

STATE OF HARYANA
v:
RAM CHANDER AND ANR.

MAY 9, 1997

[S.B. MAJMUDAR AND M. JAGANNADHA RAO, JJ.]

Service Law :

Haryana Civil Services (Revised Pay) Rules, 1987.

Parity in employment—Equal Pay for Equal Work—Principle—Applicability of—Teachers of different educational institutes taught the same syllabus, the students appeared at the same type of examinations and were eligible for further admission to degree colleges—However, there was difference in educational qualifications—Held : Claim for parity in pay scale of teachers of different educational institutes, established—The difference in educational qualifications would have made some vital difference but for the fact that the State Government ignored the difference while granting uniform pay scale to its teachers—Constitution of India, 1950, Arts. 14 and 16.

Parity in employment—Equal Pay for Equal Work—Different sets of seniority lists—Maintenance of—Held : Totally irrelevant consideration in deciding the question of parity in pay scale.

Parity in employment—Equal pay for Equal Work—Arrears of pay—Date of coming into effect—High Court granted higher pay scale on notional basis retrospectively but granted arrears prospectively from the date of judgment of Single Judge—Employees did not challenge validity of such directions of High Court—Hence, date of payment of arrears not interfered with.

The respondents were language teachers in Government Vocational Education Institute and taught Hindi and English to standard 11 and 12 students in the said Institute. The respondents' grievance was that they should be given parity in pay scales with the teachers who taught standard 11 and 12 students in higher secondary schools in the State on the principle of 'Equal pay for Equal Work'. The teachers in higher secondary schools

A were designated as Lecturers.

The respondents taught the same syllabus of Hindi and English to standard 11 and 12 students who appeared in the same type of examination and wrote the same papers as were written by the standard 11 and 12 students who were taught Hindi and English in higher secondary schools.

B The students of standard 11 and 12 who were taught Hindi and English by the respondents were examined in the same subjects by the same institution, namely, State School Education Board which set the same type of examination papers on the basis of same syllabus, to the students taught by the respondents as well as to the students who were taught by Language

C Teachers attached to the regular higher secondary schools who also taught standard 11 and 12 students the very same languages, English and Hindi, based on the same syllabus. The students who were taught by the respondents and passed out standard 12 examination got the certificate of 10 + 2 examination on the same lines as students who passed standard 12 examination from higher secondary schools. These certificates obtained by vocational education institutes' students were exactly at par with the certificates issued on completion of successful passing of standard 12 examination by general education students coming out of higher secondary schools. Both these sets of students were eligible to get admission in B.A., B.Com. etc. and to pursue higher studies in colleges.

E Even quantitatively also the respondents did teaching work for a longer period. The respondents taught for 24 hours in a week whereas the Lecturers in higher secondary schools taught for 20 hours in a week. However, the respondents were required to possess only a pass class in Master's degree whereas the Lecturers in higher secondary schools were

F required to possess a Master's Degree in 2nd Division with 50% marks.

The pay scales revised by the State Government were based on the recommendation of the Pay Revision Committee, which in turn took into consideration the recommendations of the Fourth Central Pay Commission constituted by the Central Government. Prior to the pay revision there

G were different pay scales for Lecturers in higher secondary schools. Subsequently, the State Government ignored this difference and granted uniform pay scale to all Lecturers in higher secondary schools under Haryana Civil Services (Revised Pay) Rules, 1987.

H The respondents filed a writ petition before the High Court claiming

that they were entitled to the same pay scale as was made available to the Lecturers in higher secondary schools. The Single Judge of the High Court while allowing the petition granted higher pay scales on notional basis from retrospective dates but granted arrears prospectively from the date of judgment. The respondents did not challenge the validity of the judgment of the High Court regarding date of payment of arrears. The Division Bench of the High Court dismissed the appeal filed by the appellants. Hence this appeal.

Dismissing the appeal, this Court

HELD : 1.1. The difference in educational qualification between the respondents and the Lecturers of higher secondary schools would have made some vital difference but for the fact that the appellants themselves thought it fit to ignore this difference while granting uniform pay scale to all Lecturers in higher secondary schools. [325-D-F]

1.2. Whether a teacher teaches Hindi and English languages to standard 11 and 12 students in a technical institute or in a higher secondary school makes no difference in the nature of duties and functions performed by these two sets of teachers. [324-D]

1.3. Whether separate institutions under which these teachers work maintain a different set of seniority lists or not would be a totally irrelevant consideration for deciding the question in controversy. [324-D-E]

Rajendra Prasad Mathur v. Karnataka University & Anr., AIR (1986) SC 1448, relied on.

