



GAHC010060892017

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**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : WP(C)/8166/2017**

ALL ASSAM NEWLY PROVINCIALISED COLLEGE EMPLOYEES  
ASSOCIATION  
REPRESENTED BY ITS SECRETARY, DILIP SAIKIA, SON OF LATE DHURBA  
RAM SAIKIA, R/O. VILLAGE- KALSHILAPARA, P.O. RAJAMAYONG, DIST.  
MORIGAON, ASSAM.

VERSUS

THE STATE OF ASSAM and 2 ORS.  
REPRESENTED BY THE COMMISSIONER and SECRETARY TO THE GOVT.  
OF ASSAM, EDUCATION HIGHER DEPTT., DISPUR, GHY-06.

2:THE COMM. and SECY. TO THE GOVT. OF ASSAM  
FINANCE DEPARTMENT

DISPUR  
GUWAHATI-06.

3:THE DIRECTOR OF HIGHER EDUCATION  
ASSAM

KAHILIPARA  
GUWAHATI-19

**Advocate for the Petitioner** : MS. K DEVI

**Advocate for the Respondent** : SC, HIGHER EDUCATION

**BEFORE**  
**HONOURABLE MR. JUSTICE KARDAK ETE**



**JUDGMENT**

**Date : 30.04.2024**

Heard Mr. M. Khan, learned counsel for the petitioner. Also heard Mr. K. Gogoi, learned standing counsel, Higher Education Department, for respondents No.1 and 3 and Mr. B. Gogoi, learned standing counsel, Finance & Taxation Department, for respondent No.2.

**2.** By instituting this petition, the petitioner association representing the Senior Assistants, prayed for a direction to provide the benefit of revised scale of pay in the Pay Band of Rs.7170/- per-month as provided to the other similarly situation employees under the Assam Services (Revision of Pay) Rules, 2010 (hereinafter referred to as ROP Rules, 2010). Challenged is also made to the impugned letter dated 08.08.2017 issued by the Under Secretary, Finance (PRU) Department, whereby the claim of the petitioner has been rejected stating, inter-alia, that the notification dated 28.07.2010 was issued for 15 grade pays which are meant for direct recruits appointed on or after 04.02.2010 allowing multiplying factor of 1.86 as the post of Senior Assistant being promotional post and secondary scale and as such the petitioners who have appointed on 01.01.2013 will not get the benefit of multiplying factor of 1.86 in terms of the notification dated 28.07.2010.

**3.** The petitioner is a registered association in the name of Assam Newly Provincialised College Employees Association represented by its Secretary. The members of the petitioner association are the Senior Assistants, Junior Assistants and Library Assistants of various provincialised colleges in the State of Assam and they are serving in the various degree colleges of Assam. The services of the members of the petitioner association were provincialised w.e.f. 01.01.2013 and 14.08.2013 respectively under the Assam Venture Educational



Institutions (Provincialisation of Services) Act, 2010 as amended in 2012. It is projected that at the time of provincialisation of the members of petitioner as Senior Assistants, their scale of pay has been fixed at Rs.5200 - 20,200/- plus Grade Pay 2900/-. Prior to the revision of pay under the ROP Rules, 2010, the scale of pay payable to the Senior Assistant plus other admissible pay were Rs.3850/- Basic Pay and Rs.2400/- Grade Pay. After the revision, the scale pay with other admissible pay was Rs.7170/- Basic Pay and Rs.2900/- Grade Pay. According to the petitioner, the Senior Assistants who were in the basic pay of Rs.3850/- are entitled to revision of pay of Rs.7170/- per-month. It is contended that the other Senior Assistant of provincialised colleges earlier are being paid the basic pay of Rs.7170/-.

**4.** It is the contention of the petitioner that although the services of Senior Assistant, Library Assistant and Junior Assistant who are the members of the petitioner association have been provincialised but the respondents are paying the basic pay of Rs.5200/- uniformly to all plus other admissible Grade Pay. It is contended that as per the Assam Pay Commission, 2008, the fitment benefit has been provided and also are being paid to other similarly cadre of employees under the ROP Rules, 2010. But the same has not been provided to the members of the petitioner association, although their services have been provincialised.

**5.** It is the contention of the petitioner that the Junior Assistant, Library Assistant and Assistant Librarian are getting the same scale of Basic Pay i.e. Rs.5200/- only, though the post of Senior Assistant is higher post than the Junior Assistant etc. Therefore, the Senior Assistants are entitled to higher scale of pay as per ROP Rules, 2010. However, due to wrong fixation of their pay



scale, the Senior Assistants are being deprived of their legitimate dues and the similarly situated employees are getting higher scale of pay.

