
(2006) 03 GAU CK 0022

In the Gauhati High Court

Case No : Civil Rule No's. 101 and 102 of 1995

Subrata Kumar Chakraborty and Another

APPELLANT

Vs

State of Tripura and Others

RESPONDENT

Date of Decision : 24-03-2006

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2006) GLT 208 Supp

Hon'ble Judges : A.B. Pal, J

Bench : Single Bench

Advocate : P. Dutta, for the Appellant; A. Ghosh, for the Respondent

Final Decision : Dismissed

Judgement

A.B. Pal, J.—The factual and legal premises being same or similar in the above noted two writ petitions, the same are proposed to be disposed of by this common judgment.

2. In Civil Rule No. 101 of 95, the Petitioner Subrata Kumar Chakraborty was appointed as offset printer, Grade-I in the Directorate of Land Records & Settlement in the pay scale of Rs. 560-1300/- on 26.8.88. He was a diploma holder in printing technology. The Third Pay Commission's report of the State was implemented with effect from 1.1.86 revising the pay scale of the Petitioner from Rs. 560-1300/- to Rs. 1300-3220/-. The same revised pay scale was given to the cameraman/offset printer (operator) of the Printing & Stationary department. However, by a subsequent notification dated 14.6.89, all the employees of the printing & Stationary department holding diploma in printing technology was given the pay scale of Rs. 1450-3710/- with effect from 1.1.86. But the same benefit was not extended to the Petitioner who was left in the pay scale of Rs. 1300-3220/- though he was also the holder of diploma in printing technology in the other department, namely, the Directorate of Land Records & Settlement. Thus, the notification dated 14.6.89 (Annexure-6) providing a higher scale of pay of Rs. 1450-3710/- to the offset printer/operator of the Printing &

Stationary department only leaving the persons holding same qualification and designation in the Directorate of Land Records & Settlement has been called in question on the ground that the same has created a hostile discrimination violating the equality clause under Article 14 of the Constitution.

3. In Civil Rule No. 102 of 95, the Petitioner Pulakesh Dutta obtained diploma in printing technology in the year 1979 and was appointed as photographer in the pay scale of Rs. 325-665/- on 20.12.80 in the Directorate of land Records & Settlement. The said pay scale came to be revised to the pay scale of Rs. 560-1300/- in 1982. In the Third Pay Commission, the same pay scale was further revised to Rs. 1300-3220/- with effect from 1.1.86. Like him, the photographer/cameraman of the Printing & Stationary department was also given the same pay scale of Rs. 1300-3220/-. But, subsequently by notification dated 14.6.89 (Annexure-6), the cameraman of the Printing & Stationary department was allowed the pay scale of Rs. 1450-3710/- with effect from 1.1.86 who also had the same qualification of diploma in printing technology. It is the contention of the Petitioner that by providing two different pay sales to the employees holding same qualification with same or similar designation, but working in different departments, a hostile discrimination has been done violating thereby the equality clause of Article 14 of the Constitution. Similar prayer has been made by this Petitioner also for the pay scale of Rs. 1450-3710/- with effect from 1.1.86 and corresponding revised pay scale of Rs. 5000-10300/- with effect from 1.1.96.

4. The State Respondents contested the claims of both the Petitioners with the same contention that though the Petitioners working in the Directorate of Land Records & Settlement possessed the same diploma in printing and technology with same or similar designation like those in the Printing & Stationary department, the nature of works and responsibility performed by them cannot be said to be strictly same. That part, the Petitioners have been given the graded pay scales 20 in Part-C of the Tripura State Civil Services (Revised Pay) Rules, 1988 (For short, the ROP, 1988) which has the intermediary pay scale of Rs. 1300-3220/-. Though initially the posts of offset printer (operator) and cameraman of the Printing & Stationary department were in the graded scale 20 of Part-C, but by the impugned amendment in question 9 posts have been taken out of Part-C to Part-B in consideration of the nature and responsibility of the works involved and thus, the higher pay scale of Rs. 1450-3710/- was given to such posts in the Printing & Stationary department. It is the specific stand of the State Respondents that same or similar qualification and designation cannot be the only determining factor about nature and responsibility of the posts concerned in different departments which are bound to vary. In that view of the matter, it is contended that the 7th Amendment of the ROP Rules, 1988 being not under challenge the Petitioners cannot claim the benefit of the said amendment.

5. I have heard Mr. P. Dutta, learned Counsel for the Petitioners and Mr. A.

Ghosh, learned Counsel for the Respondents.

6. The question that has fallen for consideration in these writ petitions is whether employees of two separate departments holding same qualification and same or similar designation can claim same scale of pay even if it is considered by the State Government that the nature and responsibility of the posts in the different departments are not same and similar. In a line of decisions of the Apex Court . which, I do not feel it necessary to iterate the same here, it has become a settled legal position that the same qualification and designation ipso facto cannot be the determining factor for granting same scale of pay or other benefits. In the cases on hand, the Petitioners belong to the Directorate of Land Records & Settlement holding the post of offset printer (operator) and photographer. Admittedly, the pay scale of offset printer (operator) and cameraman of the Printing & Stationary department have been brought out from graded scale of Part-C and given a higher pay scale of Rs. 1450-3710/- by the 7th Amendment of the ROP Rules, 1988. The assessment and consideration prompting the State Respondents to provide such a higher scale of pay to the incumbents of the Printing & Stationary department are not before this Court for adjudication. No doubt, such an exercise cannot be undertaken by any court. The Petitioners have not called in question the legality of the 7th Amendment of the ROP Rules, 1988 whereby higher scale of pay has been provided for the same or similar posts in the Printing & Stationary department. This being the position, the prayers of the Petitioners for same scale of pay on the ground of same qualification and same or similar designation are misconceived and, therefore, not sustainable in law.

7. In view of the above, both the writ petitions are devoid of any merit and the same stand dismissed accordingly. No cost.