
(2007) 05 RAJ CK 0096
In the Rajasthan High Court

Mohan Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 28-05-2007

Acts Referred:

Constitution of India, 1950 — Article 39(d)

Citation : (2007) 114 FLR 711 : (2008) 1 RLW 916 : (2009) 2 SLJ 88

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Govind Mathur, J.—After getting enrolled with Border Security Force (herein-after to be referred as "the Force") as Constable in the year 1969 the petitioner did "Stockman Course" in the year 1976-77 from Animal Husbandry School, Jaipur. Accordingly, an appointment was given to him as Head Constable (Stockman) in the pay scale of Rs. 225-308 on 6.6.1978 in Veterinary Branch of the Force.

2. The respondents under an order dated 19.4.1990 allowed a pay scale of Rs. 260-400/- to two other Stockman viz., S/Sh. Mool Singh and Doongar Singh w.e.f. February 1973 and December 1985 respectively. The pay scale of Rs. 260-400/- was also given to one another Stockman Sh. CO. Kurien from the year 1978 though he did the course of Stockman in the year 1981-82. Aggrieved by disparity in the pay scales granted to Stockman the petitioner submitted various representations to the respondents but of no consequence. Thus, he filed this petition for writ claiming for "the pay scale of Rs. 260-400 w.e.f. 6.6.1978 and subsequent fixation of pay keeping above pay scale as base."

3. After service of Rule issued by this Court the respondents decided one of the representations submitted by the petitioner negating the parity claimed by him for the reason that he was recruited as Head Constable (Stockman) against the post sanctioned by the Government of India for welfare measures in Jammu and Kashmir Border whereas appointment to S/Sh. Kishan Singh, Mool Singh, CO.

Kurien and "Doongar Singh was given as Head Constable (Stockman) against the sanctioned post of Para Veterinary Staff of the Force in pre-received pay scale of Rs. 105-135 that was revised to Rs. 260-400. In reply to the writ petition same stand is taken by the respondents. It is not at all in dispute that the petitioner and other head Constables (Stockman), to whom the pay scale of Rs. 260-400/- is given are part of one cadre and they are discharging exactly same duties and bearing same responsibilities. For all purposes they are on same pedestal except the pay scales granted to them. Thus, precisely the question requires determination in this petition for writ is that, "whether classification made by the respondents among the Head Constable (Stockman) relating to grant of pay scale on basis of source of recruitment is justified and rational?"

4. Article 14 read with Article 39(d) of the Constitution of India forbids discrimination in grant of wages, if, the employees are doing substantially the same kind of work requiring the same skill, effort and responsibility and such work is done under similar working conditions in the same establishment, hence, application of the principle above commonly known as "equal pay for equal work" should be ensured by the State and all of its agencies and instrumentalities just to achieve and maintain goal of fairness and equality at work place. No doubt that, even if certain persons are doing substantially the same work they can be paid different grades of pay, if, the difference is due to (i) a seniority system (ii) a merit system, and (iii) quantity or quality based system. So far as the seniority system is concerned to meet such exigency various steps are provided in the pay scales with annual grade increments on acquiring higher experience. By getting such increments a senior person gets higher amount of wages while running in same pay scale. An employee can be paid more money or a bonus on basis of a system that measures the work performance of the employees objectively.

5. As stated above the petitioner and the person to whom pay scale of Rs. 260-400/- is accorded are part of one and same cadre, therefore, certainly they are doing substantially same work with same skill, effort and responsibility. Need not to say here that skill refers to the degree or amount of knowledge or physical capability noted by the employee performing the job and effort is the physical or mental exertion needed to perform a job. The petitioner as well as the employees with whom parity is claimed for grant of wages is having same qualification and training, therefore, they are putting same skill and effort in discharging their duties. Being part of the same cadre they are also bearing same responsibilities. In the instant matter the issue is with regard to grant of pay scale only and not any additional payment due to merit. The quantity and quality of work among the Head Constable (Stockman) is also not different. The respondents utterly failed to prove that the lower pay scale granted to the petitioner is due to any valid exception noted above. The disparity existing among the Head Constable (Stockman) with the respondent-establishment is apparently having no rational, the same, therefore, is declared illegal. The petitioner is entitled to be fixed in the pay scale of Rs. 260-400/- from the date of his initial appointment i.e. 6.6.1978.

6. Accordingly, this petition for writ is allowed. The respondents are directed to make fixation of the petitioner's pay in the pay scale of Rs. 260-400/- w.e.f. 6.6.1978. The petitioner shall be entitled to all consequential benefits as a consequent to fixation of his pay in the terms above. The petitioner shall also be entitled for getting arrears accruing in view of the fixation of his pay in the pay scale of Rs. 260-400/- w.e.f. 6.6.1978 with interest at the rate of 6.5% per annum. No order as to costs.