

PETITIONER:  
FEDERATION OF ALL INDIA CUSTOMS & CENTRALEXCISESTENOGRAPHERS

Vs.

RESPONDENT:  
UNION OF INDIA & ORS.

DATE OF JUDGMENT 05/05/1988

BENCH:  
MUKHARJI, SABYASACHI (J)  
BENCH:  
MUKHARJI, SABYASACHI (J)  
PATHAK, R.S. (CJ)

CITATION:  
1988 AIR 1291                      1988 SCR (3) 998  
1988 SCC (3) 91                    JT 1988 (2) 519  
1988 SCALE (1)1088

CITATOR INFO :

R	1989 SC 19	(29)
F	1989 SC 30	(3)
F	1989 SC1256	(8)
F	1989 SC1308	(11)
R	1990 SC1106	(43)
RF	1991 SC1173	(6)

ACT:

Service matter-Stenographers of Grade I attached with officers in pay scale of Rs.2500-2750 (Level I) in the Customs and Central Excise Departments of Ministry of Finance, seeking pay parity with stenographers attached to Joint Secretaries and officers above in the Ministry, alleging discrimination violative of Articles 14 and 16(1) of Constitution of India, and that there being no basis for differentiation between petitioners and their counterparts.

HEADNOTE:

By this writ petition, Personal Assistants and Stenographers (Grade I) in the pay-scale of Rs. 550-900 attached with officers in the pay-scale of Rs.2500-2750 (Level I) i.e. heads of the departments in the Customs and Central Excise Departments of the Finance Ministry, sought parity with the pay scale of the stenographers attached to the Joint Secretaries and the officers above. The petitioners asserted that they had been and were discriminated vis-a-vis the personal assistants and stenographers attached to the Joint Secretaries and the officers above in the Ministry, and claimed that they should be placed in the pay scale of Rs.650-1040 with effect from 1st January 1973. They contended that the basic qualifications, method, manner and source of recruitment and grades of promotion were the same as of their counterparts attached to the Joint Secretaries/Secretaries and other officers in the Secretariat. According to them, even on the criteria adopted by the Third Pay Commission there was no basis for any differentiation between the petitioners and their counterparts. While the petitioners got a grade of Rs.550-900, their counterparts were in the pay scale of Rs.650-1040. The petitioners asserted that this differentiation without any rational basis was

discrimination violative of Articles 14 and 16(1) of the Constitution of India. They contended for equal pay for equal work, and alleged discrimination in the adoption of the recommendation of the Third Pay Commission.

The respondents denied that there was any discrimination, differentiation without basis and referred to the Report of the Third Pay Commission, recommending different and low scales of pay for the

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stenographers of the non-participating attached and subordinate offices in comparison with those in the Central Secretariat. It was emphasised that the difference in the functional requirements of the work done was a point. In devising any scales of various posts/categories inter alia the degree of skill, experience involved, training required, responsibility taken, strain, fatigue, risk and confidentiality undertaken, mental and physical requirements were the factors to be borne in mind.

Dismissing the petition with an observation, the Court,

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HELD: The petition had to be disposed of on the basis of the position prevailing prior to the report of the Fourth Pay Commission and its acceptance/implementation. [1007B]

Equal pay for equal work is a fundamental right. But equal pay must depend upon the nature of the work done. It cannot be judged by the mere volume of work; there may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference. Often the difference is a matter of degree and there is an element of value judgment by those who are charged with the administration in fixing the scales of pay and other conditions of service. So long as such value judgment is made bonafide, reasonably on an intelligible criteria, having a rational nexus with the object of differentiation, such differentiation will not amount to discrimination. Equal pay for equal work is a concomitant of Article 14 of the Constitution. But it follows that equal pay for unequal work will be a negation of that right. [1009A-C]

Differentiation in implementing the award or the recommendations of Pay Commission without rational basis may amount to discrimination. However, in this case, there is an element of faith, reliability and responsibility and the functional responsibilities and the requirements of persons doing the same amount of physical work may be different in some cases, depending upon the officers with whom the stenographers and personal assistants are attached. The basic principles on which differentiation would not amount to discrimination, violative of Article 14 or Article 16(1) of the Constitution are well-settled. Article 14 strikes at the arbitrariness in State action and ensures fairness and equality of treatment. It is attracted where equals are treated differently without any reasonable basis. Equal laws must be applied equally and there should be no discrimination between one person and another if as regards the subject-matter of either administrative action or legislation, their position is substantially the same. Article 14 forbids

