
(1994) 11 PAT CK 0021
In the Patna High Court
Case No : C.W.J.C. No. 1458 of 1988

Bishandeo Choudhary and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 11-11-1994

Acts Referred:

Citation : (1994) 11 PAT CK 0021

Final Decision : Dismissed

Judgement

N. Pandey, J.—By means of these writ applications under Articles 226 and 227 of the Constitution of India, the petitioners have raised a grievance, that the respondents have practised discrimination in violation of Articles 14 and 16 of the Constitution of India, refusing to pay them salary in the scale of pay prescribed for similarly placed employees like Supervisors appointed under the Adult Education Scheme. They have also invoked the doctrine of "equal pay for equal work as enshrined under Article 39(d) the Constitution.

The contempt application (MJC 702/89) was filed for appropriate action against the respondents of C.W.J.C. No. 8315 of 1988 on the allegation that they made an attempt to violate interim order dated 17.11.1988 passed in that case.

2. All these writ applications and the intervention applications, although on behalf of different petitioners but for the same relief, have been heard together and, therefore, are being disposed of by tiles common judgment.

3. To have a brief survey of the factual background of the case with relative brevity, it will be appropriate to notice few facts:

In the year 1978/79, the Central Government sponsored a scheme. "Adult Education Programme" to open centres in various States including the State of Bihar to eradicate illiteracy amongst the persons between the age group of 15-35. Under the said scheme, in the year 1983, the State Government, through its Labour and Employment Department, issued an advertisement for appointment of Supervisors in Adult Education Projects in the pay and scale of

Rs. 785-1210 with other admissible allowances including dearness and medical allowances etc. Pursuant to such an advertisement, larger number of persons, who were duly qualified, made applications. Thereafter, the candidates were called upon to appear before the Selection Committee duly constituted for such selection. Along with such candidates, some of the petitioners had also filed applications. Accordingly, a panel was prepared and about 300 candidates were appointed as Adult Education Supervisors in the pay and scale of Rs. 7851210. In the meantime, another scheme known as "Non-Formal Education" was introduced by the Ministry of Human Resources Development, Government of India, New Delhi. Financial assistance to implement such scheme was provided to the State in the ratio of 50: 50. To implement such scheme, the State Government was required to engage supervisors on a condition that they should be local persons, residing in the close proximity of the centres. The supervisors were to be engaged on part time basis to give half of their time to this work. The implementation of the scheme was to be made by involving voluntary agencies and Panchayati Raj institutions.

4. Pursuant to the aforesaid scheme some of the supervisors including the petitioners and intervenors were engaged with effect from 1985-86 to 1990-91 on a month. It appears about 700 supervisors were engaged in this scheme from the persons left over in the panel which was prepared for appointment of Adult Education Supervisors. Besides, the aforesaid, about 3000 supervisors were engaged without any advertisement etc. Under this scheme, Non-formal supervisors were engaged for doing social work and to aid the national effort of eradicating illiteracy between the age-group of 9-14. Such engagement was purely part time and they were required to work only for four hours a day. It would also be relevant to notice that the scheme was also purely temporary on year to year basis.

5. These cases originally came up for hearing before a learned Single Judge of this Court, who having disagreed with the judgment of a Division Bench of this Court in C.W J.C. No. 7003 of 1988, whereby a similar application seeking identical relief by similarly situated persons was rejected, directed that the records of these cases be placed before the Hon'ble Chief Justice to consider the desirability of referring before a Full Bench. This is how these cases were placed before us for final hearing.

6. As noticed above, the main claim of the petitioners and the intervenors is for a writ of mandamus commanding the respondents to pay "equal pay for equal work" at par with the supervisors appointed under the Adult Education Scheme and also to grant any other relief which has been extended in their favour. Their case is that they have been "performing same and similar job what is being done by the Adult Education Supervisors. The mode of appointment, qualifications and other service conditions being same and similar to their counterpart, any distinction by the State Government in making payment etc is discriminatory and thus violative of the provisions of Articles 14 and 39(d) of the

Constitution. Besides the aforesaid, further claim is that since the petitioners and intervenors have been working on a pretty long time and the scheme in question being practically permanent in nature, the State being a model employer, should be directed to regularise their services or absorb them by framing an appropriate scheme. The submission is that it is well settled where a temporary or ad hoc appointment is continued for a long time, the Court should presume that there is a need and want for a regular posit and, accordingly, the authorities should be directed for regularisation of the employees working against such posts.

