
(1995) 01 GAU CK 0028
In the Gauhati High Court
Case No : Writ Appeal No. 58 of 1994

State of Manipur	Vs	APPELLANT
Th. Kamini Kumar Singh		RESPONDENT

Date of Decision : 12-01-1995

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (1995) 3 GLR 385

Hon'ble Judges : P.K. Ghosh, J;H.K. Sema, J

Bench : Division Bench

Advocate : N. Pramchandra, for the Appellant; Party-in-Person, for the Respondent

Final Decision : Dismissed

Judgement

H.K. Sema, J.—This writ appeal is directed against the judgment and order dated 26.4.94 passed by the Ld. Single Judge in C.R. No. 1517/92. The Ld. Single Judge disposed of the Civil Rule in the terms of the following directions in paragraph 8 of the judgment.

For the reasons stated above, the petition is allowed with direction to the Respondent to consider the Petitioner's case for higher Pay scale in the light of the observation made in this judgment and to pass appropriate order revising the Pay scale of the Asstt. Draftsman (Law) within 3 months from the date of receipt of the order. I make no order to costs.

2. We have heard Mr. N. Pramodchandra Singh, learned Counsel for the Appellant and the Respondent/writ Petitioner in person.

3. In order to appreciate the controversy, we may briefly slate the facts. Writ Petitioner was appointed Assistant Language Officer (Law) in the scale of pay of Rs. 800-40-1360-EB-45-1675/-. The scale of pay granted to the Petitioner was according to R.O.P. 1982. By an order dated 30th May, 90 the post of Assistant Language Officer (Law) has been re-designated as Assistant Draftsman (Law). By

the aforesaid order the Respondent/writ Petitioner has been made as a regular incumbent to the re-designated post.

4. In 1990 the Government revised the pay scale of Assistant Draftsman (Law) in the scale of pay of Rs. 1640-60-2600-EB-75-2900/-p.m. under R.O.P., 1990. By the aforesaid revision of scale of pay, the Government also revised the Pay scale of Section Officer at par with the pay scale of Assistant Draftsman (Law). The Government also revised the pay scale of Language Officer (Law) and Research Officer (Law) in the Law Department in the scale of pay of Rs. 2000-60-2300-EB-75-3200-100-3500/- p.m. The grievances of the Petitioner in the writ petition was that firstly, the pay scale of the Petitioner as Assistant Language Officer (Law) was higher than the pay scale of Section Officer under R.O.P., 1982 and as such, it would be arbitrary to equate the pay scale of the Petitioner with the Section Officer under R.O.P., 1990. Secondly, the job chart assigned to the writ Petitioner was onerous and more responsible than the Language Officer and the Research Officer and therefore, the Petitioner is entitled to the pay scale of Rs. 2000-60-2300-EB-75-3200-100-3500/-. It may be pertinent to mention here that in R.O.P., 1990 the pay scale of Language Officer was revised at Rs. 2000-3500/- p.m.

5. To appreciate the controversy, we may set out the job chart assigned to the Language Officer (Law) and the job chart assigned to the Assistant Draftsman (Law).

JOB CHART OF THE LANGUAGE OFFICER (LAW)

The Principal functions of the Language Officer are:

1. Preparation of a standard legal terminology for use as far as possible in Manipuri;
2. Preparation of authoritative texts in Manipur of all State Bills, Acts, Ordinances, Regulations, Rules and Orders and forwarding both English and Manipuri of such Bills to Assembly Secretarial.
3. Publications of Law Books and Law Journals in Manipur; and
4. Making arrangements for translation of Central enactments in Manipuri.

JOB CHART OF ASSISTANT DRAFTSMAN (LAW)

1. Drafting of all Government Bills and amendments to Bills introduced in the Houses of State Legislature;
2. Scrutiny of non-official amendments tabled in relation to Bills, advice and assistance to the Administrative Departments on non-official amendments;
3. Rendering legal assistance to the House of Legislative and Select Committees at all stages of Bills before then:, including revising of Bills;
4. Drafting of Ordinances;

5. Scrutiny of statutory Rules, Orders and Notification including Orders under the Constitution.

6. Further the qualification prescribed for appointment of Assistant Language Officer (Law) re-designated as Assistant Draftsman (Law) are as follows:

(1) Degree in Laws of a recognised University or its equivalent.

(2) Adequate proficiency in English and Manipuri.

DESIRABLE:

(1) Working knowledge of Hindi.

