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DHARAM CHAND AND ORS.

v.

HARYANA AGRICULTURAL UNIVERSITY AND ORS.

NOVEMBER 12, 2003

B

[V.N. KHARE, C.J., AND S.B. SINHA, J.]

Service Law:

C *Parity in pay scale—Claim for—Haryana Agricultural University—
Class III employees—Revision of pay scale at par with State Government
employees—Persons employed prior to 6.6.1980 adversely affected as prior
to revision they were getting higher pay scale—Anomaly removal Committee
in order to protect their pay, recommending a different scale of pay to them—
Persons employed after 6.6.1980 claiming same pay scale on the principle
D of 'equal pay for equal work'—Held, on facts, doctrine of equal pay for equal
work not applicable—Authorities of the University merely accepted
recommendations of Anomaly Removal Committee in terms whereof pay scale
of employees appointed prior to 6.6.1980, which is personal in nature, was
protected—These employees form a different class and entitled to different
E treatment—State is entitled to make a classification provided the same is
reasonable and based on intelligible differentia—Decision of University
neither arbitrary nor discriminatory—Doctrine of equal pay for equal work.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5383 of 1998.

F From the Judgment and Order dated 24.10.97 of the Punjab and Haryana
High Court in L.P.A. No. 192 of 1991.

Raj Kumar Gupta, Sheo Kumar Gupta, Ms. Bhanu Pratap Gupta and A.N.
Bardiyar for the Appellants.

Mahabir Singh, Rakesh Dahiya and Nikhil Jain for the Respondents.

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The following Order of the Court was delivered :

The appellants herein are the members of the ministerial staff working
in the Haryana Agricultural University. It is not disputed that they came to
be appointed after 6th June, 1980.

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On or about 2nd April, 1980, the Board of Management of the University authorised the Finance committee to revise the pay scale of all the employees of the University with effect from 1st April, 1979, pursuant where to and in furtherance whereof recommendations were made to grant revised scale of pay to the employees of the University. The University accepted the said recommendations and issued a Notification as regards the revisions of pay scale of all categories of University employees, including clerks on 6th June, 1980. The appellants admittedly herein were appointed on or about after 6th June, 1980.

Having regard to the recommendations of the Finance Committee, the scale of pay of Class III employees of the University was made at par with those of Class III employees of the State Government. The question which arose for consideration before the University was that in the event same scale of pay is made available in relation to the employees appointed both prior to and after 6th June, 1980, the pay scale of the Clerks, who were already in employment of the University, on that day, would go down. In that view of the matter, a representation was made by the said employees before the University and the matter was referred to the Anomaly Removal Committee. Before the Anomaly Removal Committee, the contention of Class III employees of the University, who were appointed prior to 6th June, 1980, was that their scale of pay was earlier fixed at Rs.120-300 whereas those of the State Government was Rs. 110 and 225. Upon consideration of the matters in various meetings, the Anomaly Removal Committee had recommended as under:

“(i) (a) since the pre-revised scale of pay of clerical cadre in the University was Rs. 120-300 against Rs.110-225 under State Government, the persons employed in the clerical cadre of the University, prior to the date of notification of the revised scales i.e., prior to 6.6.80 should be allowed the scale of Rs.420-700 as a personal measure, but recruitment to the clerical cadre on or after that date (6.6.80) should be made in the normal scale of Rs.400-600. Selection grade of Rs.480-760 shall be applicable to 20% of all permanent posts of clerical cadre whether in the scale of Rs.400-660 or in the personal scale of Rs. 420-700.”

The recommendations of the Anomaly Removal Committee was accepted by the Board of Management of the University. The appellants herein emboldened by the said fact filed a writ petition before the High Court under

A Article 226 of the Constitution of India, praying for issuance in the nature of *mandamus* directing the respondent-University to give into them the same scale of pay granted to the other employees on the basis of equal pay for equal work.

B The learned Single Judge of the High Court of Punjab and Haryana accepted the plea of the appellants herein and allowed the writ petition and issued direction that the appellants would be given the same pay scales as being paid to Class III employees appointed prior to 6th June, 1980. Aggrieved, the respondent filed a Letters Patent Appeal before the high Court. The High Court allowed the appeal and set aside the judgment of the learned Single Judge. It is against the said judgment, the appellants are in appeal before us
C by means of special leave petition.

Learned counsel appearing for the appellants submit that as the service rules applicable to all the employees is the same, a common seniority list was prepared and thus the cut off date fixed by the University must be held to
D be arbitrary and unreasonable. Learned counsel contended that keeping in view the admitted fact that the appellants discharge the same duties and functions as those who are appointed prior to 6th June, 1980, they must be held to have been discriminated against as the same scale of pay was not granted to them. Learned counsel appearing on behalf of the respondent on
E the other hand would support the judgment under appeal.

In the instant case, the question of applicability of the Doctrine of Equal Pay for Equal Work does not arise. There is no dispute that the appellants herein, as also those who are appointed prior to 6th June, 1980, perform similar nature of duties and functions. However, in the instant case, the authorities
F of the University, as noticed hereinbefore, have merely accepted the recommendations of the Anomaly Removal Committee in terms whereof the scales of pay payable to the Clerks, who were appointed prior to 6th June, 1980, was protected. By accepting the said recommendations, the University did not make any discrimination; keeping that in view the fact that those who
G are appointed prior to 6th June, 1980 form a different class and, thus, they were entitled to different treatment. Insofar as the scale of pay which was in vogue immediately prior to 6th June, 1980 is concerned, the same was given to them merely with a view to protect their pay. Such an order directing protection of scale of pay of employees, which is personal in nature, will not confer any legal right upon the appellants herein to claim the same remuneration
H in terms of the principles of equal pay for equal work or otherwise. It is now

well known that the state is entitled to make a classification provided the same is a reasonable one and based on intelligible differentia. As the employees, who were appointed prior to 6th June, 1980, form a separate and distinct class. Such a classification was permissible, keeping in view the fact that they were in enjoyment of a higher scale of pay. The decision of the respondent-University to revise their scales of pay, in our considered opinion, cannot be held to be arbitrary and discriminatory. A B

For the aforesaid reasons, we do not find any merit in the appeal. It fails and is, accordingly, dismissed. No costs.

R.P.

Appeal dismissed.