(2013) 10 PAT CK 0035

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 8489 of 2012

Raj Muni Rai APPELLANT

Vs

The State of Bihar and Others RESPONDENT

Date of Decision : 09-10-2013

Acts Referred:
Constitution of India, 1950 — Article 14, 226

Citation : (2014) 2 PLJR 17

Hon'ble Judges : Mihir Kumar Jha, J

Bench : Single Bench

Advocate : Amrendra Narayan Rai, in CWJC No. 8489 of 2012 and CWJC No. 8747 of 2012, for the Appellant; Anjani Kr. Sharan, SC9, Mr. Sidharth Prasad in CWJC No. 8489 of 2012, Mr. Ravindra Kr. Choubey, SC8, Mr. Dhruba Mukherjee and Mr. J.P. Karn, in CWJC No. 8747 of 2012, for the Respondent

Final Decision : Dismissed

Judgement

Mihir Kumar Jha, J.—Heard learned counsel for the parties. The prayer of the petitioners in both the writ applications is exactly same and identical as would be evident from paragraph No. 1 of both the writ applications relevant portion whereof reads as follows:-

1(i) For implementation of memo No. 11028 dated 28.06.2011 (ANNEXURE-9), issued by Department of Home (Special) Government of Bihar, Patna by which it has been accepted that there was/is anomaly in fixation of pay scale of Jamadar Head Clerk, Jamadar Accountant of Home Guards organization from 4th pay revision committee report i.e. from 1981, which is equivalent to the post/rank of Jamadar company commander of Home Guards.

(ii) For removal/correction of pay anomaly and differences in pay scale in view of letter dated 28.06.2011, and pay arrears of difference amount of pay scale from due dates with appropriate interest and also grant consequential reliefs to revise/ fix the pension of the petitioner in accordance with correct pay scale and also pay the due amount of arrears of differences of pension.

2. Learned counsel for the petitioners in support of the aforementioned prayer has invoked the doctrine of "equal pay for equal work" and has sought to explain that both the petitioners were appointed in Bihar Home Guard on the post of Naik/Writer Naik in between 1968 to 1972 and had eventually earned promotion on the post of Hawaldar/Clerk as also Jamadar Head Clerk and finally on the post of Home Guard before superannuating from service on 31.7.2003 in the case of the petitioner Deopoojan Prasad in CWJC No. 8747 of 2012 and petitioner Raj Muni Rai in the case of CWJC No. 8489 of 2012 on 30.6.2009. He has further sought to explain that the pay-scale of the post of Jamadar Company Commander and Jamadar Head Clerk was exactly the same in the 1st, 2nd and 3rd Pay Revision Committee report as implemented by the State of Bihar but from the 4th Pay Revision Committee onward, the pay-scale of Jamadar Company Commander and Jamadar Head Clerk was differentiated by giving higher pay-scale to Jamadar Company Commander in comparison to the Jamadar Head Clerk. It is the case of the petitioners that they being the loser on account of disparity in the pay-scale of Jamadar Head Clerk which they were holding as against the post of Jamadar Company Commander had kept on representing their case both individually as well as through their association. In this regard, they have also relied on a communication of the Special Secretary of the Home Department (Special Branch) dated 3.4.1982 wherein a request was made to the Secretary of the Pay Anomaly Removal Committee for modifying the pay-scale of Jamadar Head Clerk and Jamadar Accountant by enhancing it from Rs. 730-1080 to Rs. 810-1360 as given to Jamadar Company Commander and Jamadar Quartermaster. Learned counsel in this regard has also referred to subsequent communication of the Special Secretary of the Home (Special) Department dated 8.7.2000, wherein, the Home (Special) Department had strongly recommended to the Secretary of the Fitment Appellate Committee for grant of same pay-scale of Rs. 5500-9000 to Jamadar Head Clerk as was given to the Jamadar Company Commander.