State of M.P. & Anr. v. Pramod Bhartiya & Ors., [1993] 1 SCC 539; *Federation of All India Customs and Central Excise Stenographers (Recognised) & Ors. v. Union of India & Ors.*, [1988] 3 SCC 91 and *Harbans Lal & Ors. v. State of H.P. & Ors.*, [1989] 4 SCC 459, held inapplicable.

2. The respondents have not challenged the validity of the judgment of the High Court regarding date of payment of arrears of pay which was with effect from the date of the judgment of the Single Judge of the High Court. Therefore, that part of the order has become final qua the respondents. The appellants will, therefore, have to make good to the respondents the arrears of pay in the revised pay scale as claimed by them with effect from the date of judgment of the Single Judge of the High Court though

A their earlier pay scales stood notionally revised retrospectively. [327-D-F]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2450 Of 1995.

B From the Judgment and Order dated 4.10.93 of the Punjab & Haryana High Court in L.P.A. No. 1267/93 in C.W.P. No. 16543 of 1990.

Jasbir Malik, for Prem Malhotra for the Appellants.

B.S. Malik and Balbir Singh Gupta for the Respondents.

C The Judgment of the Court was delivered by

D **S.B. MAJMUDAR, J.** State of Haryana and Director of Industrial Training & Vocational Education having obtained special leave to appeal from this Court under Article 136 of the Constitution of India have moved this appeal against the judgment and order rendered by the Punjab & Haryana High Court in Letters Patent Appeal No. 1267 of 1992 which was dismissed by the Division Bench of the High Court and whereby the judgment of the learned Single Judge of the High Court against the appellants was confirmed.

E In order to highlight the grievance of the appellants it is necessary to note a few backdrop facts. Respondent nos. 1 and 2 who only remain in the arena of contest as respondent nos. 3 and 4 were ordered to be deleted by an earlier order of this Court dated 08th April 1997, are working as Language Teachers in Haryana Government Vocational Education Institute. They teach Hindi and English to standard 11 and 12 students who study in such institutes. The respondents were appointed in pay scale of Rs. 600-1100 which was subsequently revised to Rs. 1400-2600 with effect from 1.1.1986 as per Haryana Civil Services (Revised Pay) Rules, 1987. The respondents' grievance is that as they were Language Teachers teaching students of standard 11 and 12 forming part of higher secondary educational system should have been paid the same pay scale that was made available to their counterparts who were teaching standard 11 and 12 students in higher secondary schools in the State. That they were equally circumscribed as their aforesaid counterparts and consequently on the principle of 'Equal Pay for Equal Work' they were entitled to higher pay scale which was made available to higher secondary school teachers in

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these schools. Said higher pay scale was initially Rs. 1640-2900 which was further revised by the appellant-State with effect from 01st May 1990 to Rs. 2000-3500. It is this revised pay scale which, according to the respondents, should have been made available to them and as that was not granted they filed Civil Writ Petition No. 16543 of 1990 in the High Court of Punjab & Haryana.

A learned Single Judge of the High Court after hearing the appellants herein as well as the contesting respondents came to the conclusion that there was no justification for the appellant-State to deny equal pay scales to the respondents as were made available to Lecturers in higher secondary schools as the nature of work carried out by the respondents was identical with the work of the teachers in higher secondary schools. The learned Judge negatived the contention of the appellants that respondents were not comparable with the higher secondary school teachers as the respondents' educational qualifications differed from those which were required to be possessed by higher secondary school teachers-cum-lecturers. In the view of the learned Single Judge educational qualification wise respondents were better situated. The learned Single Judge accordingly allowed the writ petition and directed the appellants to make available to the respondents higher pay scale of Rs. 2000-3500 as was granted to higher secondary school teachers. However the arrears payable to the respondents were made payable from the date of the judgment of the learned Single Judge which was rendered on 15th July 1992.

The appellants being aggrieved by the said decision of the learned Single Judge carried the matter in appeal before the Division Bench of the High Court. The respondents were on the other hand satisfied with the direction of the grant of back wages as awarded by the learned Single Judge. The Division Bench dismissed the said Letters Patent Appeal by its judgment and order dated 4th October 1993 duly endorsing the view of the learned Single Judge. That is how the appellants have landed in this Court. After issuing earlier notice in the Special Leave Petition a Bench of two learned Judges of this Court by an order dated 20th February 1995 granted special leave to appeal and also directed that pending appeal, there shall be an interim stay. Accordingly, the order under appeal has remained stayed till date.

