
(2010) 04 MP CK 0031

In the Madhya Pradesh High Court

Case No : Writ Petition No. 518 of 1996

Mahmood Hasan and Others

APPELLANT

Vs

South Eastern Coalfields Ltd. and Others

RESPONDENT

Date of Decision : 21-04-2010

Acts Referred:

Coal Mines (Nationalisation) Act, 1973 — Section 14
Constitution of India, 1950 — Article 14, 16, 226, 227, 39(d)

Citation : (2010) ILR (MP) 63 : (2011) 1 MPHT 239 : (2010) 2 MPLJ 649

Hon'ble Judges : Sanjay Yadav, J

Bench : Single Bench

Judgement

Sanjay Yadav, J.

Whether the Petitioners working with the Western Coalfields Limited Education Society would be entitled for dearness allowance, variable dearness allowance, special dearness allowance and the bonus at par with State Government teachers, and/or the benefits and other allowances which is being given by virtue of NCWA (National Coal Wage Agreement) to the Coal field employees and whether the Petitioners are entitled for salary from 2004 with bonus allowances etc. as other teachers; are the issues which crop up for determination in this writ petition filed under Article 226/227 of the Constitution of India.

Case of the Petitioners is that they are working on the post of teachers at Junior High School Nawrozabad engaged as such between the years 1974 to 1984. The school is managed by the Western Coalfields Limited Education Society, a Society registered under the Society Registration Act. It is urged that, though managed by the Society; however, the effective control of the Society vests with the Western Coal Field Limited and 100% grant is being given by the management of Respondent No. 1. It is contended that, some of the employees similarly situated as the Petitioner and some of the Petitioner in the year 1985, vide, M.P. No. 3018/1985 approached this Court seeking regularisation as Assistant Teacher and the direction for salary and other benefits at par with other school teachers.

It is urged that, the petition was disposed of with the liberty to approach the authorities under Madhyamik Shiksha Adhiniyam. And having approached the authorities under Adhiniyam regularisation was directed. It is contended that despite of direction and the circulars issued from time to time by the State Government, the Petitioners are deprived of the benefits like dearness allowance variable dearness allowance, and special dearness allowance. It is urged that the Petitioners though for all practical purpose are the employees of the Western Coalfields Limited, but are deprived even of the wages under the National Coal Wage Agreement. It is further contended that, even the salary since 2004 has not been paid to the Petitioners. It is on these averments that the mandamus is being sought.

Controverting the contention put forth by the Petitioners, the Respondents categorically deny that the Western Coalfields Limited education Society is an extended wing of the Western Coalfields Limited. It is also urged that the society being a private society registered under the Societies Registration Act cannot maintain a writ petition under Article 226/227 of the Constitution of India. It is also urged that, the Society is neither controlled/ governed by Western Coalfields nor the South Eastern Coalfield. The Respondents further submits that the Petitioners being not the employees of WCL nor of SECL are not entitled for any benefits under NCWA. It is urged that, the School wherein the Petitioners are engaged is neither fully aided school nor controlled by the WCL/SECL. It is contended that, the school is managed by the Society and the WCL/SECL have no role to play in arranging the affairs of the Society. It is contended that, some minor financial subsidies provided to the school ipso facto will not bring the school within the ambit of WCL/SECL.

In respect of the averment regarding discrimination, it is contended by the Respondents that the Associated Cement Company which was owner of the Birsinghpur Colliery was nationalized under the provisions of Coal Mines Nationalisation Act, 1973 (hereinafter to be referred as Act of 1973) and by virtue of the provisions therein the erstwhile employees of the ACC were treated as the employees of the WCL/SECL. Reliance is placed on Section 14 of the Act of 1973, which stipulates:

Employment of Certain employees to continue.-

(1) Every person who is a workman within the meaning of the Industrial Disputes Act, 1947 (4 of 1947) and has been immediately before the appointed day in the employment of a coal mine shall become on and from the appointed day an employee of the Central Government or, as the case may be, of the Government Company in which the right, title and interest of such mine have vested under this Act, and shall hold office or service in the coal mine with the same rights to pension, gratuity and other matter as would have been admissible to him if the rights in relation to such coal mine had not been transferred to and vested in the Central Government or the Government Company as the case may be and continue to do so unless and until his employment in such coal mine is duly

determined or until his remuneration, terms and conditions of employment are duly altered by the Central Government or the Government Company.