3. The further case of the petitioners in their writ application is that all similarly anomaly in the pay-fixation in the 5th Pay Revision Committee Report as with regard to the post of Fire Station Officer was examined by this Court in CWJC No. 12526 of 2001 and an order was passed on 27.9.2007 to grant them the same pay-scale i.e. Rs. 5500-9000 in place of Rs. 5000-8000 on the ground that last pay parity was maintained in the report of 1st, 2nd, 3rd and 4th Pay Revision Committee. Learned counsel for the petitioner has also explained that earlier a writ application was filed by the petitioner Deopoojan Prasad for the same relief in CWJC No. 7861 of 2008 which however was dismissed as withdrawn by according liberty to the petitioner to pursue the departmental remedy for which a representation on their behalf was pending consideration of the State Government. The petitioners in fact have also enclosed the representation jointly filed by them as well as two others on 3.2.2011. According to the petitioners, on the aforesaid representation, the officials of the Bihar Home Guard specially in view of the legal notice served on them had made a strong recommendation to

the Home Police Department vide letter dated 29.4.2011 recommending for grant of same pay-scale to the post of Jamadar Head Clerk as given to the Jamadar Company Commander. The petitioners have also brought on record the recommendation made by the Home Police Department to the Principal Secretary of the Finance Department wherein it was stated that such equal pay-scale to the Jamadar Head Clerk could be made admissible at least till enforcement of Bihar Home Guard Service Rule, 2005.

4. Based on these documentary evidence, learned counsel for the petitioners has submitted that as the Finance Department has not take a decision till date, the recommendation made by the Department of Home (Special) in its letter dated 28.6.2011 should be directed to be implemented specially when the Home (Special) Department, the parent department of the petitioners had given such proposal for grant of equivalent pay-scale after full consideration of the scope of work and duty of the two posts i.e. Jamadar Head Clerk and Jamadar Company Commander.

5. In this case, two counter affidavits have been filed, one by the Finance Department on behalf of the respondent Nos. 4 & 5 and on behalf of the Commandant of the Bihar Home Guards (respondent No. 6). In the counter affidavit filed by the Finance Department, it has sought to justify the grant of lower pay-scale to the Jamadar Head Clerk in comparison to Jamadar Company Commander and in this regard has referred to paragraph No. 35.132 and 35.133 of the 4th Pay Revision Committee for justifying the grant of two different pay-scale higher to the post of Jamadar Company Commander lower to the Jamadar Head Clerk on the basis of nature of work and the duty and responsibility of the two posts. It has further been explained that this view taken by the 4th Pay Revision Committee as also accepted by the State Government was subsequently also carried issue in the 5th and 6th Pay Revision Committee and in this regard, reference has also been made to the 6th Pay Revision Fitment Committee and Fitment Appellate Committee report with specific reference to the Paragraph No. 8.10.14. The respondents have also relied on a judgment of the Division Bench dated 20.4.2010 in LPA No. 859 of 2007 wherein the report of the Fitment Appellate Committee was held to be final, binding and conclusive between both the parties i.e. the State Government and the employees. In view of the agreement assigned by the Chief Secretary and the Finance Commissioner on behalf of the State of Bihar and the representative of the employees union on 7.9.1999. In sum and substance, the Finance Department has justified the grant of lower pay-scale to the post of Jamadar Head Clerk working in the Bihar Home Guard as against the Jamadar Company Commander of the same Bihar Home Guard.

6. In the separate counter affidavit filed by the Commandant of the Bihar Home Guard, it has been stated that though the Home (Special) Department and the authorities of the Bihar Home Guard had made a favourable recommendation for grant of higher pay-scale to the post of Jamadar Head Clerk but the State

Government in the Finance Department on examination of such recommendation had found that the claim for removal of anomaly in the pay-scale of Jamadar Head Clerk had no merit and in view of the said decision of the Finance Department, the Home (Special) Department had also closed the matter.