**6.** The petitioner, being aggrieved, approached the respondent authorities for fixation of correct pay scale as per the provision of ROP Rules, 2010. Thereafter, the writ petition being WP(C) 1832/2016 was filed which was disposed of on 18.03.2016 by this Court directing the petitioner to file fresh representation and further directed the respondent authorities to consider the case of the petitioner as per their entitlement at par with their counter parts in a provincialised colleges of the State under 2005 Act. The respondents after considering the case of the petitioner intimated by the impugned letter dated 08.08.2017 rejected the claim of the petitioner stating that as per notification dated 28.07.2010 the multiplying factor of 1.86 is not applicable in respect of Senior Assistant as the post is promotional and Secondary scale. Being aggrieved by the impugned letter dated 08.08.2017, the present petition has been filed basically for a direction to grant revised scale of pay as mentioned above.

**7.** Mr. M. Khan, learned counsel for the petitioner, submits that the respondent authorities have illegally classified a homogeneous group of employees into two different categories which is not permissible in law. He submits that there is no prescribed rule with regard to the classification of posts into two categories i.e. primary (direct recruit) and secondary (promotional post). No justified reason has been given in denying the benefit of multiplying factor of 1.86 to the Senior Assistants. The services of members of the petitioner association have been provincialised as Senior Assistant and they have not been promoted after provincialisation.

**8.** Mr. M. Khan, learned counsel, submits that the OM dated 28.07.2010



provides 15 numbers of Pay grades exclusive of the pay scale of the Senior Assistant. Therefore, no bar has been created disentitling the benefit of multiplying factor of 1.86 to the Senior Assistant. He further submits that the Senior Assistants are discharging identical duties and responsibilities with the Senior Assistants of earlier provincialised colleges for which they cannot be discriminated and are entitled for equal pay scale. He submits that it is settled position of law that if the incumbent of the subjective posts and the reference posts are discharging duties and responsibilities the principle of equal pay for equal work is applicable. Therefore, the granting one scale of pay to one group of employees and depriving another group, who are equally situated employees, is clearly discriminatory. He further submits that the impugned letter dated 08.08.2017 is arbitrary inasmuch as, without any basis, the respondent authorities have resorted to classify two equally situated group of employees.

**9.** Having submitted above, Mr. Khan has ultimately confined his argument with respect to granting of pay in Pay Band of Rs.5380/- to Junior Assistant which is a feeder post and Rs.5200/- to a Senior Assistant (petitioner herein). He strenuously argued that the feeder cadre of Junior Assistant has been provided with higher pay in Pay Band of Rs. 5380/-, whereas, the promotional/higher post of Senior Assistant has been given a lesser pay in Pay Band of Rs.5200/- which is not permissible under the law inasmuch as, the higher posts ought to carry a higher pay scale including pay in the Pay Band. Therefore, the action of rejecting the claim of the petitioner are required to be re-considered and to provide the benefit of revised scale of pay.

**10.** Mr. B. Gogoi, learned standing counsel, Finance Department, submits that the petitioners have erroneously stated that their basic is Rs.7170/- with Grade



Pay of Rs.2900/-. The pay scale as per Fitment Table-10, is actually meant for the employees who are already in service on 01.01.2006. In the case of the petitioners, their services were provincialised after 01.01.2006, i.e. on 01.01.2013 and 14.03.2013. As per ROP Rules, 2010, the revised pay scale of the petitioners is PB-2, 5200-20200+GP of Rs.2900/-. As the petitioner's services were provincialised after 01.01.2006, they are treated as fresh recruits. As such, their basic pay from the date of provincialisation of service will be the pay in the pay band plus grade pay and not Rs.7170/-.

**11.** Mr. B. Gogoi, learned standing counsel, submits that the benefit of Fitment Table is applicable only to those employees who were already in service prior to 01.01.2006. The employees who were in service prior to 01.01.2006 were given Dearness Allowances. While re-fixing the pay in 01.01.2006, the Dearness Allowances become nil. So to mitigate any loss, that might have occurred, the employees existing scale was multiplied by a factor of 1.86. But the fresh employees will not get the benefit of a factor of 1.86. Their pay has been fixed as per pay in the pay band plus grade pay. In the case of the petitioners (who are Senior Assistants), their services were provincialised after 01.01.2006 i.e. on 01.01.2013 and 14.08.2013. Hence, the basic pay from the date of provincialisation of service will be the pay in the band plus grade pay which is PB-2, 5200-20200 +grade pay of Rs.2900/- and not Rs.7170/-. The basic pay of the petitioners from the date of provincialisation of service will be the pay in the pay band plus grade pay and not the pay as shown in the fitment table.

