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Case Comment: Randhir Singh v Union of India

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INTRODUCTION

The idea of gender inequality in earnings and wages is widely viewed as problematic in our country, but the concept of the word 'gender' is not used to describe this category of people, except for the two dominant genders of men and women. What impact does it have on women? And how much do we know about the wage gap between international migrant workers and domestic workers? The intersection in this sense is under-emphasized in the context of wage gaps. This case relates to the "equal pay for equal work", which states that if work is equal, everyone should be entitled to equal pay, regardless of gender, caste, or religion. The phrase "equal pay for equal work" usually refers to the simple understanding that all individuals must be paid the same level of wages, salaries, etc. The principle of "equal pay for equal work" is not an abstract doctrine, but an essential one. This principle is not explicitly declared as a fundamental right in the Constitution but it is indeed a constitutional goal. This legal doctrine is widely accepted in India. Some laws address this issue, ***Article 39***[1] ***of*** the Indian Constitution mentions this concept (should be read in conjunction with ***Article 14)***[2]. It's also about worker

[1] Constitution of India 1950, art. 39
[2] Constitution of India 1950, art. 14

rights. The Equal Pay Act 1976 [3]is a law that requires equal pay for men and women and prohibits sex discrimination.

FACTS

The appellant is a police officer of the Delhi Police, a branch of the Government of Delhi. After he was discharged from the army, he was hired as a driver by the Delhi Police and after being selected by the Delhi Police to hire ex-military drivers as drivers, he was forced to undergo a driving license test. He was also instructed to bring a private heavy vehicle driver's license. A Driver (Constable) received the rank of Constable and for compulsory discipline in the Delhi Police and his appointment as a Driver, he became a member of the unit and obtained a rank. Similar responsibilities apply to couriers and other drivers employed by the Delhi Government. Delhi Police pay scale is Rs 210-270 for unregistered drivers and Rs 225-308 for registered drivers.

The salary range for Railway Protection Corps is 260-400. The pay band for non-secretarial offices in Delhi is a lower rupee, while for secretarial offices it is a higher rupee. Salaries of call commission drivers range from Rs 260 to Rs 300, while fire and beacon truck drivers range from Rs 330 to Rs 480. They argued that although they held positions in different departments, they could have received the same compensation because they performed the same or nearly the same duties. The petitioners and other drivers agree that the third Pay Commission does not consider their situation individually and that their pay scale should be the same as that of HGV drivers in other departments. After the authorities did not comply with their demands, they decided to apply for an injunction under ***Article 32*** of the Constitution.

ISSUES

The complaint states that when the Salary Board considers police officers' pay scales, it does not consider drivers to be a separate category and ignores special considerations that were common in the case of drivers in other agencies. Therefore, it should also be applied in the cases of drivers

[3] Equal Pay Act 1976

and constables as well. The Petitioner filed a motion in the public interest under ***Article 32***[4] of the Constitution to demand a better and more equal wage scale for all government drivers in the state as well as for drivers of heavy vehicles in other states, then called for the proper implementation of equal pay for equal work.

PROVISIONS

Art. 14 – By ***Article 14*** of the Constitution, no individual should be denied equality before the law or equal protection of the laws on Indian Territory. The right to equality guarantees that everyone is treated fairly before the law prohibits discrimination for a variety of reasons, treats all applicants for public employment equally, and outlaws untouchability and titles.

Art. 16 – In ***Article 16***, the general norm is applied with particular emphasis on the possibility of appointments under the State. In matters about employment or appointment to any office under the State, it states that there will be equality of opportunity for all people. Equal opportunity in issues of appointment to State functions is what ***Article 16*** promises. According to the Supreme Court's ruling in State of ***J. & K. v K.V.N.T. Kholo***, equality of opportunity implies that every citizen shall be eligible for employment or appointment to any position under the State based on his qualities and capability. Therefore, ***Article 16*** does not exclude the State from establishing the requirements and screening procedures for hiring into government positions.

Art. 39(d) – Under ***Article 39(d)***, the Constitution expressly guarantees the right to "equal pay for equal work for men and women" as a guiding principle for the State. “Equal pay for equal work for men and women” means equal pay for equal work for all men and women. The Directive's principles must be read into the Fundamental Rights as a matter of interpretation. It can therefore be said that the issue of socio-economic justice occupies an important place in the Constitution and has become one of the major goals of Indian society.

