

Employees Of Tannery & Footwear ... vs Union Of India And Others on 7 December, 1990

Equivalent citations: AIR1991SC1367, (1991)1COMPLJ106(SC), JT1991(5)SC90, 1991LABLC1120, (1991)ILLJ563SC, 1990(2)SCALE1230, 1991SUPP(2)SCC565, 1991(2)SLJ1(SC), 1991(1)UJ222(SC), (1991)1UPLBEC218, AIR 1991 SUPREME COURT 1367, 1991 LAB. I. C. 1120, 1991 (1) UPLBEC 218, (1991) 2 SERVLJ 1, (1991) 1 COMLJ 106, (1991) 5 JT 90 (SC), 1991 (1) UJ (SC) 222, 1991 UJ(SC) 1 222, 1991 (2) SCC(SUPP) 565, 1991 SCC (SUPP) 2 565, (1991) 1 LABLJ 563, (1991) 2 SERVLR 131, 1992 SCC (L&S) 164, (1991) 1 UPLBEC 218

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Bench: Kuldip Singh, S.C. Agrawal

ORDER

S.C. Agrawal, J.

1. These writ petitions filed under Article 32 of the Constitution by the Employees of Tannery & Footwear Corporation of India Limited (hereinafter referred to as the 'respondent- corporation') relate to the revision of pay and allowances of the employees in the unionised cadre of the respondent-corporation.

2. The respondent-corporation is a Company registered under the Companies Act, 1956. It was set up for the purpose of taking-over the two units of the British India Corporation Limited, namely, Cooper Alien and North West Tannery. It is an undertaking owned by the Government of India and it functions under the administrative control of Ministry Of Industry, Department of Industrial Development. The pay-scales of the employees of the respondent-corporation are fixed and revised as per orders of the Central Government issued from time to time with the prior approval of Bureau of Public Enterprises. In these petitions we are concerned with the employees in the unionised cadre falling in four categories:

(i) Peons, Watchmen, etc.

(ii) Jamadars, Recorders, etc.

(iii) Lower Division Clerks, Clerk-cum-Typists, Compounders, Teachers, Typists, Nurses, Drivers, etc.

(iv) Stenographers, Upper Division Clerks, Assistants, etc. By letter dated December 28, 1976, the Government of India approved the revision of pay-scales and allowances of the monthly rated employees of the respondent-corporation and in accordance with the said directions the pay-scales of the above-mentioned four categories of the employees in the unionised cadre of the respondent-corporation were fixed as under:

(i) Peons, Watchmen, etc. Rs. 196-232 (ii) Jamadars, Recordars, etc. Rs. 210-270 (iii) Lower Division Clerks, Rs. 260-400 Clerks-cum-Typists, Typists, Compounders, Teachers, Nurses, Drivers, etc. (iv) Stenographers, Upper Rs. 330-560 Division Clerks, Assistants, etc.

3. The dearness allowance was granted on the basis of the Industrial D.A. formula by adjusting the D.A. at Rs. 1.30 per point shift in the All India Consumer Price Index average. The base D.A. was fixed at Rs. 65/- per month relating to the consumer Price Index average of 200 and adjustment was to be made on quarterly basis. Ever since December, 1982, the TAFCO Staff Welfare Association, Petitioner No. 1 herein, was seeking revision of pay-scales and D.A. of the staff and officers but having failed in these efforts the petitioners filed these writ petitions wherein it is prayed that respondents Nos. 1 and 3 viz: the Union of India and the respondent-corporation be directed to revise the pay-scales and allowances of the employees of the respondent-corporation with effect from August 1, 1982 in terms of the Guidelines dated November 27, 1982, issued by the Bureau of Public Enterprises, respondent No. 2 herein, and that the respondent-corporation be directed to pay dearness allowance on industrial pattern to the employees of the respondent-corporation in terms of the said revision at the rates notified by the Bureau of Public Enterprises with effect from August 1, 1982 and April 1, 1983. It has also been prayed that respondents Nos. 1 and 3 be directed to grant with effect from August 1, 1982 all the benefits of pay revision and revision of other allowances which have been extended to the employees of those public sector enterprises which have introduced and implemented the guidelines of respondent No. 2.