7. There is no rejoinder on behalf of the petitioners to either of the two counter affidavits and, therefore, the facts asserted by the Finance Department in its counter affidavit duly supported with the recommendation of the Pay Revision Committee and the Fitment Appellate Committee remains wholly uncontroverted.

8. As has been noted above, the main plank of the petitioners for grant of same pay-scale to the post of Jamadar Head Clerk as given to Jamadar Company Commander is based on two premises, namely, parity of the same pay-scale in the first three Pay-Revision Committee reports and the recommendation of the parent department of the petitioners, namely, Home (Special) Department for also maintaining such parity in the subsequent 4th, 5th & 6th Pay-Revision Committee. In fact, learned counsel for the petitioners has in this background sought to invoke the doctrine of "equal pay for equal work". The crucial question, however, would be as to whether there can be a judicial review of the decision taken by the Pay-Revision Committee which has found the nature of work of the two posts i.e. Jamadar Company Commander and Jamadar Head Clerk to be totally different. In this regard, it has to be noted that while the respondents officials of the Finance Department have placed reliance on paragraph No. 35.132 and 35.133 which in a very elaborate manner has discussed the reasons for grant of higher pay-scale to Jamadar Company Commander and lower pay-scale to the Jamadar Head Clerk as would be evidenced from the following passage of the report of the 4th Pay Revision Committee, relevant portion whereof reads as follows:-

9. From reading of the extract of the Par Revision Committee report as quoted above, it would be clear that in the year 1981, when the 4th Pay Revision Committee had considered the nature of job of the Jamadar Company Commander, it had found that their duty was comparable with Sub-Inspector of Police, Jamadar of Bihar Armed Force all of whom were engaged in inspecting (supervising) work. It was on this basic principle that the 4th Pay Revision Committee way back in 1981 had classified them in a common pay-scale of Rs. 850-1360 while also recording that the Jamadar Head Clerk were actually engaged in the secretarial work which was more or less comparable to the Sub-Inspector of the ministerial side of the Police Department. Thus, the Pay Revision Committee had taken the nature of work and the allocation of duty of the two posts to be the germane consideration for differentiating the pay-scale of the two posts.

10. It is also found from the records that the 4th Anomaly Removal Committee had again examined the same issue and yet again it had decided the same on the touch stone of nature of duty. In this regard, paragraph No. 5.17.1 of the 4th Pay Anomaly Removal Committee Report being relevant is also quoted

hereinbelow:-

The Commandant General, Home guards has suggested that the Jamadar Head Clerk and Jamadar Accountant should be given the same pay-scale as Jamadar Company Commanders.

5.17.2. In the Police Department, as well as in the Home Guards Organization, there is a well established practice of giving a police/Home guard rank to people doing ministerial work. The Committee is of the view that it is a matter of Government policy as to whether such people will be given the pay-scale of an executive or of a ministerial officer; but, if they are given the latter?s pay-scale, that will not be anomalous; for, pay-scale is linked to the nature of duties involved in the post and not to the rank, which may be given for other reasons also. However if a person, holding the post of a Jamadar Company Commander is drafted for ministerial duties, he will naturally draw the pay of his parent cadre, should that be higher.

11. Thus, whatever had happened in the year, 1981 at the time of enforcement of the 4th Pay Revision Committee Report had clearly differentiated the pay-scale of the two posts on the basis of nature of duty. It has to be kept in mind that when subsequently the Fitment Committee was constituted in the year 1999 and there were large number of grievances of the employees with regard to grant of corresponding higher pay-scale, an agreement was arrived between the State Government and the employees association for referring the matter to the Fitment Appellate Committee to be manned by a Hon''ble Judge of this Court. The respondents in their counter affidavit have brought on record the report of the Fitment Committee and the Fitment Appellate Committee wherein the total number of Jamadar Head Clerk and Jamadar Commandant as a whole was shown to be 17 as against Jamadar Company Commander which was 476. The Fitment Committee had gone into the entire issue of constitution of the cadre and had fund that the post of Company Commander was to be filled up from senior Hawaldar who had been grant pay-scale of Rs. 3200-4900 both in the Home Guard and the Police Department. Proceeding on that basis, the Fitment Committee had recommended for a higher pay-scale of Rs. 5500-9000 for the Jamadar Company Commander as against Jamadar Commandant/Jamadar Head Clerk and in this regard, it would be relevant to quote paragraph No. 8.10.12 to 8.10.14 wherein the entire re-organization of the different posts in the Home Guard were recommended on the basis of nature of work and the pay-scale, which reads as follows:-