Learned counsel appearing for the appellants vehemently submitted

A that the educational qualifications of language Teachers in vocational training institutes are different from the educational qualifications for being appointed as a Lecturer or Teacher in higher secondary schools. He placed in juxtaposition the educational qualifications of both these classes of employees as under :

B	Lecturers in the <i>school cadre</i>	Language teacher in the <i>Vocational Education Institutes</i>	
C	Master's Degree in 2nd Division with 50% marks in the relevant subject.	i)	Language Teachers (Hindi) B.A. B.Ed. with Hindi as one of Teaching subjects in B.Ed. with a Master's Degree.
D		ii)	Language Teachers (English) B.A. B.Ed. with English as one of the Teaching subjects in B.Ed. with a Master's degree.

E He, therefore, submitted that a Language Teacher like respondents having ordinary Pass Class Master's Degree cannot claim parity of pay scale with a Lecturer in school cadre who is required to have Master's Degree in second division with 50% marks in the relevant subject. He next submitted that the cadres of both these categories of employees are different. Institutions in which they work are also different. Though they teach standard 11 and 12 students the respondents cannot be said to be teaching the same type of students as are taught in standard 11 and 12 in higher secondary schools which are non-technical schools. He also submitted that the seniority of respondents-Language Teachers in the vocational institutes is kept in common with the seniority of Technical Instructors. He further submitted that granting of pay scales is within the domain of a policy decision which the appellants have to take in the light of Expert Committee report and such an exercise cannot be undertaken by courts on the abstract principle of 'Equal Pay for Equal Work'. In support of his contention he invited our attention to some of the judgments of this Court to which we will make a reference at an appropriate stage in latter part of this judgment. In short he submitted that the respondents were not at all comparable from the point of view of quality of work and educational qualifications with the Lecturers in school cadre and consequently the High Court had patently erred in law in directing the appellants to pay the same pay scales to the respondents

as were available to the Lecturers in school cadre.

On the other hand learned senior counsel for the respondents vehemently submitted that the respondents were doing the same type of work as their counterparts in school cadre. That both these categories of employees were teaching standard 11 and 12 students who were belonging to higher secondary system of education, that is, 10+2 system. That in vocational education institutes more emphasis was given to technical type of education. But so far as respondents-Language Teachers were concerned they had to teach standard 11 and 12 students, that is to say, students in higher secondary classes English and Hindi for which the same syllabus which was prescribed for standard 11 and 12 students in higher secondary schools was to be taught. That the nature of examination in these subjects was also same for both these sets of students. Thus qualitatively and even quantitatively the work which the respondents were doing was almost identical with the work which their counterpart-Language Teachers were doing while teaching higher secondary school students of standard 11 and 12. That so far as the educational qualifications were concerned it was true that the Lecturers in school cadre were required to have Master's Degree in second division with 50% marks in the relevant subject, but the said educational qualification was more than offset so far as the educational qualifications of the respondents-Language Teachers were concerned as they had to have additionally B.A. B.Ed. Degree with Hindi or English, as the case may be, as one of the teaching subjects in Bachelor of Education course along with a Master's Degree. Therefore, even though they might be holding Pass Class Master's Degree their expertise in teaching was better being armed with Bachelor of Education Degree which was not the requirement for Lecturers in school cadre. According to learned senior counsel for the respondents, therefore, the High Court was right in taking the view that even educational qualifications of the respondents were almost at par if not better than those of secondary school teachers.

Having given our anxious consideration to these rival contentions we find that before a set of employees can claim parity of pay scales on the principal of 'Equal Pay for Equal Work' it has to be shown by such claimants that qualitatively and quantitatively the work which they do is of the same type and nature as that of their counterparts whose pay scales are pressed in service for getting parity. Not only that but even educational qualifications must be identical. It is well settled by a series of decisions of this Court that different pay scales can be prescribed for employees having

A different educational qualifications. Consequently if the matter had rested at this stage we would have been required to closely consider whether it was open to the High Court to undertake the exercise of trying to find out whether Master's Degree in second division with 50% marks in the relevant subject being the educational qualification for becoming a Lecturer in school cadre, represented an educational qualification which was parallel and equivalent to the educational qualification possessed by a Language Teacher in technical institutes having B.A. B.Ed. Degree with the concerned subject as one of the teaching subjects in B.Ed. and a Master's Degree which may be even a Pass Class Master's Degree. However the said exercise is spared for us for the reasons which we now proceed to unfold.

