to the writ petitioners, which have been disbursed by the respondent no.7 authority. It further appears to this Court that initially the period of deployment of the writ petitioners with the different departments of P.W.D. authority was for **six months**, which was however extended from time to time.

18. At this juncture, if I look to the affidavit-in-opposition, as have been used by the respondent/State it appears that it is the specific case of the respondent/State that the Assistant Engineer/Sub-Assistant Engineers, who have been engaged through RANDSTAD are on a different footing in view of the fact that in case of Assistant Engineers/Sub-Assistant Engineers selected through 'RANDSTAD', being an agency, who have been asked to select the suitable candidates for the Post of Assistant Engineers/Sub-Assistant Engineers and those selected Assistant Engineers/Sub-Assistant Engineers were absorbed by the P.W.D. authority in their pay-roll. However, from the materials placed before this Court, it would reveal that the case of the writ petitioners are distinguishable from the case of Assistant Engineer/Sub-Assistant Engineers selected through RANDSTAD, in view of the fact that the writ petitioners after their selection by respondent no.7 authority were merely deployed to work in various offices of P.W.D. and their remuneration and other benefits are disbursed by the respondent no.7 authority.

19. It thus appears to this Court that in the reasoned order dated 13.09.2021, the respondent no.5 authority rightly indicated a reasonable classification between the writ petitioners and the Assistant Engineers/Sub-Assistant Engineers as have been selected through RANDSTAD.
20. It further appears to this Court that the different classification as have been highlighted in the reasoned order dated 13.09.2021 by no stretch of imagination can be called discriminatory and/or not legal, valid and reasonable, rather it appears to this Court that the classification as have been indicated in the said reasoned order dated 13.09.2021 passed the touchstone test of Article 14 of the Constitution of India in view of the difference of mode of employment and/or deployment of the writ petitioners by the respondent no.7 authority with the various offices of P.W.D. authority.
21. It thus appears to this Court that the classification as made by the respondent no. 5 in its impugned reasoned order dated 13.09.2021 is based on intelligible differentia distinguishing the writ petitioners from those who have been selected through 'RANDSTAD' which by no stretch of imagination can be called as unreasonable.
22. So far as the question of payment of equal pay for equal work, as have been claimed by the writ petitioners it appears that the said doctrine has got no manner of application in the case of the writ petitioners in view of the fact that in the reasoned order dated 13.09.2021, the respondent no.5 authority has categorically indicated that the writ petitioners have been recruited through respondent no.7 authority and they have been deployed to discharge their duties with the various offices of the P.W.D. authority and that in terms of the contract of their employment with the respondent no.7 authority, they are getting remuneration from the respondent no.7 authority and not from the respondent/State, as wrongly claimed.

23. As decided by the Hon'ble Supreme Court in the case of *Charanjit Singh & Ors. (supra)*, the doctrine of equal pay for equal work is not an abstract doctrine and the principle of equal pay for equal work has got no mechanical application in the case. This Court has noticed that the terms and conditions of employment of the writ petitioners appointed through respondent no.7 authority is for a periodical term basis though which have been extended from time to time. However, the terms and conditions of employment of the writ petitioners, by no stretch of imagination, can be equated with the Assistant Engineers/Sub-Assistant Engineers, who have been employed by the recruiting agency/ RANDSTAD. Since after such selection by the RANDSTAD (an external agency), the P.W.D. authority had engaged the said Assistant Engineers/Sub-Assistant Engineers in their own department and the said department disbursed remuneration and other benefits to the said Assistant Engineers/Sub-Assistant Engineers.
24. In view of the discussion made hereinabove, this Court finds no reason to interfere with the impugned reasoned order dated 13.09.2021.
25. Consequently, the instant writ petition is dismissed however, without any order as to costs.
26. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(PARTHA SARATHI SEN, J.)