

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO(s).333 OF 2018

ANJALI ARORA AND OTHERS

....PETITIONER(S)

VERSUS

UNION OF INDIA AND ANOTHER

....RESPONDENT(S)

JUDGMENT

NAVIN SINHA, J.

The Petitioners seek mandamus under Article 32 of the Constitution, for grant of pay scale on the basis of parity as granted by this Court on 21.10.2010 to the appellants in ***Yogeshwar Prasad & Ors. vs. National Institute of Educational Planning and Administration & Ors.*** (in short, “National Institute”), (2010) 14 SCC 323.

2. It is the contention of the petitioners that they are similarly situated as the appellants in *Yogeshwar Prasad* (supra), working in the National Institute and are therefore also entitled to the benefit of

Regulation 4(2) of the National Institute Regulations for grant of pay scale at par with that being given to persons holding similar posts in the Central Government. The petitioners have been pursuing the matter with the respondents by filing representations since 2015 and were assured that their claims were under consideration till it was finally rejected on 05.02.2018. Even while the respondents contend that this Court had confined the relief to the appellants only in the aforesaid appeal, nonetheless they have themselves granted similar relief to four other persons who were not parties to the appeal, by order dated 02.11.2012. The petitioners have therefore been subjected to arbitrary and hostile discrimination.

3. The respondents have denied entitlement to relief on the basis of parity. It is their contention that the petitioners are not similarly situated as the appellants in Yogeshwar Prasad(supra) or those granted relief on the basis of the same.

4. We have considered the submission on behalf of the parties. The controversy relates to the grant of pay scale of Rs.1640-2900 with effect from 01.01.1986 pursuant to the 4th Central Pay Commission recommendation, and the consequent revisions of that scale. It is not in dispute that the petitioners are also working in the National

Institute alike the appellants in Yogeshwar Prasad (supra). The petitioners will therefore be equally entitled to the benefit of Regulation 4(2) of the National Institute which reads as follows:

“4(2) Group ‘A’ officers, other than faculty members and those on UGC grades of pay groups ‘B’, ‘C’ and ‘D’ employees shall draw salary and allowances in such scales of pay as may be applicable to the corresponding categories of Central Government employees and be subject to such conditions of service as are or may be applicable to Central Government employees from time to time.”

5. But parity of pay scale can be granted to the petitioners provided they were similarly situated as the appellants in the Yogeshwar Prasad (supra). If that be so, they would undoubtedly be entitled to be considered for grant of similar relief notwithstanding the observations in Yogeshwar Prasad (supra) confining grant of relief to the appellants therein, in view of the respondents having granted similar relief to others situated alike on 02.11.2012.

6. The respondents in their counter affidavits have specifically contended that the petitioners are not similarly situated as the appellants in Yogeshwar Prasad (supra). The petitioners were appointed as Junior Stenographer/Stenographer Grade-II which is a post lower than that of Senior Stenographer/Stenographer Grade-I held by the appellants in Yogeshwar Prasad (supra). The posts carry

different pay scales and merely acquiring ACP/MACP to the pay scales of Rs.1400-2600/5000-8000 under the 4th Central Pay Commission and the 5th Central Pay Commission does not entitle the petitioners to grant of similar relief as granted to those holding higher posts. Therefore, UDCs/Junior Stenographer (Stenographer Grade II) who acquired identical pay scales as those of Assistants/Senior Stenographers/Stenographer Grade-I by virtue of ACP/MACP cannot be considered at par so as to be entitled to parity of pay scales.

7. The pay scale of Rs.1640-2900 for the post of Stenographer 'C' (Senior Stenographer/Stenographer/Stenographer Grade-I) was operationalized in terms of Government of India's order dated 31.07.1990, during the regime of 5th Central Pay Commission which was during the period w.e.f 01.01.1996 till 31.12.2005. Both Petitioner Nos. 1 and 2 were not holding the post of Senior Stenographer Grade-I. Petitioner Nos.1 and 2 were promoted as Stenographer Grade-I only w.e.f. 02.11.2017 and 12.07.2018 respectively. Thus, both Petitioner Nos. 1 and 2 became Stenographer Grade-I, only when the 6th and 7th Pay Commission were operational and they were already drawing their pay in the pay scale of Rs.9300-34800 with grade pay of Rs.4200. Petitioner No.3 never

got regular promotion during her entire period of service and retired on 28.02.2016 as Junior Stenographer (Stenographer Grade-II) only and thus is not eligible to claim the pay scale of Senior Stenographer (Stenographer 'C'/Stenographer Grade-I) at all.

8. The petitioners not being similarly situated as the appellants in Yogeshwar Prasad (supra), we find no merit in the present Writ Petition. The Writ Petition is dismissed.

.....**J.**
[R.F. NARIMAN]

.....**J.**
[NAVIN SINHA]

NEW DELHI
FEBRUARY 11, 2019