

CHANDIGARH ADMINISTRATION AND ORS.

v.

NAURANG SINGH AND ORS.

MARCH 11, 1997

[B.P. JEEVAN REDDY AND K.S. PARIPOORNAN, JJ.]

*Service Law:*

*Equal pay for equal work—Parity in employment—Applicability of—Under a notification Union Territory (UT) required to follow pattern of State Government with respect to nature of post, pay scale and revision thereof—Accordingly, existing storekeepers in Engineering College given pay scale of clerks—However, at the instance of Principal of College, UT revised pay scale of storekeepers upwards—Subsequently, UT accepted recommendations of Second Pay Commission, inter alia, for parity in pay scales of clerks and storekeepers—But, by that time existing storekeepers in said College placed in pay scale higher than that recommended by Second Pay Commission—Realising the mistake, UT gave to newly recruited storekeepers the pay scale recommended by Second Pay Commission—But higher pay scale given to old storekeepers not withdrawn, treating same as personal pay to them only—Held: In the circumstances of the case, the doctrine "equal pay for equal work" could not be invoked by the newly recruited storekeepers to claim higher pay scale given to old storekeepers—An evident mistake could not constitute a valid ground to repeat the same—Constitution of India, 1950—Art. 39(d).*

The respondents were newly recruited storekeepers of an Engineering College. By a Notification issued by the Ministry of Home Affairs, Government of India, the appellant was required to follow the pattern of the State Government with respect to the nature of the post, pay scale and revision thereof. Accordingly, the appellants gave the pay scale of clerks to five old storekeepers of the Engineering College. However, at the instance of the Principal of the Engineering College the appellants revised the pay scale of the said five storekeepers upwards. Subsequently, the appellants accepted the recommendations of the Second Pay Commission, *inter alia*, for parity in the pay scales of clerks and storekeepers. But, by that time the said five storekeepers, as a result of the unscheduled and unwarranted upward revision of their pay scale at the instance of the

- A Principal, were placed in a pay scale higher than that recommended by the Second Pay Commission. The appellants realised that the unscheduled upward revision of the pay scale of the said five storekeepers was a mistake. Accordingly, the appellants gave to the respondents the pay scale recommended by the Second Pay Commission. However, the appellants did not withdraw the higher pay scale of the said five storekeepers, treating the same as personal pay to them only.
- B

- Being aggrieved the respondents filed an application before the Central Administrative Tribunal claiming the same pay scale as given to the said five storekeepers. The respondents invoked the principle "equal pay for equal work". The Tribunal upheld the respondents' claim. Hence this appeal.
- C

Allowing the appeal, this Court

- HELD: 1. The mistake committed by the appellant cannot furnish a valid or legitimate ground for the Court or the Tribunal to direct the appellant to go on repeating the mistake. The doctrine of "equal pay for equal work" has no application in such a situation. An evident mistake cannot constitute a valid basis for compelling the appellant to keep on repeating that mistake. Personal pay cannot furnish a ground for invoking the doctrine of "equal pay for equal work". [968-C-E, 968-F-H, 969-A-B]
- D
- E

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4005 of 1993.

- From the Judgment and Order dated 6.3.91 of the Central Administrative Tribunal, Chandigarh, in O.A. No. 697/CH of 1989.
- F

Ranjit Kumar for the Appellants.

S. Ujagar Singh, Davender Verma and Satish Vig for the Respondents.

- G The Judgment of the Court was delivered by

- B.P. JEEVAN REDDY, J. This appeal is preferred against the judgment of the Central Administrative Tribunal, Chandigarh allowing the Original Application filed by respondents 1 to 5 herein. The respondents are storekeepers in the Punjab Engineering College. Their claim before the
- H

Tribunal was that they are entitled to the pay scale of Rs. 570-1080 as has been given to five other storekeepers in the same College. The respondents invoked the principle "equal pay for equal work". The Tribunal has upheld their claim. A