(2) The Central Government or the Government Company in which right, title and interest in relation to a coal mine have vested, may employ, on mutually acceptable terms and conditions, any person who is not a workman within the meaning of Industrial Disputes Act, 1947 (14 of 1947) and who has been immediately, before the appointed day, in the employment of a coal mine, and on such employment the said person shall become an employee of the Central Government or the Government Company as the case be.

It is further contended that the ACC was running certain schools and employed teachers as their employees. Under the provisions of Section 14 of the Coal Mines Nationalization Act, Coal India Ltd. has to take these employees as their employees.

Furthermore, it is urged that the persons mentioned in the Annexures P-11, P-12, P-14, P-18 and P-20 filed by the Petitioner were ex-employees of SECL and were taken over under the provisions of Section 14 of the Act of 1973.

It is further contended that, appointment of Ku. Saroj Shrivastava as per Annexure P-7, Annexure P-8, Annexure P-9 is a temporary appointment on ad hoc basis for the specified period. In respect of Shri Jay Prakash Pandey, it is urged that he is temporary appointed for the session 1995-96. It is urged . that though these appointments were subsequently renewed but the appointments were temporary and came to end automatically after the period mentioned in the respective letters.

It is further contended that the appointment was not by the WCL/ SECL and no procedure known to law for appointment was followed.

In respect of judgment M. P. No. 3086/1985, it is contended that the employees who were benefited by said judgment were the erstwhile employees of ACC and in pursuant to Section 14 of the Act therein services were taken with SECL. It is urged that there being no parity between the Petitioner herein and those benefited by M.P. No. 3086/1985. Accordingly, it is urged that the Petitioner are not entitled for the relief as sought for by them.

The predominant question is: whether the Petitioners admittedly the employees of Western Coalfields Limited Education Society a Society registered under the Society Registration Adhinyam would be entitled for the pay and other allowance at par either with other teachers or at par with the employees of the WCL/SECL as per NCWA.

The facts on record which includes the letter of appointment issued from time to time and various correspondence on record reveals that there are two categories of teachers in employment imparting the teaching. One class of personnels are the Petitioners who are employed by the Society and the others are those who were in employment with respective companies before the Nationalization of Coal

Mines by virtue of the Act of 1973. These class of employees were protected by virtue of Section 14 of the Act of 1973.

Thus indisputably, the Petitioners are class apart than those whose examples are being given by the Petitioners. It is in the backdrop of this distinction that answer to the question posed in the beginning is to the probed.

The Petitioners on the basis of semblance of identity have claimed the relief. For a semblance, foundation has to be common.

It is observed from the relevant pleadings that the Society whereof the Petitioners are the employee is an independent entity and not an extended part of the WCL or the SECL.

The Society, i.e., Western Coalfields Limited Education Society is registered under the Societies Registration Act, 1973 and comprises of the Sub Area Managers, Kotama, Jamuna, Johilla, Burbar as Ex-officio Patron-in-Chief (ii) managers...as the Chairman, (iii) Senior Personnel Officers

as its Ex-officio Secretary, one Treasurer to be nominated by the Patron-in-Chief (The Sub Area Managers, Kotma, Janurva Tahilla, Barbar or any other Sub Area to be established in future of WCL); The District Education Officer to be the Ex-officio member, Head of the Institution to be Ex-officio member, two member of worker's representatives to be nominated by Patron-in-Chief from amongst the Trade Union; two members to be nominated by the Committee among the guardians whose children are studying in school and one member shall be the teacher's representatives elected by and among the teachers.