Further case is that most of the petitioners and intervenors had applied for appointment to the post of supervisors, Adult Education Scheme on the basis of advertisement made on 9.6.1983. Thereafter, they along with Adult Education Supervisors appeared at the interview before a Common Selection Committee and then a panel was prepared. Out of the panel in question some of the candidates were appointed as Adult Education Supervisors and remaining were appointed as supervisors. Adult and Non-Formal Education. Therefore, qualification and process of selection of both being common, the State is not justified in giving a different treatment to the petitioners to what is available to the supervisors of the Adult Education Scheme.

7. On the other hand the stand of the respondent-State is that the petitioners and the intervenors cannot be permitted to equalise their claim to that of Adult Education Supervisors. The unequals cannot be considered as equals. Admittedly, the appointments of the petitioners and the intervenors were made without advertisement because the posts over which they have been appointed were not advertised. The Adult Education Supervisors were appointed in a scale on the whole-time basis whereas the appointment of the petitioners and the intervenors are purely ad hoc and part time. They are only required to work for four-hours a day, whereas the Adult Education Supervisors are engaged for whole of the day. The mode of requirement of the petitioners and the Adult Education Supervisors was altogether different. Admittedly, the panel in question was not prepared for appointment of Supervisors of Non-formal Education. In fact, it was for the appointment of Adult Education Supervisors. If some of the persons left out from that very panel volunteered their services to work as supervisors under the Non-formal Education Scheme, they cannot claim that such appointments were made on regular basis.

8. In view of the facts stated above, a larger question that looms for consideration before this Full Bench is-whether the supervisors working under Non-Formal Education Scheme are doing the same and similar job to what is being done by their counter-part and their responsibility and other conditions of service is equal as also whether in the background of the facts of the case, the petitioners can claim for regularizations/absorption of their services in the regular establishment of the State Government ?

9. learned Counsel appearing for the petitioners contended that in view of the ratio laid down by the Supreme Court in the case of Bhagwan Dass and Others

Vs. State of Haryana and Others, , which was also with respect to the same nature of claim, the State Government has no option but to grant the same pay scale and emoluments to the petitioners which has been made available to the supervisors of the Adult Education. He further contended that even the mode of appointment and other conditions being different, so long as the petitioners are doing work which is similar to the work performed by the Adult Education Supervisors, from the stand point of "equal work for equal pay" doctrine, the respondent-State cannot discriminate in regard to pay scales and others emoluments. The process of selection may be different but so long they are doing similar job, they cannot be denied equal pay. He contended that the State Government cannot discriminate on the ground that the petitioners had volunteered their services on the terms and conditions over which they were engaged.

10. It is stated that Article 14 of the Constitution enjoins that the State shall not deny to any person equality before law or the equal protection of law within the territory of India. Article 14 protects all persons against discriminatory and hostile legislation. There cannot be any reasonable classification in making different payment. In support of such submission reliance was placed over the case of Bidi Supply Co. Vs. The Union of India (UOI) and Others, .

11. It was next contended that in the case of Central Inland Water Transport Corporation Limited and Another Vs. Brojo Nath Ganguly and Another, , it was held that in a contract where the inequality of bargaining power is the result of disparity in the economic strength of the contracting parties, the court has to hold that such contract is unfair, unreasonable and, therefore, opposed to public policy. Therefore, opposed to public policy. Therefore, if the petitioners had agreed to work at the initial stage on the terms and conditions prevailing at that time, it cannot be urged by the State that they are estopped from making a grievance of unfair, unreasonable and unequal treatment.

12. It was next contended on behalf of the petitioners that the principle of "equal pay for equal work" though not declared by the Constitution as fundamental right but in view of the provisions of Article 39(d) of the Constitution, it has assumed the status of fundamental right in service jurisprudence. While considering such question, it is not necessary to find out similarity by mathematical calculation rather there should be a reasonable similarity in the nature of work, duty, qualifications and quality of work. In support of this contention, reliance was placed over a decision of the Supreme Court in the case of Grih Kalyan Kendra Workers" Union Vs. Union of India and others, . It would be useful to quote the relevant passage from the report.