By Notification dated November 1, 1966 issued by the Ministry of Home Affairs, Government of India, the Administrator of Union Territory of Chandigarh was required to follow the pattern of Punjab Government with respect to the nature of the post, pay scale and the revision of pay scales. According to the Punjab pattern, the scale of pay of storekeeper was the same as that of the clerks namely Rs. 60-175, which was later revised to Rs. 110-250. However, on the basis of a letter written by the Principal of the Punjab Engineering College, Chandigarh, the Chandigarh Administration revised the pay scales of three categories including that of storekeeper. As against the pay scale of Rs. 110-250, the pay scale of Rs. 160-400 was extended to the storekeepers. Because of this proceeding, the five storekeepers working in the College at that time got the benefit of the said higher pay scale. B C D

In 1978-79, the Chandigarh Administration accepted and brought into force the recommendations of the Second Pay Revision Committee. According to this recommendation, the pay scale of the storekeeper was kept at the same level as that of clerk. (By that date the pay scale of Rs. 160-400 was revised to Rs. 570-1080.) The Pay Revision Committee recommended the pay scale of Rs. 400-600 for the post of storekeeper. E F

Respondents 1 to 5 herein were appointed between the years 1983 to 1987 i.e. long after the Second Pay Revision Committee's recommendations were accepted and enforced. They were appointed in the pay scale of Rs. 400-600. After they were so appointed, they made a representation for extending the pay scale of Rs. 570-1080 to them also. This was rejected whereupon they approached the Tribunal. G

The case of the Administration before the Tribunal was that the decision of the Chandigarh Administration contained in its letter H

A dated 19.9.75 extending the higher pay scale to storekeepers was a mistake. It was an unscheduled and unwarranted revision. The higher pay scale then given to storekeepers was the pay scale actually given to Assistants, which is a promotion post for storekeepers. This mistake was corrected by the Pay Revision Committee whose recommendations were accepted. At the same time it was thought that taking away the said higher pay scale from the five persons (to whom it was already given) would not be proper and advisable and, therefore, the said higher pay was treated as personal pay to the said five storekeepers. Inasmuch as respondents 1 to 5 were appointed after the acceptance of recommendations of Second Pay Revision Committee, the Administration said, the respondents cannot treat the said mistake as a precedent nor can they make it a basis for claiming equal pay. The Tribunal refused to accept this case.

We are, however, of the opinion that a mistake committed by the Administration cannot furnish a valid or legitimate ground for the Court or the Tribunal to direct the Administration to go on repeating that mistake. The proceedings placed before us clearly show that the pay revision of September 19, 1975 was an unscheduled one, effected merely on the basis of a letter written by the Principal of the College. The Administration no doubt could have rectified that mistake. That would have been the most appropriate course but their failure to do so cannot entitle the respondents to say that mistake should form a basis for giving the higher pay scale to them also. The proceedings of the Administration dated 19.8.1982 clearly shows that the said higher pay scale was treated as personal to the then existing incumbents. As stated above that was really the pay scale admissible to the post of Assistants which was a promotion post to storekeepers. Both these posts cannot be given the same pay scale.

We are, therefore, of the opinion, that the claim of the respondents could not have been allowed by the Tribunal. The doctrine of "equal pay for equal work" has no application in such a situation. An evident mistake cannot constitute a valid basis for compelling the Administration to keep on repeating that mistake. Personal pay is granted to employees on various grounds. In certain services where the matriculation is the minimum educational qualification for a particular post, and a graduate joins that post, additional increments are

given to him to start with. Increments are also given to male employees for undergoing family planning operation. Such personal pays cannot furnish a ground for invoking the doctrine of "equal pay for equal work". Because it was mistake it was treated as personal pay for existing incumbents. And for future incumbents, the appropriate pay scale was given. A

For the above reasons the appeal is allowed and the order of the Tribunal is set aside. No order as to costs. B

V.S.S.

Appeal allowed.