The source of income of the Society is either from the management of WCL or from any other sources such as donation from charitable trust grant-in-aid from the State Government.

There thus being no deep pervasive control of the WCL/SECL in the management of the Society which is an independent entity. The Petitioners, therefore, cannot as a matter of right claim parity with the employees of WCL/SECL. The necessary corollary whereof would be that the claim for grant of wages and other allowances as per NCWA cannot be acceded to.

The Petitioners though have placed reliance on the judgment in Shri Vishnu Prasad Mishra and Ors. v. South Eastern Coal Fields and Ors., W.P. No. 1692/96, decided on 29-8-2007, to bring home the submissions that the Petitioners being similarly placed are entitled for the same relief. The facts therein as finds mentioned in Paragraph 16 makes the entire difference. It was observed therein by His Lordship:

16. The facts on record show in clear terms that the school was established from before the nationalization of coal mine for the children of workmen, staff and officers at coal mine. After nationalization, the school was managed by the WCL and after the re-designation of WCL as SECL, the school was managed by the

SECL. The Societies of WCL and SECL were controlled by the management and were manned by their officers. The management of WCL/SECL have been taking active interest in all the administrative, financial and sports activities of the School. Despite the change in the management from WCL to SECL, the teachers (Petitioners) in the school were not changed. The school has been running continuously since last many decades. It cannot be disputed that running of a school whether directly or through a society by the Coal Company is an incidental activity of coal mine industry because it is a welfare activity for the benefit of the employees of the coal mine and relieves them of the strain which they would normally suffer in taking their children to remote places and results in improving the quality of their work. In the fact situation of the case at hand, I am of the view that the School has become a part of the management of SECL and the Society is merely a veil between the management of SECL and the Petitioners. I accordingly, hold that the Petitioner are the employees of SECL.

In the case at hand, the Petitioners have failed to establish that they are the employees of the erstwhile Associated Cement Company. As, had they been so, Section 14 of Nationalization Act could have provided the succour. The facts in present case being different than in Shiv Vishnu Prasad Mishra (*supra*), the judgment rendered therein is of no help to the Petitioners.

Next question regarding parity which the Petitioners claim with other teachers. Evident it is from record that the Petitioners are shown to be temporary teachers. No material is brought on record to show that any regular procedure known to law was adhere at while engaging the Petitioners as teachers. The Petitioners, therefore, cannot as a matter of right claim parity with regular teacher in respect of pay and allowances.

In *State of U.P. and Others Vs. J.P. Chaurasia and Others*, , Their Lordships were pleased to observe:

18. In the present case, it is true that at one time, Bench Secretaries were paid more emoluments than Section Officers. But it is not known on what basis they were paid in the higher pay scale and treated as a superior class to Section Officers. The successive Pay Commissions and even Pay Rationalisation Committee, however, found no support to their superior claim. The Commissions and Committee have evaluated the respective duties and responsibilities of the two posts. It was found that Section Officers perform onerous duties and bear greater responsibilities than Bench Secretaries. We cannot go against that opinion and indeed we must accept that opinion. The Bench Secretaries, therefore, cannot claim as of right the pay sale admissible to Section Officers.

In *Lieutenant (Mrs.) India Kumari Kartiayoni Vs. The Maha Nideshak, Raksha Mantralaya, Shastra Sena Chikitsa Seva, New Delhi-I and others*, Their Lordships were pleased to observe in paragraphs:

Secondly, the Respondents are not paid by the Central Government. They are not holding any appointment under the Central Government. There is no relationship

of master and servant between the Central Government and the Respondents. The Respondents are employed in the Secondary School by local arrangement made by the officers of the Ordnance Factory. It is not proved that how the Central Government is accountable to such arrangement made by the local officers.