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class legislation but permits reasonable classification for the purpose of legislation or administrative mandate. The classification must, however, be founded on an intelligible basis which distinguishes persons or things grouped together from those left out of the group and that differentia must have a rational nexus with the object to be achieved by the

differentiation made in the statute or order in question. There ought to be causal connection between the basis of classification and the object of classification. The observations of the Constitution Bench of this Court in D.S. Nakara & Ors. v. Union of India, [1983] 2 S.C.R. 165 may be seen in this connection. [1011B-G]

In this case, differentiation had been sought to be justified in view of the nature and the types of the work done, that is, on intelligible basis. The same amount of physical work may entail different quality of work, some more sensitive, some requiring more tact, some less-it varies with nature and culture of employment. The problem about equal pay cannot always be translated into a mathematical formula. If it has a rational nexus with the object to be sought for a certain amount of value judgment of the administrative authorities charged with fixing the pay scale has to be left with them and it cannot be interfered with by the Court unless it is demonstrated that either it is irrational or based on no basis or arrived at mala fide either in law or fact. In the light of the averments made and in the facts of this case, it was not possible to say that the differentiation was based on no rational nexus with the object sought to be achieved. This application must fail and was dismissed. This, however, would not in any way prevent or prejudice the Government from reviewing the situation in the light of the report of the Fourth Pay Commission or any other appropriate body, if any, with such modification as the Government and the authorities concerned considered fit and proper. [1013G-H;1014A-D]

Purshottam Lal & Ors. v. Union of India & Anr., AIR 1973 SC 1088; Laljee Dubey & Ors. v. Union of India & Ors., [1974] 2 S.C.R. 249; Randhir Singh v. Union of India & Ors., [1982] 3 SCR 298; D.S. Nakara & Ors. v. Union of India, [1983] 2 SCR 165; P.K. Ramachandra Iyer & Ors. v. Union of India & Ors., [1984] 2 SCR 200; Delhi Veterinary Association v. Union of India & Ors., [1984] 3 SCR 429; P. Savita v. Union of India & Ors., [1985] Suppl. 1 SCR 101; Surinder Singh and Anr. v. Engineer-in-chief, C.P.W.D. & Ors., [1986] 1 SCC 639; Frank Anthony Public School Employees' Association v. Union of India & Ors., [1986] 4 SCC 707; Dhirendra Chamoli & Anr. v. State of U.P., [1986] 1 SCC 637; Union of India & Anr. v. R.G. Kashikar & Anr., AIR 1986 SC 431; M.P. Singh Deputy Superintendent of Police, 1001

C.B.I. and Ors.v. Union of India & Ors., J.T. 1987 1 SC 146 and M/s. Mackinnon Mackenzie & Co. Ltd. v. Audrey D'Costa & Anr., SLP (Civil) No. 1265/87 decided on March 26, 1987, referred to.

#### JUDGMENT:

ORIGINAL JURISDICTION: Writ Petition No. 5019 of 1982.

(Under Article 32 of the Constitution of India.)

M.S. Ganesh for the Petitioner.

V.K. Kanth, N.S. Das Behal and Ms. Sushma Relan for the Respondents.

The Judgment of the Court was delivered by

SABYASACHI MUKHARJI, J. This petition under Article 32 of the Constitution, in a representative capacity on behalf of the stenographers (Grade I) who are attached with officers in the pay scale of Rs.2500-2750 (Level I), seeks parity with the pay scale of the stenographers attached to the Joint Secretaries and officers above that rank. It is

stated that the petitioners are in the pay scale of Rs.550-900. The petitioners claim that they should be placed in the pay scale of Rs.650-1040 with effect from 1st of January, 1973. It must, however, be mentioned that this petition was filed on or about 7th of May, 1982 and submissions on this petition were made in the end of November, 1986. Therefore, the position pertaining to the controversy in this case is prior to the report or the implementation of the Fourth Pay Commission. In short, the petitioners are personal assistants and stenographers attached to the heads of the departments in the Customs and Central Excise Departments of the Ministry of Finance. They assert that they have been and are discriminated vis-a-vis personal assistants and stenographers attached to the Joint Secretaries and officers above them in the Ministry. In brief, it is the case of the petitioners that between 28th of January, 1955 to 8th of November, 1957 the Ministry of Finance prescribed certain educational qualifications and technical proficiency qualifications for both Stenographers and Steno-typists. On or about 26th of April, 1968, the Department of Revenue, Central Board of Excise and Customs made provisions for filling the posts of Stenographers by direct recruitment and prescribed qualifications etc. for the same. In July, 1969 the Government of India, Ministry of Home Affairs classified the posts of Stenographers sanctioned at different levels into four grades viz., Grade III, II, I and Selection Grade. Posts attached to Secretaries and Additional Secretaries were classi-

