

(108)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

O.A. No. 170 of 1995

Date of Decision:  
9TH DECEMBER, 1997.

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Between:

T.L.N. Reddy

2. T. Amarnath and

3. Smt. M. Sridevi

.. Applicants

AND

1. Union of India represented by  
Secretary, Ministry of Finance,  
New Delhi.

2. The Central Board of Direct Taxes,  
represented by its Chairman,  
Ministry of Finance, New Delhi.

3. The Director of Inspection  
New Delhi.

4. The Chief Commissioner of Income Tax,  
Basheerbagh,  
Hyderabad.

.. Respondents

Counsel for the Applicant: ~~Sri B.N. Ashok Kumar~~ Sri J. Sudhir

Counsel for the Respondents: ~~Sri K. Bhaskar Rao~~ Sri V. Rajeswara Rao.

CORAM:

THE HON'BLE SRI R. RANGARAJAN: MEMBER (ADMIN.)

THE HON'BLE SRI B.S. JAI PARAMESHWAR: MEMBER (JUDL.)

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ORDER

(Per Hon'ble Sri B.S. Jai Parameshwar: Member (Judl.))

1. Heard Sri J. Sudhir, learned counsel for the applicants and Sri V. Rajeswar Rao, learned standing counsel for the respondents

2. This is an application under Section 19 of the Administrative Tribunals Act 1985. The application is filed on 2.2.1995.

3. The facts giving raise to this OA may in brief be stated as follows:-

(a) There are 3 applicants in this OA. They are graduates. In response to the advertisement No.391 of 1988 published in the 'Employment News' dated 23.7.1988 they submitted their candidature for the posts of data entry operators. As per the said advertisement the desired qualification for the post was:-

- i) Matriculation
- ii) Training in Data Entry Operation
- iii) Data entry speed of not less than 8000 key dipressions per hour (free of error).

(b) The applicants underwent written test and ~~written test on 2.1.89 and 5.2.89~~ respectively. They were successful in the said tests. They were appointed as Data Entry Operators on 17.4.89 and 10.4.89 respectively. They reported for duties on 26.4.89 and 19.4.89 respectively. Their probation was declared through proceedings Dt.13.6.91. Thus they are working as Data Entry Operators under the Respondent No.3 in regular posts. The post of Data Entry Operator carries the scale of pay of Rs.1200-2040.

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(c) As can be seen from the advertisement No.685/87 published in the "Employment News" dated 9.1.1988, earlier, <sup>the</sup> desired educational qualification for the post of Data Entry Operators was a Bachelor's degree in any discipline. Technical qualifications remain the same.

(d) The educational qualification was modified by the amended rules called "Income Tax Department (Attached & (Amendment) Rules, 1988 (in short "the amended Rules, 1988". These amended rules were published in the official gazette on 13.8.1988.

4. In view of this situation the applicants claim that they have been appointed as Data Entry Operators not against Matriculation qualification but against graduation, because the notification was published in the Employment News A.23.7.1988, i.e., earlier to 13.8.1988.

5. The Fourth Pay Commission recommended for re-organization of the then existing Electronic Data Processing Force and to prescribe uniform scale of pay and designation, in consultation with the Department of Personnel. Accordingly a Committee, known as "Seshadri Committee" was constituted. The Committee, after studying the various aspects of these posts made certain recommendations. The Respondent-1 accepted the recommendations of the "Seshadri Committee" as can be seen from Annexure-6 to the O.A. We feel it proper to reproduce the relevant portion of the O.M. Dt.11th Sept.1989.

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<u>S.No.</u>	<u>Designation of post</u>	<u>Pay Scale</u>	
1.	Data Entry Operator Group-'A' (Grade 'A')	Rs.1150-1500	This will be entry Grade for Higher Secondary with knowledge of Data Entry work.
2.	Data Entry Operator Group-'B' (Grade 'B')	Rs.1350-2200	This will be entry grade for graduation with knowledge of data Entry work or for Data Entry Operator Grade 'A'
3.	Data Entry Operator Grade 'C'	Rs.1400-2300	Promotion Grade
4.	Data Entry Operator Grade 'D'	Rs.1600-2600	Promotional Grade
5.	Data Entry Operator Grade 'E'	Rs.2000-3500	Promotional grade.

