
(2007) 05 AHC CK 0238

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 16750 of 2001

Maresh Prakash Rai and others

APPELLANT

Vs

Central Administrative Tribunal, Allahabad and others

RESPONDENT

Date of Decision : 08-05-2007

Acts Referred:

Citation : (2007) 05 AHC CK 0238

Hon'ble Judges : Anjani Kumar, J and Sudhir Agarwal, J

Final Decision : Dismissed

Judgement

Anjani Kumar and Sudhir Agarwal, JJ.—Aggrieved by the order dated 17.4.2001 passed by Central Administrative Tribunal, Allahabad dismissing TA No. 18 of 1997, the petitioners have come up in this writ petition under Article 226 of the Constitution.

2. The facts, in brief, as stated in the writ petition are that Indian Grassland and Fodder Research Institute (hereinafter referred to as the "Institute") was established in 1962 by the Government of India with specific purpose of carrying out research on grasses. Grass Lands and Fodder Crops and for maintaining production of high quality forage for efficient animal production maintaining soil fertility and crop production evolving high yielding fertilizer etc. The petitioner No. 1 secured M. Sc. degree in Botany with specialization in Forest Ecology from the University of Sagar, Madhya Pradesh in 197475 in first division and, thereafter joined Doctorial Research Course on "Ecological Studies of the Forest" at Sagar University. Similarly, petitioner No. 2 obtained his M.Sc. degree in 197273 in Botany from Sagar University with specialization in Forest Ecology and was admitted as Honorary Research Worker in the Institution where he worked till February, 1974 in the said capacity. Thereafter, he was engaged on daily wage basis as skilled labour to do research work in the institution. Petitioner No. 3 secured M.Sc. Degree in Zoology with specialization in Entomology from Aligarh, Muslim University and joined research and worked till 1972 and thereafter for sometimes worked as Teacher in Government Higher Secondary School, New

Delhi. All these petitioners were employed as daily wage workers to conduct research work in respective fields and they joined in November, 1976, February, 1974 and in January, 1976 respectively. The Institute for administrative control, is governed by the Director of Indian Council of Agricultural Research, Krishi Bhawan, New Delhi (hereinafter referred to as "ICAR") which issued a circular dated 31.12.1975 informing various Agricultural Research Institutes regarding constitution of a new service namely "Agricultural Research Service" that it has been introduced with effect from 1.8.1975 and till the Rules are framed for the said service, the Senior Research Assistants and Research Assistants, who possess minimum qualifications and found suitable for inclusion into the said service would be inducted in GradeS of the service in the pay scale of 550900. It also provide that no fresh recruitment shall be made in GradeS and in due course of time the said Grade would die away with promotion of existing Senior Research Assistants and Research Assistants to GradeS1 of the Service and further direct recruitment shall be made in GradeS1 only which shall be made through competitive examination conducted by Agricultural Scientist Recruitment Board. Since the process of appointment under the said letter was likely to take time, the ICAR decided that pending appointment of regular Scientists under Agricultural Research Service, a fellowship scheme should be introduced and service of young researchers may be availed in the Institute for conducting various approved programmes. It, accordingly, approved creation of fellowship scheme and appointment of 700 research scholars under the said scheme, which was to be operative for a period not exceeding 2 years commencing from 1.1.1976. The appointment of Research Scholars was extendable by another year depending upon the progress of recruitment of regular Agricultural Research Service Candidates. The mode of recruitment and other terms and conditions of appointment of research scholars under the said scheme was as under:

"Eligibility. The Fellowship will be admissible to persons of Indian Nationality as defined in the Constitution of India or persons domiciled in India irrespective sex, race or religion.

Only the research scholars with Ph.D. or at least 2nd Class M.Sc. degree will be eligible for selection under the scheme. The research scholars with Ph.D. degrees will be designated as Senior Research Scholars and given a fellowship of Rs. 700/ per mensum while those with M.Sc. degrees will be designated as Research Scholars and allowed a Fellowship of Rs. 500/ per mensum.

Age limit. The upper age limit for Research Scholars will be 40 years and for Senior Research Scholars 45 years, on the first day of July of the year in which recruitment is made.