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fied as Selection Grade originally and were given pay of Rs.350 (500)900 with effect from 1st of August, 1969; Stenographers Grade-II (Rs.210-530) placed with Joint Secretaries and officers of equivalent rank were upgraded to Grade I in the pay scale of Rs.350(400)-770; Grade-II stenographers were given Rs.210-530; Grade III stenographers were given Rs.130-280 and Grade-III in petitioners' offices were given Rs.130-300. It is the case of the petitioners that the counterparts of the petitioners (Grade-II Stenographers) were in the pay scale of Rs.210-530 and petitioners in Rs.210-425. Criteria of pay scales/status/rank of officers for the scale of pay of stenographers were made out. In 1970 Ministry of Home Affairs set out the category of officers viz. Joint Secretaries to the Government of India and officers of equivalent rank are entitled to the sanction of scale of category of stenographers Grade-I-Sr.P.A. in the pay-scale of Rs.350-770. Criteria of status/rank of an officer was again established for the pay scale of stenographers. Ministry of Home Affairs on or about 29th of June, 1972 pursuant to the decision taken on that date reached in the NCJCM relates to creation of posts of Stenographers Grade-I and Grade-II in subordinate offices and other offices of the Government of India and also identified/set out/clarified that the posts of Stenographers attached to officers whose status is higher than that of Deputy Secretary to the Government of India shall be in the scale of Rs.210-425. Criteria of status of an officer for scale of pay of Stenographers was again established. Thereafter there was the Third Pay Commission's report which was accepted and recommendations were given effect to. As a result of the various Government notifications thereafter and Rules framed, it is the case of the petitioners that their counterparts, that is to say, Stenographers Grade-I attached/sanctioned to the Joint Secretaries and equivalent officers were given the pay scale of Rs.650(710)-1040;

whereas the petitioners whose posts were/are sanctioned and attached with the officers of the same Government Ministry of Finance and the Department of Revenue and the same administration and Grade Level I (Rs.2500-2750) Joint Secretaries and Level-II (Rs.2250-2500) Directors, who are also Heads of Departments, and are at par in seniority/promotion with the counterparts officers in the Department of Revenue were given only Rs.425-700, whereas the Stenographers Grade-I/Senior Grade, the petitioners discharged the same functions and indeed, have sometimes more onerous duties and responsibilities than their counterparts attached with Joint Secretaries and Level-II Directors, according to the petitioners. From the affidavit filed on behalf of the petitioners in reply to the opposition by the respondents, it appears that the method of recruitment in respect of Grade-I stenographers in the Department are as follows:

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(i) Petitioners' counterparts in the so-called Secretariat & participating attached offices-CSSS.

Grade of Stenographers and scale of pay.	Classification.	Designation/level/status/rank/grades and pay scales of officers for whom sanctioned/attached.	Date of sanction/ or up gradation.
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(1)	(2)	(3)	(4)
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Grade-B (Grade-I) Rs.650-(710)-1040.	Central Civil Service Group 'B' (Gazetted)	(i) Joint Secretaries & Equivalent. Rs.2500-2750	1.1.1973
		(ii) Directors & Equivalent. Rs.2250-2500	12.11.1975
		(iii) Directors & Equivalent. Rs.2000-2250	23.1.1984

(ii) Petitioners' Officers i.e. so called non-participating attached and subordinate offices (Directorates & Collectorates of Customs & Central Excise):

(1)	(2)	(3)	(4)
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Grade-I Rs.550-900	Central Civil Service Group 'B' (non-gazetted).	(i) Heads of the Departments *Directors/ Collectors of Customs & Central Excise Level-I Equivalent to Joint Secretaries Rs.2500-2750.	4.7.78
		(ii) Directors/ Collectors of Customs & Central Excise Level-II Equivalent to Directors (IRS IC & CE Service Rs.2250-2500	4.7.1978
		(iii) Directors/ * * Generals/	

