
(2016) 12 SHI CK 0012
In the High Court Of Himachal Pradesh
Case No : LPA No. 121 of 2011

Shankar Lal	Vs	APPELLANT
State of Himachal Pradesh		RESPONDENT

Date of Decision : 15-12-2016

Acts Referred:

Citation : (2017) LatestHLJ(HP) 88

Hon'ble Judges : Mansoor Ahmad Mir, CJ. and Sandeep Sharma, J.

Bench : Division Bench

Advocate : Mr. Bharat Thakur, Proxy Counsel, for the Appellant; Mr. Anup Rattan and Mr. Romesh Verma, Additional Advocate Generals with Mr. J.K. Verma, Deputy Advocate General, for the Respondent No. 1; Mr. Balwant Singh Thakur, Advocate, for the Respondent No. 2

Final Decision : Dismissed

Judgement

Sandeep Sharma, J.—This Letters Patent Appeal is directed against judgment dated 21.9.2010 rendered by the learned Single Judge of this Court in CWP(T) No. 4716 of 2008 titled Shankar Lal and others v. State of Himachal Pradesh and another, whereby the writ petition filed by the appellants-petitioners (here-in-after, "petitioners") was dismissed.

2. Facts in brief are that petitioners were initially appointed as Beldars/Plant Observers. They were promoted to the post of Field Assistant in the pay scale of Rs.400-600. Petitioners claimed that on the basis of letter dated 21.6.1986 (Annexure P-2 of writ petition), State ordered merger of posts of Field Assistants with the posts of Horticulture Sub-Inspectors in the pay scale of Rs.450-800/-. Petitioners claimed that they were not granted aforesaid pay scale. Petitioners have relied upon Statutes 5.6(1) and 6 of the respondent-University seeking pay scale of Rs.450-800 (later revised to Rs.1200-2100). Annexure P-2 dated 21.6.1986 reads as under:

"I am directed to refer to your No. 15-65/79- Udyan-I dated the 20th November,

1985 and to say that Governor, Himachal Pradesh is pleased to allow the scale of Rs.450-800 to the posts of Field Assistants presently in the scale of Rs.400-600. This revision will come into force w.e.f. 1.1.78 on notional basis and monetary benefits will accrue to the concerned incumbents w.e.f. 1.3.1986. The pay of the incumbents in the revised scale of Rs.450-800 (from the scale of Rs.400-600) will be fixed in accordance with the provisions of Audit Instruction(1) below F.R. 22 and they will be eligible to exercise option in accordance with the provision of F.R. 23 within a period of three months, failing which option will be deemed to have been exercised in favour of revised scale. Option once exercised will be final.

The Governor is further pleased to order that the posts of Field Assistants shall be merged with those of Horticulture Sub-Inspectors."

3. Clauses 5.6(1) to 5.6(3) of Chapter V of "Statutes Regarding The Classification, Qualifications And Appointment Of Employees Of The University Other Than The Officers and Teachers" reads as under:

"5.6(1) The scales of pay of the posts of category A, B, C and D employees of the University shall be as prevalent at present. Conditions and rules for the release of higher scales of pay, for admissibility of special pay and other allowance to the employees shall be the same as applicable from time to time to the employees holding corresponding posts in Himachal Pradesh Government. But the rules of local allowance shall be as admissible to Government servants at the concerned stations of posting.

(2). The Board shall have the powers to review the conditions for the release of scales and the scales of pay and allowances attached to any post of the University as and when the same are revised by the Himachal Pradesh Government for their own employees.

(3) For such posts in the University as do not exist under the Himachal Pradesh Government, the University reserves the powers to frame its own pay scales, which shall, as far as possible, be in consonance with the pay scales of comparable posts in the Himachal Pradesh Government/sister Universities in the State."

4. Clause 6 of Chapter VI, "Scales of Pay" provide as under:

6.(1) Notwithstanding anything contained in Chapters III, IV and V of the Statutes, the scales of pay to be prescribed by the Board shall follow the pattern given in the succeeding clauses of this Chapter.

