

Mohd. HasanuddIn Vs. Director-general, Central Reserve Police Force, New Delhi and ors.

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Court : Andhra Pradesh

Decided On : Dec-21-1982

Reported in : (1983)IILLJ316AP

Judge : Kodandaramayya, J.

Acts : [Constitution of India](#) - Articles 16 and 39

Appeal No. : W.P. No. 2558 of 1981

Appellant : Mohd. Hasanuddin

Respondent : Director-general, Central Reserve Police Force, New Delhi and ors.

Judgement :

1. This writ petition raises the question of the applicability of the principle 'equal pay for equal work' to the employment of the petitioner as higher scales of revised pay are denied to the petitioner.

2. The petitioner is working as an Electrician in the Central Reserve Police Force. He was appointed as Electrician on 14th July, 1975 in the scale of pay of Rs. 150-5-175-6-205-7-240. The new scales of pay came into force on 1st January, 1973, the revised scale of pay per the Central Civil Service Revised Pay Rules in respect of persons holding posts with scales of pay of Rs. 150-5-175-6-205-7-240 is Rs.

330-8-370-10-400-EB-10-480. The petitioner complains that instead of putting him in the above scale of Rs. 330-480 he was put scale of Rs. 260-350 and thus he was denied the higher emoluments and his constitutes violation of the doctrine embodied in Arts. 14 and 16 of the [Constitution of India](#) with special reference to the principle of 'equal pay for equal work' as laid down by the Supreme Court in Randhir Singh v. Union of India [1982-I L.L.J. 344].

3. The learned Counsel or the respondents-Central Government submitted that the scales of pay of 1973 would apply to the posts specified in col. 2 of the First Schedule and for that purpose he relies upon Rule 4 dealing with the scale of pay of post and Rules 5 drawal of pay in the revised scales. Those Rules may be perused :

'R. 4. As from the date of commencement of these rules, the scale of pay of every post specified in column 2 of the First Schedule shall be specified against it is column 4 thereof.'

'R. 5. Save as otherwise provided in these rules, a Government servant shall draw pay in the revised scale applicable to the post to which he is appointed.

Provided that a Government servant may elect to continue to drawn pay in the existing scale until the date on which he earns his next or any subsequent increment in the existing scale or until he vacates his post or ceases to draw pay in that scale.'

It was no doubt true that the scale of pay now revised applies as per terms of the said Rule 4 to the posts specified in column 2 of the First Schedule appended to the Rules. It is clear as per the copy placed before me 'Swamy's Compilation of Central Civil Service Revised Pay Rules' column 2 showing the designation of posts does not contain the post of Electrician and hence apparently Rule 4 has no application. The petitioner's Counsel submits that this compilation of rules which is a private publication may not contain all the posts and it is difficult to assume that the post of Electrician was left untouched by the Pay Commission while revising the scales of the posts. On the other hand he relied upon a Memorandum of the Office of the Engineer-in-Chief, Central Public Works Department wherein the

fixation of pay under the Central Civil Service (Revised Pay) Rules, 1973 was mentioned with reference to the posts of Electrician also with the corresponding present scale of pay showing as Rs. 150-205 and with the revised scale of pay as 330-480. The learned Counsel for the Central Governments could not place any clear material to show that the posts of Electrician were left untouched by the Pay Commission and no revision of scales of pay was made in respect of that post and consequently the revised pay scale have no application.

4. It is true that if the post of Electrician is not borne out in the Schedule as revised by the Pay Commission and subsequently embodied in the rules do not enumerates the post of Electrician, the employee holding the said post is not entitled to new scale of pay.

5. But in view of the Notification dated 18th January, 1974 placed before me showing the revised scales of pay for the Electrician also, I have not proceed on the basis that irrespective of the enumeration in the new scales of pay that came into force on 1st January, 1973 if in some departments Electrician was given revised scales of pay the present petitioner who is also an Electrician must be given the same scale to pay on the doctrine embodied in *Randhir Singh v. Union of India* (supra). The Notification embodied in Central P.W.D. in the new scales of pay in the following terms :

No. 23/41/73 - ADMN. III

Government of India

Office of the Engineer-in-Chief

Central Public Works Department

New Delhi, dated 18th January, 1974.

