

(1965) 11 RAJ CK 0009
In the Rajasthan High Court
Case No : Civil Writ Petition No. 336 of 1964

Unikat Sankunni Menon

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 18-11-1965

Acts Referred:

Constitution of India, 1950 — Article 14, 16
Rajasthan Service Rules, 1951 — Rule 26A

Citation : AIR 1967 Raj 128 : (1966) RLW 317

Hon'ble Judges : V.P. Tyagi, J;I.N. Modi, J

Bench : Division Bench

Advocate : D.P. Gupta and H.C. Rastogi, for the Appellant; B.C. Chatterji, Deputy Govt. Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Tyagi, J.—This writ application has been filed by the petitioner Unikat Sankunni menon, Deputy Secretary to the Government of Rajasthan challenging the validity of the provision of the Rajasthan Civil Services (Rationalisation of Pay Scales) Rules and Schedules, 1956 whereby the grade of the selected posts of the Deputy Secretaries to the Government drawn from the Rajasthan Secretariat Service has been fixed without special pay and has prayed that the words "without special pay" in the Schedule attached to the said Rules may be declared violative of Articles 14 and 16 of the Constitution.

2. The petitioner's case is that he was selected in 1955 in the Rajasthan Secretariat Service after the Rajasthan Secretariat Service Rules, 1954, came into force, and was appointed as the Assistant Secretary to the Government of Rajasthan. Prior to the introduction of the Rajasthan Civil Services (Rationalisation of Pay Scales) Rules and Schedules, 1956, the ordinary time scale prescribed for his service was Rs. 250-25-400-EB-25-500, but after 1956 when the Rajasthan Civil Services (Rationalisation of Pay Scales) Rules came into force, the scale was changed and the new scale prescribed was Rs 250-25-500-

KB-25-750. In the month of January, 1959, the petitioner was drawing a salary of Rs. 475 in the said grade with Rs 75 as special pay attached to the post of the Assistant Secretary. On 10th January, 1959, the petitioner was promoted as officiating Deputy Secretary to the Government of Rajasthan to which post he was confirmed on 14th July, 1960 His salary as Deputy Secretary was fixed Rs. 650 per month in the grade of Rs 500-30-740-EB 30 800-50-900 which was the grade prescribed for the Selection Post (Deputy Secretary to Government) for a member of the Rajasthan Secretariat Service. His grievance is that if a person is drawn from the Indian Administrative Service or from the Rajasthan Administrative Service to work as a Deputy Secretary to the Government he is given a special pay of Rs. 150, but this special pay is denied to a member of the Rajasthan Secretariat Service as the Rajasthan Civil Services (Rationalisation of Pay Scales) Rules and Schedules, 1956, lay down that the grade prescribed for the Selection Post, namely the Deputy Secretary to the Government would not carry any special pay.

His further contention is that the persons who are appointed Deputy Secretaries to the Government of Rajasthan belonging to the Indian Administrative Service or the Rajasthan Administrative Service are required to perform the same nature of work under similar conditions and circumstances which a Deputy Secretary drawn from the Rajasthan Secretariat Service is required to do. It is further alleged that the Deputy Secretaries to the Government are appointed without any distinction and a member of any one of the three services, namely, the Indian Administrative Service, Rajasthan Administrative Service and Rajasthan Secretariat Service, can be appointed to any of the posts of the Deputy Secretaries in the Secretariat and the persons belonging to the said three services can be posted in any of the departments to which Deputy Secretaries are attached. The petitioner for example quoted that he was first of all appointed as a Deputy Secretary in the Irrigation and Power Department "" and subsequently the same post was held by a Deputy Secretary drawn from the Rajasthan Administrative Service and then from Indian Administrative Service. He further quoted that the petitioner took over charge of the post of a Deputy Secretary in the Agriculture Department from an incumbent who belonged to the Indian Administrative Service cadre.

It is also contended that from the point of view of the powers wielded by the Deputy Secretaries, the duties and responsibilities discharged by them and the status enjoyed by them, there is absolutely no distinction or difference between the Deputy Secretaries drawn from any of the three services viz. the Indian Administrative Service, Rajasthan Administrative Service or Rajasthan Secretariat Service Cadres. According to him, all Dy. Secretaries to the Government discharge the same kind of work and are similarly situated in respect of their employment and that the special pay allowable to the members of Indian Administrative Service and Rajasthan Administrative Service cadres are in lieu of the arduous nature of duties that they have to perform as Deputy Secretaries. His grievance is that the Government while appointing the members

of the Rajasthan Secretariat Service as Deputy Secretaries deprived them by enacting a provision in the Rajasthan Civil Services (Rationalisation of Pay Scales) Rules that the grade prescribed for them would not carry any special pay. This provision, according to the petitioner, is violative of Articles 14 and 16 of the Constitution as it discriminates between members of the Indian Administrative Service and Rajasthan Administrative Service on the one side and the members of the Rajasthan Secretariat Service on the other who are similarly situated in the matters of employment without any rational basis.