4. During the pendency of this writ petition, this Court on November 18, 1985 passed the following order:

Issue Rule. Pending the hearing and disposal of the Writ Petitions, the Respondent will pay within two months from today to the staff of the Unionised cadre of the Tannery & Footwear Corporation Of India Ltd., the same pay and allowances as are given to the staff of the Unionised cadres mentioned in Annexure IV of the Writ Petition, in case the same have not been paid so far.

5. This order was modified by order dated March 3, 1986, and in place of the words "the same pay and allowances as are given to the staff of the Unionised cadres mentioned in Annexure IV to the Writ Petition" words "adopting the same procedure as in the case of staff of the Unionised cadre

mentioned in Annexure IV to the Writ Petition" were substituted. After the passing of the aforesaid orders by this Court, the Government of India, by letter dated April 24, 1986, conveyed their approval to the revision of pay-scales and allowances of the clerical staff and workmen as indicated in the Annexure to the said letter and in accordance with the same, the respondent-corporation passed an order dated April 25, 1986, whereby the pay-scales of the clerical and subordinate staff of the respondent-corporation were revised as follows:

Scale of Pay Existing Revised Rs.

Rs.

1. 196-3-220-EB-4-234 340-4-372-EB-4-388

2. 210-4-250-EB-5-270 355-5-405-EB-6-435

3 . 2 6 0 - 6 - 2 9 0 - E B - 6 - 3 2 6 8 - 3 9 0 - 1 0 - 4 0 0
410-8-450-EB-498-10-548-EB-10-578-12-590

4. 330-10-380-EB-12 500-EB-15-560 490-12-550-EB-15-700-EB-20-780

6. The fixed D.A. linked to All India Consumer Price Index 499 (Simla Series 1960-100) has been fixed at Rs. 374/- and further neutralisation is to be at the rate of Rs. 1.65 per point shift in AICPI beyond Index 499. This revision has been made effective from August 1, 1983 and is valid upto July 31, 1987.

7. Counter affidavits have been filed on behalf of respondents Nos. 1 and 2 as well as the respondent-corporation wherein it has been stated that the petitioners cannot claim revision of pay and allowances on the basis of Guidelines dated November 27, 1982 issued by the Bureau of Public Enterprises for the reason that the said Guidelines relate to the fixation of pay and allowances of officers only and do not relate to subordinate staff. As regards payment of dearness allowance on the industrial pattern, it has been submitted that the employees in the unionised cadre in the respondent corporation are being paid dearness allowance on industrial pattern since 1976 when their pay-scales were revised by order dated December 28, 1976 with effect from August 1, 1976. It has been submitted that in view of the revision of the pay-scales of the employees in the unionised cadre by order dated April 25, 1986 with effect from August, 1983, the petitioner can have no cause for grievance and the writ petitioners do not survive.

8. Shri G.L. Mukhoty, the learned Counsel appearing for the petitioners, has urged that the revision of the pay-scales under order dated April 25, 1986, does not do full justice to the employees inasmuch as in spite of the said revision the pay-scales of the employees are much lower than the pay-scales enjoyed by employees in the same categories in other undertakings of the Government of India. Shri Mukhoty has, however, confined his submissions by comparing the revised pay-scales with the pay-scales of employees falling in the same categories employed with the Cotton Corporation of India, which is also an undertaking of the Government of India. Shri Mukhoty has

pointed out that in 1970 the employees in the above-mentioned four categories employed with respondent-corporation and Cotton Corporation of India were having the same pay-scales and that after 1970, the pay-scales of employees in the Cotton Corporation of India have been revised from time to time with effect from January 1, 1973, October 1, 1977 and September 1, 1982, whereas the pay-scales of the employees in the respondent-corporation were revised with effect from August 1, 1976 and thereafter by order dated April 24, 1986 during the pendency of these petitions with effect from August 1, 1983. The submission of Shri Mukhoty is that the revised pay-scales of the employees of respondent-corporation are much lower than the pay-scales enjoyed by the employees in the Cotton Corporation of India which were revised from an earlier date, i.e. August 1, 1982.