7. x x x x While considering this question, it is not necessary to find out similarity by mathematics formula but there must be a reasonable similarity in the nature of work, performance of dunes, the qualification and the quality of work performed by them. It is permissible to have classification in services based on hierarchy of posts, pay scales, value of work and responsibility and experience.

The classification must, however, have a reasonable relation to the object sought to be achieved.

13. In my view, the ratio laid down in aforementioned cases are not applicable to the facts of the present case. The relief sought for must be moulded in each case having regard to the facts of that case. Such consideration cannot be mechanical and, therefore, depends on the facts of each case. It is well settled that there cannot be a rule of "thumb in such matters. It has to be examined with respect to the facts of the particular case.

14. The petitioners, as indicated above, heavily relied upon the ratio of the Supreme Court in the case of Bhagwan Dass and Ors. v. State of Haryana and Ors. (supra). This was a case with respect to more or less a similar scheme of Supervisors of Education Department. In that case, it was noticed that the cadre of Supervisors was described as full-time in a document which was produced before the Court. Clauses (d), (e) and (f) of the said document, which have been noticed in paragraph 7 of the judgment are reproduced hereunder:

(d) The Supervisor will stay whole day in the village and will inspect informal education centres in the day and adult education centre in the night.

(e) He will call the meeting of respected persons of the village on the date of meeting and discuss about the progress of the centre. This meeting can be called before or after the time of the centre.

(f) If any supervisor leaves the headquarter without permission or does not perform his duties properly then necessary action may be taken against him.

From bare reference to Clauses (d) and (e) of the aforesaid document, it would appear that a supervisor working under that scheme was required to stay for the whole of the day in the village. Besides the aforesaid, such supervisors could not leave the headquarters without permission of the authority. In these background, it was held that such supervisors were not part-time functionaries but were whole-time functionaries. It would be appropriate to quote paragraph 8 of the judgment hereunder:

8. It is therefore futile to contend that the petitioners in their capacity as Supervisors were required only to perform part-time work. As per Clause (d) of the aforesaid extract, the supervisors ere required to slay for the whole day in the village and were required to visit the informal Education Centre (in the day ?) and the Adult Education Centre in the Night. They were also required to go on tour and to remain at the headquarter once a week from 9.30 a.m. to 4.00 p.m. The conclusion is therefore inevitable that the petitioners were not part-time functionaries but were whole-time functionaries.

15. In the background of the facts stated above, it is apparent that having regard to the service condition of the supervisors of that case, the Supreme Court held that the supervisors working under that scheme were entitled for equal pay for equal work.

16. However, while rejecting the contention of the State that the supervisors were working in a temporary scheme and against a post which was not sanctioned, the Supreme Court in the said case observed whether appointments are for temporary period and the schemes are temporary is irrelevant once it is shown that the nature of the duties and functions discharged and work done is similar. In support of the aforesaid submission, reliance was placed over the case of Employees of Tannery and Footwear Corporation of India Ltd. and another Vs. Union of India and others, . It was held that mere fact that the employees were working in two distinct legal entitles is not material because both are instrumentalities of the Central Government, if there was no change in the duties and functions of the persons holding corresponding posts in two organisations, the claim for "equal pay for equal work" cannot be denied.

Reliance was also placed on the case of G.C. Ghosh and Ors. v. Union of India and Ors.], Relevant finding of the Supreme Court in this regard is quoted hereunder:

In the light of the command of Articles 14 and 16 of the Constitution of India the same treatment is required to be accorded to the petitioners regardless of the fact that they are serving the Eastern Railway unless it is shown that there is some distinguishing feature, for according a different treatment. Hence they are entitled to the same treatment as is being accorded to their counterparts in the Northern Railway in pursuance to the decision rendered by the Allahabad High Court in Union of India v. Smt. Afsar Johan Begum which has become final as between the Railway Administration on the one hand and the employees of the Northern Railway on the other.

17. As I have already noticed, the case of the petitioners and the intervenors before me is not identical to the case of Bhagwan Dass (supra). In that case, on the basis of relevant document on the record, it was established that the supervisors were appointed on whole time basis and they were required to attend their job throughout the day. Similarly, the ratio as laid down in the case of The Employees of Tanner and Footwear Corporation and G.C. Ghosh (supra) as noticed above, has no bearing over the facts of the present case. Therefore, the petitioners cannot get any benefit on the basis of these Judgments.