The petitioner made representations to the Government of Rajasthan after he was confirmed to the present post of Deputy Secretary on 6th September, 1960, but "the" Government did not take any decision till 5th April, 1963, when a letter was issued to the petitioner that his representation was rejected. Thereafter he made approaches to the Chief Secretary and the Chief Minister, but these efforts also did not bear any fruit. He was, therefore, left with no alternative but to seek redress from the Court by invoking its extraordinary jurisdiction under Article 226 of the Constitution. The petitioner has, in these circumstances, prayed that the provisions of the Rajasthan Civil Services (Rationalisation of Pay Scales) Rules and Schedules, 1956 in so far as they exclude the petitioner and the members of the Rajasthan Secretariat Service from the benefit of the special pay attached to the Deputy Secretary to the Government of Rajasthan be declared ultra vires of the Constitution and that by issue of a writ of mandamus or any other appropriate writ the Government may be directed to pay the petitioner from 10th January, 1959 a special pay of Rs. 150 per month which is admissible to other Deputy Secretaries to the Government of Rajasthan drawn from the Indian Administrative Service and the Rajasthan Administrative Service.

3. The State of Rajasthan in their reply have denied the claim of the petitioner and have submitted that a member of the Rajasthan Secretariat Service on appointment to the post of Deputy Secretary under the Rajasthan Civil Services (Rationalisation of Pay Scales) Rules and Schedules is allowed a pay scale of Rs. 500-30-800-50-900 and is entitled to a fixation of his pay in this scale either at its minimum of Rs 500 or at the stage equal to his pay in the ordinary scale plus Rs. 150 whichever is higher, and if this amount arrived did not correspond to any stage in the pay scale then his pay is to be fixed at the next higher stage. It is also submitted that rule 17 of the Rajasthan Secretariat Service Rules that governs the fixation of the scale of pay of the members of that service, (as it then stood) was amended in consultation with the Association formed by the Assistant Secretaries to the Government of Rajasthan and a provision was made therein to give a minimum increase of Rs. 150 by way of compensation for not allowing the special pay when a member of the Rajasthan Secretariat Service is promoted to the Selection Post of the Deputy Secretary, it is also averred that the Government of Rajasthan is free to create a separate service for the employees in the Secretariat and to prescribe a difference scale of pay for such a service.

It is further averred that the members of the Rajasthan Administrative Service and the Indian Administrative Service belong to different services and they are recruited from different sources with different qualifications prescribed for them and they are governed by different rules and that the duties and responsibilities of these two services are wider than those of the officers of the Rajasthan Secretariat Service. The conditions of service of all the three services being different, petitioner cannot claim with any justification that there is a discrimination created by denying the special pay and prescribing a higher scale of pay for selection posts of the Rajasthan Secretariat Service than the time scale prescribed for the members of the Rajasthan Administrative Service. In view of these circumstances, it is prayed that the petitioner's petition may be dismissed with costs.

4. Averments made in the pleadings of the parties give rise to only one question for our determination whether the prescribing of a pay scale for the Selection Post (Deputy Secretary to the Government) in the Rajasthan Secretariat Service without special pay is discriminatory and is hit by Article 14 or 16 of the Constitution.

5. In the beginning when the Rajasthan Civil Services (Rationalisation of Pay, Scale's Rules and Schedules, 1956, came into force we are told that the Government had allotted only two posts of Deputy Secretaries to be filled in from the cadre of Rajasthan Secretariat. Service, but this number has now been increased to four and the posts are to be allotted according to the cyclic order given in the Government letter No. F 13 (2) Appts. (C)/55 of the 30th November, 1962. It is however, admitted by the learned Deputy Government Advocate that the persons who are drawn from the Rajasthan Administrative Service and the Indian Administrative Service draw a special pay in addition to their basic pay in their cadre at the rate of Rs. 150 per month. The reason for not allowing the special pay to the members of the Rajasthan Secretariat Service, as explained to us by the Deputy Government Advocate, is that the grade prescribed for the selection post of Deputy Secretary of the Rajasthan Secretariat Service is higher than the time scale prescribed for the Rajasthan Administrative Service and that while fixing the salary of the person promoted to the selection post in the Rajasthan Secretariat Service he gets a start by giving him a minimum increase of Rs. 150 on his basic pay which he used to draw as an Assistant Secretary or by giving him Rs 500 whichever is higher.

