

CASE NO.:
Appeal (civil) 7356 of 2000

PETITIONER:
Nehru Yuva Kendra Sangathan

RESPONDENT:
Rajesh Mohan Shukla & Ors

DATE OF JUDGMENT: 12/07/2007

BENCH:
A.K.MATHUR & LOKESHWAR SINGH PANTA

JUDGMENT:
J U D G M E N T

With :
Civil Appeal No.7357 of 2000

A.K. MATHUR, J.

1. The short question involved in these appeals is whether the Youth Coordinators are entitled to equal pay for equal work working in the same organization.

2. On 14.11.1972, on the birth anniversary of Pandit Jawahar Lal Nehru the Government of India took a decision to start Nehru Yuva Kendra in every district in the country. The scheme was floated with a view to involve the rural youth who do not have otherwise opportunities for participation in programmes of self, social and national development. This scheme was earlier launched by the Government of India, through the then Ministry of Education and Social Welfare Department now re-designated as the Ministry of Human Resources Development (Department of Youth Affairs and Sports). Initially, the appointment of these Youth Co-ordinators were made on ad hoc basis. Thereafter, a proposal was made by the Government of India in July, 1977 to the Union Public Service Commission (for short, UPSC) for continuation of the ad hoc arrangement but the UPSC did not accept the same and instructed that the recruitment rules be notified. Thereafter, Nehru Yuva Youth Coordinators Recruitment Rules, 1980 were promulgated. Under these rules, one of the modes of recruitment was by way of deputation from the Government departments and another by direct recruitment. Thereafter, Government of India in the Ministry of Human Resources Development (Department of Youth Affairs and Sports) decided to establish a Nehru Yuva Kendra Sangathan, an autonomous body under the Societies Registration Act, 1860 and in pursuance thereof, a resolution was passed on 24.3.1987 and the management and administration of Nehru Yuva Kendra located in various districts was taken over by the Sangathan with effect from 1.4.1987. Two sources of recruitment i.e. one by deputation and the other by way of direct recruitment were prescribed and all these present petitioners were recruited directly on fixed term basis. However, those who had come on deputation were asked to exercise their option to continue or revert back. Those who opted to continue gave their option and were allowed to continue. Those who were recruited were retained and those who did not exercise their option were reverted back. Some of the aggrieved persons approached the Central Administrative Tribunal and thereafter the matter ultimately

came up before this Court and this Court passed certain directions. This Court passed an order that the salary and other benefits which are being drawn by the Youth Coordinators and other similarly situated shall not be reduced to their detriment on the ground that they have now been absorbed in the service of the Sangathan. In pursuance to the direction given by this Court all those deputationists and the directly recruited Youth Coordinators were absorbed in Sangathan with effect from 1.4.1987 and their conditions of service were also protected. There was due restructure in pay in pursuance to the direction given by this Court. Then the Board of Directors of the Sangathan decided that those who are directly recruited and those who are on deputation their basic pay may be same but a distinction was made with regard to their dearness allowance. Thereafter, those direct recruit Youth Coordinators filed a writ petition in the Allahabad High Court praying that they were entitled to dearness allowance at par with the Group 'A' Central Government Employees. The High Court directed that the writ petitioners should submit representation for the same benefit to the Government and the same was made but did not find favour with the Government. The Government while rejecting the representation observed that different pay structure is existing because of the order passed by the Supreme Court and it was observed that the incumbents were on contractual basis and so far as the salary of other lot is concerned, it is being paid as per the direction of the Supreme Court. The direct recruits' pay is being paid in accordance with the terms and conditions of service which were offered to them at the time of their recruitment. After dismissal of the representation by the Government another writ petition was filed by these direct recruit Youth Coordinators before the High Court of Allahabad for equal pay and other benefits which are being given to their counterparts. The High Court by its order dated 29.11.1999 allowed the writ petition and directed that same benefits which are being given to those deputationists and who have been absorbed as Youth Coordinators should be given to these writ petitioners who have been directly recruited as the work and duties of both the categories of Youth Coordinators are similar and they discharge similar duties. A counter affidavit was filed before the High Court and it was pointed out that same pay scale has been granted to the writ petitioners as well as to their counterparts i.e. the deputationists who were absorbed except varying dearness allowance. The Division Bench of the Allahabad High Court relying on a decision of this Court issued mandamus to give the same benefits as prayed by the writ petitioners including same dearness allowance. Hence aggrieved by the order of the High Court, the present appeals were filed.

3. We have heard learned counsel for the parties and perused the records. At the time of admission of these appeals, this Court passed the following order on 1.5.2000. The order reads as follows :

" Issue notice confined to the question as to why the relief granted by the High Court may not be confined to the date of filing of the writ petition in the High Court. "

Now, these appeals have come up for hearing. We find that the nature of duties being discharged by the Youth Coordinators who have come on deputation and have been absorbed as such and those who were directly recruited on fixed term are discharging the same duties. The only difference is their source of recruitment. Once the deputationists are discharging the same duties and are being paid salary and other allowances then there is no reason to deny the same benefits who are discharging the same duties and functions. Those deputationists now absorbed obtained the order from this

Court but the direct recruits did not approach this Court, they were treated as a class apart because of their source of recruitment. Once these persons are already working for more than two decades discharging the same functions and duties then we see no reason why the same benefit should not be given to the respondents. Looking to the nature and duties of these respondents we are of opinion that there is no reason to treat them differently. However, at the time of admission this Court on 1.5.2000 confined the relief from the date of filing of the writ petition before the High Court. In fact, these directly recruited Youth Coordinators approached the Court in earlier point of time but they were advised to approach the Government and they did approach the Government but the Government denied them the same relief as was given to the deputationists. Therefore, there is no reason not to grant them the same scale pay and as such this Court at the time of admission has confined the relief that why it should not be granted from the date of the filing of the writ petition in the High Court. Accordingly, we dispose of these civil appeals with a direction that the same benefits as were being given to the Youth Coordinators who were initially on deputation and were absorbed, should be given to the respondents from the date of filing of the writ petition in the High Court of Allahabad. Hence, the order of the High Court of Allahabad is affirmed with minor modification as indicated above. There would be no order as to costs.