Mode of Selections. The applications for the fellowships will be invited from the eligible candidates through advertisements in major English and language, papers. After a preliminary screening of the applications received in response to the advertisement, the candidate will be called for interview and selected the respective Directors of the Institute on the recommendations of Selection

Committee to be constituted for the purpose consisting of the following:

1. Director of the Respective Chairman Institute of his nominee.
2. Head of the Division Member with the discipline for which the candidates are to be considered.
3. An expert to the discipline Member to be obtained from an Agricultural or other University located near to the Institution.

T.A. (i) The research scholars selected for interview will be entitled to reimbursement of travelling expenses equal to single 2nd class railfare from railway station nearest to this place of residence to the place of interview and back. If his place of residence is connected by rail as well as by road of partly rail and partly by road, he will be entitled to 2nd class rail fare and/or lower class bus fare whichever is less.

(ii) The research scholars finally selected for the fellowships will be paid 1/11/2 2nd class rail fare by shortest route from his place of residence for joining the Institute and for return journey on completion of fellowship. If his place is connected as well as by road and/or partly by rail and partly by road, he will be entitled to 11/2 2nd class railway fare and/or lower class bus fare whichever is less.

(iii) During the term of fellowship, if the research scholar is required to perform journeys, he will be entitled to travelling allowance at the rates admissible to regular employees of the Institute, of his grade.

Leave. The nature of leave admissible to research scholars will be:

- (a) 12 days casual leave per annum.
- (b) Special leave for 10 days on medical grounds only, on full fellowship.
- (c) In exceptional cases, leave upto a maximum of 3 months on medical ground only, without any fellowship, and
- (d) Any other holidays announced by the Institute for their regular employees. Leave will not be granted as a matter of right.

Termination of the Fellowship. (i) The fellowship will be terminated on completion of his term of appointment or on the date the sanctions of the Fellowships Scheme expires, whichever is earlier.

(ii) The fellowship may also be terminated by the Director of the Institute with or without notice. If at any time, the scholar is found to be negligent in his work or is guilty of unbecoming conduct.

(iii) If any Research Scholar leaves his assignment without permission of the Director of the Institute, he shall not be paid any fellowship amount due to him but not paid to him by the Institute.

Other conditions of service. (i) The selected research scholars will be under the administrative control of the Head of the concerned Institute.

(ii) The research scholars will devote their whole time to the assignment given to them by the Director of the Institute and will not be allowed to accept or hold another appointment, paid or otherwise.

(iii) If any residential accommodation is provided by the Institute where the research scholar is working, rent will be payable by him in accordance with the Rules of the Institute.

(iv) The selected research scholars will not be entitled to:

(a) Benefits of ICAR provident fund.

(b) Medical facilities or reimbursement of any expenditure incurred for medical treatment and

(c) Any residential accommodation."

Para 5 of the said circular provides that the fellowship will be of two categories, one of Research Scholars with a fellowship of Rs.500/ per mensem and another for Senior Research Scholars with a Fellowship of Rs. 700/ per mensem.

Pursuant to the said scheme, the institute published an advertisement on 18.3.1976 inviting applications for Research Fellows. The amount of fellowship was advertised as under:

1. Rs. 700/ per month for (consolidated) Tenable for holders of Ph.D. Degree, one year in

2. Rs. 500/ per month for (consolidated) the first holders of at least 2nd class instance. Master's degree"

3. The petitioners applied, selected and were appointed as Research Fellows on fixed fellowship of Rs. 500/ p.m. The appointment letter of petitioner No. 1 is dated 18.5.1971 (Annexure 4 to the writ petition). The appointment of petitioners claimed to have been extended by different orders. In the meantime, they filed a Writ Petition No. 4082 of 1986 alleging that payment of Rs. 500/ p.m. to a qualified Scientist is highly unfair though the petitioners are doing work of scientific research necessary for the growth of economy and the nation and therefore, payment of such meager amount was arbitrary and amounts to Begar prohibited under Articles 14 and 23 of the Constitution. They also contended that they were engaged as Research Fellow but in fact said appointments were against the sanctioned vacancies of ScientistS and, therefore, the petitioners were entitled for all the benefits and pay scale as applicable to the post of ScientistS. The writ petition was transferred to the Central Administrative Tribunal under Section 29 of the Administrative Tribunal Act, 1985 and has been dismissed vide judgment impugned in this writ petition.

