

---

**(2002) 12 AHC CK 0022**  
**In the Allahabad High Court**  
**Case No : C.M.W.P. No. 21706 of 2002**

Dr. S.K. Srivastava

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

---

**Date of Decision :** 02-12-2002

**Acts Referred:**

Constitution of India, 1950 — Article 14

**Citation :** (2003) 1 AWC 664 : (2003) 1 UPLBEC 693

**Hon'ble Judges :** Yatindra Singh, J;M. Katju, J

**Bench :** Division Bench

**Advocate :** A.K. Pandey and S.P. Upadhyaya, for the Appellant;

**Final Decision :** Dismissed

---

## Judgement

M. Katju, J.—This writ petition has been filed against the order passed by the U. P. State Public Service Tribunal, dated 27.2.2001, Annexure-13 to the writ petition.

2. We have heard the learned counsel for the parties and have perused the impugned order.

3. The petitioner is on the post of District Health Education-cum-Information Officer in the service of the U. P. Government. The petitioner was selected by the U. P. Public Service Commission and is on the pay scale of Rs. 1.640-2,900. The petitioner and some others working on similar posts filed a claim petition before the Tribunal claiming pay scale of Rs. 2.200-4,000 and that claim petition has been rejected by the Tribunal by the impugned order dated 27.2.2001. Hence this petition.

4. In paragraph 4 of the petition, it is stated that the claim of the petitioner and others for the pay scale of Rs. 2.200-4.000 had been under the consideration of the State Government for a long time. A Samta Committee was constituted by the State Government for removing disparity among the pay scale of employees of various cadres and it is alleged that the said Committee had recommended

that the District Health Education-cum-Information Officer should be given status of Gazetted Officer and the pay scale of Rs. 850-1,720 (which has now become Rs. 2,200-4,000). True copy of the letter of the Secretary, Medical Health, U. P. Government to the Additional Secretary, Ministry of Health, Government of India is Annexure-1 to the writ petition. The relevant part of the recommendation of the Samiti is Annexure-2 to the writ petition.

5. It is stated in paragraph 6 of the writ petition that other State Governments, e.g., Madhya Pradesh and Bihar have granted the pay scale of Rs. 2,200-4,000 to the similarly situated persons although their designations are different. Since the scheme is centrally sponsored and the budget is provided for this scheme by the Central Government for all the States hence the petitioner and others should also be given the pay scale of Rs. 2,200-4,000. True copies of the letters dated 30.9.1985, written by the Director, Family Welfare cum State Family Welfare, U. P. to the Secretary, Medical Health is Annexure-3 to the writ petition. It is alleged in paragraph 15 of the writ petition that in the letter of May, 1986, issued by the Government of India, Ministry of Health and Family Welfare it was informed that the Central Government has no objection to the revised pay scale being granted to the District Health Education cum Information Officers vide Annexure-7 to the writ petition. In paragraph 16 to the writ petition it is stated that the U. P. Public Service Commission had written a letter dated 21.5.1987 to the Director, Family Welfare requesting for clarification in this regard since for the District Health Education-cum-Information Officers, who are treated as non-gazetted and in lower pay scale, post-graduation is the minimum education qualification. while Information Officers in the Information and Public Relation Department are Gazetted Officers and only graduation is the minimum qualification. True copy of the said letter is Annexure-8 to the writ petition. The petitioner sent a request to the Director, Family Welfare for grant of pay scale of Rs. 2,200-4,000 vide Annexure-9 to the writ petition.

6. In paragraph 19 of the writ petition it is stated that the work of District Health Education-cum-Information Officers has been specified by the Government indicating that their work and duties are more important than that of the District Information Officer. True copy of their duties and responsibilities are Annexure-11 to the writ petition. The Bajaj Committee had recommended the pay scale of Rs. 2,200-4,000 to the petitioner but it was turned down by the Government order dated 15.3.1997, Annexure-12 to the writ petition.

7. The petitioner and others challenged the inaction of the respondents for not granting the pay scale of Rs. 2,200-4,000 before the Tribunal but their petition was rejected. Hence this petition.

8. After a careful perusal of the impugned order of the Tribunal dated 27.2.2001, Annexure-13 to the writ petition, we find no infirmity in the same. A mere recommendation is not a law. Hence the submission of the learned counsel for the petitioner that there are recommendations in favour of the petitioners will not give any right to get the higher pay scale. It is not for this Court to grant

higher pay scale to the employees.

