
(1995) 01 MP CK 0056
In the Madhya Pradesh High Court
Case No : M.P. No. 702 of 1986

Krishnakant and Others

APPELLANT

Vs

M.P. State Road Transport Corporation

RESPONDENT

Date of Decision : 20-01-1995

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (1995) 70 FLR 908 : (1996) 1 LLJ 224

Hon'ble Judges : C.K. Prasad, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

C.K. Prasad, J.—The petitioners in the aforesaid writ petition are the employees of the Madhya Pradesh State Road Transport Corporation (hereinafter referred to as "Corporation") and working on different posts and they have filed this Writ Application for declaration that the reduction of their pay scale is discriminatory and in violation of Article 14 of the Constitution of India. Further prayer has been made to this Court to direct the respondent Corporation to award the scales recommended by Justice Malik Commission to them revision of pay scale with the benefit of arrears of salary have been sought from April 1, 1981.

2. The petitioners, as stated earlier, are the employees of the Corporation and are working on the posts of Upper Division Clerk, Cashier, Store Keeper etc. On May 31, 1988 the State Government appointed one man pay commission, headed by the Justice M.M. Mafik, a Judge of the High Court to make recommendation for the revision of scales of pay of the employees of the Corporation. Certain guidelines were laid down for recommendation of the scales of pay while appointing Justice Malik Commission. The Commission submitted its recommendation. Thereafter a Committee was appointed by the State Government to examine the recommendation of the Commission, which consisted of Shri A.K.. Vijyawargiya, Special Secretary in the Department of Transport and Shri B.K. Dass, the then Special Secretary, Finance. The

Committee on examination of the recommendation of the Pay Commission found that the scales of pay as recommended by Justice Malik Commission in relation to the categories of employees i.e. Mistri, Senior Mechanic, Assistant Public Relation Officer, Executive Engineer and P.R.O. are on the higher side comparable to the scales of pay granted to the same categories of the employees working under the State Government. On the aforesaid premises the Committee proposed scale of pay to such employees in the time scale of Rs.575/- to 880/-although according to the recommendation of Justice Malik the scales of pay suggested was Rs. 635A to 950/-. It further appears that the report of the Committee suggesting a lower scale of pay than that of Justice Malik's recommendation was accepted and the petitioners were paid salary in the scale of Rs. 575/- to 880/-. Although the revision of scales was made effective from July 1, 1983 but actual payment was directed to be made with effect from June 1, 1985 arrears of salary for the intervening period was to be deposited in Employees' Deposit Fund Scheme of the Corporation.

3. Counsel for the petitioner submitted that reducing the scale of pay as suggested by Justice Malik is arbitrary, discriminatory and as such the same is fit to be struck down by this Court. In support of his submission learned counsel for the petitioners relied on a decision of the Supreme Court in case of Purshottam Lal and Others Vs. Union of India (UOI) and Another, and Laljee Dubey and Others Vs. Union of India (UOI) and Others, . Learned counsel for the petitioners has placed reliance on paragraph No. 15 of Purshottamlal's case (supra) which reads as follows:

"Mr. Dhebar contends that it was for the Government to accept the recommendations of the Pay Commission and while doing so to determine which categories of employees should be taken to have been included in the terms of reference. We are unable to appreciate this point. Either the Government has made reference in respect of all Government employees or it has not. But if it has made a reference in respect of all Government employees and it accepts the recommendations it is bound to implement recommendations in respect of all Government employees. If it does not implement the report regarding some employees only it commits a breach of Articles 14 and 16 of the Constitution. This is what the Government has done as far as these petitioners are concerned".

The reliance of the petitioners on Purshottamlal's case (supra) is absolutely misconceived. In the aforesaid case controversy was regarding the application of pay Commission report in relation to a category of the employee. The stand of the Union of India that the recommendation of the pay commission did not relate to the category of the employees, who were before the Supreme Court. The Supreme Court negated that contention, which would be evident from paragraph No. 14 of the judgment which reads as follows:

"Mr. Dhebar on behalf of the Government maintains the same position and he says that the Pay Commission Report did not deal with the case of the petitioners. We are unable to accept this contention. The terms of reference are

wide, and if any category of Government servants was excluded material would have been placed before this Court. The pay Commission has clearly stated that for the purposes of their enquiry they had taken all persons in the Civil Services of the Central Government or holding Civil Posts under that Government and paid out of the Consolidated Fund of India, to the Central Government employees, It is not denied by Mr. Dhebar that the petitioners are paid out of the Consolidated Fund of India.

4. Once the Supreme Court held that the recommendations of the Pay Commission which was accepted related to the employees making grievance before it and in that context the stand of the Union of India that it will not apply to them, as negatived. However, in the present case, I find that the recommendation of the Pay Commission was not accepted by the Government in totality. After the recommendation was received, the same was sent for examination by a Committee and the Committee, as stated earlier, suggested for a lower scale of pay than what was recommended by the Commission. As the recommendation of the Pay Commission was not accepted, the petitioners reliance on Purshottamlal's case (supra) is misplaced.

