Supreme Court of India
Surinder Singh And Anr. vs Engineer-In-Chief, C.P.W.D. And ... on 17 January, 1986
Equivalent citations: AIR 1986 SC 584, 1986 (52) FLR 216, 1986 LablC 551, (1986) ILLJ 403 SC, 1986 (1) SCALE 83, (1986) 1 SCC 639, 1986 1 SCR 83, 1986 (2) UJ 31 SC
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Bench: O C Reddy, V B Eradi
ORDER O. Chinnappa Reddy, J.

1. In these two writ petitions, the petitioners who are employed by the Central Public Works Department on a daily-wage basis and who have been so working for several years demand that they should be paid the same wage as permanent employees employed to do identical work. They state that even if it is not possible to employ them on re gular and permanent basis for want of a suitable number of posts, there is no reason whatsoever why they should be denied equal pay for equal work'. In a similar petition filed by employees of the Nehru Yuvak Kendras1, a Bench of this Court consisting of Bhagwati, CJ and Amarendra Nath Sen, J. issued the following directions :

We therefore allow the writ petitions and make the rule absolute and direct the Cental Government to accord to these, persons who are employed by the Nehru Yuyak Kendras and who are concededly performing the samp duties as class IV employees, the same salary and conditions of, service as are being received by the class IV employees, except regularisation which cannot be done since there are no sanctioned posts. But we, hope and trust that posts will be sanctioned by the Central Government in the different Nehru Yuvak Kendras, so that these persons can be regularised." It is not at all desirable that any management and particularly the Central Government should continue to employ persons on casual basis in organisations which have been in existence for over 12 years. The salary and allowances of class IV employees shall be given to these per-sons employed in Nehru Yuvak Kendras with effect from the date when they were respectively employed.

Earlier the court also observed that it was a peculiar attitude to take on the part of the Central Government to say that they would pay only daily wages and not the same wages as other similarly employed employees, though all of them did identical work. The court said-:

This argument lies ill in the mouth of the Central Government for it is an all too familiar argument with the exploiting class and a welfare State committed to a socialist pattern of society cannot be permitted to advance such an argument. It must be remembered that in this country where there is so much unemployment, the Choice for the majority of people is to starve or to take employment on whatever exploitative terms are offered by the employer. The fact that these employees accepted employment with full knowledge that they will be paid only daily wages and they will not get the same salary and conditions of service as other class IV employees, cannot provide an escape to the Central Government to avoid the mandate of equality enshrined in Article 14 of the Constitution. This Article declares that there should be equality before law and equal protection of the law and implicit in it is the further principle that there must be equal pay for work of equal Value.... It makes no difference whether they are appointed in sanctioned posts or not So long as they are performing the same duties, they must receive the same salary and conditions of service as Class IV employees.

One would have thought that the judgment in the Nehru Yuvak Kendras case (Supra) concluded further argument on the question. However, Shri V.C. Mahajan, learned Counsel for the Central Government reiterated the same argument and also contended that the doctrine of 'equal pay for equal work' was a mere abstract doctrine and that it was not capable of being enforced in a court of law. He referred us to the observations of this Court in Kishori Mohanlal Bakshi v. Union of India . We are not a little surprised that such an argument should be advanced on behalf on the Central Government 36 years after the passing of the Constitution and 11 years the Forty-Second Amendment proclaiming India as a socialist republic. The Central Government like all organs of the State is committed to the Directive Principles of State Policy and Article 39 enshrines the principle of equal pay for equal work. In Randhir Singh v. Union of India this Court has occasion to explain the observations in Kishori Mohan Lal Bakshi v. Union of India (supra) and to point out how the principle of equal pay for equal work is not an abstract doctrine and how it is a vital and vigorous doctrine accepted through out the world, particularly by all socialist countries. For the benefit of those that do not seem to be aware of it, we may point out that the decision in Randhir Singh's case has been followed in any number of cases by this Court and has been affirmed by a Constitution Bench of this Court in D.S. Nakara v. Union of India . The Central Government, the State Governments likewise, all public sector undertakings are expected to function like model and enlightened employers and arguments such as those which were advanced before us that the principle of equal pay for equal work is an abstract doctrine which cannot be enforced in a court of taw should ill-come from the mouths of the State and State Undertakings. We allow both the writ petitions and direct the respondents, as in the Nehru Yuvak Kendras case (supra) to pay to the petitioners and all other daily rated employees, to pay the same salary and allowances as are paid to regular and permanent employees with effect from the date when they were respectively employed. The respondents will pay to each of the petitioners a sum ol Rs. 1000/- towards their costs. We also record our regret that many employees are kept in service on a temporary daily-wage basis without their services being regularised. We hope that the Government will take appropriate action to regularise the services of all those who have been in continuous employment for more than six months.