9. As regards the submission of the petitioner on the basis of the principle of equal pay for equal work, it has been stated in paragraph 8 of the Tribunal's order that the duties of Information Officers in the Information and Public Relations Department are different from that of the petitioner and others similarly situate. This is a finding of fact and we cannot interfere with it in writ jurisdiction. Hence, Article 14 of the Constitution will have no application.

10. The submission that other States have granted higher pay scale will also not attract Article 14 of the Constitution because in different States different situations prevail. Different States have different financial conditions and it cannot be argued that just because in Madhya Pradesh and Bihar a certain pay scale is given hence the U. P. Government employees should also be given the same pay scale. In our opinion, the principle of equal pay for equal work cannot be stretched too far.

11. In *Garhwal Jal Sansthan Karmachari Union and another Vs. State of Uttar Pradesh and others*, the Supreme Court held that mere similarity in the duties and functions of two organizations is not a decisive factor to hold that the employees of Jal Sansthan are entitled to parity of pay scales with the employees of Jal Nigam. It has also to be seen whether there is any qualitative commonality between the two organisations. The duties and functions assigned to Jal Nigam employees are in many respects qualitatively different from those of the Jal Sansthan employees. Jal Nigam is a corporation having jurisdiction all over the territory of U. P., whereas the duties and functions of Jal Sansthan are restricted to the local area under the control of local bodies. Hence the principle of equal pay for equal work would not apply.

12. In the same decision the Supreme Court held that the principle of equal pay for equal work is not always easy to apply. There are inherent difficulties in comparing and evaluating work done by different persons in different organisations or even in the same organisation.

13. In *State of Tamil Nadu and Another Vs. M.R. Alagappan and Others, etc.*, it was held by the Supreme Court that the principle of equal pay for equal work does not apply when there are other distinguishing features like educational qualifications for appointment, mode of recruitment, status, special assignment entrusted to one category only, different seniority lists etc.

14. In *Union of India and Another v. Rajendra Singh Rajput*, (1997) 10 SCC 426 . it was held that the Junior Engineer (Mech.) in Dandakaranya Project even though they had earlier been granted pay parity with Junior Engineers of C.P.W.D. cannot claim that since the pay scale of the latter has been subsequently raised their pay scale should also be raised.

15. In *Union of India and Others Vs. Pradip Kumar Dey*, the Supreme Court held that mere recommendation does not confer any right to make a claim for equal

pay.

16. In *State of Himachal Pradesh Vs. Shri. P.D. Attri and Others*, it was held that one State is not bound to follow the rules and regulations applicable to employees of the other State and even if they had been followed, it was not necessary to follow the changes subsequently made by the other State. Hence the State of Himachal Pradesh was not bound to adopt the changes made by the State of Punjab even though traditionally it had been doing so. There would be no violation of Article 14 of the Constitution in such a case. This decision makes it clear that just because M. P. and Bihar has given higher pay scale to persons on similar post as that of the petitioner, this does not entitle the petitioner also to get the higher pay scale.

17. In *Government of Andhra Pradesh and Another Vs. P. Hari Hara Prasad and Others*, the Supreme Court held that the employees of subordinate courts cannot claim parity with the employee of A. P. Secretariat as they are governed by different rules and hence the pay scales and other conditions of service are to be governed by the respective rules applicable to them. It was further held that it is not permissible to go into the nature of duties of employees while exercising writ Jurisdiction under Article 226 of the Constitution and on that basis direct grant of pay scales which are applicable to employees of a different service.

18. In *State of U.P. v. Ministerial Karmchari Sangh AIR 1998 SC 303* it was held that although the Lower Division and Upper Division Assistants in the Secretariat are holding the same post and performing similar work as the Lower Division and Upper Division Assistants (Clerical Cadre) in the Directorate of Information, yet they cannot be given parity in pay scale because the mode of recruitment, qualification, promotion are totally different. The Supreme Court relied on Its earlier decision in *State of Haryana and Others Vs. Jasmer Singh and Others*, and in *Federation of All India Customs and Central Excise Stenographers (Recognised) and others Vs. Union of India and others*, and held that the principle of equal pay for equal work is not always easy to apply. There are inherent difficulties in comparing and evaluating the work done by different persons in different organisations or even in the same organisation.

19. in view of the above, there is no merit in this petition and it is accordingly dismissed.