

Namdev Dangal Vs. Executive Engineer, Sinchai Yantrik Vibhag and ors.

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Court : Gujarat

Decided On : Mar-31-1995

Reported in : (1996)1GLR746

Judge : Rajesh Balia, J.

Acts : [Constitution of India](#) - Articles 14 and 21

Appeal No. : Special Civil Application No. 1660 of 1994

Appellant : Namdev Dangal

Respondent : Executive Engineer, Sinchai Yantrik Vibhag and ors.

Judgement :

Rajesh Balia, J.

1. Rule. Mr. K. M. Mehta, Learned A.G.P. appears for Respondent Nos. 1 to 3 and waives service of Rule.

2. In this petition, Annexure A order of respondent No. 1 dated 11-1-1994 is under challenge. The order withdrawing present emoluments suffers with the vice of non-application of mind or shows gross arbitrariness in dealing with its employees by the respondents. It states that those work-charge employees who are drawing Rs. 950/- as fixed pay + variable DA, are to be fixed at the minimum of pay-scale of Rs. 750-12-940. Even the 'maximum of pay-scale in which such person are sought

to be fixed by Annex. A order, is less than the pay which were being paid by the employees as dailyrated workers. On the other hand, State in addition to basic pay is paying DA to all its employees as a matter of policy and by the impugned order, it is sought to reduce the pay which was being already paid to the daily-rated workman on their being regularised in the pay-scale. The order is not sustainable on this ground alone.

3. The plea of respondents that as the workmen have not completed 15 years of service, they have been fixed in pay-scale of Rs. 750-940 at its minimum as per the resolution dated 17-10-1988. Apparently, the resolution has been passed in 1988. May be at that time, fixed pay payable to the workmen was less than the minimum of pay-scale and by resolution, it might have been decided to fix them in pay-scale or Rs. 750-940, but when it came to be implemented only in 1994. Even as per the order, the workmen governed were drawing salary more than the maximum of pay-scale. It clearly amounted reduction in pay which was neither intended by resolution nor could be 'ustified when in fact as a matter of policy, the basic salaries of the employees are being further supplemented by increased variable DA. No other reasons are stated therein which may have any relevant nexus to the reduction of pay-scale and to effect recovery of that payment.

4. Accordingly, in my opinion, order is clearly violative of Art. 14 of the [Constitution of India](#) affecting adversely the fundamental rights of the petitioner. As it virtually affects the emoluments of the petitioner adversely which affects livelihood as well therefore, is also a fundamental right guaranteed under Art. 21 of the [Constitution of India](#).

5. The order, therefore deserves to be quashed and is hereby quashed and set aside. Any amount as arrears payable as a result of this order, shall be paid to the petitioners within a period of 8 weeks from today. Rule made absolute with no order as to costs.