6. In accordance with the said O.M. the applicants submitted their representations Dt.28.11.90, 21.5.91 and 23.9.93 (Annexures 7 to 9) of the O.A. The Respondent-2 issued proceedings No.F-A-11019/27/89-AD VII Dt.22.12.93 and clarified that the candidates recruited under the un-amended rules (wherein educational qualification was a Bachelor's degree in any discipline) would be allotted the scale of pay of Rs.1350-2200 and the candidates recruited under the amended Rules 1988 (Wherein the Educational Qualification was Matriculation) would be allotted with the scale of pay of Rs.1200-2040.

7. The claim of the applicants is that they were appointed against graduation post under the amended rules by notification Dt.23.7.88. The amended rules came into force affective from 13.8.88 and hence they should be considered as having recruited against graduation post and thus they claim to be eligible for the scale of pay of Rs.1350-2200.

8. As regards the classification of posts of Data Entry Operators Grade-'A' and Grade-'B' they submit that they were all carrying out similar job with the similar and certain data entry operators who were earlier recruited against graduation post were given higher scales of pay and that the Applicants though graduates because of the fact that they were recruited against matriculation posts they were given a discriminatory treatment by giving scale of Rs.1200-2070. As an effect from 13.8.88 they may for all purposes be treated as Data Entry Operators against graduation post. They submit that the discrimination made in classifying certain persons based on the recruitment rules which were in force and which were brought into force subsequently is of the Constitution of India.

9. They submit that they made representations Dt.19.7.94 to Respondent-4. The Respondent -4 rejected their said representations informing that 9 posts of data entry operators Grade-B were sanctioned to AP Region and that all the said 9 posts were filled up following recruitment rules Dt.11.5.94 and that their request for giving them the Data Entry Operators Grade-B cannot be considered to. The reply is Dt.21.7.94. They are at Annexures 13 to 15.

10. They made further representation Dt.26.7.94 to the Respondent-2 (Annexure 16 to 18).

11. They have filed this OA for the following reliefs:-

" To direct the Respondents herein to grant the Pay Scale of Rs.1350-2200 to the Applicants herein with effect from their dates of appointment with all consequential benefits by setting aside that portion (Marked) of the proceedings contained in F.No.A-11019/27/89. Ad.VII, Dated: 22.12.1993 and Proceedings contained in No. F.No.A-11019/27/89.Ad.VII, dated: 11.05.1994, issued by the Respondent No.2 herein, through which the Applicants herein are denied the pay scale of Rs.1350-2200 in the post of Data Entry Operators Grade-B. and consequently set aside the consequential Proceedings of the Respondent No.2 Dated: 21.07.1994, communicated to the Applicants herein individually, as bad, irrational, illegal, arbitrary, discriminatory and violative of Articles 14, 16, 21 and 39 (d) of the Constitution of India. "

The Respondents have filed their counter stating that the original recruitment rules for the posts of Data Entry Operators were amended that the Government agreed for the proposal to amend the Rules vide letter F No.A-12018/2/87-Ad-VII dated 22.7.88 that the amended rules were sent to the Government Press for publication that notification of the amended Rules was published in the official Gazette Dt.13th August, 1988 that in terms of Rule 1 & 2 of the amended Rules, the amended rules came into operation from the date of its publication in the Official Gazette that earlier to amendment, the educational qualification for the post of Data Entry Operators was graduation that there is no change in the technical qualification that the applicants submitted their applications in response to the notification Dt.23.7.1988 that the required essential qualifications as per the said notification was matriculation and there was no change in technical qualification that the applicants being fully aware of the educational qualification applied for the post <sup>through</sup> they were graduates at that time that after consideration of the recommendations made by the Committee it was decided to introduce a pay

structure for electronic data processing posts that charge-wise allocation of posts of Data Entry Operators (DEO) Grade-A and Grade-B was shown in Annexure-II of the letter Dt.11.5.1994

..... this allocation 13 posts of Data Entry Operators Gr.A and 9 posts of Data Entry Operators Gr.B were allocated to Hyderabad Charge, all Grade-B posts carry the scale of pay of Rs.1350-2200 that all the 9 posts allotted ..... were filled following the recruitment rules that presently there are no Grade-B posts vacant to accommodate all or any of the applicants that restructuring of the cadre of Data Entry Operators in the Income Tax Department was commenced with the decision to ~~s~~ restructure the then existing 568 sanctioned posts into restructured cadre of 340 posts of