(2) The conditions and rules for grant of scales of pay, for admissibility of special pay and allowances [other than the allowances mentioned in clause (5) below] to all Officers (other than Estate Officer), teachers, Deputy Registrars, Assistant Registrar, Deputy Students" Welfare Officers, Assistant Students" Welfare Officers, Sports Officers and other posts on the UGC pattern, shall be the same as prescribed by the University Grants Commission from time to time.

(3) The conditions and rules for the grant of scales of pay, for admissibility of special pay and allowances [other than the allowances mentioned in clause (5) below] to the Estate Officer and other employees of the University shall be the same as applicable from time to time to the employees holding corresponding posts in Himachal Pradesh Government.

(4) For such posts in the University as do not exist under the Himachal Pradesh Government and which do not fall within the UGC pattern of scales, the pay scales and allowances [other than the allowances mentioned in clause (5) below] shall be such as the Board may determine having regard to the functions, duties, status and qualifications of such posts, in relation to other posts in the University.

(5) In granting the Hill Compensatory Allowance, House Rent Allowance and other local allowances (other than DA and ADA) Himachal Pradesh Government pattern shall be followed.

(6) The incumbents of various posts in the University shall be entitled to the pay scales, special pay and other allowances admissible to them on the date of commencement of these Statutes unless revised by the Board."

5. The respondent-University in its reply before the writ Court, took stand that Statute 5.6(1) is regarding the scale of pay of University employees and it is clear in the chapter that pay scale of Technical Staff should be equal with the Department of Agriculture/Horticulture/Forests/Fisheries/Animal Husbandry/Education or where the University has evolved its own pay scales, the same will be revised by keeping in view the relative position of pre-revised scales. The posts of Field Assistant Grade-I are treated equivalent with that of Horticulture Sub-Inspectors, as far as grant of scale is concerned and University is providing same scale to the Field Assistant Grade-I which is being granted to Horticulture Sub-Inspectors. However, respondent-University also stated in its reply that it is not bound to frame Recruitment and Promotion Rules parallel to that of the Horticulture Department. In case, scale of Horticulture Sub-Inspector is revised by the Government, University is bound to grant same scale to the Field Assistant Grade-I.

6. The learned Single Judge also held in the impugned judgment that the post of Field Assistant is feeder cadre for promotion to the post of Field Assistant Grade-I and as such pay scales of both the posts are different. Moreover, respondent-University has framed its own Recruitment and Promotion Rules and it has never taken any decision to merge posts of Field Assistants with that of Horticulture Sub-Inspector. As such petitioners could not seek benefit of revision of pay scales notionally from 1.1.1978 and monetary benefits from 1.3.1986, as claimed in the petition. Accordingly, the petition was dismissed. Now, the petitioners have challenged the aforesaid judgment of the learned Single Judge by preferring the present appeal.

7. Mr. Bharat Thakur, learned Advocate representing the petitioners vehemently argued that the judgment passed by the learned Single Judge is not sustainable

as the same is not based upon correct interpretation of Statutes 5.6(1) and 5.6(3) and as such same can not be allowed to sustain. Mr. Thakur further stated that the petitioners are entitled to the benefit of automatic revision of pay scale from Rs.400-600 to Rs.450-800 in terms of revision order of the State Government dated 17.5.1986, on notional basis from 1.1.1978, 10.8.1982 and 8.3.1983, respectively and financial benefits from 1.3.1986 with all consequential benefits including seniority, arrears of pay scale revision. Mr. Thakur, specifically invited attention of this Court to clause 5.6(1) of Chapter V of the Statutes regarding classification, qualifications and appointment of employees of the University other than officers and teachers to suggest that the scale of pay of all the employees of categories A, B, C and D, shall be the same as applicable from time to time to the employees holding corresponding posts in the Himachal Pradesh Government. As per the counsel representing the petitioners, Statutes 5.6(1) and 6 of the respondent-University provide that petitioners are entitled to pay scale of Rs.450-800, which was subsequently revised to Rs.1200-2100.