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C On 2nd May, 1995 a Bench of two learned Judges of this Court consisting of K. Ramaswamy and B.L. Hansaria, JJ., passed the following order :

D "Learned counsel for the appellant is directed to produce the record of the pay commission relating to the fixation of the pay scales to the language teachers working in Training Institutes and Lecturers in School cadre fixing 1400-2600 and 2000-3500 respectively.

E Learned counsel seeks for and is granted six weeks' time for doing the needful."

E Despite the aforesaid order being passed as early as 02nd May 1995 the appellants did not produce the relevant requisite material. That was noted by us when this matter reached for final hearing before us. By our order dated 08th April 1997, therefore, we passed the following order :

F "I.A. No. 4 stands granted.

G Respondent Nos. 3 and 4 will stand deleted from the record of the case. After this matter was heard for some time we were informed that the appellant State has not complied with the order of this Court of 2nd May, 1995 despite being granted many opportunities to comply with the same. By an order dated 21st March, 1996, another Bench of this Court granted further 6 weeks' time to comply with the order. Still till date nothing has been done. When this was brought to the notice of the learned counsel for the appellant, he prayed for a last opportunity to comply with the order of this Court and requested for some more time. It is made clear

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to him that within this further time if this order is not complied with and the necessary papers are not produced, the appeal will stand dismissed for non-prosecution. Accordingly as a last opportunity 2 weeks' time is granted to comply with the order of 2nd May, 1995 and to produce necessary information required thereby. It is clarified that this will be the last opportunity. The appeal is adjourned to 29.4.1997 as part heard. It is further made clear that in case there was no Pay Commission as stated, but any other body of Experts which went into the question and had given any report, record of the said report may be produced."

It was only thereafter that the appellants filed a printed copy of the Haryana Civil Services (Revised Pay) Rules, 1987 framed by the Governor of State of Haryana in exercise of his powers under the proviso to Article 309 of the Constitution of India. As the said response by the appellants did not amount to full compliance with our order dated 08th April 1997 in continuation of the earlier order of 02nd May 1995 we directed learned counsel for the appellants to produce the copies of the report of the Pay Commission or any other expert body whose advice was made available to the appellants when they framed the aforesaid rules. Thereafter the learned counsel for the appellants placed for our consideration Interim Report of the Pay Revision Committee in respect of Group B, C and D employees. He submitted that the respondents' case is covered by the said Report and it was that Report which was taken into consideration by the appellant-State while promulgating the aforesaid Revised Pay Rules. He also placed for our consideration Report of the Pay Anomalies Commission which was required to consider the anomalies in the revision of pay scales as granted by the aforesaid Revised Pay Rules. He submitted that in the light of the Report of the Pay Anomalies Commission the pay scales were appropriately revised for the classes of employees concerned. He made it clear that the pay scales made available to Lecturers in secondary school cadre were revised with effect from 1.1.1986 from Rs. 550-900 to Rs. 1640-2900 as per the said Revised Pay Rules while respondents' earlier existing pay scales were revised from Rs. 525-1050 to Rs. 1400-2600. The revised pay scale of Lecturers in higher secondary schools were further revised in the light of Pay Anomalies Commission Report to Rs. 2000-3500 from 01st May 1990. In view of this material placed before us we have to see as to whether the appellants in their own discretion created a situation in which the revised pay scales made available to Lecturers in higher secondary schools should almost automatically be made available to lan-

A guage Teachers in technical institutes teaching standard 11 and 12 students who also can legitimately be said to be higher secondary school students though styled as studying in technical institutes. When we turn to the interim report of the Pay Revision Committee we find that the said committee in the light of the IVth Central Pay Commission recommendations undertook the task of suggesting appropriate revision of pay scales of Haryana Government employees by drawing an analogy from the revised pay scales suggested for Central Government employees by IVth Central Pay Commission. In para 10 of the Report the Committee has observed that it has broadly taken, amongst others, various factors into consideration while giving its recommendations. In para 10(b) it has been observed as under :

"10(b). As per the recommendations of the Fourth Pay Commission and the notification issued by the Government of India regarding the employees of the Central Government and the Union Territories, different scales have been given for posts with the same designations in the Central Government and various Union Territories. The Committees has recommended such of the scales in such categories as suit the State Government employees best in order to maintain the existing parities."

In sub-para (c) of the said para 10 the following observations are found :

"10(c). The experience, qualifications, mode of recruitment and job content etc. being different in the Central and State Governments, the Committee could not go into the details of these matters on account of constraints of time."