8.10.12 To reduce the multiplicity of designations it has been suggested that Havildar Clerk Typists, Steno Typists, Jamadar Accountant, Jamadar Head Clerk and Record Keeper should be merged either with the Havildar cadre or with the cadre of Company Commanders. We have no problem in merging the solitary post of Sergeant Major with the Inspectors cadre who are in the same pay scale but Havildar Clerks and Steno Typists are in higher scales than Havildars. The Company Commanders who are in the scale of Rs. 5500-9000 are having a higher scale than either the Jamadar Accountant, Havildar Clerk or Record Keeper. What has probably happened over the years is that the State Government decided to do away with the posts of Platoon Commanders and Section Leaders in other to accommodate the Havildars. The proposal now is to jump three scales and appoint Havildars as Company Commanders and thereafter to the posts of Inspectors. The Company Commanders are now in the scale of Rs. 5500-9000, the same scale as Sub-Inspectors. Therefore, we will recommend that instead of directly promoting Havildar to the post of Company Commanders, the Havildars should pass through an intermediate level/levels. According to the Compendium, the Sub-Inspector heads a Platoon. Hence, the Havildars will have to go through an intermediate stage of heading a Section before being considered for promotion as Platoon and Company Commander.

8.10.13 According to the information made available there are 484 Sepoys and equivalent posts and 945 Havildars and equivalent posts. As all the posts of Havildars cannot be filled by promotion because the feeder grade is smaller in number, the Home Guard organization has a provision in the Rulers whereby 50% of the posts of Havildars are filled by direct recruitment. We agree with the suggestion of the Organization that Sepoy Armourers, Lance Naik and Naib Havildars are equivalent to Sepoys and should have the same pay scale as the Sepoy, i.e. Rs. 3050-4590. It has also been suggested that posts of Naik Instructors, Havildar Armourers and Havildar Quarter Master should be merged together and called Havildar Instructors. We have no objection provided all the posts are in the same scale. The proposal for merging the posts of Havildar Clerk Typist and Havildar Clerk is acceptable provided the pay scales of both are the same. But there is a problem in merging the Steno Typists and Stenographers, sanctioned posts being 8 each in the cadre of Havildar. The Stenographers are in the pay scale is Rs. 4000-6000 and the pay scale of Havildar is Rs. 3200-4900.

8.10.14 The Department has also opined that Jamadar Accountant Jamadar Head Clerk and Record Keeper in the scale of Rs. 1400-2300 be merged with Company Commanders. This we are unable to accept because according to the Compendium of Instructions of 1993 the Company Commanders are required to be Inspectors whereas in Bihar the Company Commanders are in the scale of Sub-Inspectors. Upgrading these three posts would mean several pay scale jumps for the 12 Jamadar Accountant/Head Clerk and solitary Record Keeper. However, in future, the Jamadar Accountant and Record Keeper should be recruited in the scale of Section Leader which we propose to equate to the scale of the A.S.I., viz., Rs. 4000-6000. The Department would have to examine how many Sections will be required given the number of Companies and Platoons. There may be Havildars in Home Guard who have straightaway been promoted as Sub-Inspectors/Platoon Commanders but these promotions are against the provisions of the Bihar Home Guard Rules as well as the Central instructions.

12. Thus, from the report of the Fitment Committee, it would become clear that the entire restructuring of the post of Bihar Home Guard was made on an

intelligible differentia of requirement of the force and the nature of duty assigned to such post wherein Jamadar Company Commander being associated in active service in the force were found to have a edge over the clerical being done by the Jamadar Head Clerk.