8. Mr. Balwant Singh Thakur, learned counsel representing respondent No.2-University supported the impugned judgment passed by the learned Single Judge. As per Mr. Balwant Singh Thakur, pay scale of Rs.450-800 has been granted to the Field Assistant Grade I and post of Field Assistant is in the feeder cadre for promotion to the post of Field Assistant Grade I. As per Mr. Balwant Singh Thakur, respondent-University has framed new Rules on 25.8.1988, wherein post of Field Assistant is in the feeder cadre for promotion to the post of Field Assistant Grade I and as such petitioners can not be granted pay scale of Rs.450-800 because the post of Field Assistant Grade I has been compared to that of Horticulture Sub-Inspector and, as and when the State Government revises/increases the pay scale of Horticulture Sub-Inspector, corresponding category of Field Assistant Grade I shall also get the same. In the aforesaid background, Mr. Balwant Singh Thakur, submitted that there is no illegality or infirmity in the judgment passed by the learned Single Judge and same deserves to be upheld.

9. We have heard the learned counsel for the parties and also gone through the records of the case carefully.

10. True it is that perusal of Statute 5.6 clearly suggests that pay scales of technical staff other than laboratory staff are to be equated with the departments of Agriculture/Horticulture/Forests/Fisheries/Animal Husbandry/Education, however, the University has evolved its own pay scales and same are required to be revised by keeping in view the relative position in the prerevised pay scales. In the instant case, petitioners, on the basis of letter dated 17.5.1986/21.6.1986 (Annexure P-2 of the writ petition) issued by the State of Himachal Pradesh, whereby posts of Field Assistant have been ordered to be merged with that of Horticulture Sub-Inspector in the pay scale of Rs.450-800 are claiming grant of revision of pay scale of Rs.450-800 as was ordered by the State Government from retrospective date.

11. Record reveals that vide communication dated 6.4.1992 (Annexure P-14 of Writ Petition), respondent-University rejected the claim of the petitioners namely Shankar Lal by stating that matter with regard to revised pay scale of Rs.450-800 of Field Assistant on parity with the Department of Horticulture was put up before the Joint Coordination Committee of both the Universities on 16.1.1992, whereby following decision was taken:

"Since the Technical combine was framed with a view to providing promotional avenues to the Technical Staff, the categories of which did not exist in the State Government, and as such Committee did not favour the abolition of Technical Combine."

12. Petitioners being aggrieved by aforesaid rejection of the revision, approached the Himachal Pradesh Administrative Tribunal, by filing OA No. 2194 of 1997, which was later transferred to this Court and registered as CWP(T) No. 4716 of 2008, seeking following main relief(s):-

"(i) That the applicants be held lawfully entitled for the grant of revised pay scale of Rs.450-800 on the State Government pattern with effect from the respective dates.

(ii) That the decision of respondent-2/University as conveyed to the applicants vide Annexure P-14, dated 6-4-92 be declared illegal and be set aside, along-with all consequential benefits of arrears of pay, further promotions etc. to the applicants.

(iii) That the respondents be directed to grant the scale of Rs.450-800 to the applicants on State Government pattern with effect from the corresponding date along with all consequential benefits thereof, such as, arrears of salary and further promotions etc. within a time bound period.

(iv) That the respondents be directed to recast the seniority list of Field Assistants/Field Assistants Grade I strictly in accordance with the State Government decision and the applicants be placed at appropriately in the seniority list and be promoted further in case they become eligible in accordance with the rules. Any other seniority list/contrary decision of respondent-2/University be declared illegal and be quashed as far as it is in conflict with the State Government as contained in Annexure P-2."

13. It also emerges from the record that prior to framing of its own Recruitment and Promotion Rules, the respondent-University had been following the Recruitment and Promotion Rules of Krishi Vishva Vidyalaya notified on 27.3.1986, wherein pay scale of Field Assistant was Rs.400-600 and that of Field Assistant Grade I was Rs.450-800. But with effect from 4.8.1986, respondent-University framed its own Rules, whereby they placed Field Assistant in the pay scale of Rs.400-600 and Field Assistant Grade I in the pay scale of Rs.450-800. In the instant case, petitioners were promoted to the post of Field Assistant Grade I on 28.10.1987 31.5.1988 and 2.6.1986, respectively. Subsequently on

25.8.1988, respondent-University also framed new Rules, wherein post of Field Assistant was kept in the feeder cadre for promotion to the post of Field Assistant Grade I and as such petitioners can not be granted pay scale of Rs.450-800. Perusal of Rules framed by the respondent-University vide notification dated 25.8.1988 provides following procedure for appointment/promotion to the posts of Field Assistant and Field Assistant Grade I:

DR. YASHWANT SINGH PARMAR UNIVERSITY OF HORTICULTURE & FORESTRY,
SOLAN-173230.