MEMORANDUM

Subject : Fixation of pay under the Central Civil Service

(Revised Pay) Rules, 1973.

The Ministry of Finance (Department of Expenditure) vide their Notification No. GSE 10(E) dated 11th January, 1974 have issued orders regarding fixation of pay in the revised scales under the Central Civil Service (Revised Pay) Rules 1973 in respect of certain categories of Class II, III and IV posts including the posts on W.C. Estt. According to these order every Government servant shall draw his pay in the revised scale of pay applicable to the post to which he is appointed to exercise his option in within in the form prescribed already sent vide this office memorandum of even No. dated 21 November, 1973 within 3 months from 11th January, 1974.

All Superintending Engineers and Executive Engineers are requested to call for the options from all the case III and class IV staff including the work charged staff working under them and fix their pay under the Central Civil Services (Revised Pay) Rules, 1973. They should ensure that in respect of all those members of staff who exercise option, their pay for the months of February should be drawn on the revised pay scales.

The order of Ministry of Finance referred to in para 1 above have been published in Gazette of India, Extraordinary Part II S. 3 sub-s. (1) dated 11th January, 1974 which is available for sale. The Superintending Engineers/Executive Engineers may please rearrange to purchase a copy of the Gazette of India immediately. For offices located outside Delhi, a copy of Gazette of India is sent by this office.

Sd/-

Director of Administration

for Engineer-in-Chief,

CPWD, New Delhi.

RevisedNo.	of	post	scale	Sl. scale(1)	Designation (2)	Present (3)
(4)-----				1.	Electrician	150-5-175-
330-8-370--6-205						10-400-EB-10-
480-----					True Extract from the	

Gazette of India Extraordinary Part II S. 3 sub-s. I dated 11th January, 1974 page 107.'

6. In the counter-affidavit the Deputy Inspector-General of Police in paragraph 5 states that in most of the Central Government Department the scale of pay for Electrician is Rs. 260-350 but he did not contradict the revised scale of pay in Central P.W.D. being incorrect. Once the Electrician in Central P.W.D. is given the revised scale of pay of Rs. 330-480, the petitioner cannot be denied the said relief. Para 'A' of the C.C.S. Revised Pay Rules, 1970 mentions that the present scale of pay of Rs. 150-205 was revised to Rs. 330-480 in respect of all posts specified in the scales of pay shown in column 3. Column 3 mentions that 150-205 scale is revised into Rs. 330-480. To re-state the contention of the Central Government, it is not possible to be revised scales of pay as per the statutory Rules though the petitioner is holding Rs. 150-240 as the post held by him was not the one borne out by the Rules. So we have to necessarily apply this doctrine of 'equal pay for equal work' irrespective of the applicability of the revised pay scales Rules, once it is shown that the Electrician in Central P.W.D. is allowed to draw the higher scales pay. As ruled by the Supreme Court in the above case construing Arts. 14 and 16 in the light of the preamble and Art. 39(d) of the [Constitution of India](#), it is clear, that the principle 'equal pay for equal work' is deducible from those Articles and may be properly applied to cases of unequal scales or pay based on no classification or irrational classification though those drawing the different scale of pay do identical work under the same employer. It is ruled that 'It is true that equation of posts and equation of pay are matters primarily for the 'Executive Government and expert bodies like the Pay Commission and not for Courts but where all things are equal that is, where all relevant considerations are the same, persons holding identical posts may not be treated differential in the matter of their pay merely because they belong to different departments'. Apart from saying that there is no post of Electrician found in the schedule appended to the revised pay scale the respondents cannot deny the existence of a higher revised scales of pay to the Electrician in the Central P.W.D. and the posts of Electrician in the Central P.W.D. being in any way different from that of the post held by the petitioner and hence I have no option except to apply the principle of equality embodied in Art. 16 as enunciated by the Supreme Court in the above case and hold that the petitioner

is entitled to revised scale of pay of Rs. 330-480. Accordingly an appropriate writ shall issue directing the respondents to give the petitioner the revised scale to pay of Rs. 330-480. I make no order as to costs in the circumstances.

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