13. As a matter of fact, when this aspect of the matter was gone into by the Hon''ble Judge of this Court who had functioned as the Fitment Appellate Committee in terms of the agreement arrived between the officials of the State of Bihar and the employees association, the grievance of the petitioners and similarly situated persons was again gone into at length and it had approved the view taken by the Fitment Committee for grant of lower pay-scale to the Jamadar Head Clerk in comparison to the Jamadar Company Commander as would be also evident from the following discussions mad by the Fitment Appellate Committee:-

5.20 The Committee has revised letter No. M/H. G-1409/82/331 dated 13.5.2000 from Shri R.P. Srivastava, Deputy Secretary to Govt., Department of Home enclosing letter No. 1273 dated 3.5.2000 from Commandant, Bihar Home Guards regarding Jamadar Head Clerk and Jamadar Accountant in the Home Guards. The Bihar Home Guard Association have also sought upgradation in the scale of Jamadar Head Clerk and Jamadar Accountant. The Commandant, Home Guards has stated in his letter that in the Home Guards Organization Jamadar Head Clerk, Jamadar Accountant, Jamadar Company Commander and Jamadar Awaspal are all posts in the same grade and are equivalent to the post of Sub Inspector in the Police Department. It has been further claimed that these are executive posts and the designation differs depending on the nature of job assigned. It is further stated that before the Fourth Pay Revision all these posts were in the scale of Rs. 325-525. It has been prayed that, in view of the above, Jamadaar Head Clerk and Jamadar Accountant be also given the scale of Rs. 5500-9000 as has been given to Jamadar Company Commander and Jamadar Awaspal. The Home Department vide their letter No. 624 dated 8.7.2000 have supported the claim.

5.21 The Fitment Committee has discussed posts under the Department of Home in Chapter 2 of its Report in Vol. II. The case of Jamadars in the Home Guards Organization has not been discussed in this Chapter. However, in Vol. II itself, in the chart including recommended revised pay scales, Jamadar Head Clerk including Jamadar Accountant in the pre revised scale of Rs. 1400-2300 have been recommended the scale of Rs. 4500-7000, on the presumption that it is a promotion post for Clerks. In the same list Jamadar (Urban and Rural) and Company Commander (Urban and Rural) in the pre revised scale of Rs. 1600-2780 have been recommended the revised scale of Rs. 5500-9000. The Fitment Committee have also discussed Home Guards in paragraph 8, 10, Vol. IV, Book 2. From the discussion in this Chapter it becomes clear that Jamadar Head Clerk and Jamadar Accountants are clearly below that of Company Commander and Jamadar (Urban & Rural). In fact, in paragraph 8, 10, 14 it is mentioned that "The Department has also opined that Jamadar Accountant/Jamadar Head Clerk and Record Keeper in the scale of Rs. 1400-2300 be merged with Company Commanders. This we are unable to accept because according to the Compendium of Instructions of 1993 the Company Commanders are required to be Inspectors whereas in Bihar the Company Commanders are in the scale of Sub-Inspectors. Upgrading these three posts would mean several pay scale jumps for the 12 Jamadar Accountant/Head Clerk and solitary Record Keeper." The other interesting fact to be noted is that the Jamadar Head Clerks/ Accountants are at this stage raising a perceived anomaly which harks back to the Fourth Pay Revision Committee. Logically, this issue should have been raised by them at the stage of the Pay Anomaly Removal Committee, 1990. However, this Committee finds no mention of these posts in the Chapter on Home Department discussed in the Pay Anomaly Removal Committee Report. Therefore, in the light of the facts explained above, it becomes difficult to accept the contention of the Commandant Home Guard.

