

RAMESH SINGH .

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v.

UNION OF INDIA & ORS.

(Writ Petition (C) No. 648 of 2002)

MARCH 11, 2008

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(DR. ARIJIT PASAYAT, P. SATHASIVAM AND
AFTAB ALAM, JJ.)

Service Law:

Writ petition - Employees of Border Road Organisaition and Central Government claiming parity in service benefits with employees of Army/General Reserve Engineering Force - Held: 4th and 5th Central Pay Commissions considered the issues in question and did not make any recommendation thereof - In view of the judgment of Supreme Court in Sukhdev Singh Gill vs. State of Punjab & Ors., service benefits as claimed not accepted.

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Petitioner, an employee, filed a writ petition under Article 132 of the Constitution of India for direction to the authorities concerned to consider parity in the matter of service benefits for employees working in the Border Roads Organisation and the Government of India with the army personnel and Officers working in the General Reserve Engineering Force.

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Petitioner contended that this Court in the case of R. Viswan & Ors. vs. Union of India & Ors. directed the authorities to allow them parity in the matter of service benefits.

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Respondent-Union of India submitted that in the case of R. Viswan & Ors. vs. Union of India & Ors., no direction to allow parity in service benefits has been given.

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Dismissing the Petition, the Court

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A HELD: In view of what has been stated in the case of
Sukhdev Singh Gill and the fact that the 4th and 5th Central
Pay Commissions had already considered the relevant
aspects, this Court is of the view that the prayers as made
cannot be accepted; more particularly, when there is no
B challenge to the recommendations of the 4th and 5th
Central Pay Commissions. It needs no emphasis that even
if such a challenge is made, the scope for interference is
extremely limited because the Court does not normally
substitute its views for those of expert bodies like Pay
C Commission unless some glaring infirmities are
established. (Para - 6) [771-B, C]

Sukhdev Singh Gill v. State of Punjab and Ors. (2000) 8
SCC 492 - relied on.

D *R. Viswan and Ors. v. Union of India and Ors.* (1983) 3
SCC 401 - held inapplicable.

CIVIL ORIGINAL JURISDICTION : Writ Petition (Civil) No.
648 of 2002.

E Under Article 32 of The Constitution of India.

Anagha S. Desai, Satyajit A. Desai and Venkateswara
Rao Anumolu for the Petitioner

F B. Dutta, A.S.G., T.S. Doabia, Savitri Pandey, Kiran
Bhardwaj and Anil Katiyar for the Respondents.

The Judgment of the Court was delivered by

G DR. ARIJIT PASAYAT, J. 1. Grievance in the writ petition
under Article 32 of the Constitution of India, 1950 (in short 'the
Constitution') is that there should be parity in the matter of service
benefits so far as the army personnel and officers working in
the General Reserve Engineering Force (in short 'GREF'). Stand
of the petitioner that he and other employees are serving in the
Border Road Organisation and the Government of India is bound
to treat equally with the members of the Armed Force and there

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should not be any distinction pertaining to extending the facilities and benefits in the service including allowance pay etc. Reference is made to a decision of this Court in *R. Viswan and Ors. v. Union of India and Ors.* (1983 (3) SCC 401) to contend that this Court had, in fact, directed such a course to be adopted. It is pointed out under a misconception the 4th and the 5th Central Pay Commissions have not considered the connected issue in the proper perspective.

2. Mr. B. Dutta, learned Additional Solicitor General, on the contrary submitted that in *R. Viswan's* case (*supra*) there was no direction to give parity as is being contended by the petitioner. On the contrary in *Sukhdev Singh Gill v. State of Punjab and Ors.* (2000 (8) SCC 492), this Court had, inter alia, held that such a course is not permissible.

3. In *R. Viswan's* (*supra*) it was, inter-alia, observed as follows:

"11. Before we part with this point, we may point out that an anguished complaint was made before us on behalf of the petitioners that there is considerable disparity between the Army personnel posted in GREF units and the other officers and men of GREF insofar as the terms and conditions of service, such as, salary, allowances and rations are concerned. It is not necessary for us to consider whether this complaint is justified; it is possible that it may not be wholly unjustified but we may point out that in any event it has no real bearing at all on the question whether the members of GREF can be said to be members of Armed Forces. Since the members of GREF are drawn from two different sources, it is possible that the terms and conditions of service of the personnel coming from the two sources may be different. The Army personnel posted in GREF units naturally carry their own terms and conditions of service while the other officers and men in GREF are governed by their own distinctive terms and conditions. It is difficult to appreciate how differences in

A terms and conditions of service between GREF personnel
coming from two different streams can possibly have any
impact on the character of GREF as a force integral to the
Armed Forces. It is immaterial for the purpose of
B determining whether the members of GREF are members
of the Armed Forces as to what are the terms and
conditions of service of the members of GREF and whether
they are identical with those of Armed personnel appointed
on the same or equivalent posts in GREF units. But, we
C might observe that in case it is found that the terms and
conditions of service of officers and men in GREF directly
recruited or taken on deputation are in any way less
favourable than those of Army personnel appointed to the
same or equivalent posts in GREF, the Central Government
D might well consider the advisability of taking steps for
ensuring that the disparity, if any, between the terms and
conditions of service, such as, salary, allowances, rations
etc. of Army personnel posted in GREF units and other
officers and men in GREF is removed.”

4. Subsequently, in *Union of India v. Dineshan K.K.* (2008
E (1) SCC 586) at para 10 it was observed as under:

“10. Mr. B. Dutta, learned Additional Solicitor General,
appearing for the Union of India contended that the
direction given by the High Court is manifestly contrary to
the settled legal position, enunciated by this Court in
F several decisions that pay fixation is essentially an
executive function, ordinarily undertaken by an expert body
like the Pay Commission, whose recommendations are
entitled to a great weight though not binding on the
Government. It was argued that the recommendations of
G an expert body are not justiciable since the Court is not
equipped to take upon itself the task of job evaluation,
which is a complex exercise. In support of the proposition,
reliance is placed on two decisions of this Court in *S.C.*
Chandra v. State of Jharkhand (2007 (8) SCC 279) and
H *Union of India v. Hiranmoy Sen* (2008 (1) SCC 630).”

5. We find from the extract of the 4th Central Pay Commission's Report in para 10.472 the Commission had with reference to this Court's judgment in *R. Viswan's* case (supra) held that there was no scope for any parity as contended. Similar is the position in the 5th Central Pay Commission report. A

6. In view of what has been stated in *Sukhdev Singh Gill's* case (supra) and the fact that the 4th and 5th Central Pay Commissions considered the relevant aspects, we are of the view that the prayers as made cannot be accepted; more particularly, when there is no challenge to the recommendations of the 4th and 5th Central Pay Commissions. It needs no emphasis that even if such a challenge is made, the scope for interference is extremely limited because the Court does not normally substitute its views for those of expert bodies like Pay Commission unless some glaring infirmities are established. B
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7. The writ petition fails and is dismissed. D

S.K.S.

Writ Petition dismissed.