In any view of the matter, the Respondents cannot claim the pay-scale admissible to the Government school teachers much less regularisation of their services by the Central Government. The directions issued by the Tribunal, therefore, cannot be sustained. They are apparently unjustified and without authority of law.

In *State of Haryana and Others Vs. Jasmer Singh and Others*, Their Lordships were pleased to observe in Paragraph:

5. 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. The principle was originally enunciated as a part of the Directive Principles of State Policy in Article 39(d) of the Constitution. In the case of *Randhir Singh Vs. Union of India (UOI) and Others*, , however, this Court said that this was a constitutional goal capable of being achieved through constitutional remedies and held that the principle had to be read into Articles 14 and 16 of the Constitution. In that case, a Driver-Constable in the Delhi Police Force under the Delhi Administration claimed equal salary as other Drivers and this prayer was granted. The same principle was subsequently followed for the purpose of granting relief in *Dhirendra Chamoli and Another Vs. State of U.P.*, , and *Jaipal and Others Vs. State of Haryana and Others*, In the case of *Federation of All India Customs and Central Excise Stenographers (Recognised) and others Vs. Union of India and others*, , however, this Court explained the principles of "equal pay for equal work" by holding that differentiation in pay-scales among Government servants 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. In that case, different pay-scales fixed for Stenographers (Grade I) working in the Central Secretariat and those attached to the heads of Subordinate Officers on the basis of a recommendation of the Pay Commission was held as not violating Article 14 and as not being contrary to the principle of "equal pay for equal work". This Court also said that the judgments 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 concerned authorities which, if arrived at bona fide, reasonably and rationally, was not open to interference by the Court.

In *Union of India (UOI) and Another Vs. P.V. Hariharan and Another*, , Their Lordships were pleased to observe:

... It is the function of the Government which normally acts on the

recommendations of a Pay Commission. Change of pay scale of a category has a cascading effect. Several other categories similarly situated as well as those situated above and below, put forward their claims on the basis of such change. The Tribunal should realise that interfering with the prescribed pay scales is a serious matter. The Pay Commission, which goes into the problem at great depth and happens to have a full picture before it, is the proper authority to decide upon this issue. Very, often the doctrine of "equal pay for equal work" is also being misunderstood and misapplied, freely revising and enhancing the pay scales across the board.

In *Union of India and Others Vs. Pradip Kumar Dey*, Their Lordships while observing that a mere recommendation does not confer any rights in respect of a particular pay scale were pleased to hold:

In our considered view, the Division Bench of the High Court was not right and justified in straight away giving direction to grant pay scale to the Respondent when there was no material placed before the Court for comparison in order to apply the principle of "equal pay for equal work" between the Radio Operators of CRPF and the Radio Operators working in civil side in Central Water Commission and Directorate of Police Wireless. In the absence of material relating to other comparable employees as to the qualifications, method of recruitment, degree of skill, experience involved in performance of job, training required, responsibilities undertaken and other facilities in addition to pay scales, the learned Single Judge was right when he stated in the order that in absence of such material it was not possible to grant relief to the Respondent. No doubt, the Directorate of CRPF made recommendations to the Pay Commission for giving higher pay scaled on the basis of which claim is made by the Respondent for grant of pay scale, the factual statements contained in the recommendation of a particular Department alone cannot be considered per se proof of such things or they cannot by themselves vouch for the correctness of the same the said recommendation could not be taken as a recommendation made by the Government. Even otherwise mere recommendation did not confer any right on the Respondent to make such a claim for writ of mandamus.