14. As noted above, the consensus was already there that whatever report is submitted by the Fitment Appellate Committee, that would be acceptable to both the State Government as also to the employees. In fact, it was this aspect of the matter which was considered by the Division Bench of this Court in the order dated 20.4.2010 in LPA No. 859 of 2007 (The State of Bihar & Ors. Vs. Sanjay Kumar & Ors.) relevant portion whereof reads as follows:-

The anomalies in fixation of pay scales and the consequent agitation strike by Government employees led to an agreement dated 07.05.1999. This agreement was signed by the Chief Secretary, the Finance Commissioner, the Chief Minister and the Finance Minster on behalf of the State authorities, and the representatives of the employees-Union alongwith with other officers on 07.09.1999. It was resolved that for removal of anomalies, a committee shall be constituted of a sitting High Court Judge and whose recommendations shall be implemented notionally with effect from 01.01.1996 but effectively from 01.04.1997. The recommendations of this Committee shall then be implemented by the State Government within a maximum period of six months. The recommendations of the Committee shall be final and binding upon both sides. It was on this agreement that the strike of the employees was called off. Then followed a resolution dated 15.01.2000 of the State Government in the Department of Finance by which a sitting Hon''ble Judge of this Court, Hon''ble Mr. Justice Aftab Alam (as His Lordship then was) was constituted as the Appellate Fitment Committee.

The very opening paragraph of the Appellate Fitment Committee''s report notices from the Government resolution constituting the Committee and the agreement between the State Government and its employees that the recommendations of this Committee would be final and binding.

Once, the State Government made a particular representation to its employees and on which recommendation they called off their strike subsequently reduced to a written agreement in which the State Government promised to act in a particular manner, this Court shall bind the government those standards. An assurance given by the State Government, to its employees carries sanctity and cannot be wished away lightly especially when the employees were persuaded to alter their stand on that basis. There was no compulsion on the State Government to refer the matter to the Appellate Fitment Committee for fixation of pay scales which was otherwise the exclusive prerogative of the State. Once it took a conscious decision to part with its powers and agreed to accept the recommendations of that body the State Government cannot blow hot and cold.

15. In view of the above, this Court must hold that if the State Government was bound to accept the recommendation of the Fitment Appellate Committee so were the employees, inasmuch as, they also had consciously agreed to the terms and conditions for constitution of the Fitment Appellate Committee. Thus, whatever has been decided by the Fitment Appellate Committee against the petitioners and other similarly situated persons holding the post of Jamadar Head Clerk cannot be made subject matter of judicial review only on account of an earlier parity of the pay-scales maintained in the 1st, 2nd, and 3rd Pay Revision Committee which as quoted above was prevalent only upto the year 1980 and was deprecated ever since the submission and enforcement of the 4th Pay Revision Committee with effect from 1.4.1981. To that extent, the grievance of the petitioner now in the year 2012 after more than thirty years of the different pay-scales for the two posts cannot be gone into specially when their writ applications also was dismissed as withdrawn without giving them any liberty to move this Court for the same cause of action vide order dated 4.11.2010 in CWJC No. 7861 of 2008.

16. As with regard to the submission of the learned counsel for the petitioners invoking the doctrine of "equal pay for equal work", this Court would usefully refer to the judgment of the Apex Court in the case of Federation of All India Customs and Central Excise Stenographers Vs. Union of India reported in AIR 1995 SC 1291 wherein rejecting the claim of Stenographers of the Customs and Central Excise to be treated at par with Stenographers attached in the Central Secretariat, it was held as follows:-

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. The problem about equal pay cannot always be translated into a mathematical formula. It has a rational nexus with the object to be sought for, as reiterated before a certain amount of value judgment of the administrative authorities who are charged with fixing the pay scale has to be left with them and it cannot be interfered with by the Court unless it is demonstrated that either it is irrational or based on no basis or arrived at mala fide either in law or in fact.