9. Shri Mukhoty has urged that since the employees falling in the four categories mentioned above in both these corporations, which are undertakings of the Government of India, are discharging the same functions and were having the same pay-scales in 1970, such employees who are employed with the respondent-corporation cannot be treated differently from employees who are employed with the Cotton Corporation of India in the matter of fixation of pay-scales and that the pay-scales of the employees falling in the above-mentioned categories who are employed with the respondent-corporation must be fixed at the same level as the pay-scales enjoyed by such employees in the Cotton Corporation of India.

10. Shri V.C. Mahajan, the learned Counsel appearing for the respondents, has urged that the respondent-corporation and the Cotton Corporation of India are different legal entities and the petitioners who are employed with the respondent-corporation cannot claim parity in the matter of pay-scales with the employees working in the Cotton Corporation of India inasmuch as the considerations which are required to be taken into account for fixation of pay-scales are not the same in the two categories. Shri Mahajan has submitted that the principle of 'equal pay for equal work' cannot be invoked by the petitioners and he has placed reliance on the decisions of this Court in *State of U.P. and Ors. v. J.P. Chaurasia and Ors.* (1988 Supp. 3 S.C.R. 288); *Umesh Chandra Gupta and Ors. v. Oil and Natural Gas Commission and Ors.*; *V. Markendeya and Ors. v. State of Andhra Pradesh and Ors.* and *C.R. Seshan and Anr. v. State of Maharashtra and Ors.*

11. In our view the respondents are right in pointing out that the Guidelines dated November 27, 1982, issued by the Bureau of Public Enterprises which have been issued with regard to the revision of pay-scales of the officers in Government undertakings and they do not apply to subordinate staff like the petitioners in these writ petitions. The petitioners, therefore, cannot seek any relief on the basis of the said Guidelines. As regards the payment of dearness allowance on industrial pattern, we find that the employees in the unionised cadre in the respondent-corporation are being paid dearness allowance on the Industrial D.A. pattern ever since the revision of their pay-scales under order dated December 28, 1976 with effect from August 1, 1976, and the revised pay-scales under order dated April 25, 1986, also envisage payment of dearness allowance on Industrial D.A. pattern. The only question which needs to be examined in these writ petitions is whether the revision in the pay-scales of the employees falling in the four categories mentioned above in the unionised cadre in the respondent-corporation under order dated April 25, 1986 suffers from any legal infirmity. The petitioners have assailed the said fixation on the ground that they have been denied parity with other employees similarly situated employed with the Cotton Corporation of India and they want

their pay-scales to be revised on the same pattern.

12. It is not disputed that at one stage, namely, in 1970, the pay-scales of the employees falling in the aforesaid four categories employed with the respondent-corporation as well as Cotton Corporation of India were identical and were as follows:

Category Pay-Scale (i) Peons, Watchmen, etc. Rs. 70-85 (ii) Jamadars, Recordars, etc. Rs. 70-85 (iii) Lower Division Clerks, Rs. 110-180 Clerks-cum-Typists, Typists, Compounders, Teachers, Nurses, Drivers, etc. (iv) Stenographers, Upper Rs. 160-240 Division Clerks, etc. This would show that the nature of duties of the staff falling in these four categories in both the corporations were the same and there was parity in the pay-scales of these employees in both these corporations. After 1970 the pay-scales of the employees in Cotton Corporation of India were revised thrice, whereas the pay-scales of the employees in the respondent-corporation were revised twice in the following manner:

Tannery & Footwear Corporation of India Ltd.