In this background as to the position of law touching the controversy raised in this appeal, we have no hesitation in holding that the impugned judgment and order are unsustainable. The learned Counsel for the Appellants placed before us a chart showing difference in pay scales, facilities, other allowances, leave period, providing accommodation, etc. for the purpose of comparison between the pay scales and other facilities of the Respondent and similar other employees working in Directorate of Coordination Police Wireless and other Central Government agencies. The learned Counsel for the Respondent reiterated that the nature of duties and responsibilities of the Respondent are not only similar when compared to other employees similarly placed, but on the other hand they are more hazardous. It is an indisputable fact that the pay-scales now claimed by the Respondent are those prescribed for the post of Assistant Sub-Inspector. As

already noticed above, it is once again a promotional post for a Naik. Acceding to the claim made by the Respondent would not merely result in change in the pay-scales but may also lead to alteration of the pattern of hierarchy requiring re-orientation and restructuring of the other posts above and below the post of Respondent. Added to this, such consequences are likely to be felt in the various other Central Police Establishments as well. All these which are likely to have a chain-reaction, may require further consideration afresh by expert body like the Pay Commission or the Government itself at an appropriate time in an appropriate manner. Courts should normally leave such matters for the wisdom of administration except the proven cases of hostile discrimination. But in the case on hand, having regard to the facts and circumstances of the case and the position of law stated above, the Division Bench of the High Court was not right in granting the relief itself, straightaway to the Respondent: that too, without examining the implications and impact of giving such directions on other cadres. However, we make it clear that the rejection of the claim of the Respondent need not be taken as an issue closed once and for all. It is always open to the Government to consider the issue either by making reference to the Pay Commission or itself once again as to the grant of pay-scales to the Respondent. It is open to the Respondent to make further and detailed representation.

In State of Haryana and Another Vs. Haryana Civil Secretariat Personal Staff Association, Their Lordships were pleased to observe:

(8) From the discussions in the impugned judgment it is clear to us that the High Court has ignored certain settled principles of law for determination of the claim on parity of pay scale by a section of Government employees. While making copious reference to the principle of equal pay for equal work and equality in the matter of pay, the High Court overlooked the position that the parity sought by the Petitioner in the case was with employees having only the same designation under the Central Government. Such comparison by a section of employees of State Government with employees of Central Government based merely on designation of the posts was misconceived. The High Court also fell into error in assuming that the averment regarding similarity of duties and responsibilities made in the writ petition was un rebutted. The Appellants in their counter affidavit have taken the specific stand that no comparison between the two sections of employees is possible since the qualifications prescribed for the P. As. in the Central Secretariat are different from the P. As. in the State Civil Secretariat. Even assuming that there was no specific rebuttal of the averment in the writ petition that could not form the basis for grant of parity of scale of pay as claimed by the Respondent. The High Court has not made any comparison of the nature of duties and responsibilities, the qualifications for recruitment to the posts P. As. in the State Civil Secretariat with those of P. As. of the Central Secretariat.

(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 complex nature of issues involved, the far reaching 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 justiciable or that the Courts cannot entertain any proceeding against such administration decision taken by the Government. The Courts should approach such matters with restraint and interference 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. Even in a case where the Court holds the order passed by the Government to be unsustainable then ordinarily a direction should be given to the State Government or the authority taking the decision to reconsider the matter and pass a proper order. The Court should avoid giving a declaration granting a particular scale of pay and compelling the Government to implement the same. As noted earlier, in the present case the High Court has not even made any attempt to compare the nature of duties and responsibilities of the two sections of employees, one in the State Secretariat and the other in the Central Secretariat. It has also ignored the basic principle that there are certain rules, regulations and executive instructions issued by the employers which govern the administration of the cadre.

In *S.C. Chandra and Others Vs. State of Jharkhand and Others*, Their Lordships were pleased to observe:

Fixation of pay scale is a delicate mechanism which requires various considerations including financial capacity, responsibility, educational qualification, mode of appointment, etc., and it has a cascading effect. Hence in subsequent decisions of this Court the principle of equal pay for equal work has been considerably watered down, and it has hardly ever been applied by this Court in recent years.

