

Smt. Gaindi Devi Vs. Secretary, Community Development and Panchayat Department and ors.

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Court : Rajasthan

Decided On : Oct-13-1987

Reported in : 1988(2)WLN193

Judge : Guman Mal Lodha, J.

Appeal No. : S.B. Civil Second Appeal No. 233 of 1984

Appellant : Smt. Gaindi Devi

Respondent : Secretary, Community Development and Panchayat Department and ors.

Judgement :

Guman Mal Lodha, J.

1. Whether we are entering twenty first century via seventeenth century? Whether this shameful stigma of exploitation of a woman employee by payment of Re. 1/- per day as salary and wages in 1987 when the real worth of Re. 1/- is 10 paise only may be less, deserves a shameful mention for beating all record of human exploitation in Giunea's World Book of Records? These are the pivotal questions in this lady peon's tragic tale of woe, suffering, miseries and nerve breaking, society rocking, heart rending, justice shocking long drawn fight of more than three

decades for getting the minimum wages and the salary statutorily fixed in the pay scales and the revised pay scales from time to time for a peon. Gendi Devi's case of social economic exploitation is only one out of thousands and lacs who suffer unnoticed and can never enter the doors of Courts of Justice and thereby suffer injustice unlimited.

2. At the very outset of hearing when Mr. Paras Kuhad learned Counsel for the unsuccessful plaintiff Smt. Gaindi Devi made a revelation that the plaintiff who is an employee of the Zila Parishad, Tonk from 1954 was being paid Rs. 30/- per month only, I was shocked and surprised that even this can happen after coming into force of the Constitution and amendment of the Constitution by 42nd amendment introducing socialism in the preamble. To perpetuate the injustice by compelling a lady to work for a month for Rs. 30/-per month when even unskilled labour minimum wages have been fixed at Rs. 11/-per day appears to be outrageous and injustice breaking all the records of exploitation. Even the slaves and bonded labours get more than this and the allowances as for a day for a majority of the employees in class IV and above ranges from Rs. 20/- to Rs. 100/-.

3. That the judiciary would put a seal over such gross outrageous injustice by reversing the decree of the Munsif is heart rending, nerve breaking, society rocking and judicial conscience shocking. The civilised world would certainly laugh at such hair splitting interpretation of the lower court reminding one of Shakespear's Merchant of Venice. The misfortune is that even judicial officers forgot that in Merchant of Venice's theory, a logical argument was advanced for protecting injustice. Taking some result, the judicial officer had adopted it for perpetuating injustice. And now the traditional facts.

4. Mst. Gaindi Devi was appointed in Government Primary Girls School at Niwai of Tonk District at salary of Rs. 30/- p.m. in the year 1954. The institution of the District Board which was managing these schools underwent a radical change on the introduction of the Panchayat Raj in Rajasthan as pioneer in India when in 1959 the Panchayat Samitis and Zila Parishads were formed and the institution of the District Board was abolished and the Zila Parishads took over by statutory transformation. There was revision of the pay scales of class IV employees a

number of times as per the increase of dearness in prices and setting up of various commissions, recommendations of which were accepted by the Government.

5. In 1959 the Panchayat Samiti, Niwai took over the school and the plaintiff became class IV employee in the scale of pay provided therein, but the actual payment was not increased and it continued to be Rs. 30/- p.m. on the pretext that she was to get Rs. 30/- p.m. through out her life because she was a fixed pay employee without appreciating that the statutory revision is to be applied to all in view of the increase in price index and revision of pay scales.

6. The plaintiff's case is that the pay scales were revised again and again after 1959, 1961, 1968 and 1976, but the plaintiff was not given any increased salary in these pay scales.

7. As a class IV, uneducated, poor, down trodden, disadvantageous employee, she fought by making representations to the functionaries of the Panchayat Samiti, the Director, Primary Education Board, the Zila Parishad Tonk and officers of the Community Development Department, and all agreed and recommended her case as most just and genuine. There was prolonged correspondence as per the red tapism which continued up to 1976 when she was assured that the Collector has also recommended her case and she would soon get the increased salary. But to her misfortune the internal correspondence was struck up and there was complete blockade when the Panchayat Samiti insisted on getting a post of class IV employee from the Development Department. Ultimately, her prayer was refused with the result that she came to the forum of judiciary, the only ray of hope against the administrative inaction and dereliction of duty.