..... of Rs.1150-1500 and 228 posts of DEO Gr.B in the scale of Rs.1350-2200 that the posts of DEO Gr.A was a direct entry post but however these existing DEO's in the <sup>allowed to continue to draw pay in the said scale and were</sup> scale of pay of Rs.1200-2040 ~~were~~ treated as personal scale to them that the posts of DEO Gr.B was to be filled by 75% by promotion from Grade-A and 25% by direct recruitment. That at that time it was decided that the then existing DEOs would be redesignated as Data Entry Operators Gr.A and would continue to draw Rs.1200-2040 as personnel pay to them till they are promoted to Gr.B that as per the amended Rules <sup>1988</sup> it was decided that all the DEOs appointed prior to the amended rules 1988 were entitled to draw pay in the scale of Rs.1350-2200 and ~~were~~ redesignated <sup>as</sup> DEOs Gr.B that the position regarding publication of ~~the~~ amended rules in the official Gazette and advertisement dated 23.7.1988 inviting applications, the matriculation as educational qualification has been detailed <sup>in</sup> ~~earlier~~ <sup>paras</sup> that all of the DEOs Gr.A who had put in 5 years of service were eligible for promotion against promotion quota vacancies of <sup>DEO</sup> Gr.B that

that in case any post of DEO Gr.B in the promotion quota remained unfilled with eligible DEOs with 5 years experience were considered for promotion that the applicants had submitted their representation Dt.19.7.94 to the Chief Commissioner of Income Tax requesting their cases for consideration to the DEO Gr.B. that they have been replied suitably that the contention of the applicants that they are entitled to the scale of pay of Rs.1350-2200 on par with their senior colleagues is untenable, and that they have applied for the post knowing fully well that the educational qualification for the post as advertised was only matriculation. However it cannot be said they put to any case since they were allowed to draw pay in the scale of Rs.1200-2040 as personal to them till they are promoted to the post DEO Gr.B that all the available posts of DEO Gr.B were filled in the range that the contention of the applicants with regard to their educational qualification vis-a-vis other candidates who were selected with matriculation is uncalled for and untenable that the applicants are not entitled to scale of Rs.1350-2200 that the averments made in para 6(u) are not relevant to the facts of this case and that the OA be dismissed with costs.

The applicants have filed a reply more or less reiterating the grounds urged in the OA. However their contention<sup>is</sup> that the amended Rules 1988 came into affect from 13.8.88 long after the notification Dt.23.7.1988 was advertised in response to which they were appointed as the DEOs. They further submit that there can be personal pay in certain circumstances but there cannot be personal scale. They submit that it does not involve any creation of post in getting them the scale of pay of Rs.1350-2200.

It is not disputed that the applicants were appointed as DEOs pursuant to the advertisement published on 23.7.1988.



It is also not in dispute that earlier to 23.7.88 the educational qualification required for the post of DEO was a Bachelor's degree with technical qualification of data entry operation. It is also not in dispute that the amended Rules 1988 which prescribed the matriculation as the educational qualification for the DEOs came into affect from 13.8.88, the of the amended Rules 1988  
gazette.

The contention of the Respondents that the Government had approved the amended rules on 22.7.88 that they had sent the notification of the amended rules for the publication in the official gazette that therefore the date of approval of the amended rules i.e. 22.7.88 has to be considered as the basis for advertisement No.391/88 Dt.23.7.88. However they submit that advertisement is only for the purpose of notifying vacancies and calling for applications which indicates the start of process of Selection whereas the appointment is the culmination of the process of selection. Thus the Respondents attempt to emphasise that the applicants were appointed as DEOs as against matriculation and not against graduation. They submit that the applicants were fully aware of the educational qualifications notified in the advertisement and submitted their candidature though they were graduates.

amended Rules 1988  
It is clear that the shall come into force only from the date of publication of the same in the official gazette.

In the case of Y.V. Rangaiah Vs J. Srinivas Rao, Hon'ble reported in 1983 (1) SLR 789, the Apex Court observed that the vacancies which occurred prior to the amended rules would be Governed by the old rules and not by the amended rules.