In the case of the petitioner, it is stated that at the time he was promoted as a Deputy Secretary he was drawing Rs. 475 as his basic pay and Rs. 75 as a special pay attached to the post of the Assistant Secretary. In fixing his minimum salary on promotion as Deputy Secretary in the selection grade he was given a start of Rs. 650 in order to bring him in the, time scale of Rs. 500-30-800-50-900. Learned Deputy Government Advocate also urged that in prescribing the new scale in the Rajasthan Civil Services (Rationalisation of Pay Scales), Rules, the Government kept it in mind that the members of the

Rajasthan Secretariat Service may not in any way be put to loss for not allowing them the special pay when promote to the selection grade of the Deputy Secretary to the Government and it was with that purpose that the maximum of the scale of pay of the selection grade was fixed at Rs. 900 which is Rs. 150 more than the time scale prescribed for the Rajasthan Administrative Service.

6. It will be convenient to compare the pay scales of the Rajasthan Administrative Service and Rajasthan Secretariat Service as prescribed by the Rajasthan Civil Services (Rationalisation of Pay Scales) Rules and Schedule, 1956, in order to test whether the contention of the Government is correct or not. Under the old pay scales prescribed by the Rajasthan Civil Services (Unification of Pay Scales) Rules 1950, the senior scale of the Rajasthan Administrative Service was Rs. 500-25-700 with a special pay of Rs. 100 if appointed as Deputy Secretary. Exactly the same scale was prescribed under the said Rules for the members of the Rajasthan Secretariat Service if they were appointed as Deputy Secretaries and in that scale of pay they also used to draw a special pay of Rs. 100, but I find a marked change in the pay scale of the Rajasthan Administrative Service and Rajasthan Secretariat Service under the Rajasthan Civil Services (Rationalisation of Pay Scales) Rules, 1956. Under these rules, the ordinary time scale and the senior scale were combined in the case of the Rajasthan Administrative Service and only one time scale was prescribed, viz., Rs. 250-25-500-EB-25-750. There is, however, a selection grade of Rs. 500-900, but I am given to understand that this selection grade was fixed for certain incumbents who were previously appointed in the grade of Rs. 500-25-700 vide Government order dated 9th April, 1955 and that this selection grade was to remain only upto the time the present incumbents in those grades were in service.

There is, however, another selection grade of Rs. 1000-50-1500 for the Rajasthan Administrative Service for certain posts, but I am not concerned with that as, according to the petitioner himself, that grade is meant for certain posts specified in the Schedule and the persons fixed in that grade shall not ordinarily be appointed as Deputy Secretaries to the Government. The time scale prescribed under these Rules for the selection post of Deputy Secretary in the Rajasthan Secretariat Service is Rs. 500-30-740-30-800-50-900 without special pay but with a minimum increase of Rs. 150 in the basic pay drawn by him as an Assistant Secretary. This comparison clearly shows that in the ordinary time scale a member of the Rajasthan Administrative Service will not draw his basic salary beyond Rs. 760 whereas the member of the Rajasthan Secretariat Service will go upto Rs. 900. In this manner, I find that if a member of the Rajasthan Administrative Service is appointed as the Deputy Secretary he draws his basic salary in his grade plus Rs. 150 as special pay, but where a person belonging to the Rajasthan Secretariat Service is promoted to the selection post, he does not, however, get a special pay but in lieu thereof he gets an increment of Rs. 150 and his pay is fixed in the new scale of pay of Rs. 500-900 after giving him a minimum increase in his salary by Rs. 150 and in this manner he is compensated

for the loss he is to sustain for not getting the special pay which the members of other services, namely, the Rajasthan Administrative Service and the Indian Administrative Service get when they are posted as Deputy Secretaries. This shows that the pattern of emoluments prescribed under the Rajasthan Civil Services (Rationalisation of Pay Scales) Rules itself envisages by indirect means a gain of Rs. 150 per month to the , members drawn from the Rajasthan Secretariat Service, as the special pay appears to have been amalgamated with basic salary prescribed for the members of the Rajasthan Secretariat Service in the new pay scale.