8. It is unfortunate that for a class IV employee and that too of a weaker section and weaker sex of the society, all the departments continued correspondence for two decades, as if they were finalising the third or fourth year plan of the country and came back to square No. 1 by refusing to grant salary on the pretext that there is no post and she is a fixed remuneration employee.

9. In my opinion, the reasons given by the learned Munsif for accepting the suit claim are just and proper. She is a lady peon appointed on 17-12-1954 as admitted by both the sides. She was transferred to many schools. The only reason why she was not fixed in the pay scale of lady Peon was that there was no post sanctioned. In my opinion, after taking the work as a lady peon from 1954 till now, the refusal to pay salary in the pay scale to the lady peon on the plea that the hierarchy of officers have not sanctioned the post is adding insult to a gross form of injustice. If there was no post, the appointment should not have been made, and if the appointment has been made and work taken, not for a week or month but almost for three decades, a department cannot take a some result and deprive the employee of her fixation in the pay scale of class IV employees.

10. The reasons given by the Additional District Judge that in the absence of the post she could not have been fixed in the pay scale of class IV employees appears to be perverse in as much as if an employee has been kept on a post and work taken from 1954 till now, it is not permissible in law to deprive her of the salary.

11. The fixation of the post, creation of the post and sanction of the post are all administrative internal matters of the department concerned, and for their inaction or dereliction of duty or negligence an employee cannot be penalised. It is also most shocking and surprising that from 1954 to 1987 the Development Department could not get one post sanctioned for a petty employee when during this period thousands of other posts must have been sanctioned and every year there are budgetary allocations and new appointments and sanctions of the post. The whole affair seems to be most retrogressive, illegal and in-human, if not barbaric to a lady.

12. It is violative of Article 39A read with Art 14 of the Constitution as per principles of 'Equal pay for equal work' laid down in the judgments of Supreme Court in *Sendu Singh v. C.E.C.P.W.D.* : (1986)ILLJ403SC and *Dhirendra Chandra's case* : (1986)ILLJ134SC .

13. We are in the age where equal wages and salaries are being assured for equal work, and there is directive principle of workers participating in the management, and the Legislature is very keen to put an end to all exploitation.

14. More and more I look into the matter, the more my blood boils at the unprecedented injustice perpetuated by the hierarchy of all big officers from the Vikas Adhikari Panchayat Samiti to the Collector, the Director and Secretaries of the Government. The reversal of the judgment by the Addl. District Judge for perpetuating injustice certainly creates an instance where accusations can legitimately be made of converting these temples of justice into the courts of injustice unlimited.

15. I have got no hesitation in accepting the appeal, reversing the judgment of the Addl. District Judge, restoring the judgment of the Munsif, and further directing that the State and its functionaries shall pay the entire amount in the revised pay scale claimed in the suit and also the amount which became due there after within a period of six months from the date of this judgment.

16. Mr. Paras Kuhad prays that the amount would work out to about Rs. 70,000/- when proper fixations are made in all pay scales. It is difficult to decide anything at this stage, because it would be a lengthy process, as there have been various revisions of pay scales. All that can be directed at the moment is that the defendant-respondents shall pay atleast Rs. 10,000/- on ad hoc basis to the plaintiff within two months and the balance of the amount shall be paid after proper fixation and calculations within another four months. If this amount is not paid as directed above, it would carry an interest at Rs. 12/- per cent per annum from the date of the suit till the date of realisation.

17. Before parting with this judgment, I must express grave concern and anxiety over the entire matter involved in this case. The fact that an appeal should have been filed by the State functionaries of the Panchayat Department against a petty employee exhibits apathy of the functionaries towards the claims of petty employees and lack of just and human approach. As an expression of deep sense of deprecation of this practice of multiplying avoidable litigation and also dragging poor, down trodden, disadvantageous persons of weaker sections and weaker sex in litigation by filing avoidable appeals, I further direct that exemplary costs of Rs. 1,000/- would be paid by the respondents for this appeal in this court, and this amount shall be made realisable from the officer who permitted and directed the

filing of the appeal in the District Court personally.

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