No doubt, in the present case, learned Counsel appearing in C.W.J.C. No. 5071 of 1987 and C.W.J.C. No. 2807 of 1988 took us to certain documents contained in Annexures 14 and 15 series to show that from time to time some of the petitioners were required to attend duty of census work, rehabilitation etc. besides their normal duty like regular employees. Therefore, it is stated that the petitioners were required to attend the duty for whole of the day like their counterparts. In my view, on basis of such stray examples, the petitioners cannot be allowed to claim that they are working on whole time basis. I have already noticed certain documents placed on the record which show that the supervisors working under the scheme in question are only required to attend duties for four hours. No restriction has been imposed against them that they cannot perform

any other duty like the Government employees. Such appointment is purely part time. Therefore, they cannot be equated with the Adult Education Supervisors, who were appointed in a scale.

18. 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 the nature of duty, responsibilities, education and qualifications. In this regard, it would be appropriate to notice the case of V. Markendeya and Others Vs. State of Andhra Pradesh and Others, . While examining different decisions on this issue. Hon"ble Mr. Justice K.N. Singh, who was also a party to the judgment of Bhagwan Dass (supra) held thus:

10. x x x x x The principle of "equal pay for equal work" is not abstract one, it is open the State to prescribe different scale of pay for different cadres having regard to nature, duties, responsibilities and educational qualifications. Different grades are laid down in service with varying qualification for entry into particular grade. Higher qualification and experience based on length of service are valid considerations for prescribing different pay scales for different cadres. The employees are equal in every respect in educational qualifications, duties functions and measures of responsibilities and yet they are denied equality in pay. If the classification for prescribing different scales of pay is founded on reasonable nexus the principle will not apply. But if the classification is founded on unreal and unreasonable basis it would violate Articles 14 and 16 of the Constitution and the principles of "equal pay for equal work must have its way.

x x x x x

19. In the case of Supreme Court Supreme Court Employees" Welfare Association and Others Vs. Union of India (UOI) and Another, , it was held that doctrine of "equal pay for equal work" does not come out of Article 14, as an abstract doctrine. But if any classification is relating to pay and scale, it must be proper. It other words, where unequal pay has brought about a discrimination within the meaning of Article 14, it will be a case of "equal pay for equal work". But if the classification is proper and reasonable such doctrine cannot be attracted. It would be appropriate to quote the relevant finding of the Supreme Court hereunder:

38. x x x x x If the classification is proper and reasonable and has a nexus to the object sought to be achieved the doctrine of "equal pay for equal work" will not have any application even though the persons doing the same work are not getting the same pay. In short, so long as it is not a case of discrimination under Article 14 of the Constitution, the abstract doctrine of equal pay for equal work", as envisaged by Article 39(d) of the Constitution, has no manner of application, nor is enforceable in view of Article 37 of the Constitution.

20. In the case of Federation of All India Customs and Central Excise Stenographers (Recognised) and others Vs. Union of India and others, , it has held that "equal pay for equal work" must be applied with the nexus of object to

be sought for. It depends upon the nature of the work done. It would be appropriate to quote the relevant finding of the judgment hereunder:

11. In this case the differentiation has been sought to be justified in view of the nature and the types of the work done, that is, on intelligible basis. The same amount of physical work may entail different quantity of work some more sensitive, some requiring more tact, some less-it varies from nature and culture of employment. The problem about equal pay cannot always be translated into a mathematical formula. If it has a rational nexus with the object to be sought for, as reiterated before, a certain amount of value judgment of the administrative authorities who are charged with fixing the pay scale has been left with them and it cannot be interfered with by the Court unless it is demonstrated that either it is irrational or based on no basis or arrived at mala fide either in law or in fact. In the light of the averments made and in the facts mentioned before, it is not possible to say that the differentiation is based on no rational nexus with the object to be sought for to be achieved....

