2026 INSC 1004

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 7565-7567 OF 2011

G.P. SANGEETHA AND ORS. ETC. ETC. ...APPELLANTS

VERSUS

STATE OF KERALA AND ORS. ...RESPONDENTS

WITH

CIVIL APPEAL NO. 9060 OF 2011

SHARAFUDDEN. M. ...APPELLANT

VERSUS

INDU T.K. AND ORS. ...RESPONDENTS

J U D G M E N T

DIPANKAR DATTA, J.

1. Appellants are Higher Secondary School Teachers, Junior[1], in Government aided schools in the State of Kerala appointed through direct recruitment in terms of Government Order dated 13th May, 1998. They call in question the judgment and order dated 22nd March,

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Reason:

[1] "HSST Jr.

2011[2] of the Division Bench of the High Court of Kerala at Ernakulam[3] allowing an intra-court appeal[4] carried to it by the State of Kerala and the Director of Higher Secondary Education. The impugned judgment reversed the common judgment and order of the Single Judge dated 22nd December, 2009 whereby several writ petitions[5], preferred by the appellants, were allowed.

2. In their writ petitions, the appellants claimed full-time pay scale which were being extended to teachers who were appointed either by transfer or by promotion. The short question, therefore, is whether within one and the same cadre of HSST, Jr. teachers, there could be a difference in pay scales admittedly when the qualifications, the duties and the responsibilities of both groups of HSST, Jr. teachers – those directly recruited and those appointed by transfer/promotion – are identical.

3. Mr. V. Giri, learned senior counsel and Dr. Menaka Guruswamy, learned senior counsel appearing for the several appellants have been heard at length.

4. Respondents are not called upon to answer.

5. Bare reading of the judgment of the Single Judge reveals consideration of and reliance placed on several decisions of this

[2] impugned judgment
[3] High Court
[4] W.A. No. 1351 of 2010
[5] W.P.(C) No.12790 of 2005, W.P.(C) No.12012 of 2006 and W.P.(C) No.10520 of 2009

Court, viz., ***Roshan Lal Tandon v. Union of India***[6], ***General Manager, South Central Railway, Secunderabad v. A.V.R. Siddhanti***[7], ***M.P. Singh, Dy. Supdt. of Police, C.B.I. v. Union of India***[8], ***Telecommunication Research Centre Scientific Officers (Class I) Association v. Union of India***[9], ***Bhagwan Dass and Ors. v. State of Haryana***[10], ***Jaipal v. State of Haryana***[11], and ***Kamlakar v. Union of India***[12] and a couple of decisions of the High Court. Finally, the Single Judge concluded that the petitioners before the court had been subjected to grave discrimination and that their contentions were well founded.

6. While reversing the judgment of the Single Judge, the Division Bench observed in the impugned judgment as follows:

> "5. After hearing both sides and after going through the judgments, and the scheme of notifications, we are unable to uphold the judgments because in our view promoted teachers and respondents cannot be treated as equal, no matter they are doing the same periods of work as part-time higher secondary school teachers. … Even though part time teachers in HSS whether came on promotion from lower schools on promotion or through direct recruitment do the same periods of work, the question to be considered is whether the Government was justified in treating promotes differently from direct recruitees which is allegedly to be solely based on method of their appointment. In this context, we have to examine as to the basis of classification adopted by the Government for giving better benefits to the promoted teachers, while denying it to the direct recruits. We have already stated that those promoted as part-time Higher Secondary school teachers, prior to their promotions, were full-time permanent high school or lower school teachers with long period of service and they qualify for

[6] AIR 1967 SC 1889
[7] AIR 1974 SC 1755
[8] AIR 1987 SC 485
[9] AIR 1987 SC 490
[10] AIR 1987 SC 2049
[11] AIR 1988 SC 1504
[12] AIR 1999 SC 2300