17. Thus, the nature of work and duty becomes one of the prime considerations for applying the principle of "equal pay for equal work". In fact, similarity of the work alone can also not be the only ground for grant of equal pay as was held in

the case of State of U.P. and another State of U.P. and another Vs. Km. Prem Lata Misra and others, wherein it had been held by the Apex Court that:-

As a prerequisite for upholding the claim, the claimants must not only establish that the nature of the work is identical but also that there was no reasonable basis to treat them separately. Mere similarity in the nature of the work of two groups, is not sufficient.

18. In fact the Apex Court in the case of Union of India and Others Vs. Pradip Kumar Dey, has also gone to clarify that not only the nature of work but also there being no reasonable basis to treat them separately has to be further gone into while examining the claim for "equal pay for equal work" in the light of the pattern of hierarchy requiring reorientation and restructuring of other parts above and below involving other establishment and thereby likely to prejudice chain reaction.

19. In the present case, the Fitment Committee had exclusively gone into this aspect while examining the grant of pay-scale to working Jamadar Head Clerk vis-a-vis Jamadar Company Commandant and had arrived at a finding that while the Jamadar Company Commandant were involved in the active service of the force, the Jamadar Head Clerk on the other hand were only involved in ministerial/ clerical work which was not comparable to the work of Jamadar Company Commander. In fact, if the Jamadar Head Clerk were granted the pay-scale of Jamadar Company Commander, it could have led to chain reaction for grant of same pay-scale to the entire ministerial employees of the Police Department in the rank of ASI and this is what has been deprecated by the Apex Court in the case of Pradip Kumar Dey (supra).

20. Thus, on a consideration of the materials on record, this Court would find that the petitioners have miserably failed to substantiate their claim of equal pay for equal work. The concept of "equal pay for equal work" in fact would depend on a large number of factors and circumstances including the ingredient for applicability and the nature of enquiry along with ground for distinction in pay-scale as was noticed by the Apex Court also in the case of State of Haryana and Others Vs. Charanjit Singh and Others, etc. etc.,

19..... 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....

21. This Court having thus rejected the plea of petitioners as with regard to invoking the doctrine of "equal pay for equal work" also must address to the last submission of the learned counsel for the petitioners as with regard to the acceptance of the Pay Revision Committee Report by the State Government resulting into anomaly by way of reduced pay for the posting of Jamadar Head

Clerk in comparison to Jamadar Company Commander. As noted above, this plea is based on only the parity which was maintained in the first three Pay Revision Committee Report. The question, however, would be that if there were materials before the 4th Pay Revision Committee for arriving at a conclusion that the nature of duty and the re-organization of the Bihar Home Guards had itself envisaged grant of two different pay-scales to the aforesaid two posts higher for the Jamadar Company Commander and lower for the Head Clerk, can there be a judicial review as with regard to the aforesaid decision of the State Government accepting the report of the 4th Pay Revision Committee of 1981 which has been maintained till date by way of even 5th and 6th Pay Revision Committee as discussed above?

22. The Apex Court in this regard in the case of State of West Bengal and others Vs. Deb Kumar Mukherjee and others, had gone to hold that if relevant materials have been taken into consideration by the Pay Revision Committee for arriving at a particular conclusion, the Courts will not be justified in interfering in its recommendation. This aspect was further reiterated by the Apex Court in the case of Union of India (UOI) Vs. Tarit Ranjan Das, wherein it has been held that the conclusion arrived by the Pay Revision Committee are not susceptible to judicial review and the limited line of enquiry under Article 226 would be confined to such decision being vitiated by any arbitrariness or discrimination.

23. This Court, therefore, having accepted the line of reasoning of the 4th Pay Revision Committee as well as Fitment Committee and the Fitment Appellate Committee is not in a position to hold that such decision of the Government for more than three decades of giving a higher pay-scale to Jamadar Company Commanders and a lower pay-scale to Jamadar Head Clerk in the set up Bihar Home Guard is either arbitrary or discriminatory.

24. In view of the aforesaid discussions, this Court does not find any merit in these two writ applications and they are, accordingly, dismissed. There would be, however, no order as to costs.