Thus it appears that the Expert Committee while recommending upward revision of pay scales of Haryana Government employees had kept in view the revised pay scales made available to Central Government servants under the IVth Pay Commission subject to certain relevant adjustments.

In para 12 of the said Report, they referred to their first option to go simply by the 'designations' of the posts in Central Government and recommend same scales to the State Government employees. They said :

"..... In this option, the same scales are recommended for the State Government employees as have been given by the Central Government in such cases where the *designations are similar* and

the posts are identical....."

(Emphasis supplied)

and in para 16, they decided to recommend the first option. Read along with para 10(c) quoted above, it is clear that the Committee, on account of constraints of time, did not think fit to go by comparison of experience, qualification, mode of recruitment or job content but by the comparative designation and nature of post. In other words, the distinction based on difference in educational qualification was not to be the basis for the first option recommended by the Committee.

When we turn to the annexures to the said Report containing the suggested revision of pay scales of employees concerned we find at Annexure A-2 revised scales of posts carrying present scales in Group 'C' and 'D' except posts for which different revised scales are indicated separately. Learned counsel for the appellants submitted that at serial no. 4 at Annexure A-2 to the said Report are listed employees having earlier pay scale of Rs. 525-1050 as was available to the respondents and the said scale was proposed to be revised to Rs. 1400-2600 and it was this proposed hike which was accepted by the appellant authorities for being made available to the respondents. It is not possible to agree with this contention. The reason is obvious. At serial no. 4 at Annexure A-2 to the Report is found list of employees who were getting pay scale of Rs. 525-1050 and who were proposed to be given a hike of pay scale by raising it to Rs. 1400-2600. In that list are found Librarians, Assistants, Draftsman, Statistical Assistants, Veterinary Compounders, Assistants (of Directorates at Headquarter) etc. Respondents obviously do not belong to that category. On the other hand we find at Annexure 'B' to the said Report the proposals regarding revised pay scales of certain other categories of staff which are common to the State Government and the Central Government. In the Education Department at serial no. 2 are listed Trained Graduate Teachers, Headmasters Primary Schools while at serial no. 3 are listed Post Graduate Teachers and Head Masters of Middle Schools. Columns 2, 3, 4 and 5 referred to the posts, pay scales, emoluments as on 1.1.1986 and revised scales given by Central Government to these employees while at column nos. 6 to 11 are found the posts under the State Government with the existing pay scales, total emoluments as on 1.1.1986, total emoluments after adding 20% over 320 Consumer Price Index and the recommended scales. It would be profitable to reproduce the relevant entries at serial nos. 2 and 3 for comparative analysis :

Central Government					State Government								
1	2	3	4		5	6	7	8		9		10	11
Sl. No.	Posts	Pay scale on 200 CPI	Emoluments on 1.1.86 including 20% benefit		Scales given by GOI	posts	Exist- ing Pay Scale	Total Emoluments as on 1.1.86		Total Emoluments after adding 20% over 320 CPI		Recom- mended scale	Remarks
			Min.	Max.				Min.	Max.	Min.	Max.		
2.	Trained Graduate Teachers/ Head-Master Prim. School	440-750	1401	2174	1400-2600	Master/ Mistress, Trained Gradu- ates, Shastri/ Sanskrit Teachers, D PE	525-1050 (Start 585) 700-1150 (S.G.) H.M. of M.S. S.P. Rs. 50.	1047	1906	1152	2116		
								1163		1280			
								1280	2087	1420	2317	1400-2600	
3.	Post Graduate Teachers and Head Masters of Middle Schools	550-900	1603	2582	1640-2900	Lectu- rers (Hr.Sec. Schools) Lectu- rers I & II Div.)	600-1100 700-1250 (S.G.)	1178	1997	1298	2217		Lecturers have been treated at par with the P.G.Ts of Central Govt.
								1280	2269	1420	2519	1640-2900	
							700-1250 800-1600 (S.G.)	1280	2269	1420	2519	1640-2900	

