

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (C) NO. 648 OF 2002

Ramesh Singh

...Petitioner

Versus

Union of India & Ors.

...Respondents

J U D G M E N T

Dr. ARIJIT PASAYAT, J

1. Grievance in the writ petition under Article 32 of the Constitution of India, 1950 (in short ‘the Constitution’) is that there should be parity in the matter of service benefits so far as the army personnel and officers working in the General Reserve Engineering Force (in short ‘GREF’). Stand of the petitioner that he and other employees are serving in the Border Road Organisation and the Government of India is bound to treat equally with the members of the Armed Force

and there should not be any distinction pertaining to extending the facilities and benefits in the service including allowance pay etc. Reference is made to a decision of this Court in R. Viswan and Ors. v. Union of India and Ors. (1983 (3) SCC 401) to contend that this Court had, in fact, directed such a course to be adopted. It is pointed out under a misconception the 4th and the 5th Central Pay Commissions have not considered the connected issue in the proper perspective.

2. Mr. B. Dutta, learned Additional Solicitor General, on the contrary submitted that in R. Viswan's case (supra) there was no direction to give parity as is being contended by the petitioner. On the contrary in Sukhdev Singh Gill v. State of Punjab and Ors. (2000 (8) SCC 492), this Court had, inter alia, held that such a course is not permissible.

3. In R. Viswan's (supra) it was, inter-alia, observed as follows:

“11. Before we part with this point, we may point out that an anguished complaint was made before us on behalf of the petitioners that there is considerable disparity between the Army personnel posted in GREF units and the other officers and men of GREF insofar as the terms and conditions of service, such as, salary, allowances and rations are concerned. It is not necessary for us to consider whether this complaint is justified; it is possible that it may not be wholly unjustified but we may point out that in any event it has no real bearing at all on the question whether the members of GREF can be said to be members of Armed Forces. Since the members of GREF are drawn from two different sources, it is possible that the terms and conditions of service of the personnel coming from the two sources may be different. The Army personnel posted in GREF units naturally carry their own terms and conditions of service while the other officers and men in GREF are governed by their own distinctive terms and conditions. It is difficult to appreciate how differences in terms and conditions of service between GREF personnel coming from two different streams can possibly have any impact on the character of GREF as a force integral to the Armed Forces. It is immaterial for the purpose of determining whether the members of GREF are members of the Armed Forces as to what are the terms and conditions of service of the members of GREF and whether they are identical with those of Armed personnel appointed on the same or equivalent posts in GREF units. But, we may observe that in case it is found that the terms and conditions of service of officers and men in GREF directly recruited or taken on deputation are in any way less favourable than those of Army personnel appointed to the same or equivalent posts in GREF, the Central Government might well consider the advisability of taking steps for ensuring that the disparity, if any, between the terms and conditions of service, such as, salary, allowances, rations etc. of Army personnel posted in GREF units and other officers and men in GREF is removed.”

4. Subsequently, in Union of India v. Dineshan K.K. (2008 (1) SCC 586) at para 10 it was observed as under:

“10. Mr. B. Dutta, learned Additional Solicitor General, appearing for the Union of India contended that the direction given by the High Court is manifestly contrary to the settled legal position, enunciated by this Court in several decisions that pay fixation is essentially an executive function, ordinarily undertaken by an expert body like the Pay Commission, whose recommendations are entitled to a great weight though not binding on the Government. It was argued that the recommendations of an expert body are not justiciable since the Court is not equipped to take upon itself the task of job evaluation, which is a complex exercise. In support of the proposition, reliance is placed on two decisions of this Court in S.C. Chandra v. State of Jharkhand (2007 (8) SCC 279) and Union of India v. Hiranmoy Sen (2008 (1) SCC 630).”

5. We find from the extract of the 4th Central Pay Commission's Report in para 10.472 the Commission had with reference to this Court's judgment in R. Viswan's case (supra) held that there was no scope for any parity as

contended. Similar is the position in the 5th Central Pay Commission report.

6. In view of what has been stated in Sukhdev Singh Gill's case (supra) and the fact that the 4th and 5th Central Pay Commissions considered the relevant aspects, we are of the view that the prayers as made cannot be accepted; more particularly, when there is no challenge to the recommendations of the 4th and 5th Central Pay Commissions. It needs no emphasis that even if such a challenge is made, the scope for interference is extremely limited because the Court does not normally substitute its views for those of expert bodies like Pay Commission unless some glaring infirmities are established.

7. The writ petition fails and is dismissed.

.....J.
(Dr. ARIJIT PASAYAT)

.....J.
(P. SATHASIVAM)

.....J.
(AFTAB ALAM)

New Delhi,
March 11, 2008