**12.** Mr. B. Gogoi, learned standing counsel, submits that on receipt of a letter enclosing a copy of Hon'ble High Court order dated 18.03.2016 from Higher Education Department vide AHE.167/2016/57 dated 14.03.2017, Higher



Education Department was requested to take necessary action as per Hon'ble High Court's order dated 18.03.2016 and examine in detail and make necessary comparisons between the posts of newly provincialised and already provincialised colleges and submit specific views to Finance Department vide FPC.8/2017/9 dated 30.03.2017. Accordingly, respondent authorities have examined and considered the case of the petitioner and rejected the claim of the petitioner with cogent reasons.

**13.** Mr. B. Gogoi, learned standing counsel further submits that the Assam Pay Commission 1964 recommended two types of pay scales, i.e., Primary Scale and Secondary Scale. The Secondary Scale was meant for categories of post filled by promotion. The Primary Scale is entry scale and was meant for post fill up through direct recruitment. The O.M dated 28.07.2010 was issued following this system of Primary and Secondary Scale. The post of Senior Assistant is filled up through promotion from Junior Assistant and hence a Secondary Scale.

**14.** He further submits that as per Rules 8(A)(A)(i) of ROP Rules, 2010 (Fixation of initial pay in revised pay structure) the pay in the pay band will be determined by multiplying the existing basic pay as on 01.01.2006 by a factor of 1.86. In such cases Fitment Table shown at Appendix-VII of the ROP, Rules 2010 is followed. The petitioners entered into service on 01.01.2013 and 14.08.2013 and are treated first appointment. So, they are not entitled to multiplying factor of 1.86. Their initial pay will be the pay in the Pay Band plus Grade Pay. The pre-revised pay of Senior Assistant (petitioners) was Rs.3850/- 7350/-. So, their revised pay as on 01.01.2013 will be PB-2, Rs.5200/--20200 + GP of Rs.2900/-. Hence, the interpretation of petitioners regarding pay scale of Senior Assistant and multiplying factor of 1.86 is absolutely wrong and cannot



be accepted.

**15.** Mr. B. Gogoi, learned standing counsel, submits that the question of eligibility, mode of recruitment, nature and quality of work does not arise. Since, they are treated as new entry on 01.01.2013 and 14.08.2013, pay scale of the petitioner will be the pay in the pay band plus grade pay. The petitioners are entitled to the pay scale as per ROP Rules, 2010 and their pay will be Rs.5200-20200 + GP of Rs.2900/- which is a revised pay of Rs.3850-7350. Therefore, he submits that the action of the respondent authorities is in accordance with the applicable rules and the policy of the State and as such absolutely legal.

**16.** Due consideration has been extended to the submissions of the learned counsel for the parties and also considered the materials available on record.

**17.** As noted herein before, the present petition has been filed by the Association, namely- All Assam Newly Provincialised College Employees Association, whose members are Senior Assistants, Junior Assistants and Library Assistants. However, the grievance raised is with regard to the pay/scale of pay of Senior Assistant only whose services have been provincialised in the various colleges in the State of Assam in terms of Assam Venture Educational Institutions (Provincialisation of Services) Act, 2011 w.e.f. 01.01.2013 and 14.08.2013, claiming, firstly- a pay parity with the counter-parts Senior Assistant, whose services have been provincialised under Assam Educational Institutions (Provincialisation of Services) Act, 2005, secondly, the post of Junior Assistant, feeder cadre to the Senior Assistant, is having a higher pay scale than the Senior Assistant and thirdly, against the rejection of the claim of the petitioners vide impugned letter dated 08.08.2017 wherein, inter-alia, it is stated that as per the notification dated 28.07.2010 the post of Senior Assistant





is a promotional post and the scale of pay being a Secondary Scale and who have joined on 01.01.2013 are not entitled to get the benefit of multiplying factor of 1.86, on the ground that no bar is created to disentitled the petitioners as the pay grade of the Senior assistant is not included.

**18.** Having been raised the grievances above, the ultimate and main grievance is confined for granting of pay in the Pay Band of Rs.5380/- given to the Junior Assistant which is a feeder post and Rs.5200/- to a Senior Assistant. In other words, the promotional/higher post of Senior Assistants/petitioners have been given a lesser pay in the Pay Band of Rs.5200/- whereas, the feeder post of Junior Assistant carries a higher Pay Band of Rs.5300/-, which is not permissible under the law.