7. If it is contended by learned counsel for the petitioner that an increase of Rs. 1.50 is provided in the basic pay of an Incumbent drawn to the post of the Deputy Secretary from the Rajasthan Secretariat Service under the Rajasthan Civil Services (Rationalisation of Pay Scales) Rules and Schedules, 1956, but this provision of giving a jump of Rs. 150 is not to be found in the Rajasthan Civil Services (Revised Pay Scales) Rules 1961 where the new pay scale of the Deputy Secretary to the Government drawn from the Rajasthan Secretariat Service is Rs. 550-30-820-EB-30-850-50-1100. By referring to this provision in the Rajasthan Civil Services (Revised Pay Scales) Rules, the contention of the petitioner is that an increase of Rs. 150 under the Rajasthan, Civil Services (Rationalisation of Pay Scales) Rules cannot be taken, to be in lieu of the special pay which is attached to the post of Deputy Secretary and if that be so, that provision must have also been there in the Rajasthan Civil Services (Revised Pay Scales) Rules, 1961 which does not contain it. It is also contended that now the petitioner's salary has been fixed in the Revised Pay Scales Rules of 1961, and, therefore, he is entitled in state that the new rules, as framed in 1961, carrying no provision for an initial increase of Rs. 150 for the fixation of the salary has the effect of creating discrimination.

He also submitted that the new rules throw sufficient light to interpret the rules of 1956 that the increase in the salary was not to compensate the incumbent for denying the benefit of the special pay but that, increase was prescribed under Rule 26-A of the Rajasthan Service Rules, 1051. I may state that it is not possible for me to accept this contention of learned counsel for the petitioner because I find that Rule 26-A was introduced for the first time in the Rajasthan Service Rules in the year 1962 and, therefore, the provisions of the Rajasthan Civil Services (Rationalisation of Pay Scales) Rules providing for a minimum increase in the salary of promotion to the Selection Post (Deputy Secretary) by Rs. 150 cannot be said to be in compliance with the said rule. This provision in my opinion was introduced to compensate the promotee to draw benefit in lieu of the special pay having denied to him.

8. I may also mention that the petitioner has taken the advantage of getting a higher start in the grade of Rs. 500-900 by a minimum increase of Rs. 150 in his basic salary under the Rajasthan Civil Services (Rationalisation of Pay Scales) Rules and, therefore, it is not open for him now to nurse any grievance against

the Revised Pay Scales Rules that do not provide for the minimum increase of Rs. 150. It is for others to take a notice of this deficiency in the Rules, if any, and the petitioner, in my opinion, cannot be permitted at this late stage to challenge the new Rules which do not in any manner affect his basic salary in the present grade.

9. It is next contended that the special pay as, defined in Rule 7 (31) of the Rajasthan Service Rules, 1961, is granted in consideration of-

(a) the specially arduous nature of the duties;

(b) a specific addition to the work or responsibility; or

(c) the unhealthiness of the locality in which the work is performed, and if the duties of the Deputy Secretaries are arduous, as admitted by the respondent, for the members drawn from the Indian Administrative Service and the Rajasthan Administrative Service, then they are equally arduous for the members of the Rajasthan Secretarial Service, and there is no reason to deprive them of their right to draw the special pay which, according to the learned counsel for the petitioner, is attached to the post of the Deputy Secretary, as the central idea of granting special pay is to compensate for either addition of work or responsibility or for discharging the arduous nature of duties. This argument on its very face, appears to be attractive but in the circumstances of this a case has little substance in it.

I find that the petitioner's salary on appointment as Deputy Secretary was fixed in a scale of pay which is higher than the scale of pay prescribed for the Rajasthan Administrative Service and that while fixing his salary in the new grade he got the benefit of getting an initial increase of Rs 150 which, in my opinion, was in lieu of the fact that special pay was denied to him. We also find that in the grades prescribed for the Rajasthan Administrative Service and the Rajasthan Secretarial Service under the Rajasthan Civil Service (Rationalisation of Pay Scales) Rules, there was a difference of Rs. 150 in the maximum prescribed for these services. According to the Rules, the maximum salary for the Rajasthan Secretarial Service was Rs 900 whereas it was only Rs 750 for the Rajasthan Administrative Service (Since the I. A. S. is an all-India Service and its pay scales are much higher than the Rajasthan Services, thereof, I confine the comparison to find out discrimination only to the pay scales prescribed for the Rajasthan Services). In the Rajasthan Civil Services (Revised Pay Scales) Rules, 1961 also I find that this difference has been maintained by the Government. The maximum of the Rajasthan Administrative Service pay scale in the revised rules goes to Rs. 950 whereas for the Rajasthan Secretariat Service the maximum prescribed is Rs. 1,100.