4. The learned Counsel for the petitioners contended that they were selected

through a Selection Committee, which is same as is required to be constituted for appointment of Scientist GradeS. The qualification possessed by the petitioners also same as required to be possessed for appointment to the post of Scientist GradeS. Further against the sanctioned post of Scientist GradeS the Research Fellowship was sanctioned and petitioners were appointed. Therefore, for all practical purposes, they were entitled to the same salary, since they were discharging same duties as were required by a Scientist GradeS and denial of payment of salary in the requisite pay scale was violative of Article 14 of the Constitution and contrary to the principle of "equal pay for equal work". Reliance is placed on the Apex Court judgment in State of West Bengal and others v. Pantha Chatterjee and others, AIR 2003 SC 3569: JT 2003 (5) SC 448.

5. The respondents have filed counter affidavit disputing the claim of the petitioners and stating that a Research Fellow is not engaged in independent research work, but he has to assist the Scientist carrying on Research Work. Further, nature of duties, responsibilities, appointment, procedure of appointment are different and degree of responsibility also vary and is much different. It is specifically pleaded that the petitioners do not perform same duties as ScientistS grade and, therefore, "equal pay for equal work" is not applicable and there is no violation of Article 14 of the Constitution. The respondents when made recruitment for regular post of ScientistS, the petitioners could have applied for the same, but chose not to appear in the said selection and instead filed the writ petition, wherein obtained and interim order pursuant thereto they have continued though their engagement was temporary and on account of their continuance tinder the interim order, the institute has already suffered much losses having been unnecessarily burdened by continuing the petitioners though their engagement was temporary and the scheme was already over. It is said that the Tribunal has considered the entire aspect of the matter and has rightly rejected the claim of the petitioners.

6. We have heard Sri Yogesh Agarwal, learned Counsel for the petitioners learned Standing Counsel for the respondents.

7. It appears that initially the petitioners filed Writ Petition No. 4082 of 1986 and the following interim order was passed by this Court:

"Heard learned Counsel for the petitioners. The respondents are directed to pay the petitioners, the salary of scientists S/SRA prescribed in the scheme."

8. The said interim order was also confirmed on 9.12.1986 as under:

"I have heard learned Counsel for the parties. The respondents are directed to pay to the petitioners the salary of scientists S/SRA prescribed in the scheme."

9. The writ petition remained pending before this Court and subsequently vide order dated 3.9.1996 passed by His Lordship Hon"ble Justice S. C. Verma, the record of the writ petition was transferred to the Tribunal, and has been decided by judgment impugned in this writ petition. Virtually, the petitioners enjoined

final relief for almost 15 years under the interim order of this Court. It is evident from the record that the petitioners were appointed as Research Fellow for a fellowship of Rs. 500/ p.m. with the specific condition that the fellowship will be terminated on completion of the term of appointment or on the date sanction of fellowship expire, whichever is earlier. There is nothing on record to show that the petitioners were given any independent research work or the status of a regular or independent Scientist with the responsibility of a Scientist working independently. On the contrary, the job and work assigned to the petitioners was subject to supervision of the Scientists of ICAR and the Institute. The Tribunal on the basis of pleadings before it, has considered the duty and responsibilities of Research Fellow visavis Senior Research Assistants/Research Assistant, who were to be appointed as Scientist GradeS and in para14 of the judgment it has observed as under:

"We have tried to examine the duty of SRAs/RAs visavis the Research Fellows. The post of Research Fellows was advertised on 27.3.76 as intended to be a stop gap arrangement for induction of existing SRAs/RAs to the grade and scale of Scientists (Rs. 550900/) leading to their eventual elevation to the basis grade of ARS i.e. ScientistI (Rs. 7001300/) etc. The job requirements or responsibilities were not spelt in the advertisement notice except stating that there were a two level research fellowship officer for the enlisted discipline. However, the Administrative Officer issuing the order of appointment mentioned there that the said appointment was subject to terms and conditions as laid down in the office memo No. F17/77Admn (F/ship) dated 15.5.1977. Neither the applicants nor the respondents though it proper or relevant to furnish a copy of this memo to be looked into in this context. Therefore, it is evident that the extant conditions and terms of the scheme, as enumerated in the letter of the Secretary, ICAR dated 31.12.75 in this behalf, is adequate. The second point to be noted here is that the appointing authority issuing the order of appointment to applicant No. 1 was not a Director but was Administrative Officer."

