

Before Jawahar Lal Gupta, J.

MANMOHAN MEHTA AND OTHERS,—*Petitioners.*

*versus*

THE STATE OF HARYANA AND OTHERS.—*Respondents*

C.W.P. 2798 of 1983

December 18, 1996

*Constitution of India, 1950—Arts. 14 & 16—Parity of pay scale—Challenge to denial of parity in pay scale to employees of Health Department with those working in other departments—being violative of Arts. 14 & 16—Two categories of employees are not equally placed—Granting same pay scales with employees of other departments of Government would be treating unequals as equals.*

*Held, that from the beginning till today, the Superintendents in the subordinate offices of the Health Department have been treated as a separate category and placed in a scale of pay lower than that of the Superintendents in the other departments of the Government. Even with regard to the Head Clerks, the position is similar. It shows that the employees in the subordinate offices of the Health Department have always been in scales of pay lower than those granted to the persons working as Superintendents and Head Clerks in other departments.*

(Paras 5, 6 & 7)

*Further held, that the two categories of employees are not equally placed. Granting them scales of pay at par with the employees of the various departments of the Government would be treating unequals as equals. That would be violative of Articles 14 and 16 of the Constitution. As at present, the action of the respondents in declining the claim of the petitioners is based on good reasons in law as well as on facts. Consequently, it calls for no interference under Article 226 of the Constitution.*

(Para 9)

C. M. Chopra, Advocate for the *Petitioners.*

Gurinder Singh, for the *Respondents.*

Jawahar Lal Gupta, J. (O)

(1) The petitioners in these six writ petitions are working as Superintendents and Head Clerks in the subordinate offices of the Health Department. They complain of discrimination in the matter

of pay scales. The Superintendents pray for the issue of a writ in the nature of *mandamus* directing respondents to place them in the scale of Rs. 1,000—1,500 with effect from April 1, 1979. Similarly, the Head Clerks pray that they be placed in the scale of Rs. 700—1,250. Learned counsel for the parties have referred to the facts as averred in Civil Writ Petition No. 2798 of 1983. These may be briefly noticed.

(2) The petitioners in this case were working as Superintendents in the offices of the Chief Medical Officers in the State of Haryana. According to the petitioners, the Superintendents in the State of Haryana were classified into four categories. The first category consisted of Superintendents working in the Civil Secretariat and the Financial Commissioner's office. They were initially working in the pay scale of Rs. 500—900 with a selection grade of Rs. 900—1,100. They were placed in the scale of Rs. 1,000—1,500 with a special pay of Rs. 100. A selection grade with a fixed pay of Rs. 1,600 alongwith special pay of Rs. 100 was also sanctioned. All the remaining categories of Superintendents were placed in the scale of Rs. 1,000—1,500. The only distinction made between the Superintendents working in the Civil Secretariat/Financial Commissioner's Office and the remaining three categories of Superintendents was that while special pay and selection grade had been granted to those working in the Secretariat, no such provision had been made in respect of others. The petitioners allege that they are also working as Superintendents and as such, had a right to be treated at par with the other Superintendents. Their claim was duly recommended by the Director of Health Services as well as by the Secretary to the Government. However, the claim was not accepted. After that they approached this court through the present writ petitions. A direction had been given by R. S. Mognia, J.,—*vide* order dated March 25, 1994 by which the State Government was directed to place the matter regarding the revision of pay scales of the employees of the Health Department before the Anomally Committee so as to find out "as to why the recommendations of the Director, Health Services and the Commissioner were not accepted and as to why the recommendations of the Haryana Pay Commission when it recommended the same pay scale to all categories of Superintendents, were not followed in the case of the petitioners". In pursuance of the directions given by his Lordship, the matter was placed before a Committee consisting of Mr. J. D. Gupta, the Financial Commissioner and Secretary to Government, Haryana, Finance Department, Mr. Raghbir Singh, Commissioner and Secretary to Government, Health Department and Mr. J. K. Gupta, Joint Secretary to Government Haryana, Finance Department. The

Committee on consideration of the matter found that the claim of the petitioners could not be accepted for the following reasons :—

(i) There are vital structural and hierarchical differences in the structure and channel of promotion in the Health Department as compared to the other departments.

(ii) The claim of the employees of the Health Department was based merely on the "similarity of nomenclature and designation".

(3) Consequently, it rejected the claim made by the petitioners. A copy of the findings of the Anomally Committee Report dated October 31, 1994, as produced by the learned counsel is placed on record as Mark 'A'.

(4) The petitioners have not amended their petitions to impugn the findings recorded by the Committee. However, it has been vehemently contended that the action of the respondents in denying parity in the matter of pay scales to the employees of the Health Department with those working in other departments is arbitrary and violative of Articles 14 and 16 of the Constitution. Is it so ?