"PROMOTION RULES FOR FIELD STAFF"

Sr. No.

Name of the post

Mode of recruitment and ratio in which the posts are to be filled up By direct By
recruitment promotion

Educational qualification

Length of approved service

Field of Choice/Feeder posts

Composition of Promotion Committees.

(1)

(2)

(3)

(4)

(5)

(6)

(7)

(8)

1

Field Assistant (Rs.400-600)

25%

75%

Matriculation Or Middle Or Literate

Three years Or With ten years Or

From amongst category "D Employees Do Do

1. Director/Dean concerned .. Chairman 2. Other Deans/Directors With eighteen years .. Member 3. Heads of the Depts/Res. Station Concerned ... Member 4. Registrar or his nominee .. Member.

2.

Field Assistant Gr. I (Rs.450-800)

75%

25%

Matriculation

Five years

Field Asstt.

-do-.

14. It is apparently clear that promotion to the post of Field Assistant should be made from amongst "D" category employees and the post of Field Assistant Grade I is to be filled up 75% by promotion from amongst the Field Assistants and 25% by direct recruitment. Rules, further suggest that pay scale of Rs.450-800 stands revised to Rs.1200-2100. Since the respondent-University has framed its own Promotion Rules for filling up posts of Field Assistant and Field Assistant Grade I, and further the respondent-University has not taken any decision to merge the posts of Field Assistant with higher post of Field Assistant Grade I/Horticulture Sub-Inspector, this Court sees no force in the contentions having been put forth on behalf of the petitioners that they are entitled to be dealt in accordance with Notification dated 21.6.1986 (annexure P-2) issued by the Himachal Pradesh Government, whereby posts of Field Assistants have been ordered to be merged with that of Horticulture Sub-Inspectors, because as per Promotion Rules of the respondent-University, it has evolved its own pay scales of Rs. 400-600 for the post of Field Assistant and Rs. 450-800 for the post of Field Assistant Grade I, as such, petitioners can not claim revision of pay scales from 1.1.1978 on notional basis with monetary benefits from 1.3.1986, in terms of letter dated 21.6.1986 (Annexure P-2) issued by Himachal Pradesh Government ordering merger of Field Assistants with that of Horticulture Sub-Inspectors in the pay scale of Rs. 450-800.

15. At the cost of repetition, it is stated that as per new Rules having been framed by the respondent-University, higher post in the hierarchy is of Field Assistant Grade I, which is required to be filled in 75% by promotion from Field Assistants and 25% by direct recruitment. In view of aforesaid discussion, this Court does not find any illegality in the findings returned by learned Single Judge that the post of Field Assistant is feeder post for promotion to the post of Field Assistant Grade I and as such pay scales of both the posts are different.

16. Leaving everything aside, it clearly emerges from record that respondent-

University has framed its own Promotion Rules and no decision has ever been taken to merge the posts of Field Assistant with Field Assistant Grade I/ Horticulture Sub-Inspector, thus the petitioners are not entitled to the benefit of revision of pay scales in terms of letter dated 21.6.1986 (Annexure P-2). Otherwise also, respondent-University has specifically stated that as per own case of petitioners, post of Field Assistants in the State Government have been merged with that of Horticulture Sub-Inspectors as such there is no cadre of Field Assistants in the State Government and it is not understood qua which post/ category, petitioners are claiming parity.

