

(2003) 11 SC CK 0041

In the Supreme Court Of India

Case No : Civil Appeal No. 5383 of 1998

Dharam Chand and Others

APPELLANT

Vs

Haryana Agricultural University and Others

RESPONDENT

Date of Decision : 12-11-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 9 SCALE 667 : (2004) SCC(L&S) 709 : (2003) 5 SCR 480

Supp : (2004) 1 SLJ 227

Hon'ble Judges : V. N. Khare, C.J;S. B. Sinha, J

Bench : Division Bench

Advocate : Raj Kumar Gupta, Sheo Kumar Gupta, Bhanu Pratap Gupta and A. N. Bardiyar, for the Appellant; Mahabir Singh, Rakesh Dahiya and Nikhil Jain, for the Respondent

Final Decision : Dismissed

Judgement

1. The appellants herein are the members of the ministerial staff working in the Haryana Agricultural University. It is not disputed that they came to be appointed after 6th June, 1980.

2. On or about 2nd April, 1980, the Board of Management of the University authorised the Finance Committee to revise the pay scale of all the employees of the University with effect from 1st April, 1979, pursuant where to and in furtherance whereof recommendations were made to grant revised scales of pay to the employees of the University. The University accepted the said recommendations and issued a Notification as regards the revision of pay scale of all categories of University employees, including Clerks on 6th June, 1980. The appellants admittedly herein were appointed on or about after 6th June, 1980.

3. Having regard to the recommendations of the Finance Committee, the scale of pay of Class III employees of the University was made at par with those of Class III employees of the State Government. The question which arose for consideration before the State Government was that in the event same scale of

pay is made available in relation to the employees appointed both prior to and after 6th June, 1980, the pay scale of the Clerks, who were already in employment of the University, on that day, would go down. In that view of the matter, a representation was made by the said employees before the University and the matter was referred to the Anomaly Removal Committee. Before the Anomaly Removal Committee, the contention of Class III employees of the University, who were appointed prior to 6th June, 1980, was that their scale of pay was earlier fixed at Rs. 120-300 whereas those of the State Government was Rs. 110 and 225. Upon considerations of the matters in various meetings, the Anomaly Removal Committee had recommended as under:

"(i)(a) Since the pre-revised scale of pay of clerical cadre in the University was Rs. 120-300 against Rs. 110-225 under State Government, the persons employed in the clerical cadre of the University, prior to the date of notification of the revised scales i.e., prior to 6.6.80 should be allowed the scale of Rs. 420-700 as a personal measure, but recruitment to the clerical cadre on or after that date (6.6.80) should be made in the normal scale of Rs. 400-600. Selection grade of Rs. 480-760 shall be applicable to 20% of all permanent posts of clerical cadre whether in the scale of Rs. 400-660 or in the personal scale of Rs. 420-700."

4. The recommendations of the Anomaly Removal Committee was accepted by the Board of Management of the University. The appellants herein emboldened by the said fact filed a writ petition before the High Court under Article 226 of the Constitution of India, praying for issuance in the nature of mandamus directing the respondent-University to give unto them the same scale of pay granted to the other employees on the basis of equal pay for equal work.

5. The learned Single Judge of the High Court of Punjab and Haryana accepted the plea of the appellants herein and allowed the writ petition and issued direction that the appellants would be given the same pay scales as being paid to Class III employees appointed prior to 6th June, 1980. Aggrieved, the respondent filed a Letters Patent Appeal before the High Court. The High Court allowed the appeal and set aside the judgment of the learned Single Judge. It is against the said judgment, the appellants are in appeal before us by means of special leave petition.

6. Learned counsel appearing for the appellant submit that as the service rules applicable to all the employees is the same, a common seniority list was prepared and thus the cut off date fixed by the University must be held to be arbitrary and unreasonable. Learned counsel contended that keeping in view the admitted fact that the appellants discharge the same duties and functions as those who are appointed prior to 6th June, 1980, they must be held to have been discriminated against as the same scale of pay was granted to them. Learned counsel appearing on behalf of the respondent on the other hand would support the judgment under appeal.

7. In the instant case, the question of applicability of the Doctrine of Equal Pay

for Equal Work does not arise. There is no dispute that the appellants herein, as also those who are appointed prior to 6th June, 1980, perform similar nature of duties and functions. However, in the instant case, the authorities of the University, as noticed hereinbefore, have merely accepted the recommendations of the Anomaly Removal Committee in terms whereof the scales of pay payable to the Clerks, who were appointed prior to 6th June, 1980, was protected. By accepting the said recommendations, the University did not make any discrimination; keeping that in view the fact that those who are appointed prior to 6th June, 1980 form a different class and, thus, they were entitled to different treatment. Insofar as the scale of pay which was in vogue immediately prior to 6th June, 1980 is concerned, the same was given to them merely with a view to protect their pay. Such an order directing protection of scale of pay of employees, which is personal in nature, will not confer any legal right upon the appellants herein to claim the same remuneration in terms of the principles of equal pay for equal work or otherwise. It is now well known that the State is entitled to make a classification provided the same is a reasonable one and based on intelligible differentia. As the employees, who were appointed prior to 6th June, 1980, form a separate and distinct class. Such a classification was permissible, keeping in view the fact that they were in enjoyment of a higher scale of pay. The decision of the respondent-University to make their scales of pay, in our considered opinion, cannot be held to be arbitrary and discriminatory.

8. For the aforesaid reasons, we do not find any merit in the appeal. It fails and is, accordingly, dismissed. No costs.