

(2000) 11 CAL CK 0033
In the Calcutta High Court
Case No : W.P.S.T. No. 698 of 2000

Asok Gupta

APPELLANT

Vs

Chanda Ghosh (Mrs.)

RESPONDENT

Date of Decision : 16-11-2000

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2001) 2 ILR (Cal) 359

Hon'ble Judges : Satyabrata Sinha, J;Hrishikesh Banerji, J

Bench : Division Bench

Advocate : Aninda Mitra and Jaydeep Kar, for the Appellant;Kashi Kanti Moitra and S. Talukdar, for the Respondent

Judgement

Satyabrata Sinha, J.—This application is directed against an order dated January 29, 1998 passed by the West Bengal Administrative Tribunal in T.A. No. 1768 of 1996. The original applicants who are ten in number filed the original application before the learned Tribunal below for invoking the doctrine of equal pay for equal works.

2. The question which arose for consideration before the Learned Tribunal was whether the Librarians and Assistant Librarians working in the Medical Colleges were entitled to the same Scale of Pay as that of their counter part under the Department of Health and Family Welfare, Government of State of West Bengal.

3. Before us Mr. Anindya Mitra the learned Senior Counsel appearing on behalf of the Petitioner, inter alia, submitted that having regard to the fact that the Scales of pay of the Librarians attached to the Educational Institutions are fixed by the State in terms of the recommendations made by the University Grants Commission and the directives of Government of India, the Respondents being the employees of State of West Bengal cannot be said to be belonging to the same Class and, thus, are not entitled to the benefit of the principles of Equal Pay for Equal Work.

4. Mr. K.K. Moitra, learned Senior Counsel appearing on behalf of the Respondents, on the other hand, submitted that for the purpose of grant of same scale of pay what is necessary to be looked into is the nature of work undertaken by both the Classes under common employer. The Learned Counsel cited several decisions of Apex Court to show that even the persons working in different departments have been granted the benefit of the said principle which has its roots in the Constitution of India.

5. The Learned Counsel pointed out that from the Chart noted herein below, the Scale of Pay payable to the Librarians and Assistant Librarians working in Medical Colleges and Health Department of the State of West Bengal and submitted that the disparity is absolutely glaring and this Court in this situation should uphold the order passed by the Learned Tribunal.

(Education Department) Librarian (including Deputy Librarian and Assistant Librarian)

Existing Scale Revised Scale

Rs. 700 ?1600 Rs.2000 ?4000

Rs. 3000 - 5000 (Sr. Scale)

Rs. 3700 - 5700 (Selection Grade)

(Health Department) Librarian and Assistant Librarian

Existing Scale Revised Scale

1) Rs. 440?1170 Higher Initial start at Rs. 560/- Rs. 1420-3160 Higher Initial start at Rs. 1560/-

(For Maters Degree + DIP./B.LIB.SC)

2) Rs. 425 ?1050 Higher Initial start at Rs. 530/-. Rs.1390 ?2970. Higher Initial start at Rs. 1580/-

(For Graduate and DIP/B.LIB.SC) 6. According to the Learned Counsel, the action on the part of State is absolutely unreasonable and arbitrary and thus the equality clauses as enshrined under Articles 14 and 16 of the Constitution of India demand that the Respondents be treated at par with their counter-parts working in the Medical Colleges.

7. The judgment and order passed by the learned Tribunal depicts a sordid state of affairs.

8. Before the learned tribunal admittedly an affidavit-in-opposition had been filed by the Petitioner herein but nobody appeared on his behalf to oppose the prayer of the Respondents herein. That fact, in our considered opinion, by itself was not sufficient for the Tribunal to arrive at the conclusion which is in question before us. The Learned Tribunal as a judicial body is bound to pass a speaking order

upon assigning sufficient and cogent reasons in support of its conclusion.

9. It is now a well settled principle of law that unless reasons are assigned by an authority exercising judicial functions the High Court exercising its power of judicial review cannot fruitfully and effectively deal with the matter.

10. For the purpose of invoking the doctrine of equal pay for equal work, the Apex Court has laid down several criteria. The learned Tribunal, thus, was obligated to pose unto itself the correct question having regard to the dicta of the Apex Court and answer the same. The learned Tribunal unfortunately failed to discharge its solemn duty.

11. Although as indicated hereinbefore, the Learned Counsel for both the parties have addressed us a great length and invited us to consider the matter on merit. We having regard to the principles laid down in L. Chandra Kumar's case thought it fit to have before us the findings of the learned tribunal upon analyzing the materials which might have been brought before it by the parties.

12. For the reasons aforementioned, the impugned judgment and order cannot be sustained, which is set aside accordingly. We must place on record that the clients of Mr. Moitra being only ten (10) in number, are said to have not been getting justice for about a decade. We share the sentiment expressed by the Learned Counsel in this regard and as such, would request the learned Tribunal to dispose of the matter after giving a fresh opportunity of hearing to the parties as expeditiously as possible and not later than 4 (four) weeks from the date of communication of this order. Mr. Moitra, Learned Counsel appearing on behalf of the Petitioner, assures us that his client shall not ask for any adjournment.

13. Having regard to the aforementioned findings, we also quash the notice issued upon the alleged contemnors in the Contempt Proceedings in C.C.P. No. 116 of 1998. There will be no order as to costs.

14. For the reasons aforementioned these applications are disposed of.

15. Let a plain copy of this order duly countersigned by Assistant Registrar "Court) be given to the Learned Counsel for the parties on usual undertaking including the learned Tribunal to Act thereupon.

Hrishikesh Banerji, J.

16. I agree.