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hold identical posts. According to the petitioners they discharge the same functions and, indeed, some times more onerous duties and responsibilities than their counterparts whether in the Ministry of Finance or other Ministeries in the Central Secretariat. In the very nature of their service and its concomitant duties and obligations, which concern the administration and execution of matters falling under the Customs Act, 1962, the Central Excise and Salt Act, 1944, the Foreign Exchange Regulations Act, 1973 and other Acts. The petitioners have various duties to perform which according to them are as follows:

"(a) long and arduous hours of work, generally extending late in the evening beyond normal office hours and sometimes throughout the night in cases of emergency that have become all too frequent owing to increased punitive and preventive detention cases arising under these Acts resulting in proceedings before all levels of Courts including this Honourable

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Court, and a spate of Parliament Questions affecting the Ministry of Finance, Department of Revenue, and the petitioners' Department in particular in all its administrative aspects and ramifications. The petitioners have no option but to discharge these duties when called upon to do so and their willingness to forego overtime (in cases where the Stenographers are entitled) is not accepted by the officers as affording an excuse to relieve the petitioners of such duties and hours of work.

- (b) an excessively recurring volume of dictation and typing, day to day to cope with the normal and emergent exigencies, including written correspondence, recording and transcribing of notes on inspection tours and preparation of investigation and tour reports for the superior officers; of notes and memoranda for counsel in court proceedings, of briefs for official statements and conferences and replies to Parliament Questions and the Public Accounts Committee, Chambers of Commerce, Customs and Central Excise Advisory Councils and other bodies on fiscal policies like Commissions/Committees, detailed reports constituting background material with reference to cases or matters falling within the purview of any one or more of the aforesaid Acts, and so on.
- (c) observing the very stringent requirements of secrecy necessarily involved in such cases or matters,
- (d) the consequent constant exposure to security risks and to personal safety with accompanying mental tension and strain."

The petitioners assert that basic qualifications, method, manner and source of recruitment and grades of promotions are the same as their counterparts attached to the Joint Secretaries/Secretaries and other officers in the Secretariat. According to the petitioner even on the criteria adopted by the Third Pay Commission they seek herein to demonstrate that there was no basis for any differentiation between the petitioners and their

counterparts. While the petitioners get a grade of Rs.550-900 their counterparts are in the pay scale of Rs.650-1040. The petitioners assert that this is discrimination. This differenti

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ation without any rational basis is discrimination violative of Article 14 and Article 16(1) of the Constitution of India. They clamour for equal pay for equal work. They also allege that their has been discrimination in the adoption of the recommendations of the Third Pay Commission as detailed in their petition.

This petition has been disposed of on the basis of the position prevailing prior to the report of the Fourth Pay Commission and its acceptance or implementation. The respondents on the other hand deny that their is any discrimination, differentiation without basis. The respondents by their affidavit filed by one Shri S.P. Kundu, Under Secretary to the Government of India, Ministry of Finance assert that the Secretariat of the Ministries/Departments of the Government of India together constitute Headquarters Organisation. In the administrative hierarchy of the Central Government, the Secretariat occupy according to respondents a key position and the main role of the Secretariat is to help the Government in the tasks of formulation of policies, to prepare programmes in order to translate these policies, into co-ordinated action and to ensure the effective execution of Government policies through periodical review. The Secretariat also helps Ministers to discharge their accountability to Parliament including the various Parliamentary Committees. According to the respondents detailed execution of Government's policies specially in the field is left to the agencies outside the Secretariat which are called attached or subordinate offices of the Ministries, but they are always subject to supervision by the Secretariat. The respondents state that to man the various stenographic posts in the Headquarters, the Government constituted the Central Secretariat Stenographers Service (CSSS) which also cater to the needs of such posts in several attached offices which are known as participating offices. But none of the attached offices, assert the respondents, of the Department of Revenue are participating offices. Therefore, keeping in view the importance and the nature and the type of the work performed in the Ministries/Departments of the Government of India vis-a-vis those in the attached and subordinate offices and consequently the nature of stenographic assistance required, according to the respondents the Third Pay Commission recommended different scales of pay for Stenographers in CSSS and those in the non-participating attached and subordinate offices. The respondents in this connection have drawn our attention to the Report of the Third Pay Commission in recommending different and lower scales of pay for the stenographers of the non-participating attached and subordinate offices in comparison with those in the Central Secretariat as follows:

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"As a general statement, it is correct to say that the basic nature of a stenographer's work remains by and large the same whether he is working with an officer in the secretariat or with an officer in the subordinate office. We feel, however, that the position needs to be examined a little more critically because the size of a stenographer's job is very much dependent upon the nature of the work entrusted to that officer. It

would not be correct therefore to go merely by status in these matters and disregard the functional requirements. By the very nature of Secretariat working the volume of dictation and typing work can be expected to be heavier than in a subordinate office. Also the requirement of secrecy even in the civil offices of the Secretariat can be very stringent. Considering the differences in the hierarchical structure and in the type of work transacted in the Secretariat and in the subordinate offices, we are not in favour of adopting a uniform pattern. Once the functional requirements are seen to be different for the Secretariat and the subordinate office, it will not be worth while to aim for absolute parity in the pay scale of Stenographers working on the two sides."

What was emphasised before us was that the difference in the functional requirements of the work done was one of the points. The respondents say that in devising any scales of various posts/categories, inter alia, the degree of skill, experience involved, training required, responsibility taken, strain, fatigue, risk and confidentiality undertaken, mental and physical requirements are factors to be borne in mind. It has been emphasised by the respondents that though the duties and works are identical between the petitioners and their counterparts attached to the Secretaries in the Secretariat, their functions are not identical with regard to their duties and responsibilities. The respondents state that the stenographers attached with the officers in the Secretariat formed a distinguishable class as they have to assist the officers in the discharge of their duties and high responsibilities which according to the respondents are of a much higher nature than in the attached and subordinate offices. According to the respondents the Joint Secretaries and Directors in the Central Secretariat performed functions and duties of higher responsibilities than those performed by the Heads of Departments although they are borne on identical scales of pay. It is in this background of the facts that the claims of the petitioner have to be judged.

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Equal pay for equal work is a fundamental right. But equal pay must depend upon the nature of the work done, it cannot be judged by the mere volume of work, there may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference. One cannot deny that often the difference is a matter of degree and that there is an element of value judgment by those who are charged with the administration in fixing the scales of pay and other conditions of service. So long as such value judgment is made bona fide, reasonably on an intelligible criteria which has a rational nexus with the object of differentiation, such differentiation will not amount to discrimination. It is important to emphasise that equal pay for equal work is a concomitant of Article 14 of the Constitution. But it follows naturally that equal pay for unequal work will be a negation of that right.

We may briefly note the principles evolved by this Court in this respect in the backdrop of varied set of facts. Differentiation in implementing the award or the recommendations of Pay Commission without rational basis may amount to discrimination. In *Purshottam Lal & Others. v. Union of India & Anr.*, A.I.R. 1973 SC 1088 it was held that

implementation of the revised pay scale in a particular category of servants from a date later than that recommended by the Pay Commission and thus non-implementation of its report only in respect of those persons amounts to violation of Articles 14 and 16 of the Constitution, the Constitution Bench held. In Laljee Dubey and Others v. Union of India and Others, [1974] 2 S.C.R. 249 this principle was reiterated again. This Court in Randhir Singh v. Union of India & Ors., [1982] 3 S.C.R. 298 had to deal with the case of a driver constable in the Delhi Police Force under the Delhi Administration. The scale of pay in the Delhi Police Force was for non-matriculate drivers Rs.210-70 and for matriculate drivers Rs.225-308. The scale of pay of a driver in the Railway Protection Force was Rs.260-400. The scale of pay of drivers in the non-secretariat offices in Delhi was Rs.260-6-326-EB-8-350, while that of Secretariat offices in Delhi was Rs.260-6-290-EB-6-326-8-366-EB-8-8-8-390-10-400. The scale of pay of drivers in the office of the Language Commission was Rs.260-300 while the drivers of heavy vehicles in the Fire Brigade and the Department of Light House was Rs.330-480. The petitioner and other driver constables made a representation to the authorities that their case was omitted to be considered separately by the Third Pay Commission and that their pay scales should be the same as the drivers of heavy vehicles in other departments. As their claims for better scales of pay did not meet with success, the said application was filed by the petitioner for the issue of

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a write under Art.32 of the Constitution. It was allowed by the Court. Chinnappa Reddy, J. speaking for a Bench of three learned judges of this Court reiterated the following principles:

"(a) 'Equal pay for equal work' is not a mere demagogic slogan but a constitutional goal capable of attainment through constitutional remedies, by the enforcement of constitutional rights (under Article 32 of the Constitution of India).