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A mere look at these entries shows that the Central Government Trained Graduate Teachers were given a higher pay scale of Rs. 1400-2600 while Post Graduate Teachers and Head Masters of Middle Schools were given a higher pay scale of Rs. 1640-2900. So far as their counterparts in the State service were concerned for Trained Graduates in State service the existing pay scale of Rs. 525-1050 was sought to be revised to Rs. 1400-2600 while so far as the Lecturers in higher secondary schools who were having degrees in Division 1st or 2nd and who were earlier getting Rs. 600-1100 were sought to be given a higher pay scale of Rs. 1640-2900. The 'Remarks' column against serial no. 3 is more instructive. It says that the Commission recommended that Lecturers be treated at par with Post Graduate Teachers of Central Government. It becomes, therefore, obvious that even though earlier in the State service Lecturers in higher secondary schools who were having first or second class degrees like M.A. 1st Class or 2nd Class were having higher pay scale of Rs. 600-1100 as compared to Trained Graduate Teachers who were having lesser pay scale of Rs. 525-1050, they were now sought to be treated at par in so far as a uniform revised pay scale of Rs. 1640-2900 was suggested for all of them. Thus so far as Lecturers in higher secondary schools were concerned, earlier distinction in the pay scales on the basis of first or second class Post Graduate Degrees was sought to be done away with and these Lecturers were to be treated at par with Post Graduate Teachers of Central Government. When we turn to column 2 of Entry 3 we find that under Central Government Post Graduate Teachers were all given a uniform hike in pay scale of Rs. 1640-2900 meaning thereby the distinction between Post Graduate Teachers having 2nd class or 1st class M.A. Degree and those having a Pass Class Post Graduate Degree was given a go-by and it is this uniform hike in pay scale which was recommended for acceptance of the State Government by the Pay Revision Committee. It is of course true, as submitted by learned counsel for appellants, that these recommendations were not necessarily binding on the State Authorities and it was open to them to suitably modify the pay scales which could be revised for different categories of employees in their discretion. Even though that is so when we turn to the Revised Pay Rules themselves we find that the appellants in their own discretion and wisdom have accepted the aforesaid recommendations of the Pay Revision Committee and have done away with the difference between the pay scales of 1st Class or 2nd Class Post Graduate Degree holder Lecturers in higher secondary schools and the Pass Class

- A** Post Graduate Degree holder Lecturers in higher secondary schools wherever they may be working and teaching standard 11 and 12 students. It has to be kept in view that both these classes of teachers have a common employer, State of Haryana. Respondents may be working as Teachers teaching higher secondary students of Class 11 and 12 in technical institutes while their counterparts who are styled as Lecturers may be teaching similar class of students in standard 11 and 12 in higher secondary schools. Both of them, therefore, must be treated to be on par and were in fact treated to be on par by the appellants themselves while promulgating the Revised Pay Rules and making available to them revised pay scales as will be seen presently.

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When we turn to the relevant rules we find that Rule 4 states that as from the date of commencement of these rules, the scales of pay of every post specified in column 2 of the First Schedule shall be as specified against it in column 4 thereof. In the First Schedule at part 'A' are listed revised

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scales for posts carrying present scales in Groups 'D', 'C', 'B' and 'A' except posts for which different revised scales were notified separately. Learned counsel for the appellants relied upon serial no. 6 dealing with all posts carrying present scale specified in Column 3 and took us to Column

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3 which mentioned Rs. 525-1050 dealing with Groups 'C' and 'B'. It is not in dispute that the respondents fall within that group. Revised pay scale made available to them as per these Rules from 1.1.1986 was Rs. 1400-2600. But the respondents contend that these scales would not be applicable to them as they will be covered by Part 'B' dealing with 'Revised scales of pay for certain other categories of staff'. Learned senior counsel for respondents invited our attention to Education Department and under

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that caption are found at serial no. 2 Master/Mistress, Trained Graduates, Shastri/Sanskrit teacher D.P.E. whose pay scale from Rs. 525-1050 was revised to Rs. 1400-2600. But at serial no. 3 are listed Lecturers in higher secondary schools whose revised pay scale was shown as Rs. 1640-2900. Once the respondents are found to be teaching in higher secondary schools they would obviously not fall in serial no. 2 dealing with 'Master/Mistress,

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Trained Graduates, Shastri/Sanskrit Teacher D.P.E.'. They fall within the category of Lecturers in higher secondary schools. They would obviously, therefore, become entitled to uniform time scale of Rs. 1640-2900. It is pertinent to note that in these Revised Pay Rules lesser revised pay scale is not made available to Pass Class Post Graduate Teachers as compared

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to 1st and 2nd Class Post graduate Teachers in higher secondary schools.