**19.** To analyse and appreciate the issue, Office Memorandum dated 28.07.2010 issued by the Commissioner & Secretary, Finance Department, Govt. of Assam, regarding fixation of pay of the employees, is apposite to be referred, which is reproduced herein below:-

GOVT OF ASSAM

FINANCE (PAY RESEARCH UNIT) DEPARTMENT

DISPUR::::GUWAHATI-6

No.FPC 14/2010/17

Dated 28<sup>th</sup> July,2010

OFFICE MEMORANDUM

**SUB: Clarification regarding fixation of pay of those employees who entered in the service on or after 1.1.2006.**

*“ In pursuance of Rule 5 "Application of the Revised Pay" and Rule 8 "Fixation of initial pay in Revised Pay Structure" of the Assam Services (Revision of Pay) Rules, 2010, in the Notification No. FPC.85/2009/2 dated 4<sup>th</sup> February,*



2010 as published in the Extra-Ordinary Issue No.25 of the Assam Gazette dated 4<sup>th</sup> February/2010, the Governor of Assam is pleased to fix the pay of those employees who entered in Service of the Assam Government on or after 01.01.2006 in the Revised Pay Structure in the following manner:-

**1. Pay fixation for those employees who entered in Service of the Assam Government on or after 01.01.2006 but before 4<sup>th</sup> February, 2010 (Date of issuance of the aforesaid notification);**

While fixing the revised pay for aforesaid category of employees, the following conditions shall be observed:

I. Multiplying factor of 1.86 shall be applied to pre-revised Basic Pay as on Date of Joining of such employees.

II. Fixation of pay of such employees shall be subject to other conditions as applicable in case of other employees who were in service as on 31.12.2005. The above fixation shall be done notionally if the date of joining is on or before 31.03.2009. Arrears of pay shall be payable only with effect from 01.04.2009.

III. In cases where the emoluments in the pre revised pay scale(s) {i.e. pre-revised basic pay, Dearness Pay plus Dearness Allowances applicable on date of entry} exceeds the sum of pay fixed in the revised pay structure and the applicable Dearness Allowance thereon, the difference shall be allowed as personal pay to be absorbed in future increments in pay.

**2. Pay structure for the future recruits who entered in service of the Assam Government on or after 4<sup>th</sup> February, 2010 (Date of issuance of the aforesaid notification):**

I. The following Pay Structure shall be applicable for aforesaid category of employees. It shall consist of only 15 Grades corresponding to 15 numbers of pre-revised direct entry pay scales. This Pay Structure shall apply at the time of entry in the service. Subsequently, the Revised Pay Structure with 30 Grades shall be applicable at the time of promotion, upgradation etc.

Sl NO.	Pre revised Pay Scale	Pay in the Pay	Grade Pay	Total Pay
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	(Min and Max)		Band		(Basic Pay)
			PB 1		
1.	2450	3670	4560	1300	5860
2.	2490	4120	4640	1400	6040
3.	2530	4390	4710	1600	6310
			PB -2		
4.	2610	4840	5200	1800	000
5.	2650	5200	5200	1900	7100
6.	2890	5725	5380	2000	7380
7.	3010	6075	5600	2100	7700
8.	3130	6600	5380	2200	8030
9.	3370	7100	6270	2300	8570
10.	3490	8100	6500	2500	9000
11.	3580	8750	6660	2800	9460
			PB 3		
12.	3760	9400	8000	4300	1 2300
13.	4120	9725	8000	4500	12500
14.	4300	11025	8000	5100	13100
			PB- 4		
15.	4390	11425	12000	5400	1 7400

*II. Fixation of pay of the aforesaid category of employees appointed as*



*fresh on or after 4<sup>th</sup> February, 2010 shall be done as per the pay structure mentioned above which indicates the entry level pay in the Pay Band at which the pay of direct recruits to a particular post will be fixed on appointment and the corresponding Grade Pay.*

Commissioner and Secretary, Finance Dept.

Govt. of Assam.

Memo No. FPC 14/2010/7 A

Dated 20<sup>th</sup> June 2010.