M/s. Cotton Corporation of India Category Year Pay-Scale Pay-Scale

(i) Peons, Watchmen etc. 1970 1973 70-1-85 70-1-85 196-232 (Revised w.e.f. 1-1-73) 196-232 (Revised w.e.f. 1-8-1976) 250-330 (Revised w.e.f. 1-10-77) 500-720 (Revised w.e.f. 1-9-82) 340-388 (Revised w.e.f. 1-8-1983)

(ii) Jamadars, Recordars, etc. 1970 1973 70-1-85 70-1-85 210-270 (Revised w.e.f. 1-1-73) 210-270 (Revised w.e.f. 1-8-76) 250-330 (Revised w.e.f. 1-10-77) 500-720 (Revised w.e.f. 1-9-82) 355-435 (Revised w.e.f. 1-8-83)

(iii) Clerks, 110-180 110-180 Clerks-cum-Typists, 260-400 (Revised w.e.f. 1-1-73) Typists, Compounders, 260-400 (Revised w.e.f. 1-8-76) Teachers, Nurses, 300-584 (Revised w.e.f. 1-10-77) Drivers, etc. 550-761 (Revised w.e.f. 1-9-82) 410-590 (Revised w.e.f. 1-8-83)

(iv) Stenographers, Upper Division 160-240 160-240 Clerks, Assistants, etc. 330-560 (Revised w.e.f. 1-1-73) 330-560 (Revised w.e.f. 1-8-76) 380-718 (Revised w.e.f. 1-10-77) 650-980 (Revised w.e.f. 1-9-82) 490-780 (Revised w.e.f. 1-8-83)

13. It is thus evident that although in 1970 there was parity in the pay-scales of the employees falling in the four categories referred to above who were employed with the respondent-corporation and the Cotton Corporation of India, the said parity was disturbed in course of time on account of the fact that in the Cotton Corporation of India there was timely revision in the pay-scales in 1973 1977 and 1982, whereas in the respondent-corporation, the revision in the pay-scales was after a much longer gap in 1976 and 1983. The revised pay-scales granted to the employees of the Cotton Corporation of India with effect from January 1, 1973 were given to the employees of the

respondent-corporation with effect from August 1, 1976. The said pay-scales were fixed as per the Third Central Pay Commission formula which had come into force with effect from January 1, 1973. This would show that while the employees of the Cotton Corporation of India were given the revised pay-scales in accordance with the Third Pay Commission formula with effect from January 1, 1973, when the revised pay-scales as recommended by the Third Pay Commission were brought into force, the employees of the respondent- corporation were given the said revised pay-scales from a later date. i.e. August 1, 1976. In the Cotton Corporation of India the employees had a revision of their pay-scales with effect from October 1, 1977 and a further revision with effect from September 1, 1982 whereas in the respondent-corporation there was no revision in the pay-scales after the revision of 1976 till the passing of the order dated April 25, 1986 during the pendency fixed under order, dated April 25, 1986, are, however, much lower than the pay-scales of these writ petitions whereby the pay- scales have been revised with effect from August 1, 1983. The revised pay-scales of similar employees in the Cotton Corporation of India which were fixed with effect from September 1, 1982. Thus, we find that though there was parity in the pay-scales of the employees falling in the categories mentioned above in the respondent-corporation and the Cotton Corporation of India, in 1970, the said parity was disturbed in 1973 when the pay-scales of the employees in the Cotton Corporation of India were revised in accordance with the Third Pay Commission formula. The parity was sought to be restored in 1976 when the pay-scales of the employees in the respondent-corporation were also revised in accordance with the Third Pay Commission formula, though with effect from a later date. It was again disturbed when the pay- scales of the employees in the Cotton Corporation of India were revised in 1977 and 1982 and there was no similar revision in the pay-scales of the employees in the respondent-corporation.

14. It has been urged on behalf of the respondents that respondent-corporation and the Cotton Corporation of India are distinct legal entities carrying on different trading activities and the petitioners cannot claim parity in pay-scales with the employees in the Cotton Corporation of India and that the principle of equal pay for equal work cannot be invoked. It is no doubt true the the respondent-corporation and the Cotton Corporation of India, are distinct legal entities. But at the same time it cannot be ignored that both are instrumentalities of the Government of India who is bound by the directives contained in Part IV of the Constitution.