5. Particular emphasis is laid by the counsel for the petitioners on paragraph No. 14 of Lalji Dube 's case (supra) Paragraph No. 14 of the said judgment reads as follows:

"The Government accepted the recommendation . Therefore, the Government was found to implement the recommendations in respect of all Government employees. The reason given by this Court was that if the Government did not implement the Report regarding some employees only there would be a breach of Articles 14 and 16 of the Constitution".

As I have held earlier the recommendation of the Pay Commission was not accepted and it was only after the same was examined by the Committee, which suggested different scales of pay, which was lower than what was suggested by the Commission, authority given to the petitioners. However, in Lalji Dube's case (supra) the Government after accepting the recommendations decided not to give the said recommended pay scale to the petitioners of the said case. In the said background the Supreme Court held the action of the respondents to be violative of the petitioner's fundamental rights guaranteed under Articles 14 and 16 of the Constitution of India. I have already held that the recommendation of Justice Malik was not accepted and as such the petitioners cannot complain of violation of their rights enshrined under Articles 14 and 16 of the Constitution of India and as such Lalji Dube's case (supra) is of no help to the petitioners.

6. It is not grievance of the petitioners that the respondents are making discrimination in respect of the scale of pay between the same categories after accepting the view of the Committee. Thus, no case of arbitrariness or discrimination has been made out.

7. Counsel for the petitioners submitted that the Committee has reduced the

scale of pay of the petitioners but they have done so without giving an opportunity of hearing to them. It is the submissions of the learned counsel for the petitioners that the scale of pay suggested by the committee was lower than what was recommended by Justice Malik's Commission and thereafter, it was incumbent upon the authority to give the petitioners opportunity of hearing, in tune with the principle of natural justice.

8. In the return filed by the Respondent Corporation, I find the following averment.

"In fact justice Malik's Pay Commission recommendations for U.D.C. Grade II was on the higher side as compared to State Government, the Corporation constituted a Committee consisting of Shri A.K. Vijavargiy, the then special Secretary, Transport Department and Shri B.K. Dass, the then Special Secretary of the Finance Department, who considered this aspect and recommended pay scale of Rs.575/- to 880/- corresponding to pay scale for Government of M.P. for the post."

9. I am of the view that this submission is devoid of any substance. The very premise on which the petitioners have proceeded that there was reduction in the scales of pay is unfounded. It is not the case of the petitioners that they were ever paid the salary in the scale of pay suggested by Justice Malik and hence questions of reduction of their pay does not arise at all. The suggestion of Justice Malik was in the realm of recommendation and the said scale of pay was never accorded to the petitioner at any point of time. As such the lower scale of pay granted to them on the advice of the Committee, cannot be termed to be reduction in scales of pay and as such the petitioners were not entitled to notice or opportunity of hearing in the matters.

10. Counsel for the petitioners then submitted that the recommendations of the Committee which suggested lower scale of pay is arbitrary because of non application of mind. According to the learned counsel the Committee Report itself will indicate that they did not get the time to analyse the recommendations of Justice Malik and, therefore, their report suffers from vice of non-application of mind. The counsel submits that as the report of the Committee is without application of mind the same is arbitrary and fit to be ignored and the petitioners are entitled to the scale of pay recommended by Justice Malik Commission.

11. Counsel for the respondents submitted that although in a very short time the Committee submitted its report but this itself, will not indicate that the Committee report was without application of mind or arbitrary.

12. Having heard submissions of the parties, I am of the view that the report of the Committee cannot be said to have been handed over without application of mind. The Committee took into consideration the fact that the employees of the State Government of the same category were paid salary in the lower time scale than what was suggested by Justice Malik for the petitioners. I also find that in respect of many employees higher scale was suggested by the Committee. This

clearly shows that although the Committee had less time at their disposal, applied their mind and went into the question objectively. I thus negative the submission made by the petitioners on this score. I accordingly hold that the report of the Committee was neither arbitrary nor the same was submitted without application of mind.

13. Counsel for the petitioners then submitted that there was no material before the Committee in relation to the nature of the work performed by the employees of the State Government of the same category vis-a-vis the petitioners and, therefore, according to his submission the Committee acted arbitrarily in comparing the Corporation employees with that of the State Government Employees. I do not find any merit in this submission also. The petitioners in the present application have not stated that the nature of work done by them is any way higher in the responsibility or otherwise than the same categories of the employees of State Government. The petitioners have also not pleaded before this Court that the Committee was not aware of the nature of the work performed by the State Government's employees vis-a-vis the petitioners. Thus the challenge made by the petitioners on this score also fails.

14. I find no substance in the grievance made by the petitioner that they ought to have paid their salary w.e.f. June 1, 1983 and not from June 1, 1985. While implementing the Pay Commission report it is the discretion of the employer to make the same effective from a given date. The pay scale was made effective from June 1, 1983 but actual payment was made from June 1, 1985. The increased salary was directed to be credited to Employees, Deposit Scheme, I do not find any thing irrational in it which calls for my interference.

15. Having negated all the contentions raised by the petitioners, I find no merit in the writ petition and it is accordingly dismissed. However, there shall be no order as to costs. Security money, if deposited shall be refunded after verification.