

Paras Nath and Others

Vs

Union of India and Others

Writ Petition (Civil) Nos. 251 and 558 of 1987

13.07.1988

(Ranganath Misra, N. D. Ojha JJ)

(RECORD OF PROCEEDINGS)

ORDER

1. Both these writ petitions are under Article 32 of the Constitution - the first one by Mates and, the second by semi-skilled Operatives and Junior Plant Operatives employed in the Delhi Milk Scheme. The dispute is as to what should be the appropriate scale of pay admissible to them. Their grievance is that the Fourth Pay Commission has not done justice to them and while their workload is heavier than that of other class IV employees of Government of India, the Pay Commission has lost sight of that fact and has recommended the scale of Rs. 750-940 in the case of Mates and Junior Plant Operatives and Rs. 800-1150 in the case if semi-skilled Operatives.

2. After notice was issued and respondents appeared, the court suggested that the claim raised by these petitioners may be considered by the respondents. A counter-affidavit has now been filed by the Deputy Secretary to the Government of India, Ministry of Agriculture (Department of Agriculture & Co-operation) justifying the recommendation of Pay Commission. We have on record a letter from the Chairman of the Delhi Milk Scheme dated September 4, 1986, sent to government wherein he recommended a higher pay scale for these three categories by referring to the workload, the hours of work, nature of work and the fact that the persons in these categories are semi-skilled. He himself recommended adoption of a pay scale of Rs. 800-1150 in place of Rs. 750-940 and Rs. 825-1200 for the semi-skilled Operatives.

3. The affidavit of the Deputy Secretary indicates that after the court asked the Government of India to consider the claim, the matter was examined by the Department of Expenditure in the Ministry of Finance. What exactly was taken into consideration has not been disclosed. Paragraph E of the affidavit of the Deputy Secretary states that recommendations of the Chairman, Delhi Milk Scheme were considered and "the proposal for revision of the pay scales of the post of Mates and Junior Plant Operative to Rs. 800-1150 and revision of semi-skilled Operatives and semi-skilled Fitters to Rs. 825-1200 cannot be agreed, since there is no comparison between the Mates and Senior Gangman Mates in the Railways. Pay scale of Gangmen were already higher then that of Mates in DMS and the Pay Commission has made specific recommendations in regard to the revised scale allowed to the Gangmen and Senior Mates of the Railways." According to the petitioners there has been no proper consideration of the claim and even if comparison between Mates and Junior Plant Operatives with Gangmen and Senior Gangmates is not possible, the fact that the Chairman of the Delhi Milk Scheme had recommended scales lower than admissible to Railways Gangmen Mates should have been taken note of. We agree with the submissions made at the bar on behalf of the petitioners. The matter requires further examination and we do not think we should take upon

ourselves the responsibility of prescribing the pay scale.

4. In these circumstance we would direct the Presiding Officer, Industrial Tribunal (Central) to look into the papers and give an opportunity to the (sic) such material as they consider proper and on the basis of the documents and other evidence made available to the Tribunal it would make a report to the Registry of this Court within three months from now as to what would be the appropriate pay scale admissible to the three categories referred to above. The matters are adjourned for four months to accommodate the receipt of the report and counsel be prepared for submissions on the basis of the report. The Registry is directed to serve copies of the report as soon as the same is received.

5. Parties are directed to appear before the Tribunal on July 29, 1988.

Court Master.

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