15. In this context it may be pointed Out that in pursuance of the directions given by this Court in its order dated March 14, 1986 in writ petition No. 12655 of 1986 and connected matters, the Government of India had appointed a High Power Committee under the Chairmanship of Shri Justice R.B. Misra, to go into the various aspects relating to pay-scales and other incidental matters such as additional D.A., interim relief and other allowances to the employees working in the Public Sector governed by the Central Government pay-scales and D.A. The said Committee after considering the pay-scales in the various Public enterprises having Central Government pattern of D.A., has recommended uniform pay-scales for the employees including subordinate staff falling in the categories of (i) Attendant, Messenger, Peon, Watchman, Safaiwala, Mali etc.; (ii) Daftry, Jamadar, Head Watchman etc.; (iii) Record Keeper, Record Sorter, Junior Clerks etc; and (iv) U.D.C., Assistants etc. The Committee was of the view that rationalisation of the present hetrogenous structure of pay-scales was required in the interets of uniform remuneration for similar work in the different enterprises." (Page 65, para 8.16). In Jute Corporation of India 'Officers'

Association v. Jute Corporation of India Limited and Anr. 1990(2) Judgments Today S.C. 255 this Court has given directions for applying the revised pay-scales recommended by the said Committee to the various Public Sector Undertakings of the Government of India having the Central Government pattern of D.A. This shows that there would be parity in pay-scales of the employees falling in the four categories, with which we are concerned, in the various enterprises of the Government of India which are following the Central Government D.A. pattern. There appears to be no reason why the petitioners should be denied similar parity in the matter of pay-scales with the staff falling in the aforesaid four categories employed with the Cotton Corporation of India especially when such employees were having the same pay-scales in 1970. We are, therefore, of the view that the pay-scales of the employees in the unionised cadre falling in the four categories referred to above in the respondent-corporation should be revised in a way that the same are at par with the pay-scales of such employees employed with the Cotton Corporation of India.

16. State of U.P. and Ors. v. J.P. Chaurasia and Ors. (Supra) on which reliance has been placed by Shri Mahajan', deals with the question as to equation of duties and responsibilities for applying the principle of 'equal pay for equal work'. Therein this Court has held that the matter of equation of posts for the purpose of equation of pay must be left to the executive and must be determined by expert bodies like Pay Commission and that if there is such a determination by a Commission or Committee the Court should normally accept it. The principle laid down in the said decision was reiterated in the other decisions relied upon by Shri Mahajan. Here we are not concerned with equation of posts because the posts falling in the above-mentioned four categories of employees in the respondent-corporation as well as the Cotton Corporation of India are of the same level and employees working on these posts were having the same pay-scales in 1970. There is nothing on the record to show that after 1970 there has been any change in the duties and functions of the persons holding these posts in the two corporations which may justify fixation of different pay-scales for these posts in the two corporations. The pay-scales of the petitioners as revised by order dated April 25, 1986, cannot, therefore, be upheld. The respondents Nos. 1 and 3 should so revise the pay-scales of the petitioners as to be at par with pay-scales enjoyed by the employees falling in the same category in the Cotton Corporation of India on the date from which the said revised pay-scales are to be applied. Under order dated April 25, 1986, the revision of the pay-scales of the petitioners has been made with effect from August 1, 1983 and is valid upto July 31, 1987. The revision in the pay-scales of the petitioners should be made keeping in view the pay-scales and allowances enjoyed by the employees falling in the same category in the Cotton Corporation of India on August 1, 1983 and such revision may be made operative upto July 31, 1987, as provided in the order dated April 25, 1986.

17. In the result, the writ petitions are allowed to the extent that respondents Nos. 1 and 3 are directed to suitably modify the order dated April 25, 1986 with regard to revision of the pay-scales and allowances of the employees in the unionised cadre in the respondent-corporation in a way that the revised pay-scales and allowances of the four categories of the employees in the said cadres are at par with the pay-scales and allowances of such staff employed with the Cotton Corporation of India on August 1, 1983. The said revision should be made within a period of three months and the arrear found payable as a result of such revision be paid to the employees within three months of such revision. The parties are left to bear their own costs in these writ petitions.