17. The Apex Court in a case titled as State of Haryana and others v. Charanjit Singh and others etc., reported in AIR 2006 Supreme Court 161, held that the principle of "equal pay for equal work" has no mechanical application in every case. It is apt to reproduce para 17 of the judgment herein:

"17. 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 & 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 promotional 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. In any event the party who claims equal pay for equal work has to make necessary averments and prove that all things are equal. Thus, before any direction can be issued by a Court, the Court must first see that there are necessary averments and there is a proof. If the High Court, is on basis of material placed before it, convinced that there was equal work of equal quality and all other relevant factors are fulfilled it may direct payment of equal pay from the date of the filing of the respective Writ Petition. In all these cases, we find that the High Court has blindly proceeded on the basis that the doctrine of equal pay for equal work applies without examining any relevant factors."

18. It would also be profitable to reproduce para 13 of the judgment rendered by the Apex Court in *New Delhi Municipal Council v. Pan Singh & Ors.*, reported in 2007 AIR SCW 1705, herein:

"13. They, thus, formed a class by themselves. A cutoff date having been fixed by the Tribunal, those who were thus not similarly situated, were to be treated to have formed a different class. They could not be treated alike with the others. The High Court, unfortunately, has not considered this aspect of the matter."

19. The Apex Court in cases titled as *State of Madhya Pradesh and others v. Ramesh Chandra Bajpai*, reported in (2009) 13 Supreme Court Cases 635, and *State of Punjab & Anr. v. Surjit Singh & Ors.*, reported in 2009 AIR SCW 6759, has discussed the development of law right from the year 1960 till 2009. It is apt to reproduce para 30 of the judgment delivered in *Surjit Singh's* case supra, herein:

"30. Mr. Swarup may or may not be entirely correct in projecting three purported different views of this Court having regard to the accepted principle of law that ratio of a decision must be culled out from reading it in its entirety and not from a part thereof. It is no longer in doubt or dispute that grant of the benefit of the doctrine of "equal pay for equal work" depends upon a large number of factors including equal work, equal value, source and manner of appointment, equal identity of group and wholesale or complete identity."

20. The Apex Court in the case titled as *Steel Authority of India Limited and others v. Dibyendu Battacharya*, reported in (2011) 11 Supreme Court Cases 122, has discussed the development of law and the judgments made by the Apex Court right from the year 1968, in paras 18 to 29 of the judgment. It is apt to reproduce paras 30 and 31 of the judgment herein:

30. In view of the above, the law on the issue can be summarised to the effect that parity of pay can be claimed by invoking the provisions of Articles 14 and 39(d) of the Constitution of India by establishing that the eligibility, mode of selection/recruitment, nature and quality of work and duties and effort,

reliability, confidentiality, dexterity, functional need and responsibilities and status of both the posts are identical. The functions may be the same but the skills and responsibilities may be really and substantially different. The other post may not require any higher qualification, seniority or other like factors. Granting parity in pay scales depends upon the comparative evaluation of job and equation of posts. The person claiming parity, must plead necessary averments and prove that all things are equal between the concerned posts. Such a complex issue cannot be adjudicated by evaluating the affidavits filed by the parties.

31. The onus to establish the discrimination by the employer lies on the person claiming the parity of pay. The expert committee has to decide such issues, as the fixation of pay scales etc. falls within the exclusive domain of the executive. So long as the value judgment of those who are responsible for administration i.e. service conditions etc., is found to be bona fide, reasonable, and on intelligible criteria which has a rational nexus of objective of differentiation, such differentiation will not amount to discrimination. It is not prohibited in law to have two grades of posts in the same cadre. Thus, the nomenclature of a post may not be the sole determinative factor. The courts in exercise of their limited power of judicial review can only examine whether the decision of the State authorities is rational and just or prejudicial to a particular set of employees. The court has to keep in mind that a mere difference in service conditions does not amount to discrimination. Unless there is complete and wholesale/wholesome identity between the two posts they should not be treated as equivalent and the Court should avoid applying the principle of equal pay for equal work.

21. The Apex Court in Union Territory Administration, Chandigarh and others v. Manju Mathur and another, reported in (2011) 2 Supreme Court Cases 452, held that similarity of designation or nature or quantum of work is not determinative of entitlement to equality in pay scales.