There is another difference which may also be noted that the persons drawn from the Rajasthan Administrative Service and the Indian Administrative Service hold the post of the Deputy Secretaries for a particular number of years and thereafter they are transferred outside the Secretariat to discharge their duties

on other posts which are assigned, to them, but in the case of a member of the Rajasthan Secretarial Service, he is permanently to stay in the Secretariate and to discharge the duties of Deputy Secretary once he is appointed in the selection post till he retires. It is perhaps on account of this circumstance that the Government thought it advisable to continue the practice of granting special pay in cases of tenure appointments only and prescribed for the members of the Secretariat Service a different pay scale which carries higher emoluments. This arrangement, as it appears to me, aims at giving a uniform benefit to the holders of the post of the Deputy Secretaries who are drawn from different sources carrying different pay scales.

10. It may also be mentioned that all the three services, viz., the Rajasthan Administrative Service, the Rajasthan Secretariat Service and the Indian Administrative Service are different and they are created under different rules. The sources of recruitment, their pay scales and the nature of duties they are required to perform for all these three different services are different. In the Rajasthan Secretariat Service the members are recruited by promotion of substantive Superintendents and substantive Head Translators in the Secretarial whereas in the other two services members are recruited either directly or by promotion from the Subordinate Administrative Services. The basic qualifications for recruitment in these services are different and the conditions of service are also different and, therefore, the question of inequalities in the matters of fixing special pay while appointing to the post of Deputy Secretary does not arise. In this connection, learned Deputy Government Advocate has drawn our attention to the two Supreme Court cases of *All India Station Masters' and Assistant Station Masters' Association, Delhi v. General Manager, Central Railway*, AIR 1060 SC 384 and *Kishori Mohanlal Bakshi v Union of India*, AIR 19(12 SC 1139.

11. In *All India Station Masters' and Assistant Station Masters' Association, Delhi and Others Vs. General Manager, Central Railway and Others*, the Road-side Station Masters challenged by invoking the jurisdiction of the Supreme Court under Article 32 of the Constitution the channel of promotion for Guards to higher grade Station Masters' posts as notified in the Railway Weekly Gazette dated 23rd November, 1951. Under that notification, the Guards had two lines of promotion open to them, one by way of promotion from C grade to B grade and then to A grade carrying different scales of pay and the second by promotion through an examination to the posts of Station Masters in a scale of Rs. 150-225 and thereafter to all further promotions open to the Station Masters. The post of the Road-side Station Masters carried the pay scale of Rs. 80 to 170 and they also could reach by promotion the grade of Rs. 150-225 obviously, the provision enabling the Guards to become Station Masters on the pay scale of Rs. 150-225 places the Station Masters of Rs. 80-170 at a disadvantage as against the Guards on that pay scale as the Station Masters could reach that grade by passing through the intermediate scale prescribed under the said rules.

In those circumstances, the petitioners (Road-side Station Masters) challenged

the channel of promotion in so far as that enabled the Guards to be promoted as Station Masters in addition to other lines of promotion open to them as Guards which, according to them, amounted to a denial of equal opportunity as between Road-side Station Masters and Guards in the matter of promotion and thus their contention was that it contravened the provisions of Article 16(1) of the Constitution. In the above circumstances, their Lordships of the Supreme Court, while dismissing the contention raised by the Station Masters, observed as follows:

"It is clear that as between the members of the same class the question whether conditions of service are the same or not may well arise. If they are not, the question of denial of equal opportunity will require serious consideration in such cases. Does the concept of equal opportunity in matters of employment apply, however, to variations in provisions as between members of different classes of employees under the State? In our opinion, the answer must be in the negative. The concept of equality can have no existence except with reference to matters which are common as between individuals, between whom equality is predicated. Equality of opportunity in matters of employment can be predicated only as between persons, who are either seeking the same employment, or have obtained the same employment. It will, for example, plainly make no sense to say that because for employment as professors of colleges, a higher University degree is required than for employment as teachers of schools, equality of opportunity is being denied. Similarly, it is meaningless to say that unless persons who have obtained employment as school teachers, have the same chance of promotions as persons who have obtained employment as teachers in colleges, equality of opportunity is denied. There is, in our opinion, no escape from the conclusion that equality of opportunity in matters of promotion must mean equality as between members of the same class of employees, and not equality between members of separate, independent classes."

