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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN.NO. O.A. 698/87.

DATE OF DECISION: 16.11.1992.

Gian Chand & Anr.

...Petitioners.

Versus

Union of India.

...Respondent.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A).

For the Petitioners.

Ms Sheela Goel, Counsel.

For the Respondents.

Mrs Raj Kumari Chopra, Counsel.

JUDGEMENT(ORAL)

(By Hon'ble Mr. Justice V.S. Malimath, Chairman)

The petitioners in this case are Shri Gian Chand and Bhartiya Telecom Technicians Union. They have approached the Tribunal with this application in the year 1987 for a direction to the respondents to accord to the technicians and technical supervisors the same pay scales as have been accorded to other diploma holder technicians, i.e. Rs.1400--2300 and Rs.1640-2900 from 1.1.1986 and for other consequential benefits. Ms Sheela Goel, learned counsel for the petitioners, pointed out that the technicians in the cadre are placed in the pay scale of Rs.975-1660 and the technical supervisors in the pay scale of Rs.1400-2300. She stated that the diploma holder Radio Technicians are given the pay scale of Rs.1400-2300 and Junior Engineers are given the pay scale of Rs.1640-2900. This, according to her, is discriminatory and violative of Articles 14 and 16 of the Constitution. She further stated that the petitioners can invoke the well recognised principle of equal pay for equal work. She stated that the petitioners are entitled


to the higher pay scales which have been given to the diploma holder Radio Technicians and Junior Engineers. The Supreme Court has time and again emphasised when the principle of equal pay for equal work can be invoked. In a recent judgement of the Supreme Court reported in JT 1992(5) SC 683 State of Madhya Pradesh and Anr. Vs. Pramod Bhartiya and Ors. their Lordships have held that it is not enough to say that the qualifications are same nor is it enough to say that the post held by the two categories enjoys the same status. It is also not sufficient to say that the service conditions are similar. What is more important and crucial is whether they discharge similar duties, functions and responsibilities. Hence, the test to be applied in this case would be as to whether the technicians and technical supervisors perform similar duties, functions and responsibilities as that of the radio and technicians and Junior engineers who are diploma holders/who are accorded the higher pay scales. The petitioners have not placed any material before us on this point. The petitioners have also not produced any material before us as to what are the duties, functions and responsibilities of the technicians and technical supervisors on the one hand and the duties, functions and responsibilities attached to the post of Radio Technicians and Junior Engineers and others enjoying higher pay scales. Hence, we cannot press into service the principle of equal pay for equal work. On this short ground, this petition is liable to fail.

2. Learned counsel for the petitioner, however, invited our attention to the subsequent events taken place during the pendency of these proceedings. An additional affidavit

has been filed enclosing among others the order dated 16.10.1990 as Annexure 'G'. That is an order regarding restructuring of the technical cadres in Group 'C' and 'D' in the Department of Telecommunication. It was pointed out that there is some improvement brought about in regard to the according of pay scales to the technicians and technical supervisors. But that is not adequate. In view of the fact that there has been restructuring during the pendency of the these proceedings, if the petitioners had any grievance about restructuring, they could have appropriately amended the petition and sought relief. That has not been done. Hence, we are not called upon to examine the validity of the order (Annexure 'G') nor are we required to examine whether the said order offends the equality clause. We, therefore, see no good ground to examine the validity of the order either.

3. For the reasons stated above, this petition fails and is accordingly dismissed. No costs.


(I.K. RASGOTRA)
MEMBER(A)


(V.S. MALIMATH)
CHAIRMAN

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