10. The learned Counsel for the petitioner could not show that the finding recorded by the Tribunal is incorrect or perverse or contrary to material on record. The office memorandum dated 15.5.1977 has not been placed before this Court also. The Tribunal further has prepared a Chart showing hierarchy in which the petitioners were working and in para17 of the judgment as under:

"We have looked into this as well and find that this is a chart, prepared for the adhoc purpose to shows which Research Fellows were placed under which programme learned scientists and scientists SI. For example, the applicantI has been charted as under:

12345

1. Sri M. P. Rai 18.9.77 to the end of 1983 with scientist K. C. Patodia the project (s) Cement Project on Grassland Assisting Research and applied for Ph.D. Responsible Scientist(s) Sri R. Dubey and Dr. P. S. Pathak From 2.9.83 till date

DMC Silk Pasture project

In great detail, it has considered job responsibilities and other conditions of service of petitioners qua Research Assistants and Senior Research Assistants with whom the petitioners were claiming parity and has found that two are not at par at all. From paras 18 to 23, it has discussed the entire issue in great detail and the learned Counsel for the petitioners could not show any discrepancy in the findings of fact recorded therein."

11. Though learned Counsel for the petitioners could not show that the Selection Committee for appointment to the post of Research Fellow and Senior Research Assistant/Research Assistant is common but assuming that the qualification for the two are same and the petitioners were engaged against the vacancy of Senior Research Assistant/Research Assistant, yet, in our view, the doctrine of "equal pay for equal work" would not apply for the reason that in order to attract the doctrine of "equal pay for equal work", it has to be show that the post with which comparison is sought to be made is identically placed in all manner otherwise the said doctrine would not apply. It would be appropriate to have a bird eye view of the circumstances when the doctrine of "equal pay for equal work" would apply. Since it is no more res Integra, having been set at rest in a catena of cases, it would be use full to refer some of them as under:

In *Randhir Singh v. Union of India and others*, (1982) 1 SCC 618, the Apex Court considering the principle of equal pay for equal work held as under

"It is not an abstract doctrine but one of substance. Construing Articles 14 and 16 in the light of the Preamble and Article 39 (d) of the Constitution, the Apex Court held that the principle of equal pay for equal work is deducible from those Articles and may be properly applied to cases of unequal scales of pay based on no classification or irrational classification though those drawing the different scales of pay do identical work under the same employer.".....[Paras 7 and 8]

In *R. D. Gupta and others v. Lt. Governor, Delhi Administration and others*, (1987) 4 SCC 505, the Apex Court applying the principle of equal pay for equal work, in para 20 of the judgment, considered the correctness of defence justifying nonapplication of the said principle and held:

"The ministerial staff in the NDMC constitute a unified cadre. The recruitment policy for the selection of the ministerial staff is a common one and the recruitment is also done by a common agency. They are governed by a common seniority list. The ministerial posts in the three wings of the BDNC viz, the general wing, the electricity wing and the waterworks wing are interchangeable posts and the postings are made from the common pool according to administrative convenience and exigencies of service and not on the basis of any distinct policy or special qualifications. Therefore, it would be futile to say that merely because a member of the ministerial staff had been given a posting in the electricity wing, either due to force of circumstances or due to voluntary preferment, he stands on a better or higher footing or in a more advantageous

position than his counterparts in the general wing. It is not the case of the respondents that the ministerial staff in the electricity wing perform more onerous or more exacting duties than the ministerial staff in the general wing. It, therefore, follows that all sections of the ministerial staff should be treated alike and all of them held entitled to the same scales of pay for the work of "equal nature done by them". [Para 20] [Emphasis added]

In *Federation of All India Customs and Central Excise Stenographers and others v. Union of India and others*, (1988) 3 SCC 91, it was held that