Thus, in *State of Haryana and Another Vs. Tilak Raj and Others*, it was held that the principle can only apply if there is complete and whole sale identity between the two groups. Even if the employees in the two groups are doing identical work they cannot be granted equal pay if there is no complete and wholesale identity, e.g., a daily rated employee may be doing the same work as a regular employee,

yet he cannot be granted the same pay scale. Similarly, two groups of employees, may be doing the same work, yet they may be given different pay scales if the educational qualifications are different. Also, pay scale can be different if the nature of jobs, responsibilities, experience, method of recruitment, etc. are different.

In our opinion fixing pay sales by Courts by applying the principle of equal pay for equal work upsets the high constitutional principle of separation of powers between the three organs of the State. Realizing this, this Court has in recent years avoided applying the principle of equal pay for equal work, unless there is complete and wholesale identity between the two groups (and there too the matter should be sent for examination by an Expert Committee appointed by the Government instead of the Court itself granting higher pay).

It is well settled by the Supreme Court that only because the nature of work is the same, irrespective of educational qualification, mode of appointment, experience and other relevant factors, the principle of equal pay for equal work cannot apply vide Government of West Bengal Vs. Tarun K. Roy and Others,

In State of Bihar and Others Vs. Bihar Veterinary Association and Others, Their Lordships were pleased to observe:

The pay scales in the States are revised from time to time on the recommendations of the Pay Commissions. A parity in a particular class of service depends on various factors. The Pay Commission has to consider the pay scales of various services of the State and then to make hierarchy of the pay scale in the State. It is not possible to have the same pay scales as that of the employees of the Central Government or even for that matter between two States. The pay scales essentially depend upon the resources of the Government. It is not always possible that the resources of the Central Government and the State Government are the same or even for that matter between two States. Therefore, to decide and recommend pay scales the Fitment Committee has to take all factors into consideration.

It is true that it was mentioned in the report of the Fitment Committee that the Fitment Committee was required to recommend without considering the economic constraints of the State and the need for resources of the development programmes and it was also canvassed that the Fitment Committee does not have the constraint of financial consequent but despite that the Committee after elaborate discussion has recommended the pay scale of Rs. 6,500-10,500 and the same pay scale has been granted to the members of the Respondent Association. It was pointed out that the post of Veterinary Officer is equivalent to that of Medical Officers who are appointed after passing the MBBS Degree and these doctors have been granted 25% of their basic pay as non-practicing allowance. Taking into consideration all these factors the Fitment Committee in its wisdom has already recommended the pay scale to these employees as admissible to Group "B" officers of the State of Bihar in the pay scale of Rs.

6,500-10,500.

If the Courts start disturbing the recommendations of the pay scale in a particular class of service then it is likely to have cascading effect on all related services which may result into multifarious litigation. The Fitment Committee has undertaken the exercise and recommended the whole sale revision of the pay scale in the State of Bihar and if one class of service is to be picked up and graded higher pay scale as is available in the Central Government then the whole balance will be disturbed and other services are likely to be affected and it will result in complex situation in the State and may lead to ruination of the finances of the State. Therefore, interference by the learned Single Judge as well as the Division Bench of the High Court with the recommendation of the Fitment Committee was not warranted.

In *K. Krishnamacharyulu and Others Vs. Sri Venkateswara Hindu College of Engineering and Another*, , the admitted position was that the State Government has issued its executive instructions acknowledging the right to claim the pay scale so as to be on a par with the Government employees and it was in the context of the said undisputed facts that the Supreme Court was pleased to entitle the Petitioner for the benefit of equal pay for equal work of the Appellants therein.

In *Union of India and Others Vs. Shri Bijoy Lal Ghosh and Others Etc.*, , who was in employment as a Primary School Teacher under the Dandakaranya Development Project, Their Lordships while taking cognizance of letter dated 12-8-1987 issued from the Human Resources Development Department that his parent department under which the teachers belonging to and while taking note to second paragraph therein:

... all Union Territories (except Chandigarh) including Government Aided Schools and organisations like Kendriya Vidyalaya Sangathan and Cultural Tibetan Schools Administration etc. will be as under.