22. 18. The Apex Court in Hukum Chand Gupta v. Director General, Indian Council of Agricultural Research and others, reported in (2012) 12 Supreme Court Cases 666, held as to how parity can be claimed or granted. It is apt to reproduce relevant portion of para 20 of the judgment herein:

20. There cannot be straitjacket formula for holding that two posts having the same nomenclature would have to be given the same pay scale. Prescription of pay scales on particular posts is a very complex exercise. It requires assessment of the nature and quality of the duties performed and the responsibilities shouldered by the incumbents on different posts. Even though, the two posts may be referred to by the same name, it would not lead to the necessary inference that the posts are identical in every manner. These are matters to be assessed by expert bodies like the employer or the Pay Commission. Neither the Central Administrative Tribunal nor a writ court would normally venture to substitute its own opinion for the opinions rendered by the experts. The Tribunal or the writ court would lack the necessary expertise to undertake the complex exercise of equation of posts or the pay scales."

23. A Division Bench of this Court in a case titled as Roshan Lal v. Hon''ble High Court of Himachal Pradesh and another, being CWP No. 873 of 1993, decided on 27th October, 1994, held that even if a post of one cadre is created in two departments and different pay scales are granted, that cannot be a ground to claim parity. In order to claim parity, the writ petitioners have to indicate that their jobs, duties, responsibilities and functions are similar. In this case, the Court has examined whether the post of Book Binder sanctioned in the High Court and Secretariat of the State Government and in other departments are entitled to same pay scale? No doubt, the post of Book Binder was created in all these departments, but it was held that it is for the writ petitioner to plead and prove that he was performing the same type of work and responsibilities and other factors are similar. This Court, after discussing all facts and factors, rejected the plea for grant of parity and the writ petition was dismissed. It is apt to reproduce relevant portion of the judgment herein:

"Having heard the learned counsel for the petitioner, we find no justification in the submission. It is too much of the employee of the High Court to claim that the High Court should be equated with the Printing and Stationery Department of the State Government. Even on the basis of job, there would be no similarity. The Printing and Stationery Department would have continuous and different varieties of work needing a different type of Book Binder than the Book-Binder in the High Court."

24. A similar view has been taken by this Court in case titled as Himachal Pradesh State Electricity Board v. Rajinder Upadhaya & others, being LPA No. 51 of 2009, decided on 11th September, 2014, LPA No. 11 of 2012, titled as The Principal Secretary (Personnel) & another v. Pratap Thakur, decided on 22nd September, 2014 and CWP No. 4184 of 2010 decided on 17.10.2014 titled Beli Ram v. Hon''ble High Court of Himachal Pradesh and another.

25. A similar view has also been taken by the apex Court while setting aside the judgment made by this Court in a latest judgment reported in 2014 AIR SCW 6581 titled State of Himachal Pradesh and another v. Tilak Raj. It is apt to reproduce para 22 of the said judgment herein.

"22. It is also clear that disputed question of facts were involved in the petitions because according to the respondents, who were petitioners before the High Court, nature of work done by them was similar to that of the work of other Laboratory Attendants or Laboratory Assistants. Without looking at the nature of work done by persons working in different cadres in different departments, one cannot jump to a conclusion that all these persons were doing similar type of work simply because in a civil suit, one particular person had succeeded after adducing evidence. There is nothing on record to show that the High Court had examined the nature of work done by the respondents and other persons who were getting higher pay scale. The High Court had also not considered the fact that qualifications required for appointment to both the posts were different. In our opinion, the High Court should not have entertained all these petitions where

disputed questions of fact were required to be examined. Without examining relevant evidence regarding exact nature of work, working conditions and other relevant factors, it is not possible to come to a conclusion with regard to similarity in the nature of work done by persons belonging to different cadres and normally such exercise should not be carried out by the High Court under its writ jurisdiction. It is settled law that the work of fixing pay scale is left to an expert body like Pay Commission or other similar body, as held by this Court in several cases, including the case of S.C. Chandra v. State of Jharkhand, 2007 8 SCC 279. Moreover, qualifications, experience, etc. are also required to be examined before fixing pay scales. Such an exercise was not carried out in this case by the High Court."

26. Having said so, there is no merit in the appeal and same is dismissed, along with pending applications, if any. Judgment passed by the learned Single Judge is upheld.