To that extent it must be held that the recommendations of the Pay Revision Committee for treating all Post Graduate Lecturers in higher secondary schools at par for the purpose of revised pay scales with Post Graduate Teachers of Central Government and to make them available a uniform pay scale of Rs. 1640-2900 appear to have been wholly accepted. For grant of such a uniform revised pay scale the earlier distinction between a Pass Class Post Graduate teacher and a second class or first class Post Graduate degree-holder teacher was totally effaced by the appellants themselves. On this short ground alone the respondents are entitled to succeed. They would be entitled to get the uniform pay scale made available to Post Graduate teachers in higher secondary schools as revised to Rs. 1640-2900 under the Revised Pay Rules with effect from 1.1.1986. It is not in dispute that the said pay scale was further revised on the recommendations of Pay Anomalies Commission to Rs. 2000-3500 from Rs. 1640-2900 with effect from 01st May 1990. A feeble attempt made by learned counsel for the appellants for submitting that these revised pay scales were available only to those Post Graduate Higher Secondary School Teachers who were entrusted with administrative duties, cannot be countenanced for the simple reason that such a distinction was never canvassed for consideration by the appellants before the High Court at any stage. Their only ground for defeating the claim of the respondents was that they were teaching in technical institutes while the Post Graduate Lecturers in higher secondary schools were teaching in higher secondary schools and were having different types of Post Graduate qualifications. It was submitted by learned senior counsel for the respondents that all the higher secondary school teachers having Post Graduate qualifications who were admittedly granted the pay scale of Rs. 1640-2900 by the appellants with effect from 1.1.1986 got the further revision of pay scale to Rs. 2000-3500 from 01st May 1990 in the light of Pay Anomalies Commission Report which was accepted and no distinction was made on the ground of any higher administrative duties and, therefore, this distinction sought to be raised by learned counsel for the appellants at this belated stage should not be accepted. We find considerable force in this contention as the appellants have not even whispered on this aspect at any time all throughout before the High Court and even in their Special Leave Petition in these proceedings.

We have also to keep in view the salient features of this case which have remained well established on record and which have been heavily

A relied upon both by the learned Single Judge and by the Division Bench of the High Court. They can be catalogued as under :

B 1. The respondents are Language Teachers, namely, they teach Hindi and English to standard 11 and 12 students who study in higher secondary classes. They however, teach these students in technical institutes. But these students join these institutes after passing standard 10 examination. Their counterparts also join standard 11 in higher secondary schools after passing the same examination of standard 10.

C 2. The respondents teach the same syllabus of Hindi and English to standard 11 and 12 students who appear at the same type of examination and write the same papers as are written by the standard 11 and 12 students who are taught Hindi and English in higher secondary schools.

D 3. Whether a teacher teaches Hindi and English languages to standard 11 and 12 students in a technical institute or in a higher secondary school makes no difference in the nature of duties and functions performed by these two sets of teachers.

E 4. Whether separate institutions under which they work maintain a different set of seniority lists or not would be a totally irrelevant consideration for deciding the question in controversy.

F 5. The students of standard 11 and 12 who are taught Hindi and English by the respondents are examined in the same subject by the same institution, namely, Haryana School Education Board which sets same type of examination papers on the basis of same syllabus, to the students taught by the respondents as well as to the students who are taught by Language Teachers attached to the regular higher secondary schools who also teach standard 11 and 12 students the very same languages English and Hindi based on the same syllabus.

G 6. The students who are taught by respondents and pass out standard 12 examination will get the certificate of 10+2 examination on the same lines as students who pass standard 12 examination from higher secondary schools. These certificates obtained by vocational education institutes' students are exactly at par with the certificates issued on completion of successful passing of standard 12 examination by general education students coming out of higher secondary schools.

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7. Both these sets of students are eligible to get admission in B.A., B.Com. etc. and to pursue higher studies in colleges. A

These aspects deal with the quality of work. So far as the quantity of work is concerned it is well established that in school cadre in Education Department a Lecturer teaches 30 periods in a week, one period is of 40 minutes' duration, i.e., 20 hours in a week whereas the Language Teachers like the respondents teaching in technical institutes teach for 24 hours in a week, one period being of one hours' duration, i.e., 24 hours in a week. Thus even quantitatively the work which the respondents do is more intensive as compared to the work done by their counterpart teachers in higher secondary schools. That the difference in the nomenclature between the two sets of employees, namely, Language Teachers like the respondents in technical institutes and Lecturers in higher secondary schools does not represent any substantial cleavage in the quantity and quality of work done by both these sets of employees. B C

In the light of these salient features which are well established on record there would be no escape from the conclusion that but for the difference in educational qualifications both these sets of employees are similarly circumscribed. So far as the educational qualifications' difference is concerned that would have, as noted above, made some vital difference but for the fact that the appellants themselves in their own wisdom thought it fit to ignore this difference in the educational qualifications by offering a uniform time scale of Rs.1640-2900 to all Post Graduate Lecturers in higher secondary schools. For all these reasons no fault can be found with the decision rendered by the High Court especially in the light of latter developments at the end of the appellants themselves who treated all these teachers at par by promulgating the Revised Pay Rules in the light of the recommendations of the Pay Revision Committee as well as Pay Anomalies Commission as noted in details by us earlier. D E F