"There may be qualitative difference as regards reliability and responsibility justifying different pay scale. Functions may be the same but the responsibilities make a difference. One cannot deny that often the difference is a matter of degree and that there is an element of value judgment by those who are charged with the administration in fixing the scales of pay and other conditions of service. So long as such value judgment is made bonafide, reasonably on an intelligible criterion which has a rational nexus with the subject of differentiation, such differentiation will not amount to discrimination. It was further observed that the same amount of physical work may entail different quality of work, some more sensitive, some requiring more tact, some less, it varies from nature and culture of employment."....[Paras 7 & 11] [Emphasis added]

In *Jaipal and others v. State of Haryana and others*, (1988) 3 SCC 354, the Apex Court held as under:

"The doctrine of equal work equal pay would apply on the premise of similar work, but it does not mean that there should be complete identity in all respects. If the two classes of persons do same work under the same employer, with similar responsibility, under similar working conditions the doctrine of "equal work equal pay" would apply and it would not be open to the State to discriminate one class with the other in paying salary. The State is under a constitutional obligation to ensure that equal pay is paid for equal work."..... [Para...6] [Emphasis added]

In *State of U.P. and others v. J. P. Chaurasia and others*, (1989) 1 SCC 121, the Apex Court while considering the justification of two pay scales of the Bench Secretaries of the High Court observed as under

"Entitlement to the pay scale similar would not depend upon either the nature of work or volume of work done by Bench Secretaries. Primarily it requires among others, evaluation of duties and responsibilities of the respective posts. More often functions of two posts may appear to be the same or similar, but there may be difference in degrees in the performance. The quantity of work may be the same, but quality may be different that cannot be determined by relying upon averments in affidavits of interested parties. The equation of posts of equation of pay must be left to the executive Government. It must be determined by expert bodies like Pay Commission. They would be the best Judge to evaluate the nature of duties and responsibilities of posts. If there is any such determination by a

Commission or Committee, the Court should normally accept it. The Court should not try to tinker with such equivalence unless it is shown that it was made with extraneous consideration." [Para 8] [Emphasis added]

In *Grih Kalyan Kendra Workers' Union v. Union of India and others*, JT 1991 (1) SC 60, it was observed that:

"The question of parity in pay scale cannot be determined by applying mathematical formula. It depends upon several factors namely nature of work, performance of duties, qualifications, the quality of work performed by them. It is also permissible to have classification in services based on hierarchy of posts, pay scale, value of work and responsibility and experience. The classification must, however, have a reasonable relation to the object sought to be achieved".....[Para 7] [Emphasis added]

In *The Secretary, Finance Department and others v. The West Bengal Registration Service Association and others*, JT 1992 (2) SC 27, the Apex Court observed as under:

"Job evaluation is both a difficult and time consuming task which even expert bodies having the assistance of staff with requisite expertise have found difficult to undertake sometimes on account of want of relevant data and scales for evaluating performances of different groups of employees. The factors which may have to be kept in view for job evaluation may include: (i) the work programme of his department, (ii) the nature of contribution expected of him, (iii) the extent of his responsibility and accountability in the discharge of his diverse duties and functions, (iv) the extent and nature of freedoms/limitations available or imposed on him in the discharge of his duties; (v) the extent of powers vested in him, (vi) the extent of his dependence on superiors for the exercise of his powers, (vii) the need to coordinate with other departments etc. It was further observed that normally a pay structure is evolved keeping in mind several factors e.g., ((i) method of recruitment, (ii) level at which recruitment is made, (iii) the hierarchy of service in a given cadre, (iv) minimum educational/technical qualifications required, (v) avenues of promotion, (vi) the nature of duties and responsibilities, (vii) the horizontal and vertical relativities with similar jobs, (viii) public dealings, (ix)satisfaction level, (x) employer's capacity to pay, etc.".....[Para12] [Emphasis added]

In *Jagannath v. Union of India and another*, AIR 1992 SC 126, the Apex Court following the earlier judgment observed that:

"Classification of officers into two grades with different scales of pay based either on academic qualification or experience or length of service is sustainable. Apart from that, higher pay scale to avoid stagnation or resultant frustration for lack of promotional avenues is very common in career service. There is selection grade for District Judges. There is senior time scale in Indian Administrative Service. There is supper time scale in other like services. The entitlement to these higher pay scales depends upon senioritycummerit or meritcumseniority. The

differentiation so made in the same cadre will not amount to discrimination. The classification based on experience is a reasonable classification. It has a rational nexus with the object thereof. To hold otherwise, it would be detrimental to the interest of there service itself.".....[Para 7]