(5) It is the admitted position that prior to the year 1964, there were no posts of Superintendents in the subordinate offices of the Health Department. The posts were only of clerks and Head Clerks. In the year 1964, the posts of Head Clerks were in the scale of Rs. 116—250. Some of the existing posts were upgraded and placed in the scale of Rs. 250—350. These up-graded posts were designated as 'Superintendents'. The persons who were actually working as Head Clerks were re-designated as Superintendents and placed in the scale of Rs. 250—350. At that time, the Superintendents working in the other departments of the Government were actually in the scale of Rs. 350—450. Thus, at the inception, the so called Superintendents in the Health Department were not placed at par with the Superintendents in the other departments of the Government. Thereafter, the pay scales were revised with effect from February 1, 1969. At the time of this revision, the Superintendents in the various departments of the Government were placed in the scale of Rs. 400—650. As against this, the Superintendents like the petitioners were placed in the scale of Rs. 300—550. Still further, there was another revision of pay scales with effect from April 1, 1979. Even on this occasion, the Superintendents in various departments

of the Government were placed in the scale of Rs. 1,00—1,500 while the petitioners were allowed the pay scale of Rs. 700—1,400. It is, thus, clear that from the beginning till today, the Superintendents in the subordinate offices of the Health Department have been treated as a separate category and placed in a scale of pay lower than that of the Superintendents in the other departments of the Government.

(6) Even with regard to the Head clerks, the position is similar. In the subordinate offices of the Health department, the Head Clerks were initially in the scale of Rs. 116—250 with effect from February 1, 1969. They were placed in the scale of Rs. 160—400 which was revised and raised to Rs. 525—1,050 with effect from April 1, 1979. As against this, the Head Clerks in various other departments of the Government were always in a scale higher than that allowed to the persons working in the subordinate offices of the Health Department. They were initially in the scale of Rs. 160—400 which was revised and raised to Rs. 225—500 with effect from February 1, 1969. It was thereafter revised and raised to Rs. 700—1,250 with effect from April 1, 1979.

(7) A perusal of the above clearly shows that the employees in the subordinate offices of the Health Department have always been in scales of pay lower than those granted to the persons working as Superintendents and Head Clerks in other departments.

(8) What were the reasons ? These have been brought out in the order passed by the committee in pursuance of the directions given by this court. Firstly, it has been pointed out that the Head Clerks in the field offices of the Health Department were promoted from the posts of clerks whereas in the other departments, a clerk was promoted to the post of Sub-Divisional Clerk and then to that of Assistant/Senior Accounts Clerk. Finally, the appointment to the post of Head Clerk was made from amongst the Assistants/Senior Accounts Clerks. Thus, a person had to pass through three channels of postings before reaching the post of Head Clerk. As against this, in the Health Department, a clerk was straightway promoted to the post of Head Clerk. Similarly, in the case of Superintendents, as already noticed, the posts of Head Clerks were upgraded to those of Superintendents and the incumbents of the six posts were redesignated as Superintendents. As against this, in the other departments of the Government, a person got promotion as Superintendent after working as a clerk, a Sub-Divisional Clerk, an Assistant/Senior Accounts Clerk, Head Clerk and then as Superintendent.

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(9) It is, thus, apparent that the two categories of employees are not equally placed. Granting them scales of pay at par with the employees of the various departments of the Government would be treating unequals as equals. That would be violative of Article 14 and 16 of the Constitution. As at present, the action of the respondents in declining the claim of the petitioners is based on good reasons in law as well as on facts. Consequently, it calls for no interference under Article 226 of the Constitution.

(10) No other point has been urged.

(11) In view of the above, there is no merit in these writ petitions. These are, consequently, dismissed. However, in the circumstances of these cases, there will be no order as to costs.

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J.S.T.

*Before V. S. Aggarwal, J.*

RAJOEL SINGH,—*Petitioner.*

*versus*

THE STATE OF HARYANA AND OTHERS,—*Respondents.*

CrI. M. 16147/M of 1996.

28th January, 1997.

*Code of Criminal Procedure, 1973—S. 173—Challan submitted against certain persons—No fresh evidence or document collected after submission of challan—State filing a supplementary challan—Supplementary challan quashed.*

*Held, that once report contemplated under sub-section (2) of Section 173 Cr.P.C. has been submitted, further investigation is not barred. The police can investigate further, take further evidence and forward such report to the Magistrate and if no further evidence or documents have been considered, then supplementary report in the form of a supplementary challan cannot be filed. It is an admitted fact that after the challan was submitted under sub-section (1) and (2) of Section 173 Cr.P.C., no further investigation has been held. It is not clear as to what were the compelling reasons those prompted the State in filing a supplementary challan. The supplementary challan filed against the petitioner is quashed.*

(Paras 5 & 7)