**20.** On bare perusal of the above Office Memorandum, it is seen that a clarification has been made in pursuance to the Rule 5 and 8 of the ROP Rules, 2010 which provides that pay fixation for those employees who entered into service of the Assam Government on or after 01.01.2006 but before 04.02.2010, the following conditions be observed while fixing the revised pay-

i). Multiplying factor of 1.86 shall be applied to pre-revised basic pay as on date of joining of such employees.

ii). Fixation of pay of such employees shall be subject to other conditions as applicable in the case of other employees who are in service as on 31.12.2005. The above fixation shall be done notionally if the date of joining is on or before 31.03.2009. Arrears of pay shall be payable only w.e.f. 01.04.2009. Further it provides that pay structure of future recruits who entered in service on or after 04.02.2010 shall consist of only 15 pay grades corresponding to 15 numbers of pre-revised direct entry pay scales. The pay structure shall apply at the time of entry into service and subsequently the revised pay structure with 30 grades shall be applicable at the time of promotion, up gradation etc. It also provides



that fixation of pay of the aforesaid category of employees appointed as fresh recruits on or after 04.02.2010 shall be done as per the pay structure mentioned above which indicates the entry level pay in the Pay Band and the pay of the direct recruits to a particular posts will be fixed on appointment and the corresponding grade pay.

**21.** Records reveals that the 1964 Pay Committee recommended 33 scales i.e. 17 as Primary Scales and rests 16 as Secondary Scales while the Secondary Scales were meant for category of posts filled normally by promotion, the Primary Scales were entry scales and meant for posts filled up through direct recruitment with a few exception where besides direct recruitment, promotion from lower scales was also applicable. With regard to the classification of services the committee recommended retention of the existing four classes. After the acceptance of the recommendation of 1964 Pay Committee, the government sanctioned 10 more scales of pay to meet the requirement of certain specified categories of posts and accordingly the number of scales are 43.

**22.** It is noticed that the Senior Assistants is shown to be entitled inter alia of pay in Pay Band of Rs.5200/- and Junior Assistant is Rs.5380/- and entitled to total basic pay of Rs.8100/- and 7580/-. On the first blush, one would accept that the Senior Assistant (post of petitioners herein) has been granted pay in the Pay Band of Rs.5200/- and Junior Assistant, who is a feeder post of the Senior Assistant, is granted Rs.5380/- which may not be permissible. However, on the basis of the ROP Rules, 2010, the Office Memorandum as well as Pay Commission report accepted by the Government, which is a policy matter as well as a job of the expert, the same has been explained properly. In any case,

the Senior Assistant being the higher post is granted total basic pay of Rs.8100/- and Junior Assistant being the feeder grade/lower grade is granted Rs.7580/- respectively.

**23.** On the perusal of the ROP Rules, 2010, this court finds the revised pay scale prescribed for the petitioners, Junior Assistant/Library. Assistant and Assistant Librarian as under:-

- i) Senior Assistant-PB-2, 5200-20200+GP of Rs.2900/-.
- ii) Jr. Assistant/Lib. Assistant-PB-2, 5200-20200+ GP of Rs.2200/-.
- iii) Assistant Librarian-PB-2, 5200-20200 + GP of Rs.3300/-.

**24.** As per the provincialisation order dated 20.01.2014, whereby the service of the different categories of employees as per the provision of Section 4(1) of the Assam Venture Educational Institutions (Provincialisation of Services) Act, 2011 as amended in 2012 have been provincialised, it clearly provided the minimum of the time scale pay and allowances as admissible under the Rules that the Senior Assistant would be entitled to scale of pay of Rs.5200/- 20200/- plus Grade Pay Rs.2900/- and for Junior Assistants Rs.5200/- 20200/- plus Grade Pay 2200/-. Undisputably, the petitioners have accepted the terms and conditions of their provincialisation which provides their entitlement including the time scale of pay and allowances as per the Rules and policy of the State.

**25.** It is noted that the post of Senior Assistant is a Secondary Scale post, a promotional post as the Junior Assistant is promoted to post of Senior Assistant. As per Government Notification dated 28.07.2010, the multiplying factor of 1.86

is not applicable to the Secondary Scale post. As per provision of the ROP Rules, 2010, the fixation of pay of Senior Assistant is Pay in the Pay Band plus Grade Pay i.e. PB-2 5200-20200 + GP 2900/- i.e. 5200+2900=8100/-. The post of Junior Assistant, the pre-revised pay scale is Rs.2890-5725/- and its corresponding revised pay scale is PB-2, 5200-20200 + GP2200/-, which is a Primary Scale post i.e. direct recruit, and the multiplying factor of 1.86 is applicable to the post, and accordingly as per provision of the ROP Rules, 2010 the fixation of pay of Junior Assistant is Pay in the pay band plus Grade Pay i.e. PB-2 5200-20200 +GP 2200/-. However, since the pay scale of Rs.2890-5725/- is included in the aforesaid Notification dated 28.07.2010, therefore, Junior Assistant is entitled to  $2890 \times 1.86 = 5380/-$ , i.e. 5380+2200=7580. Therefore, the Senior Assistant is entitled to Rs.5200 + GP 2900 =8100/- (promotional post) and Junior Assistant is Rs.5380 +GP 2200=7580/- (direct recruit).