Their Lordships were pleased to observe that the use of words "organizations like" and the word "etc." indicate similar other organisations, institutions etc. the same was not exhaustive. In consideration to this, we conclude and include the teachers who were working in DDP as the Respondents. We further conclude, if for the aforesaid reasons, their claims were not considered, this non-consideration of their legitimate claim, when all such belonging to that class received at the relevant date, is arbitrary and violative of Article 14 of the Constitution.

In *The Chandigarh Administration and Others Vs. Mrs. Rajni Vali and Others*, , Their Lordships were pleased to observe:

6. The position has to be accepted as well settled that imparting primary and secondary education to students is the bounden duty of the State Administration. It is a constitutional mandate that the State shall ensure proper education to the

students on whom the future of the society depends. In line with this principle, the State has enacted Statutes and framed Rules and Regulations to control/regulate establishment and running of private schools at different levels. The State Government provides grant-in-aid to private schools with a view to ensure smooth running of the institution and to ensure that the standard of teaching does not suffer on account of paucity of funds. It needs no emphasis that appointment of qualified and efficient teachers is a sine qua non for the maintaining high standard of teaching in any educational institution. Keeping in mind these and other relevant factors this Court in a number of cases has intervened for setting right any discriminatory treatment meted out to teaching and non-teaching staff of a particular institution or a class of institutions. To notice a few such decisions on the point, we may refer to the case of Haryana State Adhyapak Sangh and Others Vs. State of Haryana and Others, , in which this Court issued a direction that the State Government will also take up with the Management of the Aided Schools the question of bringing about parity between the teachers of Aided Schools and the teachers of Government Schools for the period following that to which the thirty five instalments relate, so that a claim for payment may be evolved after having regard to the different allowances claimed by the Petitioners. In the case of Haryana State Adhyapak Sangh and Others Vs. State of Haryana and others, a Bench of three learned Judges of this Court clarifying the judgment in Haryana State Adhyapak Sangh v. State of Haryana (supra), issued a direction, inter alia, that the parity in the pay scales and dearness allowance of teachers employed in Aided Schools and those employed in Government Schools shall be maintained and with that end in future the pay scales of teachers employed in Government Schools shall be revised and brought at par with the Aided Schools and dearness allowance payable to the teacher employed in Government Schools with effect from January 1st, 1986.

In State of Mizoram v. Mizoram Engineering Service Association AIR 2004 SCC 3644 the question which cropped was whether the State of Mizoram was justified for the purposes of revisions of pay scales accepted by the Government of the State of Mizoram by Notification No. G. 12011/3/87F. Est. dated 19th January, 1989 by ignoring certain categories of Engineering in State Engineering Services. In the background of the facts of the said case Their Lordships were pleased to observe:

5... In the facts of the present case we do not find any justification for confining the higher scale to a particular individual and deny the same to others. There may be special reasons for instance special merit, expertise or the like, for giving special pay to a particular individual. In the present case, no such reason is forthcoming. On the other hand the reason given is that since he was holding the post on 1-1-1986, the date from which Fourth Central Pay Commission recommendations were given effect to, he was being allowed the higher pay scale. This reason rather supports the case of Respondent. It shows an admission on the part of the Appellant that the revised pay scales for the post of Chief Engineer as per the recommendations of the Fourth Central Pay Commission was

Rs. 5,900-6,700 and was allowed to a Chief Engineer. The State Government cannot be permitted to discriminate between similarly placed individuals in this behalf between those holding the post at the time of revision of pay scales and future incumbents of the post.

In the case at hand, the facts borne out from record do not support the contention of the Petitioner that they are the employees of the WCL/ SECL as would create any right in their favour to be treated at par with them. Furthermore, being employed by the Society registered under the Act of 1973, the Society cannot be subjected to a mandamus to treat the Petitioner at par with the employers of WCL/SECL or other teachers.

Having thus considered, this Court does not find any substance in the claim put forth by the Petitioners. In result, petition fails and is hereby dismissed. However, no costs.