In this regard, reference can also be made to a recent decision of the Supreme Court in the case of State of W.B. and Others Vs. Hari Narayan Bhowal and Others, . Their Lordships have held that principle of "equal pay for equal work" can be enforced only if the persons claiming satisfy the Court that not only the nature of work is identical but in all other respects they belong to the same class. Until the claimants satisfy on the material produced that have not been treated as equals, in purview of Article 14, the Courts should not issue a writ to treat such persons equal to others. It would be useful to quote the relevant findings of the judgment hereunder:

11. It need not be impressed that the principle of "equal pay for equal work" can be enforced only after the persons claiming satisfy the court that not only the nature of work is identical but in all other respects they belong to the same class and there is no apparent reason to treat equals as unequals. Unless a very clear case is made out and the court is satisfied that the scale provided to a group of persons on the basis of the material produced before it amounts to discrimination without there being any justification, the court should not take upon itself the responsibility of fixation of scales of pay, especially when the different scales of pay have been fixed by the Pay Commission or Pay Revision Committees, having persons as members who can be held to be experts in the field and after examining all the relevant material. It need not be emphasised that in the process undertaken by the court, an anomaly in different services may be introduced, of which the court may not be conscious, in the absence of all the relevant materials being before it. Till the claimants satisfy on material produced, that they have not been treated as equals within the parameters of Articles 14. Courts should be reluctant to issue any writ or direction to treat them as equals, particularly when a body of experts has found them not to be equal.

21. In the case of State of U.P. and Ors. v. J.P. Chaurasia and Ors. AIR 1989 SC 19, it was held whether two posts are equal or should carry equal pay depends

upon several factors. That cannot be determined by relying upon averments in the affidavit of the interested parties. The quantity of work may be the same but the quality may be different. It depends upon the evaluation of duty and responsibilities of the respective posts. So far as the present case is concerned, as already mentioned above, the appointments of the petitioners were not made after judging their relative merit and efficiency. It was purely on part time basis for which they had themselves volunteered. The appointment of Adult Education Supervisors was made after due advertisement and selection. Such appointment has been made in a scale of a regular cadre. Those supervisors are being governed under the statutory rules and service conditions prescribed by the State Government. In that view of the matter, the State cannot be compelled to treat the petitioners equal to that of Adult Education Supervisors. Therefore, it is difficult to hold that the petitioners of the intervenors belong to the same class as of Adult Education Supervisors. Undisputedly, both form two different classes, therefore, cannot be treated equal for the purposes of attracting the principles of "equal pay for equal work."

22. The other claim of the petitioners is that some of them have been working continuously with effect from 1987, therefore, this is a fit case in which the Court should direct the State Government to regularise their services in a regular cadre. Learned Advocates for the parties have referred to a volume of decisions of the Supreme Court in support of their submissions. Admittedly, such issue has come up before the Courts on several occasions. The rise in population and, therefore, mounting problems of unemployment is one of the main causes which attracts the Courts whenever a hardship in this regard is noticed therefore, in view of the settled precedents of the Supreme Court it is not necessary for me to examine all the cases referred by the parties.

23. The claim of the petitioners is that their case is similar to that of Bhagwan Dass v. State of Haryana (supra). That was also a case with respect to similar scheme which was temporary in nature. Similar prayer was made in that case also for a direction to the State for regularisation. The Supreme Court after examining all the relevant materials, held that the scheme in question was purely temporary. The moment illiterate adults of villages become literate pursuant to education imparted, the need for an adult education would diminish progressively and ultimately cease. Therefore, it was held that no claim can be made for absorption in a regular employment, merely on the basis of length of service. Reference in this regard can also be made to the case of Delhi Development Horticulture Employees' Union Vs. Delhi Administration, Delhi and others, . It was held where the object of the scheme was not to provide the right to work, no fault can be found with such a limited object. Those employees under such scheme cannot ask more than what the scheme intended to give them. To get an employment under such a scheme and subsequently claim for regularisation would naturally frustrate the scheme itself. Therefore no court should be a party to such exercise.

24. We have noticed that in some of the cases, the State has filed counter affidavits. It is stated that in case a direction is issued for regularisation/absorption of the petitioners, it would incur a financial burden of Rs. 12-16 crores per annum. It has already been noticed that the scheme in question is purely temporary and can be abandoned any moment. To implement the scheme. Voluntary organisations were involved in order to avoid financial burden. The purpose of the scheme is not to provide employment rather it is to eradicate illiteracy with the help of voluntary organisations. In these background, if a direction is issued to regularise/absorb the services of the petitioners bilaterally it will defeat the whole concept of the scheme and that may force the State to wind up the existing scheme.