In the case of N.T. Devin Katti Vs. Karnataka Public Service Commission and others, reported in 1992 (2) SLR Page 378, the Hon'ble Supreme Court has observed as follows in para-11 :-

" There is yet another aspect of the question. Where advertisement is issued inviting applications for direct recruitment to a category of posts, and the advertisement expressly states existing Rules or Government Orders, and if it further indicates the extent of reservations in favour of various categories, the selection of candidates in such a case must be made in accordance with the then existing Rules and Government Orders. Candidates who apply, and undergo written or viva voce test acquire vested right for being considered for selection in accordance with the terms and conditions contained in the advertisement, unless the advertisement itself indicates a contrary consideration in accordance with the terms and conditions set out in the advertisement as his right crystallises on the date of publication of advertisement, however he has no absolute right in the matter. If the recruitment Rules are amended retrospectively during the pendency of selection, in the event selection must be held in accordance with the amended Rules. Whether the Rules have retrospective effect or not, primarily depends upon the language of the Rules and its construction to ascertain the legislative intent. The legislative intent is ascertained either by express provision or by necessary implication, if the amended Rules are not retrospective in nature the selection must be regulated in accordance with the Rules and orders which were in force on the date of advertisement. Determination of this question largely depends on the facts of each case having regard to the terms and conditions set out in the advertisement and the relevant Rules and orders. Lest there be any confusion, we would like to make it clear that a candidate on making application for a post pursuant to an advertisement does not acquire any vested right for selection, but if he is eligible and is otherwise qualified in accordance with the relevant Rules and the terms contained in the advertisement, he does acquire a vested right for being considered for selection in accordance with the Rules as they existed on the date of advertisement. He cannot be deprived of that limited right on the amendment of Rules during the pendency of selection unless the amended Rules are retrospective in nature. "

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In the case of P. Ganeswar Rao and others Vs. State of Andhra Pradesh and others (reported in 1988 (4) SLR page 548) the Hon'ble Supreme Court of India has observed in para-7 as follows:-

" It is clear from the Special Rules as they were in force prior to the amendment on 28.4.1980 that it was open to the State Government to fill 37-1/2 per cent of the vacancies (both substantive and ~~direct recruitment~~ in the cadre of Assistant Engineers by that during the years 1978 and 1979 the position of the vacancies was such that it was permissible for the State Government to appoint 51 Assistant Engineers by direct recruitment. The only question which has now to be considered is whether the amendment made on 28.4.1980 to the Special Rules applied only to the vacancies that arose after the date on which the amendment came into force or whether it applied to the vacancies which had arisen before the said date also. The crucial way of amendment in the Special Rules on 28.4.1980 were "37-1/2 percent of the substantive vacancies arising in the category of Assistant Engineers shall be filled by the direct recruitment". If the above clause had read "37-1/2 per cent of the substantive vacancies in the category of Assistant Engineers shall be filled by the direct recruitment" perhaps there would not have been much room for discussion. The said clause that would have applied even to the vacancies which had arisen prior to the date of the amendment but which had not been filled up before that date. We feel that there is much force in the submission made on behalf of the applicants and the State Government that the introduction of the word 'arising' in the above clause made ~~it~~ it applicable only to those vacancies which came into existence subsequent to the date of amendment. "

In the case of Dr. B.N. Dube and others Vs. State of Madhya Pradesh similar view was taken and seeing advertisement in accordance with the existing rules was upheld. In that case the Government had taken a decision to recruit Assistant Directors by promotion with 100% of the feeder Assistant Veterinary Surgeons. Before the rules were amended, <sup>the Government</sup> filled up the post by direct recruitment.

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In the instant case notification was published in the news item Dt.23.7.1988. The amended rules came into force effective from 13.8.1988 (the date on which it was published in the Official Gazette). In view of the principles enunciated in the cases referred to above the only conclusion that can be drawn is that the applicants were appointed as DEOs wherein the minimum educational qualification (required, 13.8.88, that means that the applicants were appointed as DEOs wherein the minimum educational qualification (required, contention of the Respondents in this behalf cannot be accepted.