12. In *Kishori Mohanlal Bakshi Vs. Union of India*, a challenge was thrown by the Income-tax Officers, Class II to the provision in the rules whereby the Class II, Income Tax Officers were denied the opportunity of being promoted to the posts of Commissioner and Assistant Commissioner without however reaching the status of Class I, Officers. Their Lordships of the Supreme Court held that there is no denial in such a case of equality in the case of the citizens holding posts in different grades in Government Service. It was observed that there can be no question of equality of opportunity in such cases. It was also contended in that case that there was discrimination between Class I and Class II Officers inasmuch as though they do the same kind of work their pay scales are different and, therefore, this difference in the pay scale violated the equality clause of Article 14 of the Constitution.

Their Lordships, while dealing with his objection, observed:

"The abstract doctrine of equal pay for equal work has nothing to do with Article 14.

Article 14, therefore, cannot be said to be violated where the pay scales of Class I and Class II Income Tax Officers are different though they do the same kind of work."

13. From the facts of the present case, as discussed above, it is clear that all the three services, viz., Rajasthan Administrative Service, Indian Administrative Service and Rajasthan Secretariat Service in their modes of recruitment, conditions of service including their pay scales are different from each other and they are governed by different rules. The methods of recruitment in all those three services and basic qualifications prescribed for them are also different. If at any one stage the members of these services are required to discharge the same kind of work as Deputy Secretary in the Secretariat, then this circumstance alone would not entitle the member of any one of the services to claim equality in the matter of granting special pay with the members of other services and that abstract doctrine of equal pay for equal work cannot be invoked by them. Equality of opportunity in matters of emoluments can be sought only as between the persons who are either employed in the same service or are governed by the same rules which are applicable to other services. In the circumstances of this case, I do not think that there is any violation of either Article 14 or Article 16 in not allowing the special pay to the petitioner for doing the work of the Deputy Secretary.

14. In this view of the matter, I do not find any substance in the writ application filed by the petitioner and it is therefore, dismissed. I however, pass no order as to costs.

Modi, J.

15. I generally agree with the conclusion reached in this case by my learned brother Tyagi, J. but would like to add a few words of my own.

16. The short question for decision before us is whether the petitioner who holds the appointment of a Deputy Secretary to the Government of Rajasthan and belongs to the Rajasthan Secretariat Service has been discriminated against within the meaning of Articles 14 and 16 of the Constitution inasmuch as Deputy Secretaries belonging to this service are not allowed to draw any special pay while members of the Rajasthan Administrative Service or Indian Administrative Service holding such a post are allowed a special pay of Rs. 150 P. M. It is argued that special pay according to the rules is *inter alia* granted for performing duties of an arduous nature and that the duties performed by a R. S. S. Deputy Secretary are as arduous as those of an I. A. S. or a R. A. S. Deputy Secretary and further the same post may be held inter-changeable by a member of any of these three services and further more Deputy Secretaries belonging to the R. S. S. also used to be granted such an allowance before 1956 which was stopped when the rationalised pay rules were introduced in that year.

17. On a careful and anxious consideration of the contentions raised on behalf of the petitioner, I have come to the conclusion that the alleged inequality does not

attract the principle enshrined in Article 14 and or 16 of our Constitution. The reason to my mind is short and simple. And that is that the service to which the petitioner belongs is the Secretarial Service itself and unlike a member of the Indian Administrative Service or the Rajasthan Administrative Service who holds the post of a Deputy Secretary more or less as a bird of passage, the former does not do so, and holds it permanently. Their position therefore is not exactly parallel. It is also admitted before us and is indeed indisputable that the three services form independent and separate classes of service each by itself whose methods of recruitment, scales of-pay and condition of services are not the same and therefore any inequality between them assuming that it does exist in respect of the question raised for our determination, does not in my opinion fall within the mischief of Article 14 or Article 16 These articles, it is well established forbid inequality among those equally circumstanced but not otherwise, and are, therefore, not attracted in the present case This ground is sufficient to disentitle the petitioner to any relief from the Courts.

18. It may perhaps be permissible to add however that the entire procedure by which special pay is at present granted to some officers and not to others while performing identical or analogous duties seems to require a thorough probe and rationalisation both in the interest of economy of administrative expenditure and the contempt of the services in this State; but that is a matter for the State Government to look into and the Courts are helpless in the matter.

19. With these observations I agree that this petition fails and be dismissed as proposed by my learned brother Tyagi, J.