> promotion by virtue of their seniority in service and educational qualification to get appointment in the Higher Secondary schools. Therefore, what the Government sought to achieve is to ensure that there was no erosion in the status of long time serving permanent teachers when they are promoted as part-time teachers in the Higher Secondary schools. Therefore, the benefit given under the above notifications that is full-time pay and allowances to part-time teachers appointed in the Higher Secondary Schools on promotion from high schools and other lower schools is essentially retention of the status as full-time teachers, which they were enjoying before their promotion. … We therefore feel that the object of the notifications is to protect and retain the benefits and status the promoted teachers were enjoying in the lower schools where from they were promoted. It is essentially a recognition for the service rendered by them and the status they were enjoying as full-time teachers prior to promotion which justify the Government orders authorizing payment of full pay and allowances. Respondents on the other hand are a category of youngsters seeking employment as freshers in the Higher Secondary Schools. … None of the decisions cited by respondents applies to the facts of this case as such. … Article 14 applies only among equals and going by the facts stated above, promotes who are appointed as part-time teachers in the higher secondary schools cannot be equated to freshers appointed as part-time teachers in the higher secondary schools merely because the period of work is the same for both the categories. In any case, there is lot of difference between two constituents of part-time higher secondary school teachers, that is between promotes (sic, promotees) from high schools and other schools, and the direct recruits, and the difference has a direct relation to the additional benefit given to promoted teachers."

7. We had put it across to learned senior counsel for the appellants that all the decisions relied on by the Single Judge were rendered in the last century and that judicial interpretation of equal pay for equal work has undergone a significant shift.

8. In the last century, following the decision in ***Randhir Singh v. Union of India***[13], this Court treated equal pay for equal work as an expansive anti-exploitation principle under Articles 14 and 39(d), where the mere sameness of designation – teacher with teacher,

[13] (1982) 1 SCC 618

accountant with accountant, clerk with clerk, driver with driver, etc. – was sufficient to claim parity. In this century, however, beginning with the decision in ***State Bank of India vs. M.R. Ganesh Babu***[14] and ending with ***State of Bihar vs. Bihar Secondary Teachers Struggle Committee***[15], the doctrine has been recast as a strict test based on service rules. Decisions are legion that equal pay cannot be claimed by merely showing identical work; the claimant-employee must establish complete parity in the source of recruitment, educational qualifications and experience, mode of appointment through a constitutional process, and nature of responsibilities and accountability. Mere functional similarity of work has been held to be no longer enough.

9. In ***M.R. Ganesh Babu*** (supra), this Court observed as under:

> "**16**. The principle of equal pay for equal work has been considered and applied in many reported decisions of this Court. The principle has been adequately explained and crystallised and sufficiently reiterated in a catena of decisions of this Court. It is well settled that equal pay must depend upon the nature of work done. It cannot be judged by the mere volume of work; there may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference. One cannot deny that often the difference is a matter of degree and that there is an element of value judgment by those who are charged with the administration in fixing the scales of pay and other conditions of service. So long as such value judgment is made bona fide, reasonably on an intelligible criterion which has a rational nexus with the object of differentiation, such differentiation will not amount to discrimination. The principle is not always easy to apply as there are inherent difficulties in comparing and evaluating the work done by different persons in different organizations, or even in the same organization. Differentiation in pay scales of persons holding same posts and performing similar work on the basis of difference in the degree of responsibility, reliability and confidentiality would be a valid

[14] (2002) 4 SCC 556
[15] (2019) 18 SCC 301

differentiation. The judgment of administrative authorities concerning the responsibilities which attach to the post, and the degree of reliability expected of an incumbent, would be a value judgment of the authorities concerned which, if arrived at bona fide, reasonably and rationally, was not open to interference by the court."

10. Close on the heels of the aforesaid decision came the decision of a 3-Judge Bench in ***Government of West Bengal v. Tarun Kumar Roy***[16] where this Court pithily observed:

> **14.** Article 14 read with Article 39(*d*) of the Constitution of India envisages the doctrine of equal pay for equal work. The said doctrine, however, does not contemplate that only because the nature of the work is same, irrespective of an educational qualification or irrespective of their source of recruitment or other relevant considerations the said doctrine would be automatically applied. The holders of a higher educational qualification can be treated as a separate class. Such classification, it is trite, is reasonable. Employees performing the similar job but having different educational qualification can, thus, be treated differently.
>
> (emphasis ours)

11. This decision was followed by another 3-Judge Bench decision in ***State of Haryana v. Charanjit Singh***[17]. There, this Court *inter alia* had the occasion to note the decisions in ***Tarun Kumar Roy*** (supra) and ***State of Haryana vs. Tilak Raj***[18] and endorsed the same by opining as follows:

> "**9**. In ***State of Haryana vs. Tilak Raj***, it has been held that the principle of equal pay for equal work is not always easy to apply. It has been held that there are inherent difficulties in comparing and evaluating the work of different persons in different organisations or even in the same organisation. It has been held that this 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.