In *State of Madhya Pradesh and another v. Pramod Bhartiya and others*, (1993) 1 SCC 539, the Apex Court held as under:

"It would be evident from this definition that the stress is upon the similarity of skill, effort and responsibility when performed under similar conditions. Further, as pointed out by Mukharji, J. (as he then was) in *Federation of All India Customs and Excise Stenographers*" the quality of work may vary from post to post. It may vary from institution to institution. We cannot ignore or over look this reality. It is not a matter of assumption but one of proof. The respondents (original petitioners) have failed to establish that their duties, responsibilities and functions are similar to those of the nontechnical Lecturers in Technical Colleges. They have also failed to establish that the distinction between their scale of pay and that of nontechnical Lecturers working in Technical Schools is either irrational and that it has no basis, or that it is vitiated by mala fides, either in law or in fact (see the approach adopted in *Federation* case). It must be remembered that since the plea of equal pay for equal work has to be examined with reference to Article 14, the burden is upon the petitioners to establish their right to equal pay, or the plea of discrimination, as the case may be. This burden the original petitioners (respondents herein) have failed to discharge." [Para 13]

In *Shyam Babu Verma and others v. Union of India and others*, (1994) 2 SCC 521, the Apex Court observed that:

"The principle of equal pay for equal work should not be applied in a mechanical or casual manner. Inequality of the men in different groups excludes applicability of the principle of equal pay for equal work to them. Unless it is established that there is no reasonable basis to treat them separately in matters of payment of wages or salary, the Court should not interfere holding different pay scale as discriminatory.".....[Para 9]

In *Sher Singh and others v. Union of India and others*, (1995) 6 SCC 515, the Apex Court rejected the claim of the library staff of Delhi University and its constituent colleges regarding parity in pay with the teaching staff on the ground that the nature of duties, work load, experience and responsibilities of the two sets of employees in question are totally different from each other....[Para 5] [Emphasis added]

In *Union of India and others v. Delhi Judicial Service Assn. and another*, JT 1995 (2) SC 578, the Apex Court reversing the judgment of the High Court allowing the same scale of pay to all the officers of Higher Judicial Services, held as under:

"We think that the High Court was not right in giving selection grade scale of pay to all the officers on the principle of equal pay for equal work. If that be so the

Distt. Munsif (Junior Civil Judge, Junior Subordinate Judge) etc., lowest officer in judicial hierarchy is entitled to the pay of the senior most supertime scale District Judge as all of them are discharging judicial duty. The marginal difference principle also is equally inappropriate. Similarly of posts or scale of pay in different services are not relevant. The nature of the duty, nature of the responsibility and degree of accountability etc. are relevant and germane considerations. Grant of selection grade, supertime scale etc. would be akin to a promotion. The result of the impugned direction would wipe out the distinction between the time scale and selection grade officers. The learned Counsel for the Union of India, pursuant to our order, has placed before us the service conditions prevailing in the Higher Judicial Services in other States in the country. Except Gujarat which had wiped out the distinction after the judgment in All India Judges Association's case, all other States maintained the distinction between the Grade 1 and Grade II Higher Judicial Officers or Time Scale and Selection Grade or Supertime scales etc. In fact this distinction is absolutely necessary to inculcate hard work, to maintain character, to improve efficiency, to encourage honesty and integrity among the officers and accountability. Such distinctions would not only be necessary in the Higher Judicial Service but also, indeed in all services under the State and at every State.".....[Para 5].

In *Sita Devi and others v. State of Haryana and others*, JT 1996 (7) SC 438, the Apex Court upheld different pay scale on the basis of qualification relying on the earlier judgments of the Apex Court in *The State of Mysore and another v. P. Nursinga Rao*, AIR 1968 SC 349; *State of Jammu and Kashmir v. Triloki Nath Khosa*, AIR 1974 SC 1 and *P. Murugesan and others v. State of Tamil Nadu*, 1993 (2) SCC 340.

