
(2013) 07 MP CK 0339

In the Madhya Pradesh High Court

Case No : Writ Petition (S) No. 6555 of 2003

Dr. Rishikesh Sharma

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 19-07-2013

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 39(d)

Citation : (2013) 07 MP CK 0339

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : Alok Katare, for the Appellant; Praveen Newaskar, Dy. Government Advocate for State, for the Respondent

Final Decision : Disposed Off

Judgement

Sujoy Paul, J.—The petitioner, a Research Assistant working in Crocodile Sanctuary at Devari (Morena) under the respondent-department is aggrieved by the action of the respondents in granting him pre-revised pay-scale of Rs. 155-252, which is revised as 3500-5200, whereas the Research Assistant working in the same department in Kanha National Park are being paid in the scale of 5000-8000. In Para 6.8 of the petition, petitioner has stated as under:-

That, the State of M.P. in his Department of Forest has get 7 posts of Research Assistant as is clear from Annexure-A/8 and despite taking work from the applicant on the post of Research Assistant the applicant is being paid pay scale 3500-5200, whereas the Research Assistant working in the Department itself are being paid the pay scale 5000-8000, and the Research Assistant posted at National Park, "KANHA", is being paid 5500-9000. The qualification of the Research Assistant who are working in the State of MP in its Forest Department is the same, works are the same, working conditions are same but in the matter of the payment of salary there is discrimination with the applicant. The applicant is being treated differently, the amount violation at Article 14 & 16 of the Constitution of India as such the respondents deserves to be condemned by

issuance of a writ commode or directed against the respondent on the following grounds:

A bare perusal of this paragraph shows that petitioner has specifically pleaded that the qualification of petitioner and that of his counter part working in Kanha is same. The nature of work of both the posts is same and therefore, petitioner is entitled for same pay-scale as per Article 14 of the Constitution of India. In addition, petitioner relied on the report of the committee on service condition and revision of pay-scale Annexure-A/7. By relying on the chart, it is contended that the committee recommended for enhancement of pay-scale to 5000-8000 and grant of pay-scale to the promotional post as 5500-9000.

2. Shri Katare learned counsel for the petitioner also relied on document dated 14/03/2002 filed along with list of documents to submit that pay-scale of Research Assistant in Kanha Tiger Research Mandla w.e.f. 01/01/1996 became 5000-8000, which was further revised from 01/04/1997 as 5500-9000. On the strength of that, it is submitted that "equal pay for equal work" flowing from Article 14 and 39(d) of the Constitution should be made applicable.

3. Respondents have filed their return and Shri Newaskar learned Dy. Government Advocate by taking this Court to the averments of the return submits that petition has no substance and is liable to be rejected.

4. Respondents have replied Para 6.8 as under:-

That the contents of para 6.7 & 6.8 are not admitted in the light of detailed reply given herein above. As per creation of post, in the time-scale, the applicant is regularly been paid the said pay-scale with subsequent revised pay-scale. Higher pay-scale which is not sanctioned for the post of Research Assistant as has been claimed by the applicant in this application is not liable to be allowed to the applicant in any manner.

Apart from this, a simple reading of the reply does not indicate as to why petitioner was put to a comparative disadvantageous position qua the Research Assistant working in Kanha National Park. Putting it differently, the respondents have not shown the recruitment procedure, eligibility condition, nature of work job nomenclature, duration of work, degree of responsibility and other factors, which are necessary for deciding the question of "equal pay for equal work".

5. This is settled in law that unless wholesome parity is established "equal pay for equal work" is not applicable. This is also trite that the Courts cannot undertake the exercise of deciding the pay-scales of the employees and it is the work, which is entrusted to the pay commissions and expert bodies. The Apex Court has taken this view in State of U.P. and Others Vs. J.P. Chaurasia and Others, However, the averments of the petition are not properly replied and therefore, in my opinion, petitioner has made out a strong case for consideration of his claim for "equal pay for equal work".

6. On the basis of aforesaid analysis, I deem it proper to dispose of this petition

with the direction to the respondents to examine the case of the petitioner for grant of benefit of "equal pay for equal work" qua his counter parts working as Research Assistant in Kanha National Park. Respondents are at liberty to appoint expert body to examine the aforesaid aspect. If the respondents come to the conclusion that petitioner is entitled for the benefit of same pay-scale as per the doctrine of "equal pay for equal work", they shall pass necessary orders in this regard, which shall deal with the period from which the benefit is to be given to the petitioner. This entire exercise be done expeditiously, preferably within 08 months from the date of presentation of certified copy of this order. Outcome of such consideration shall be communicated to the petitioner. Petition is disposed of. No costs.