The applicants in order to claim the scale of pay of Rs.1350-2200 contend that because they are graduates and have been appointed in accordance with the rules existing earlier to 13.8.1988

The restructuring of posts was done in the Income Tax Department as per the letter bearing No. A 11019-27/89-AD VII dated 11th May, 1994. (Annexure-11 and page 12 of the O.A.). Para-3 of the letter reads as follows:-

" It may be ensured that no Data Entry Operator who was recruited from examination/test for which Matriculation was the prescribed minimum qualification, (after amendment of the Rules in July, 1988) is granted the higher scale of Rs.1350-2200, irrespective of whether he might be possessing graduate or higher qualification at the time of appointment. "

In letter of even number Dt. 22nd December, 1993 (Annexure-10, page-11 of the O.A.) it is stated as follows:-

" The existing DEOs will continue to draw pay in the Pay Scale of Rs.1200-2040 as personal to them and will be re-designated as DEO Gr.'A' till they are appointed/promoted in the post of DEO Gr.'B' (Rs.1350-2200). A few appointments to the post of DEO were made on the basis of essential qualification of Graduate as per the Income Tax (Attached and Subordinate Offices) DEO Recruitment Rules, 1987

before amendment of the essential qualification from graduate to matriculate vide Amendment Rules 1988 dated 22.7.1988). All the DEOs appointed before the promulgation of Amendment Rules, 1988 on the basis of essential qualification of Graduate are entitled to draw pay in the scale of Rs.1350-2200 and redesignated as DEO Gr.'B'.

On the basis of these 2 letters the scale of pay of Rs.1350-2200 has been made personal to the applicants.

The applicants contend that the graduates were recruited earlier to 23.7.88 were given the scale of pay of Rs.1350-2200 on the basis of recommendation of the Seshadri Committee i.e. DEOs with graduate qualification were redesignated as DEO Gr.'B' and <sup>the</sup> DEOs with matriculation qualification or higher secondary educational qualification was redesignated as DEO Group-'A' (Grade-'A') and was made entry posts.

The Respondents contend that only 13 posts of DEOs Gr.'A' and 9 posts of DEO Gr.'B' were allocated to Hyderabad Region and all the DEO Gr.'B' posts were filled up and it is not possible to accommodate the applicants in Gr.'B' posts. Further they submit that the applicants were not put to any dis-advantage as the scale of pay is made personal to them till they were put to the scale of pay of Rs.1350-2200.

In our humble view the question of allocation of posts of DEOs Gr.A & B to Hyderabad Region is not material. The question is whether the applicants can be treated as having recruited against graduation qualification or matriculation qualification. As already observed, even though the amended Rules 1988 were not in operation the Respondents advertised <sup>the</sup> in notification Dt.23.7.88 the educational qualification for the post of DEO as matriculation. The amended

Rules 1988 came into force on 13.8.1988. In that view of the matter we have formed an opinion that the applicants were appointed as DEOs against the graduation qualification.

The learned counsel for the applicants in support of their contention that applicants are entitled to the scale of Rs. 1250-2000 relied upon the doctrine of "equal pay for equal work" and also "parity in employment."

Now it is submitted that the Department has restored the earlier educational qualification for the post of DEOs. That means to say now a person holding bachelor's degree in any discipline with data operation experience is eligible for consideration for the post of DEOs. This was the rule that was prevailing earlier to 23.7.1988.

The learned counsel in support of his contention relied upon the decision of the Hon'ble High Court of Andhra Pradesh in writ appeal No.1164/1991 (Sankaraiah and others Vs. State of Andhra Pradesh. In our humble view the said decision cannot be applicable to the facts of this case as the applicants <sup>therein</sup> were directed to be continued in service on the same terms and conditions as per <sup>the</sup> directions of the Hon'ble Supreme Court of India in W.P. No.6081/83. It is on that basis the applicant claimed salary of Deputy Engineers working in the Irrigation Department.