[4] Constitution of India 1950, art. 32

Art. 32 – The right to constitutional remedies is protected by ***Article 32*** and is found in Part III of the constitution. The Supreme Court is designated as the Fundamental Rights' defender and guarantor under ***Article 32.***

JUDGEMENT

The Supreme Court held that although the Indian Constitution does not explicitly considers the principle of "equal pay for equal work" as a fundamental right but as a constitutional objective in ***Articles 14*** and ***16*** as well as in ***Article 39(c)*** and is enforceable in court if there is unfairness in the wage scale based on irrational classification, even if the wage scale is different for performing similar tasks for the same organization or employer. The Supreme Court held that individuals shouldn't be discriminated against on account that they are working in different departments, all things being equal or all relevant considerations being the same.

According to the judgement, this principle is a substantive concept rather than an abstract one. There can be and are different classes within the service, each requiring a different qualification to join and often serving as a progression for lower-grade officers. Placing officers in two categories with different pay scales is rationally supported by their education in addition to the period of working in the department. When applied to individuals, this principle becomes an impersonal concept not covered by ***Article 14***. For example, changing conditions that cause "injustice, hardship, suffering, and deprivation to many people with the object of causing such great discontent as to endanger world peace and harmony" is an internationally recognized success. is one of the organizations. According to the judgment, ***Articles 14, 16, and 39(d)*** must be read with the ambit of the Indian Constitution. The principle should therefore apply particularly where unequal wages are paid for similar duties and responsibilities, and not on unreasonable classification grounds.

CASE ANALYSIS

These days, there are more examples of discriminatory pay scales for the same sort of job, which has raised the topic of the "Compensation Gap" or uneven pay. For all economic sectors, India currently lacks a comprehensive and open wage policy. Due to this, the question of future

demand for equal pay has become one of worry. Equal pay in this context refers to additional perks and allowances in addition to the basic salary. In Articles 39(d) and 41 of the Indian Constitution, the concepts of "Equal Pay for Equal Work" and "Right to Work" were acknowledged for both men and women. These articles have been inserted as DPSPs. They will therefore act as recommendations for the Indian Central and State governments, to be taken into consideration while formulating laws and policies. Even on the legislative front, efforts are made; the Equal Remuneration Act of 1976 is the most notable example. Through Section 4, the Act stresses equal compensation for equal effort and forbids employers from reversing pay scales to achieve balance. In the 1962 case ***Kishori Mohanlal Bakshi v Union of India***[5], the Supreme Court first evaluated the equal pay for equal work concept and ruled that it could not be upheld in a court of law.

The Mackinnon Mackenzie case[6], however, was what finally gave it the attention it deserved in 1987. Concerning this situation, stenographers who were female and male demanded equal pay. The Court's decision in favour of equal pay resulted in a victory for female stenographers. The issue persists despite the passage of time. It is true that the gender wage gap is a more serious problem and that solutions are being sought, but this is not the whole story. Even when two people are the same gender, there are some cases when compensation disparities persist.

Surprisingly, the judiciary just made a contentious decision when the legislative is actively promoting equality. Here, a decision of the Punjab and Haryana High Court was overturned by the Supreme Court. It rejected paying daily-wage drivers on par with permanent drivers employed by the Punjabi government. "A daily wager cannot claim remuneration equivalent to that of a normal worker even if the two are doing the "identical functions," the court decided. In addition, it said that "authorities are not required to provide such a person with equal remuneration" even if they perform the same duties as normal employees. 4 Despite our best efforts, we have not yet been able to pass any major legislation. In addition, issues like ignorance and inconsistent legal interpretation serve as obstacles to closing the pay gap. It is crucial to not

[5] *Kishori Lal Mohan Lal Bakshi v Union of India* [1962] AIR 1139 (SC)
[6] *Mackinnon Mackenzie and Co. Ltd. v Audrey D'Costa & Ors* [1987] 2 SCC 469

only raise awareness of the legal enactments but also to successfully put them into practice to overcome this problem.

CONCLUSION

Here, the abstract principle known as ***Art. 14*** was applied for constitutional purposes. Indeed, equal effort leads to equal reward, so the expression of equality in Article 16 must have some meaning. ***Art. 39 (d)*** clearly emphasizes the concept of discrimination on the ground of gender-based. Any of the above clauses can be enforced in court in the event of unequal pay scales or incorrect pay grades. According to the Supreme Court, the concept of "equal pay for equal work" is enshrined in the Constitution of India as a constitutional objective and not as a fundamental right. It went on to say that, just as it sometimes has to read and interpret the fundamental rights, it also has to read and interpret ***Art. 16*** to mean that the state must guarantee equality in recruitment practices for all positions that come under this ambit. On the other hand, ***Art. 14***, states that no state may discriminate against citizens before the law and equal protection of laws.