25. On behalf of the petitioners, a grievance has been made that the respondents while appointing Adult Education Supervisors from the panel in question, have adopted pick and choose policy. For example, it has been alleged that in CWJC No. 1458 of 1988, respondent Nos. 13 to 17 who were placed below in the merit list and initially appointed as supervisors, Non-formal Education, at a later stage they were appointed in the scale of Adult Education Supervisors, ignoring the claim of the candidates who were placed above them in the panel. Besides the aforesaid, it is alleged that from time to time, some of the Supervisors though initially appointed under the Non-formal Education Scheme were adjusted against the posts of Supervisors, Adult Education, ignoring the claim of the persons who were placed above in the panel.

26. It has already been indicated that we are not inclined to examine individual claim of the petitioners or intervenors. If the petitioners were aggrieved by such discrimination, they could have challenged at proper stage. That apart, in absence of a prayer for quashing such appointments, it is not proper and necessary to consider all these aspects.

27. In C.W.J.C. No. 4941 of 1989, besides general points as indicated above, a prayer has also been made for quashing the communication dated 13th March, 1989 (Annexure 12) whereby and where under the appointment of the petitioner as Adult Education Supervisor was cancelled by respondent no. 2. It appears the petitioner of this case was placed at serial No. 13 of the panel of the Magadh Division on basis of advertisement dated 7.12.1983. On 8.7.1985, about 27 persons were appointed in the scale of Rule 3. 785-1210 as Adult Education Supervisors ignoring the petitioner. He was appointed on honorarium basis in the scale of Rs. 600/- in Non-formal Scheme. But subsequently considering his grievances, the authorities appointed him in the scale of Rs. 785-1210 with effect from 24.9.1986. Later, on 16.6.1987, such appointment was cancelled without any reason. The petitioner thereafter filed a representation before respondent No. 2 who by order dated 9.2.1988 (Annexure 10) allowed the petitioner to continue on the post of Supervisor. Adult Education till a final decision is taken by the Screening Committee. It appears that some of the candidates had filed CWJC Order 3222 of 1988. A Bench of this Court by order dated 3.8.1988 observed

that pendency of the writ application will not stand in the way of the respondents in terminating the services of ad hoc appointees. Although such order had nothing to do with the appointment of the petitioner but respondent no. 2 by the impugned order cancelled his appointment.

It has been contended that the order was wholly unwarranted and passed without giving any notice to the petitioner. It has been further contended that the petitioner was appointed much before the order of this Court passed in that case. Although a counter affidavit has been filed on behalf of the respondents but there is no denial about facts stated above. In fact no reason has been assigned in the counter affidavit why the appointment of the petitioner was cancelled. In the background of the facts stated above. I have no option but to quash the impugned order since it has been recorded on anon-existent ground as also without any opportunity to the petitioner. But it may be observed that this order will not stand in the way of the respondents to pass a fresh order in accordance with law, if necessary.

28. Before parting with this judgment, it would be appropriate to notice that when this matter was placed before the earlier Full Bench, it was noticed that most of the petitioners and intervenors have been working in this scheme continuously for last several years and some of them have become overage. Their family members are also dependent for the livelihood on the salary of the petitioners which they are earning from the State Government. Therefore, noticing the views taken by the Supreme Court on this subject in several other cases, the State Government was asked to take its stand about regularisation or rehabilitation of the petitioners, if necessary. On 19.2.92 after hearing the parties, the case was adjourned to enable the State Government to consider this aspect.

Thereafter, the Secretary-cum Commissioner, Department of Human Resources swore affidavit enclosing a copy of the scheme, indicating therein the mode and different condition for absorption of the petitioners and the intervenors. An attempt was made by the petitioners to show that such scheme has been made only to defeat their genuine claim. Therefore, unless the scheme is suitably amended or modified, the claim of the petitioners for absorption cannot be satisfied. It has already been indicated that we are not considering the individual cases of the petitioners and the intervenors. The Government has already prepared a scheme. If there are certain hardships, it would be open to the candidates to approach the Government for necessary modification or its amendment.

29. In result, subject to the findings what has been recorded with respect to C.W.J.C. No. 4941 of 1989 (Birendra Kumar Singh v. State of Bihar and Ors.) as also about the scheme which has been framed by the Government all these writ applications are dismissed. But in the circumstances of the case, there shall be no order as to costs.

S.K. Mookerjee, J.

30. I agree.

B.N. Agrawal, J.

31. I agree.