

State of Haryana and Others

Vs

Jagat Singh and Others

Civil Appeal No. 6328 of 1995

(K. Venkataswami, V. N. Khare JJ)

13.08.1997

ORDER

1. This appeal by special leave is directed against the judgment of the Punjab & Haryana High Court in Civil Writ Petition No. 16441 of 1993. The respondents were recruited as Constables in the Police Department of Haryana Government. After their appointment, they were deputed either as Wireless Operators, Drivers or Messengers in the Telecom Wing of the Police Department. The respondents in this case were deputed as Constable Drivers in the Telecom Wing of the Police Department.

2. The respondents filed Writ Petition No. 16441 of 1993 seeking parity with the pay scale of Rs. 1200-2040 which was applicable to the Drivers employed in the Civil Department of the Haryana Government with effect from 1-5-1990, mainly on the ground that the duties discharged by the respondents and the Drivers employed in the Civil Department are identical.

3. Contesting the writ petition, the appellants brought to the notice of the Court in the counter-affidavit that the Constables, who are deputed as Drivers in the Police Department, form a completely separate cadre and that they cannot be compared with the Drivers in other Civil Departments of the State of Haryana. It was also stated that the respondent-Constables are entitled to various additional benefits and perks and that comparison with the Drivers employed in the Civil Departments would be inappropriate. It was also brought to the notice of the High Court that the respondents in addition to the basic pay of Rs. 950-1800 are entitled to Special Pay Ration Money per month, travelling concession, conveyance allowance, summer and winter uniforms and one month's additional pay every year. The Drivers in the Civil Department of the Government, no doubt, get a higher pay scale of Rs. 1200-2040, without any of the other additional benefits available to Constables in the Police Department/respondents as mentioned above. Furthermore, it was brought to the notice of the Court that the Drivers in the Civil Department have no promotional avenues whatsoever, whereas the respondents were eligible to be promoted to the post of Head Constable, thereafter ASI, SI, Inspector, etc. Pointing out these circumstances, the appellants opposed the prayer of the respondents in the writ petition.

4. The High Court, however, wrongly following a judgment of this Court in *Randhir Singh v. Union of India* ((1982) 1 SCC 618 : 1982 SCC (L&S) 119 : (1982) 3 SCR 298) allowed the writ petition and aggrieved by that, the present appeal has been filed by the State of Haryana.

5. Learned counsel appearing for the appellants submitted that the High Court, though, noticed several differences, apart from duties between the Drivers in the Civil Department and the Police Department has wrongly allowed the writ petition. It is also contended that the principle laid down

in Randhir Singh case ((1982) 1 SCC 618 : 1982 SCC (L&S) 119 : (1982) 3 SCR 298) has been subsequently explained in several judgments of this Court. He cited a recent judgment in State of Haryana v. Jasmer Singh ((1996) 11 SCC 77 : 1997 SCC (L&S) 210).

6. Learned counsel appearing for the respondents, however, submitted that though it is stated, *inter alia*, that the respondents have got promotional avenues, in practice there was no promotion and that has been taken note of by the High Court. He also brought to our notice two judgments of this Court in State of Haryana v. Ram Chander ((1997) 5 SCC 253) and in S. Thiruvalluvan v. Union of India (1995 Supp (3) SCC 436 : 1995 SCC (L&S) 1288 : (1995) 31 ATC 196).

7. After going through the judgment of the High Court and the judgments cited at the Bar, we are of the view that the High Court was not justified in ordering the parity, even though it was brought to its notice that there were vital differences in the matter of discharge of duties and other aspects between the two cadres. The High Court has observed that if the Government thinks that the allowances given to the respondents should be cut off to make the pay scales equivalent, they can do so. We are of the view that it is not for the High Court to suggest such a way out when the pay scales have been fixed by the Government after consulting an expert body.

8. We are satisfied from the particulars given in the counter-affidavit of the appellant before the High Court that there are vital differences between the two cadres and they cannot be compared with each other for the purpose of "equal pay for equal work". The cases cited by the learned counsel for the respondents are distinguishable on facts and as noticed earlier the facts as brought out in the counter-affidavit speak for the merit of the case projected by the appellants. We accept the same. Consequently, we set aside the order of the High Court and allow this appeal. There shall be no order as to costs.