The learned counsel for the applicant relied upon the decision of the Hon'ble Supreme Court of India in the case of Federation of All India Customs & Central Excise Stenographers Vs. Union of India and others for claiming equal pay for equal work. In para-7 <sup>(Page 728)</sup> the Lordships have been pleased to observe as under:-

" Equal pay for equal work is a fundamental right. But equal pay must depend upon the nature of the work done, 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. One cannot deny that often the difference is a matter of degree and that there is an element of value judgment by those who are charged with the administration in fixing the scale as such value judgment is made service, so long on an intelligible criteria which has a rational nexus with the object of differentiation, such differentiation will not amount to discrimination. It is important to emphasise that equal pay for equal work is a concomitant of Article 14 of the Constitution. But it follows naturally that equal

In the case of State of Tamilnadu and another Vs. M.R. Alagappan and others reported in 1997 SOC (L&S) Page 1080 their Lordships considered the parity in employment and also the Doctrine of equal pay for equal work in paras 10 & 11 their lordships have been pleased to observe as follows:-

" A Constitution Bench of this court<sup>1</sup> in the case of State of Mysore V. P. Narsing Rao<sup>1</sup> speaking through Ramaswami, J. clearly ruled that higher educational qualifications furnished a relevant consideration for fixing higher pay scales and consequently the classification of two grades of tracers in two different pay scales by the new Mysore State was not violative of Article 14 or 16 of the Constitution of India. In the said case the respondent Narsing Rao was employed as a tracer in the Engineering Department of the ex-Hyderabad State on the pay scale of Rs.65-90. In the common cadre of tracers there were matriculates as well as non-matriculates. The said situation continued till reorganisation of States in 1956. After reorganisation a part of the area of Hyderabad State became part of new Mysore State. After transfer of respondent to the new State, the cadre of tracers into which tracers from Bombay State had also been absorbed, was reorganised into two grades, one consisting of matriculate tracers whose scale of pay was fixed at Rs.50-120 and the other of non-matriculates at Rs.40-80. It was this creation of two scales of tracers in the new Mysore State that was tried to be challenged on the anvil of Articles 14 and 16 of the Constitution of India. The non-matriculate tracers like Narsing Rao were able to convince the High Court of Mysore that the said difference of pay scale was discriminatory and violative of Article 14. The said decision of the High Court was set aside by the Constitution Bench in the aforesaid case and it was held that despite same type of work being carried out by the tracers there was nothing wrong in awarding a higher pay scale to matriculate tracers as compared to

non-matriculate like the respondent Narsing Rao. On the question whether there could be differential treatment in the matter of promotion another Constitution Bench of this Court in the case of Mohd. Shujat Ali V. Union of India speaking through Bhagwati, J. held that the Andhra Pradesh Rules insofar as they made differentiation between graduate and non-graduate supervisors in the matter of promotion could not be held to be invalid. Historical background in which these rules operated differentiation is not something brought about for the first time by the Andhra Pradesh Rules. It had always been there in the Engineering Services of the Hyderabad and the Andhra States. The graduate supervisors had always been treated as a distinct and separate class from non-graduate supervisors both under the Hyderabad Rules and as well as under the Andhra Rules and they had never been integrated into one class.

of this Court clearly laid down that any differentiation made in the matter of pay scales or even for that matter with reference to further chances of promotion between graduates and non-graduates employees would not fall foul on the touchstone of Articles 14 and 16 of the Constitution of India. We may also in this connection refer to a latter decision of this Court in the case of V. Karkendeya V. State of A.P. In that case the Court had to consider the difference in pay scales made available to two classes of employees, namely, graduate supervisors holding degree in Engineering and the other class of non-graduate supervisors being diploma and licence-holders. It was held that on the basis of difference in educational qualifications such difference in pay scales was justified and could not offend Articles 14 and 16 of the Constitution of India. In this connection Article 39 sub-article(d) was also considered and it was observed by K.N. Singh, J. speaking for the Court as under: (SCC headnote P.192)

"The purpose of Article 39(d) is to fix certain social and economic goals for avoiding any discrimination amongst the citizens doing similar work in matters relating to pay. The principle of 'equal pay for equal work' is not an abstract one; it is open to the State to prescribe different scales of pay for different cadres having regard to nature of duties, responsibilities and educational qualifications. Where two classes of employees perform identical or similar duties and carry out the same functions with the same measure of responsibility having same academic qualifications, they would be entitled to equal pay. If the State denies them equality in pay, its action would be violative of Articles 14 and 16, and the Court will strike down the discrimination and grant relief to the aggrieved employees. But before such relief is granted the Court must consider and analyse the rationale behind the State action in prescribing two different scales of pay. If on any analysis of



the relevant rules, orders, nature of duties, functions, measure of responsibility, and educational qualifications required for the relevant posts, the Court finds that the classification made by the State in Giving different treatment to the two classes of employees is founded on rational basis having nexus with the objects sought to be achieved, the classification must be upheld. Principle of equal pay for equal work is applicable unequals. Relief to an aggrieved to enforce the principles of equal pay for equal work can be granted only after it is demonstrated before the court that invidious discrimination is practised by the State in prescribing two different scales for the two any reasonable classification for the same.