(b) The stand (of the Government of India) that the circumstance that persons belonging to different departments of the Government is itself a sufficient circumstance to justify different scales of pay irrespective of the identity of their powers, duties and responsibilities, is unacceptable and untenable.

(c) While equation of posts and equation of pay are matters primarily for the Executive Government and expert bodies like the Pay Commission and not for the Courts, where all things are equal i.e. where all relevant considerations are the same, persons holding identical posts may not be treated differentially in the matter of their pay merely because they belong to different departments.

(d) The principle of equal pay for equal work is not an abstract doctrine when applied to Government servants performing similar functions and having identical powers, duties and responsibilities.

(e) As matter of interpretation, the Directive Principles, e.g. Article 39(d) of the Constitution, have to be and have been read into the Fundamental Rights, e.g. Articles 14 and 16 of the Constitution. So read, the principle of equal pay for equal work, though not expressly declared

by our Constitution to be a fundamental right, is a constitutional goal. Construing Articles 14 and 16 in the light of the Preamble and Article 39(d), the principle of 'equal pay for equal work' is deducible from those Articles and may be properly applied to cases of unequal scales of pay based on no classification or irrational classification though those drawing the different scales of pay do identical work under the same employer."

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The Court further expressed the view that on the aforesaid interpretation in the facts of that case, it was proper to direct the Central Government to fix pay scales on par for persons doing identical work under the same employer. It is, however, to be borne in mind what has been emphasised by the respondents in the instant case on this aspect. That case related to the drivers who had been doing physical work, in the case of stenographers and personal assistants, there is an element of faith, reliability and responsibility and the functional responsibilities and the requirements of persons doing same amount of physical work may be different in some cases depending upon the officers with whom the stenographers and personal assistants are attached. On behalf of the petitioners, it is emphasised that Heads of Departments who are in the senior Administrative Grade-Level-I (Rs.2500-2750) which is equivalent to the pay scale of the Joint Secretaries in the Ministries and their nature of work is virtually the same. They have also to deal with sensitive matters. The basic principles on which differentiation would not amount to discrimination, violative of either Article 14 or Article 16(1) of the Constitution are well settled. Article 14 of the Constitution strikes at the arbitrariness in State action and ensures fairness and equality of treatment. It is attracted where equals are treated differently without any reasonable basis. The principle underlying the guarantee is that all persons similarly circumstanced shall be treated alike both in privileges conferred and liabilities imposed. Equal laws must be applied equally and there should be no discrimination between one person and another if as regards the subject-matter of either administrative action or of legislation, their position is substantially the same. Article 14 forbids class legislation but permits reasonable classification for the purpose of legislation or administrative mandate. The classification must, however, be founded on an intelligible basis which distinguishes persons or things that are grouped together from those that are left out of the group and that differentia must have a rational nexus with the object to be achieved by the differentiation made in the statute or order in question. In other words, there ought to be causal connection between the basis of classification and the object of the classification. See in this connection the observations of the Constitution Bench of this Court in the case of D.S. Nakara & Others v. Union of India, [1983] 2 S.C.R. 165. See also P.K. Ramachandra Iyer & Others v. Union of India & others, [1984] 2 S.C.R. 200, where this Court at page 226 of the Report reiterated that the principle of 'equal pay for equal work' is deducible from those Articles 14 and 16 in the light of the Preamble and Article 39(d) of the Constitution and might be applied properly in the cases of unequal scales of pay based on no classification or irrational classification

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though those drawing the different scales of pay do identical work under the same employer. In Delhi Veterinary