**26.** On the careful consideration, this Court finds that ultimately the petitioners are granted the pay scale of Rs.5200 plus Grade Pay of Rs.2900 =8100/- and the Junior Assistant are granted Rs.5380 plus Grade Pay of Rs.2200=7580/-, which is lower than the scale of pay as well as other allowances. It is also noticed that the Junior Assistants are granted pay in the Pay Band plus Grade Pay i.e. Pay Band-2, Rs.5200- 2200 plus Grade Pay 2200/-. Since the pay scale is of Rs.2890 to 5725, same is included in the Notification dated 28.07.2010, the Junior Assistant is granted  $\text{Rs.}2890 \times 1.86 = 5380$ , i.e. Rs.5380 plus 2200 =7580/- and the Senior Assistant is granted Rs.5200 plus Grade Pay 2900=8100/-. Therefore, in the considered view of this Court, it would not be correct to say that the petitioners are granted lesser pay and allowances than the Junior Assistant, a post lower and feeder to the post of petitioners. Thus, this Court is of the considered view that there is hardly any anomaly in the pay

structure and pay scale of the petitioners with that of the Junior Assistants.

**27.** The contention of the learned counsel for the petitioners with regard to the equal pay for equal work, this Court is of the view that the services of Senior Assistants who were provincialised under the then Act of 2005 (repealed) cannot be equated with the petitioners as the provincialisation has been made under different Acts having different policy and the Rules for such pay and allowances to those employees who have been provincialised under the said Act of 2005. Thus, the question of equal pay for equal work does not arise and for that matter plea of discrimination appears to be misconceived.

**28.** A profitable reference may be made to the case of **Rajesh Pravinchandra Rajyaguru –vs- Gujarat Water Supply and Sewerage Board** reported in **(2021) 19 SCC 128**, regarding the equation of posts and salary wherein, the Hon'ble Supreme Court has reiterated that the equation of posts and salary is a complex matter which should be left to expert body and undertaking and the Court cannot interfere lightly as granting of pay parity by Court may result in a cascading effect having adverse consequences. The relevant paragraph is quoted herein below:-

*“17. As per the settled proposition of law equation of posts and salary is a complex matter which should be left to the expert body and undertakings and the court cannot interfere lightly. Granting of pay parity by the court may result in a cascading effect having adverse consequences. There are limitations or qualifications to the applicability of the doctrine of ‘equal pay for equal work’”*

**29.** In the case of **Secretary, Finance Department -vs- West Bengal Registration**





**Service Association** reported in **1993 Supp (1) SCC 153**, the Hon'ble Supreme Court has held that the equation of post and determination of pay scale is the primary function of executive and not the judiciary. Ordinarily, the Court will not enter upon the task of job evaluation.

**30.** In the light of the law laid down by the Hon'ble Supreme Court in the above decisions and as considered herein above, the petitioners/Senior Assistants whose services have been provincialised w.e.f. 01.01.2013 and 14.08.2013 on which date (s) they become the employees of the State Government with the terms and conditions as prescribed and as per the applicable rules, the relevant Office Memorandum and the policy of the State, there is no basis to claim for pay parity and pay anomaly with any of their counter-part in the State Government. The determination of pay scale is the primary function of executive and not of the court and in my view respondent authorities appears have appropriately determined in accordance with applicable rules and policy in the instant case.

**31.** In view of the above and for the reasons stated herein above, the challenge to the impugned letter dated 08.08.2017 stands failed. The petitioner could not make out a case of pay anomaly and principle of equal pay for equal work as well as pay parity. I find no merit in the writ petition. Accordingly, the claim of the writ petitioner stands rejected. However, the rejection of the present petition shall not be a bar to consider the case of the petitioners by the respondent authority which may be permissible under the policy as well as Rules that may be taken by the State respondents.

**32.** Writ petition stands dismissed, accordingly.



No order as to costs.

**JUDGE**

**Comparing Assistant**