Now is the time for us to refer to a few decisions of this Court to which our attention was invited by learned counsel for the appellants. In the case of *State of Madhya Pradesh & Anr. v. Pramod Bhartiya & Ors.*, [1993] 1 SCC 539 a Bench of three learned Judges of this Court speaking through B.P. Jeevan Reddy, J. held that in the absence of any clear allegation and/or material suggesting that functions and responsibilities of both the categories of lecturers are similar, they cannot claim parity of pay G H

A scales. It is obvious that the aforesaid decision is rendered on the peculiar facts of that case. In para 12 of the Report this aspect is highlighted. The relevant observations are found in the said para as under :

B "The material abovementioned goes to show that (a) the qualifications prescribed for the lecturers in the Higher Secondary Schools and the non-technical lecturers in Technical Schools are the same; (b) service conditions of both the categories of lecturers are same and (c) that the status of the schools is also the same. There is, however a conspicuous absence of any clear allegation and/or material suggesting that functions and responsibilities of both the categories of lecturers are similar. Much less is there any allegation or proof that qualitatively speaking, they perform similar functions. It is not enough to say that the qualifications are same nor is it enough to say that the schools are of the same status. It is also not sufficient to say that the service conditions are similar. What is more important and crucial is whether they discharge similar duties, functions and responsibilities. On this score there is a noticeable absence of material. Whether we look at the averments in, and the material produced along with, the original petition or to the averments in the counter-affidavit or even to the averments in the counter-affidavit filed by the Government in M.P. No. 2277 of 1985 (upon which the counsel for the respondents has placed strong reliance), we do not find any clear material to show that the duties, functions and responsibilities of both the categories of lecturers are identical or similar."

F It becomes at once obvious that this Court, in the absence of material showing equal quality and quantity of work which was being carried out by Lecturers in higher secondary schools and non-technical Lecturers in technical institutes in that case, came to the conclusion that both these groups of employees could not claim identical pay scales. As discussed earlier there is ample material on the other hand in present case. Our attention was also invited to a decision of this court in the case of *Rajendra Prasad Mathur etc. etc. v. Karnataka University & Anr. etc. etc.*, AIR (1986) SC 1448 for submitting that fixation of pay scales is the function of an Expert Body and the Court should not interfere with the same. There cannot be any dispute on this aspect. But as we have seen earlier the appellants themselves in their discretion accepted the advice and recom-

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mendations of the Expert Body, namely, Pay Revision Committee and offered uniform revised pay scales to all the Post Graduate Teachers teaching in higher secondary schools. Learned counsel for the appellants also invited our attention to the following judgments, A

1. *Federation of All India Customs and Central Excise Stenographers (Recognised) and others v. Union of India & Ors.*, [1988] 3 SCC 91. B

2. *Harbans Lal and others v. State of Himachal Pradesh & Ors.*, [1989] 4 SCC 459

for submitting that 'Equal Pay for Equal Work' is a concept which requires for its applicability complete and wholesale identity between a group of employees claiming identical pay scales and the other group of employees who have already earned such pay scales. In the light of what we have discussed earlier the ratio of the aforesaid decisions do not get attracted on the peculiar facts of this case. C D

In the result this appeal fails and is dismissed. Interim stay granted by this Court on 20th February 1995 shall stand vacated. The appellants will have now to make good to the respondents' arrears of pay in the revised pay scale of Rs. 2000-3500 as claimed by them with effect from the date of the judgment of the learned Single Judge of the High Court, that is, from 15th July 1992, though their earlier pay scales will stand notionally revised to Rs. 1640-2900 from 1.1.1986 and to Rs. 2000-3500 from 01st May 1990 and their increments in the said pay scales will have to be worked out accordingly and their present pay will have to be re-fixed accordingly. Only the actual arrears will have to be made available to them in the said revised pay scales from 15th July 1992 as ordered by the learned Single Judge and which part of the order has become final qua respondents as seen earlier. The aforesaid exercise shall be carried out by the appellants and all the monetary benefits shall be made available to the respondents within a period of four months from the date of receipt of a copy of this order at the end of the appellants. In the facts and circumstances of the case there will be no order as to costs. E F G

V.S.S.

Appeal dismissed.