In *State of Haryana v. Jasmer Singh and others*, AIR 1997 SC 1788, the Apex Court justified different pay scale on various factors observing as under:

"It is therefore, clear that the quality of work performed by different sets of persons holding different jobs will have to be evaluated. There may be differences in educational or technical qualifications which may have a bearing on the skills which the holders bring to their job although the designation of the job may be the same. There may also be other considerations which have relevance to efficiency in service which may justify differences in pay scales on the basis of criteria such as experience and seniority, or a need to prevent stagnation in the cadre, so that good performance can be elicited from persons who have reached the top of the pay scale. There may be various other similar considerations which may have a bearing on efficient performance in a job. This Court has repeatedly observed that evaluation of such jobs for the purposes of pay scale must be left to expert bodies and, unless there are any mala fides, its evaluation should be accepted."....[Para 8]

In *Garhwal Jal Sansthan Karmchari Union and another v. State of U.P. and others*, (1997) 1 SCC 24, the Apex Court in para 8 of the judgment rejected claim of pay parity between the employees of Jal Nigam and Jal Sansthan on the

ground of qualitative difference in the duties, function and responsibilities in the two organizations.

In *Union of India and others v. Pradip Kumar Dey*, (2000) 8 SCC 580, the question of parity of pay scale of Naik, Radio Operator in CRPF and the employees working as Radio Operator in Directorate of Coordination Police Wireless came up for consideration on the principle of equal pay for equal work, the Apex Court negated the validity of party observing that the different pay scale prescribed taking into account hierarchy in service and other relevant factors cannot be interfered as it would disturb the entire chain of hierarchy.

In *State of Orissa and others v. Balaram Sahu and others*, (2003) 1 SCC 250, the Apex Court observed in para 11 as under:

"Though "equal pay for equal work" is considered to be a concomitant of Article 14 as much as "equal pay for unequal work" will also be a negation of that right, equal pay would depend upon not only the nature or the volume of work, but also on the qualitative difference as regards reliability and " responsibility a well and though the functions may be the same, but the responsibilities do make a real and substantial difference.".....[Para 11]

In *State of Haryana and another v. Haryana Civil Secretariat Personal Staff Association*, (2002) 6 SCC 72, it was held in para 10:

"It is to be kept in mind that the claim of equal pay for equal work is not a fundamental right vested in any employee though it is a constitutional goal to be achieved by the Government. Fixation of pay and determination of parity in duties and responsibilities is a complex matter which is for the executive to discharge. While taking a decision in the matter, several relevant factors, some of which have been noted by this Court in the decided case, are to be considered keeping in view the prevailing financial position and capacity of the State Government to bear the additional liability of a revised scale of pay. It is also to be kept in mind that the priority given to different types of posts under the prevailing policies of the State Government is also a relevant factor for consideration by the State Government. In the context of the complex nature of issues involved, the farreaching consequences of a decision in the matter and its impact on the administration of the State Government, Courts have taken the view that ordinarily Courts, should not try to delve deep into administrative decisions pertaining to pay fixation and pay parity. That is not to say that the matter is not justifiable or that the Courts cannot entertain any proceeding against such administrative decision taken by the Government. The Courts should approach such matters with restraint and interfere only when they are satisfied that the decision of the Government is patently irrational, unjust and prejudicial to a section of employees and the Government while taking the decision has ignored factors which are material and relevant for a decision in the matter."....[Para 10]

In *State Bank of India and another v. M. R. Ganesh Babu and others*, (2002) 4 SCC 556, the Apex Court observed in para 16:

"The principle of equal pay for equal work has been considered and applied in many reported decisions of this Court. This principle has been adequately explained and crystallized and sufficiently reiterated in a catena of decisions of this Court. It is well settled that equal pay must depend upon the nature of work done. It cannot be judged by the mere volume of work; there may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference. One cannot deny that often the difference is a matter of degree and that there is an element of value judgment by those who are charged with the administration in fixing the scales of pay and other conditions of service. So long as value judgment is made bona fide, reasonably on an intelligible criterion which has a rational nexus with the object of differentiation, such differentiation will not amount to discrimination. The principle is not always easy to apply as there are inherent difficulties in comparing and evaluating the work done by different persons in different organizations, or even in the same organization. Differentiation in pay scales of persons holding same posts and performing similar work on the basis of difference in the degree of responsibility, reliability and confidentiality would be a valid differentiation. The judgment of administrative authorities concerning the responsibilities which attach to the post, and the degree of reliability expected of an incumbent, would be a value judgment of the authorities" concerned which, if arrived at bona fide, reasonably and rationally, was not open to interference by the Court.".....[Para16]