(2) Experience and competency in translation into Manipuri of Statutes; statutory rules and Orders; and legal documents.

(3) Experience in legislative.

7. It is submitted by Mr. N. Pramodchandra that the post of Language Officer (Law) is a Promotional post and there is no similarity of duties, functions and responsibilities between the job of Language Officer (Law) and Assistant Draftsman (Law) and as such, the Ld. Single Judge was erroneous in directing the Appellant to pay the pay scale of the writ Petitioner at par with the Language Officer on the principle of equal pay for equal work. We find ourselves extremely difficult to accept this submission.

8. From the job chart assigned to the post of Assistant Language Officer (Law) re-designated as Assistant Draftsman (Law) requires inter-alia expertise competency in translation of statutory Rules, Orders and legal documents and also experience in legislative drafting. Also from the job chart assigned to the Assistant Draftsman (Law) it clearly appears that the job performed by the writ Petitioner was of complex in nature and required higher responsibilities and expertise knowledge. This fact has been averred by the writ Petitioner in paragraph 10A of the petition to the effect that the duties and responsibilities of the Assistant Draftsman (Law) are more onerous and higher than that of the Language Officer (Law) and the Research Officer (Law) it is further averred that the duties of Language Officer (Law) relates to the translation work and do not involve substantial question of application of law in discharging of his duties. This averment made in paragraph 10A of the writ petition is answered by the Respondent Govt. in paragraph 17 of the counter as under:

That, with reference to paragraph 10A of the petition, it is to state that same as comments offered relating to the above paragraph.

9. The above answer in paragraph 17 of the counter would clearly show that the Appellant/Respondent Govt. had not denied the specific averment made in paragraph 10A of the petition that the job performed by the writ Petitioner was more onerous and higher responsibilities than that of the Language Officer (Law) and Research Officer (Law). This apart, a revision of pay scale of the writ

Petitioner at par to that of Section Officer under R.O.P., 1990 appears to be highly discriminatory and is hit by Article 14 and 16 of the Constitution which require our immediate interference to undo the injustice. Firstly, under R.O.P., 1982 the pay scale of the Section Officer was Rs. 900-1650/- p.m., whereas the Assistant Language Officer (Law) re-designated as Assistant Draftsman (Law) was Rs. 800-1675/- p.m. under R.O.P., 1990 the scale of pay of Section Officer has been revised and equated with the scale of pay of Assistant Draftsman (Law), in the scale of pay of Rs 1640-2900/- p.m. Secondly, from the job chart assigned to Assistant Draftsman (Law), it clearly appears that the nature of job performed by the Assistant Draftsman (Law) is more onerous and of higher responsibility and required high skill and expertise than that of the job of Section Officer. Section Officer does not have such higher responsibility as that of the Assistant Draftsman (Law). Thirdly, from the qualification prescribed for recruitment to the post of Assistant Draftsman (Law), the post is to be manned by highly qualified and by an experienced hand.

10. In *Secretary Finance Department and Ors. Appellants v. West Bengal Registration Service Association and Ors. Respondents* AIR 1991 SC 1203 the Apex Court had held in Paragraph 15 of the judgment that:

The complexity of the job to be performed and the responsibilities attached thereto are entitled to great weight in determining the appropriate pay scale for the job.

This principle has not been followed in the instant case.

11. Having realised the futility, Mr. N.P. Singh has urged before us that in any case, even if there is some error in revising the pay scale of the writ Petitioner, the same may be left to the Pay Commission to consider and this Court has no jurisdiction to interfere and assume the power of Pay Commission which requires an expert hand to enquire into the matter.

12. While it is true that in ordinary circumstances such matter should be left to an expert body, in the case at hand the Respondents Govt. fail to consider the complexity of the job to be performed and the responsibility attached thereto in determining the pay scale of Assistant Draftsman (Law). We have come to a firm conclusion that a grave error had crept in while revising the pay scale of Assistant Draftsman (Law) resulting miscarriage of justice, which warranted our immediate interference.

13. For the aforesaid reasons, there is no merit in this writ appeal and the same is accordingly dismissed. We direct the Respondents Govt. to revise the pay scale of the writ Petitioner in the scale of Rs. 2000-3500/- p.m. Such revised scale be given to the writ Petitioner w.e.f. the date R.O.P., 1990 become operative. The Respondents Govt. are directed to take suitable action in this regard and to pay the entire arrear amount within 6(six) months from the date of receipt of this order. We left the parties to bear their own costs.