Association v. Union of India & Others, [1984] 3 S.C.R. 429, which was dealing with Veterinary Assistant Surgeons working in the Delhi Administration. It was observed dismissing the writ petition that the question of the fixation of pay scale for Veterinary Assistant Surgeons should be left to be decided by the Government on the basis of the recommendation of the Fourth Pay Commission. The question of discrimination cannot be decided in isolation. This Court reiterated that in addition to the principle of 'equal pay for equal work', the pay structure of the employees of the Government should reflect many other social values. This Court also emphasised the need for evolution and implementation of a scientific national policy of incomes, wages and prices. In P. Savita v. Union of India & Ors., [1985] Suppl. 1 S.C.R.101 this Court was dealing with Senior Draughtsmen doing the same work and discharging the similar functions and duties. They were classified into two groups, on the basis of seniority with two different pay scales. The question was whether it was discriminatory. It was held that it was. This Court reiterated that a group of draughtsmen entitled to higher scale of pay was not selected by any process nor is it based on any merit-cum-seniority basis, but is based only on seniority-cum-fitness. Moreover, it was found that the senior draughtsmen divided into two groups were in the same department doing identical and same work. It was not a case of different grades created on the ground of higher qualification either academic or otherwise or an entitlement by any other criteria. Thus the classification between the two groups of senior draughtsmen was without any basis. In view of the total absence of any plea in that case on the side of the respondents that the Senior Draughtsmen who were placed in the advantageous group do not perform work and duties more onerous or different from the work performed by the appellants groups in that case, it was held that this grouping violated Article 14 of the Constitution. It reiterated that the principle of 'equal pay for equal work' would be an abstract doctrine not attracting Article 14 if quality is made criterion for differentiation. See also Surinder Singh and Anr. v. Engineer-in-Chief, C.P.W.D. and Others, [1986] 1 SCC 639. This Court in a different context had to decide this question in Frank Anthony Public School Employees' Association v. Union of India and Others, [1986]4 SCC 707. It was held that there cannot be discrimination in pay and other conditions of service of school teachers merely on the basis of aided and unaided minority schools.

As is evident the facts of the instant case are entirely different.

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Here the differentiation is sought to be justified on the similarity of the functional work but on the dissimilarity of the responsibility, confidentiality and the relationship with public etc. In Dhirendra Chamoli and another v. State of U.P., [1986] 1 SCC 637, this Court was concerned with the casual workers on daily wage basis engaged by the Government in different Nehru Yuvak Kendras in the country performing the same duties as performed by the regular Class-IV employees against the sanctioned strength. The claim was allowed with certain directions on the basis of the facts found. See in this connection Union of India & Anr. v. R.G. Kashikar & Anr., AIR 1986 SC 431. In Writ Petition (Civil) Nos. 13097-13176 of 1984, M.P. Singh Deputy Superintendent of Police, C.B.I. and Others v. Union of India & Others, (Judgments Today 1987 1 SC 146), this Court on the facts of that case found that among the employees of the Central Bureau of Investigation, there are two classes of officials

deputationists and non-deputationists amongst Sub-Inspectors, Inspectors and Deputy Superintendent of Police. There has been discrimination among two groups with regard to payment of special pay. Special pay related to arduous nature of duties to be performed. Whether they belong to the category of deputationists or non-deputationists payment of different rates of Special pay, it was held in the facts of the case, did not pass the test of classification. This Court reiterated that it was well settled that in order to pass the test of permissible classification of persons belonging to the same class into groups for purposes of differential treatment two conditions must be fulfilled, namely, that the classification must be founded on an intelligible differentia which distinguishes persons who were grouped together from others left out of the group and that differentia must have a rational relation to the objects sought to be achieved by the law which brings about discrimination between the two groups. In M/s. Mackinnon Mackenzie & Co. Ltd. v. Audrey D'Costa & Anr., (SLP (CIVIL) No. 1265/87 decided on March 26, 1987), the question was the different treatment between male and female stenographers. But there differentiation was based on the ground of sex. It was struck down. It will clearly be violative of Article 14 and Article 16 of the Constitution.

In this case the differentiation has been sought to be justified in view of the nature and the types of the work done, that is, on intelligible basis. The same amount of physical work may entail different quality of work, some more sensitive, some requiring more tact, some less--it varies from nature and culture of employment. The problem about equal pay cannot always be translated into a mathematical formula. If it has a rational nexus with the object to be sought for, as

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reiterated before a certain amount of value judgment of the administrative authorities who are charged with fixing the pay scale has to be left with them and it cannot be interfered with by the Court unless it is demonstrated that either it is irrational or based on no basis or arrived mala fide either in law or in fact. In the light of the averments made and in the facts mentioned before, it is not possible to say that the differentiation is based on no rational nexus with the object sought for to be achieved. In that view of the matter this application must fail and it is accordingly dismissed without any order as to costs.

We must, however, make it clear that this will not in any way prevent or prejudice the Government from reviewing the situation in the light of the report of the Fourth Pay Commission or any other appropriate body, if any, with such modification as the Government and the authorities concerned considered fit and proper.

S.L.

Petition dismissed.

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