

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

OA No. 060/01196/2015

**Pronounced on : 14.11.2017
Reserved on : 01.11.2017**

**CORAM: HON'BLE MR.SANJEEV KAUSHIK, MEMBER(J)
HON'BLE MRS.P. GOPINATH, MEMBER(A)**

Ms. Tripta Sharma W/o Late Sh. Sanjay Kumar, Clerk, Integrated Child Development Services, Project-I, Chandigarh O/o Director, Social Welfare Department, Chandigarh.

.....Applicant

BY: Sh. Vivek Sharma

VERSUS

1. Union of India through its Secretary, Department of Social Welfare, Union of India, New Delhi.
2. The Director, Department of Social Welfare, Chandigarh Administration, Sector 17, Chandigarh.

.....Respondents

BY ADVOCATE: Sh. A.L. Nanda

ORDER

HON'BLE MRS. P. GOPINATH, MEMBER(A):-

1. The applicant was appointed as a Multipurpose Supervisor in the Home of Old and Destitute People, Chandigarh in scale of pay of Rs. 950-1800. The applicant was declared surplus, when the management of the Home was transferred to Lions Club, Chandigarh. The applicant was thereafter posted in the Integrated Child Development Services Project I against the available post of Clerk on 08.04.1999. The applicant was given the scale of Rs. 3120-5160 and makes a claim in the OA for scale of pay of

Rs. 3330-6200 which is being given to Clerks in another department, the Health Department. Such a pay scale, according to the respondents, is not available in the Socio Service Department where the applicant is posted. Applicant's representation for being granted the higher pay scale was declined. Aggrieved, the applicant filed OA No. 060/01017/2014.

2. The respondents argue that as per Recruitment Rules, the post of Multipurpose Supervisor where applicant worked prior to being declared surplus, is in scale of Rs. 3120-5160. In response to the applicant's representation for grant of higher pay scale, the respondents issued a non-speaking order rejecting his claim. The relief sought by the applicant is for grant of pay scale of Rs. 3330-6200 instead of Rs. 3120-5160 w.e.f. 01.01.1996 and the disbursal of arrears of difference of pay.

3. The OA is first hit by delay as claim made is from 1966. A perusal of Annexure A-1, appointment order of the applicant reveals that she was appointed as Multipurpose Supervisor in the scale of pay of Rs. 950-1800 in 1993. The respondents argue that when the Old and Destitute Home was taken over, the respondents on humanitarian grounds, adjusted the applicant as a fresh entrant in the cadre of Clerk in the scale of pay of Rs. 3120-5160 on 08.04.1999. The applicant did not challenge the offer and joined the post, 18 years ago. As there was no post of Multipurpose Supervisor, the post earlier held by the applicant in the Welfare Department of the State of Punjab, the applicant when rendered surplus was adjusted on her own request in the equivalent scale of pay of Rs. 950-1800 as a Clerk which was subsequently revised to Rs. 3120-5160. Hence, the applicant,

when rendered surplus, was adjusted in a post with a scale of pay identical to the surplus post.

4. The applicant was working as a Multipurpose Supervisor in the Social Welfare Department prior to her being declared surplus. The applicant is seeking to be given the pay scale of a Multipurpose Worker in the Health Department. The designation of the post held and the post to which she is seeking parity are different and the two are operating in two different departments. Hence, it is not a comparison of similarly placed posts. The two posts are also in two different departments with different job description. The applicant makes no arguments as to the reasons why parity should be drawn to the posts which operate in two different departments, have two different designations and two different pay scale. The scale of pay of Rs. 3120-5160 was granted to the applicant in the year 1996 and the applicant did not challenge the same in all these years. The applicant also does not make out a claim that the job description of the two posts has any similarity for drawing up a case for parity of pay scales. The applicant appears to read the term Multipurpose as a common nomenclature in the two posts and overlooks the fact that one post is of Multipurpose Supervisor and the other post is Multipurpose Worker.

5. It is also argued that the applicant does not fulfil the qualification required for the post of Multipurpose Worker in the Health and Family Department. The equity of pay scale argument also cannot be drawn as the duties and responsibilities of the two posts are different.

6. The doctrine of equal pay for equal work would apply if the job description and function of the two posts are almost similar. The Apex

Court in State of Punjab Vs. Surjit Singh (2009) 9 SCC 514 reviewed a large number of judicial precedents and observed as follows:-

"16. In **State of Punjab Vs. Surjit Singh, 2009(9) SCC 514**, the Apex Court reviewed large number of judicial precedents and observed:

"Undoubtedly, the doctrine of 'equal pay for equal work' is not an abstract doctrine and is capable of being enforced in a court of law. But equal pay must be for equal work of equal value. The principle of 'equal pay for equal work' has no mechanical application in every case. [Article 14](#) permits reasonable classification based on qualities or characteristics of persons recruited and grouped together, as against those who were left out. Of course, the qualities or characteristics must have a reasonable relation to the object sought to be achieved. In service matters, merit or experience can be a proper basis for classification for the purposes of pay in order to promote efficiency in administration. A higher pay scale to avoid stagnation or resultant frustration for lack of promotional avenues is also an acceptable reason for pay differentiation. The very fact that the person has not gone through the process of recruitment may itself, in certain cases, make a difference. If the educational qualifications are different, then also the doctrine may have no application. Even though persons may do the same work, their quality of work may differ. Where persons are selected by a Selection Committee on the basis of merit with due regard to seniority a higher pay scale granted to such persons who are evaluated by the competent authority cannot be challenged. A classification based on difference in educational qualifications justifies a difference in pay scales. A mere nomenclature designating a person as say a carpenter or a craftsman is not enough to come to the conclusion that he is doing the same work as another carpenter or craftsman in regular service. The quality of work which is produced may be different and even the nature of work assigned may be different. It is not just a comparison of physical activity. The application of the principle of 'equal pay for equal work' requires consideration of various dimensions of a given job. The accuracy required and the dexterity that the job may entail may differ from job to job. 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. Thus normally the applicability of this principle must be left to be evaluated and determined by an expert body. These are not matters where a writ court can lightly interfere. Normally a party claiming equal pay for equal work should be required to raise a dispute in this regard. In any event, the party who claims equal pay for equal work has to make necessary averments and prove that all things are equal. Thus, before any direction can be issued by a court, the court must first see that there are necessary averments and there is a proof."

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In **V. Markendeya Vs. State of A.P., (1989) 3 SCC 191**, the Apex Court has held as under:-

In view of the above discussion we are of the opinion that where two class of employees perform identical or similar duties and carrying 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 of the Constitution, 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 an 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 class of employees is rounded 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 among equals, it cannot be applied to unequal. Relief to an aggrieved person seeking 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 class of employees without there being any reasonable classification for the same. If the aggrieved employees fail to demonstrate discrimination, the principle of equal pay for equal work cannot be enforced by court in abstract. The question what scale should be provided to a particular class of service must be left to the Executive and only when discrimination is practised amongst the equals, the court should intervene to undo the wrong, and to ensure equality among the similarly placed employees. The Court however cannot prescribe equal scales of pay for different class of employees.

7. For the reasons and case law detailed hereinabove, we find this OA being devoid of merit and accordingly dismiss the same. No costs

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated:
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