In *State of Haryana v. Chiranjit Singh*, 2005 (8) SCALE 82, in para 17 the Apex Court observed as under:

"Having considered the authorities and the submissions we are of the view that the authorities in the cases of *Jasmer Singh*, *Tilak Raj*, *Orissa University of Agriculture and Technology* and *Tarun K Roy* lay down the correct law. Undoubtedly, the doctrine of "equal pay for equal work" is not an abstract doctrine and is capable of being enforced in a Court of Law. But equal pay must be for equal work of equal value. The principle of "equal pay for equal work" has no mechanical application in every case. Article 14 permits reasonable classification based on qualities or characteristics of persons recruited and grouped together, as against those who were left out. Of course, the qualities or characteristics must have a reasonable relation to the object sought to be achieved. In service matters, Merit or experience can be a proper basis for classification for the purposes of pay in order to promote efficiency in administration. A higher pay scale to avoid stagnation or resultant frustration for lack of promotion avenues is also an acceptable reason for pay differentiation. The very fact that the person has not gone through the process of recruitment may itself, in certain cases, make a difference. If the educational qualifications are different, then also the doctrine may have no application. Even though persons may do the same work, their quality of work may differ. Where persons are selected by a Selection Committee on the basis of merit with due regard to seniority a higher pay scale granted to such persons who are evaluated by

competent authority cannot be challenged. A classification based on difference in educational qualifications justifies a difference in pay scales. A mere nomenclature designating a person as say a carpenter or a craftsman is not enough to come to the conclusion that he is doing the same work as another carpenter or craftsman in regular service. The quality of work which is produced may be different and even the nature of work assigned may be different. It is not just a comparison of physical activity. The application of the principle of "equal pay for equal work" requires consideration of various dimensions of a given job. The accuracy required and the dexterity that the job may entail may differ from job to job. It cannot be judged by the mere volume of work. There may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities made a difference. Thus normally the applicability of this principle must be left to be evaluated and determined by an expert body. These are not matters where a Writ Court can lightly interfere. Normally a party claiming equal pay for equal work should be required to raise a dispute in this regards." [Para 17] [Emphasis added]

12. Therefore, the doctrine of "equal pay for equal work" is not attracted and difference in salary and wages can be justified on variety of reasons, some of which have been enumerated in the aforesaid cases. The judgment cited by the learned Counsel for the petitioners in Pantha Chatterjee (supra) in our view does not help for the reason that there was a finding of fact recorded by the Hon'ble Single Judge as well Division Bench of the High Court that part time Home Guards and permanent staff were discharging same duties employed for same period and not distinguishable feature was noticeable amongst them as is evident from the following:

"12. There is not dispute about the fact that there has been disparity in emoluments and other working conditions. Between the part time BWHGs and the BWHGs on the permanent staff although both have been deployed for performing the same date of duties and have been working for the same duration in the same conditions but one of them with and the other without the necessities of the job, facilities and benefits of the service. It is true and rightly held that BWHG could not compare themselves with BSF personnel but the difference between the permanent staff and the part time staff which had been made in the scheme was obliterated and rendered ineffective. There is no real distinction between the two, namely, the permanent BWHG and the part time BWHG....."

13. In view of above, the Hon'ble Apex Court upheld the view taken by the High Court that part time Home Guards were also entitle for same emoluments as were payable to permanent Home Guards. However, as we have already noticed, learned Tribunal has considered in detail and compared the Research Assistants/ Senior Research Assistants and petitioners and has found that two stand wholly on different footings. In absence of any material to shbw that the said finding is perverse, were do not find any reason to take a different view and it needs no

interference.

14. The writ petition, therefore, lacks merit and is, accordingly, dismissed.
Petition dismissed.