[16] (2004) 1 SCC 347
[17] (2006) 9 SCC 321
[18] (2003) 6 SCC 123

> It has been held that the problem about equal pay cannot be translated into a mathematical formula.
> ***
> **19**. Having considered the authorities and the submissions we are of the view that the authorities in ***State of Haryana vs. Jasmer Singh***[19], ***Tilak Raj***, ***Orissa University of Agriculture and Technology vs. Manoj K. Mohanty***[20] and ***Tarun K. Roy*** lay down the correct law. Undoubtedly, the doctrine of "equal pay for equal work" is not an abstract doctrine and is capable of being enforced in a court of law. But equal pay must be for equal work of equal value. The principle of "equal pay for equal work" has no mechanical application in every case. Article 14 permits reasonable classification based on qualities or characteristics of persons recruited and grouped together, as against those who were left out. Of course, the qualities or characteristics must have a reasonable relation to the object sought to be achieved. In service matters, merit or experience can be a proper basis for classification for the purposes of pay in order to promote efficiency in administration. A higher pay scale to avoid stagnation or resultant frustration for lack of promotional avenues is also an acceptable reason for pay differentiation. The very fact that the person has not gone through the process of recruitment may itself, in certain cases, make a difference. If the educational qualifications are different, then also the doctrine may have no application. Even though persons may do the same work, their quality or work may differ. Where persons are selected by a Selection Committee on the basis of merit with due regard to seniority a higher pay scale granted to such persons who are evaluated by the competent authority cannot be challenged. A classification based on difference in educational qualifications justifies a difference in pay scales."
>
> (emphasis ours)

12. After referring to a host of precedents in the field, paragraph 96 of the decision in ***Bihar Secondary Teachers Struggle Committee*** (supra) captured the limitations and/or qualifications for application of the doctrine of equal pay for equal work.

13. It is, therefore, clear on reading the relevant precedents that a mechanical application of the doctrine of equal pay for equal work has to be eschewed. It is not the law that the doctrine can never be

[19] (1996) 11 SCC 77
[20] (2003) 5 SCC 188

enforced; but, for such enforcement, a host of factors need consideration. If there is complete parity *qua* all such factors and should equal pay be claimed for equal work of equal value, the writ court can intervene and grant appropriate relief; otherwise not.

14. Here, the experience of the transferee/promotee HSST, Jr. teachers compared with that of the direct recruit HSST, Jr. teachers provide a valid and intelligible differentia, having a nexus with the object sought to be achieved, to justify grant of a higher pay to the former.

15. Dr. Menaka Guruswamy, inviting our attention to the decision in ***Bihar Secondary Teachers Struggle Committee*** (supra), sought to distinguish the same by relying on the reasons assigned by a Division Bench of the High Court at Calcutta in ***State of West Bengal v. Anirban Ghosh***[21]. It was also brought to our notice that the special leave petition[22], challenging such decision, has since been dismissed by this Court on 16th July, 2024.

16. The decision of the Division Bench in ***Anirban Ghosh*** (supra) has been perused. All the decisions of this Court on the topic, which were noticed in ***Bihar Secondary Teachers Struggle Committee*** (supra), do not appear to have been placed before the Division Bench. To the extent inconsistent with binding precedents of this Court, the decision in ***Anirban Ghosh*** (supra) has to be held *per*

[21] 2020 SCC OnLine Cal 3316
[22] SLP (C) No. 14355 of 2021

incuriam. Also, the mere fact of dismissal of the special leave petition by this Court would not be sufficient for us to take a different view.

17. For the reasons aforesaid, we are of the considered opinion that since the two group of teachers cannot claim equivalence *qua* experience in rendering service as teachers, the same is a valid criterion for differentiation in pay scales.

18. The impugned judgment does not merit interference.

19. The appeals are, accordingly, dismissed on the aforesaid terms.

20. Pending application(s), if any, stand disposed of.

.....J.
(DIPANKAR DATTA)

.....J.
(SHEEL NAGU)

NEW DELHI;
SEPTEMBER 08, 2026.