

(2013) 02 MAD CK 0143

In the Madras High Court

Case No : W.A. No. 301 of 2013 and M.P. No. 1 of 2013

State of Tamil Nadu and Another

APPELLANT

Vs

C.K. Velayuthan Nair and Another

RESPONDENT

Date of Decision : 28-02-2013

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 39(d)

Citation : (2013) 2 LLN 256

Hon'ble Judges : R.K. Agrawal, Acting C.J.; N. Paul Vasanthakumar, J

Bench : Division Bench

**Advocate : T.N. Rajagopalan, Additional Government Pleader, for the Appellant;
R. Rengaramanujam, for the Respondent**

Final Decision : Dismissed

Judgement

N. Paul Vasanthakumar, J.—This Writ Appeal is filed by the State, challenging the order made in W.P. No. 5201 of 2007, dated 9.10.2009. The learned Single Judge taking note of the duties and responsibilities of the Village Administrative Officers and Village Officers, which are similar in nature, applied the Principle of "Equal Pay for Equal Work" and held that the Writ Petitioners/Respondents herein are entitled to the scale of pay of the Village Administrative Officers from the date of their promotion to the post of Village Officers. Accordingly, Paragraph-2 of G.O.Ms. No. 933, dated 4.11.1993, insofar as granting same pay to the Village Officers as that of Village Administrative Officers only with effect from 1.4.1993 was quashed and the First Respondent was directed to fix the same scale of pay to the Writ Petitioners as applicable to the Village Administrative Officers from the date of their promotion as Village Officers and to pay the arrears within a period of four weeks from the date of receipt of a copy of that order. The First Respondent was directed to pay the revised pension and terminal benefits based on the revised pay, since the Writ Petitioners had retired from service.

2. The case of the Writ Petitioners/Respondents herein before the learned Single Judge was that the First Respondent joined service as Village Assistant on

30.1.1970; he was promoted as Village Officer with effect from 3.11.1986 and he joined duty on 5.11.1986; his pay was fixed as per G.O.Ms. No. 933, Revenue Department, dated 4.11.1993 with effect from 1.4.1993; and he retired from service on 31.5.1999. The Second Respondent joined duty as Special Village Assistant on 20.1.1970; he was promoted as Village Officer with effect from 13.2.1985 and he joined duty on 20.2.1985; his pay was fixed as per G.O.Ms. No. 933, Revenue Department, dated 4.11.1993 with effect from 1.4.1993; and he retired from service on 31.12.1998. The Government order viz., G.O.Ms. No. 933, Revenue Department dated 4.11.1993 having been given effect to from 1.4.1993 by virtue of clause contained in Para 2, the said portion of the Government Order was challenged by contending that the Writ Petitioners/ Respondents herein having been promoted as Village Officers from 3.11.1986 and 13.2.1985 respectively, they are entitled to get higher salary at the scale of pay of Rs. 975-25-1150-50-1660 from the date of their promotion and not from 1.4.1993.

3. In the Counter Affidavit filed by the Department before the learned Single Judge it is admitted by the Appellants herein that the duties and responsibilities of Village Administrative Officers and Village Officers are similar in nature.

4. The learned Single Judge taking note of the said undisputed fact, applied the Principle of "Equal Pay for Equal Work" and allowed the Writ Petition. The said judgment was rendered not only on the basis of the duties and responsibilities which are similar, but also on the qualifications prescribed for both the posts viz., Village Officers and Village Administrative Officers. The learned Judge followed the decisions of the Supreme Court reported in Bhagwan Dass and Others Vs. State of Haryana and Others, ; Jaipal and Others Vs. State of Haryana and Others, etc., to arrive at the said conclusion.

5. We have perused the order of the learned Single Judge and the decisions cited therein. The Appellants having admitted that the qualifications prescribed for the posts of Village Officers and Village Administrative Officers are same and they are discharging similar duties and responsibilities, definitely the Respondents/ Writ Petitioners are entitled to get the same scale of pay applicable to the post of Village Administrative Officers from the date of their promotion.

6. Principle of "Equal Pay for Equal Work" is now recognised as fundamental right as the Directive Principles of State policy enshrined in Article 39(d) has to be read with Articles 14 & 16 of the Constitution of India.

(a) The Honourable Supreme Court in the decision reported in Union of India (UOI) and Others Vs. Dineshan K.K., , in paragraph 12 held thus--

12. The Principle of "Equal Pay for Equal Work" has been considered, explained and applied in a catena of decisions of this Court. The Doctrine of "Equal Pay for Equal Work" was originally propounded as part of the directive principles of the State policy in Article 39(d) of the Constitution. In Randhir Singh Vs. Union of India (UOI) and Others, , a Bench of Three learned Judges of this Court had

observed that principle of Equal Pay for Equal Work is not a mere demagogic slogan but a Constitutional goal, capable of being attained through Constitutional remedies and held that this principle had to be read under Articles 14 & 16 of the Constitution. This decision was affirmed by a Constitution Bench of this Court in D.S. Nakara and Others Vs. Union of India (UOI), . Thus, having regard to the constitutional mandate of equality and inhibition against discrimination in Articles 14 & 16, in service jurisprudence, the Doctrine of "Equal Pay for Equal Work" has assumed status of a fundamental right.

(b) In Shri Alvaro Noronha Ferriera and Others Vs. Union of India and Others, , the said Principle of Equal Pay for Equal Work was considered in respect of District Judges in Goa and Delhi. In paragraph 11 the Supreme Court held thus--

11. The parameters for invoking the said principles would include, inter alia, nature of the work and common Employer. There can be no two views that the nature of work of District and Sessions Judges is the same though in some areas pendency of cases would be higher than others. Differences in the backlog are not uncommon even in two different stations of the same Territory, nay, in two different courts of the same station. Such lopsidedness is hardly the ground to conclude that the nature of work done by one judicial officer at one place is different from other. The duty hours would be substantially the same, the powers to be discharged are in no way different, whether they are District Judges in Goa or in Delhi. It would be a futile exercise to make an endeavour for drawing a distinction between the work pattern at the two different places, for such differences are discernible everywhere. But that would not make the nature of work different. It was not necessary to cast the burden of proof on the Appellants to establish "the pendency of litigation or the norms fixed for disposal of cases by the Delhi Court to enable comparison between the nature of duties and the responsibilities carried by the officers of the Delhi Territory and the Goa Territory".

In the light of the admitted position that the Writ Petitioners/Respondents have discharged their duties and responsibilities as Village Administrative Officers, the order of the learned Single Judge is in order and no interference is called for. Consequently the Writ Appeal fails and the same is dismissed. There is no order as to costs. Connected Miscellaneous Petition is closed.