On the same lines runs a latter decision of this Court in the case of Sita Devi V. State of Haryana<sup>4</sup> wherein a Bench of two learned Judges speaking through B.P. Jeevan Reddy, J. laid down that undermatriculate instructors in Adult Literacy Programme in the Government of Haryana could not justifiably demand same pay scales as were available to matriculate instructors and that a person claiming parity in pay on the principle of equal pay for equal work must show that his qualification, duties and functions are similar to the person with whom he claims parity. The learned counsel for the contesting respondents however submitted that in the case of Sita Devi<sup>4</sup> there was no evidence regarding similar nature of work as clearly indicated in para (5) of the judgment. That may be so.. However the principle remains well established in the light of the aforesaid series of decisions of this Court that before the abstract doctrine of equal pay for equal work is pressed in service it must be shown that the incumbents concerned have parity of qualifications, duties and functions and then only they can be treated at par for the purpose of pay scales and the Court can interfere after reaching a clear finding of fact that both the sets of employees stand completely at par on the basis of equality of work both qualitatively and quantitatively and, therefore, denial of equal pay scales to them would offend Articles 14 and 16 of the Constitution of India. "

The applicants are graduates and in view of our conclusion it has to be held that they were recruited as DEOs against graduation qualification.

Next point to be considered is whether the applicants are entitled to the said scale of pay from their respective dates of appointment.

As can be seen from the averments made in the OA the applicants were appointed on 17.4.89 and 10.4.89 respectively. They reported for duties on 26.4.89 and 19.4.89 respectively and their probation was declared vide proceeding

applicants can be eligible to draw the pay in the scale of Rs.1350-2200 from the date of their respective appointment. On 11.9.89, as per Annexure-6, the Respondents rationalised the scale of pay of Electronic Data Processing posts. That means a few months after the applicants

the rationalisation of posts was made. They were aware that they were graduates and were appointed against matriculation qualification erroneously. They were fully aware that the Amended Rules 1988 came into force effective from 13.8.88. They have filed this OA on 2.2.95 long after 7 years. They have not approached any judicial forum for their redressal. There is no unexplainable laches on the part of the applicants in claiming the reliefs belatedly. We feel that mere submission of representations after representations to the authorities may not enure to their benefit to condone the laches.

In the result the O.A. partly succeeds and the following directions were given:-

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1. The applicants shall be deemed to have been appointed as DEOs as against Graduation qualification under the un-amended Rules, which were in existence earlier to 13.8.78.

44. The applicants are to be fitted notionally in the scale of pay of Rs.1350-2200 in accordance with the rationalisation of posts Dt.11.9.89 (Annexure-6) from the dates of their appointment to the post.

monetary benefits only from 2.2.1995.


The OA is thus disposed of. No order as to costs.

  
MEMBER (JUDL.)

  
MEMBER (ADMN.)

Date 9TH DECEMBER, 1997.

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Copy to:

1. The Secretary, Min.of Finance, New Delhi.
2. The Central Board of Direct Taxes, Rep.by Chairman, Min.of Finance, New Delhi.
- New Delhi:-- -- Inspection(Systems), Income Tax Dept.,
4. The Commissioner of Income Tax, Basheerbagh, Hyderabad.
5. One copy to Mr. <sup>J. Sudheer</sup> B.N. Ashok Kumar, Advocate, CAT, Hyderabad.
6. One copy to HBSJP, M(J), CAT, Hyderabad.
7. One copy to D.R(A).CAT, Hyderabad.
8. one copy to Mr. V. Rajenwara Rao, Addl. C.A.S.C.,
9. one duplicate copy.

YLKR

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TYPED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :  
M. (J)

Dated:

9/12/87

ORDER/JUDGMENT

M.A./R.A./C.A.NO.

in

O.A.NO.

170/55

Admitted and Interim Directions  
Issued.

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default

Ordered/Rejected

No order as to costs.

YLKR

