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STATE OF PUNJAB & ORS.

v.

THE SENIOR VOCATIONAL STAFF MASTERS ASSOCIATION  
& ORS.

B

(Civil Appeal No. 632 of 2008)

AUGUST 18, 2017

**[DIPAK MISRA, R. K. AGRAWAL AND  
PRAFULLA C. PANT, JJ.]**

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*Service Law:*

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*Parity of Posts – Post of Vocational Masters – Initially educational qualification was either degree in Engineering or B.A. with ITI Diploma – Their pay-scale was higher than that of the Lecturers – In the year 1978 Vocational Masters and Lecturers were placed in the same scale – By Notification dated 31.3.1995 graduate Vocational Masters and post-graduate Vocational Masters were re-designated as Vocational Lecturers – However, responsibilities and financial implications were not affected – Notification dated 31.3.1995 was challenged in High Court – During pendency of the petition, Service Rules were amended – Thereby pay scales of Lecturers were made higher than those of the Vocational Masters – The Vocational Masters approached the State Government claiming pay-scales at par with the Lecturers – The State Government by Notifications dated 7.11.2002 and 16.5.2003 granted the benefit of higher pay-scale only to those, who were in service prior to 8.7.1995 – State Government by Notification dated 16.7.2003, canceled the Notifications dated 7.11.2002 and 16.5.2003 clarifying that only those Vocational Masters who were appointed prior to 8.7.1995 and those who acquired the qualification of post-graduate and or degree in engineering by 8.7.1995 would be eligible for higher pay-scale – Vocational Masters challenged the Notification dated 16.7.2003 – Single Judge of High Court quashed the Notification dated 16.7.2003 and directed the State Government to give benefit of Notification dated 31.3.1995 – Division Bench of High Court dismissed the LPAs – On appeal, held: Since the very inception, the educational qualification for appointment as Vocational Masters had been a degree or diploma as both the*

*qualifications were placed at par – All were appointed by a common process of selection and all were performing the same work – It was only subsequently that the State Government designated some of the Vocational Masters as Vocational Lecturers and brought about an artificial distinction between the two – Even after re-designation, there was no change in the responsibilities and financial matters of the Vocational Lecturers – There is no distinction between Vocational Lecturers and Vocational Masters – Any attempt to curtail the salary and allowances of Vocational Masters would amount to arbitrariness, if no reasonable justification is offered for the same – Therefore, High Court was justified in holding that Vocational Masters were entitled to higher pay-scale – Notification dated 16.7.2003 is also liable to be quashed on the ground of violation of natural justice as it was passed without hearing the concerned employees – Constitution of India – Art. 14 – Punjab State Education Class III (School Cadre) Service Rules, 1978.*

*Constitution of India:*

*Arts. 14 to 18 – Nature and Scope of – Held: Doctrine of equality is a dynamic and evolving concept having many dimensions – Art. 14 forbids class legislation, but does not forbid reasonable classification – Classification should be based on intelligible differentia and the differentia must have a reasonable nexus to object sought to be achieved by the rule or statutory provision in question – The principle of equality is also fundamental in formulation of any policy by the State as is evident from Articles 38, 39, 39A, 43 and 46 of the Constitution – If the State is giving some economic benefits to one class while denying the same to other, then the onus of justifying the same lies on the State, specially when both the classes were treated as same in the past by the State.*

**Dismissing the appeal, the Court**

**HELD: 1.1 It is a cardinal principle of law that Government has to abide by rule of law and uphold the values and principles of the Constitution of India. The doctrine of equality is a dynamic and evolving concept having many dimensions. Articles 14-18 of the Constitution, besides assuring equality before the law and equal protection of the laws, also disallow discrimination which lacks the object of achieving equality, in matters of employment.**

A It is well settled that though Article 14 forbids class legislation  
but it does not forbid reasonable classification. When any rule of  
statutory provision providing classification is assailed on the  
ground that it is contrary to Article 14, its validity can be sustained  
if it satisfies two tests, namely, that the classification was to be  
B based on an intelligible differentia which distinguishes persons  
or things grouped together from the others left out of the group,  
and the differentia in question must have a reasonable nexus to  
object sought to be achieved by the rule or statutory provision in  
question. In other words, there must be some rational nexus  
between the basis of classification and the object intended to be  
C achieved by the Statute or the Rule. [Para 14] [666-D-G]

1.2 The principle of equality, is also fundamental in  
formulation of any policy by the State and the glimpse of the same  
can be found in Articles 38, 39, 39A, 43 and 46 embodied in Part  
IV of the Constitution. These Articles of the Constitution  
D mandate that the State is under a constitutional obligation to  
assure a social order providing justice- social, economic and  
political, by *inter alia*, minimizing monetary inequalities, and by  
securing the right to adequate means of livelihood and by  
providing for adequate wages so as to ensure, an appropriate  
standard of life, and by promoting economic interests of the  
E weaker sections. Meaning thereby, if the State is giving some  
economic benefits to one class while denying the same to other,  
then the onus of justifying the same lies on the State specially in  
the circumstances when both the classes or group of persons  
were treated as same in the past by the State. There cannot be  
F any discrimination between similarly situated persons, whether  
by way of a Government Notification or any amendment in the  
Rules. [Paras 16 and 17] [667-F, H; 668-A-B]

1.3 In the present case, since the very inception, the  
educational qualification for appointment as Vocational Masters  
G had been a degree or a diploma with three years' experience as  
both the qualifications were placed at par. All persons were  
appointed by a common process of selection and they teach the  
same classes, performing the same work. No distinction can be  
brought about between the persons so appointed. It is only  
subsequently that the appellants designated some of the  
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Vocational Masters as Vocational Lecturers and brought about an artificial distinction between the two. Even on account of re-designation of the degree-holders and post-graduates as Vocational Lecturers, there was no change in the responsibilities and the financial matters as between the degree-holders and diploma-holders before the alleged Notification, which fact is duly admitted by the State. There is no distinction between the Vocational Lecturers and Vocational Masters and they form one unified cadre and class. [Para 16] [667-C-E]

1.4 As far as nature of work is concerned, it is stated that the Vocational Masters are discharging their duty in the Senior Secondary Schools in the Engineering/non-Engineering trades and have the technical qualifications, while the Vocational Lecturers are also discharging the same duties in the same schools. Both Vocational Masters and Lecturers are teaching the same classes and hence the nature of work, responsibilities and duties being identical and the pay scales were also kept identical since 1978 onwards. [Para 16] [667-F-G]

1.5 Since Vocational Masters had been drawing same salary as Vocational Lecturers were drawing before the application of 4<sup>th</sup> Pay Commission, any attempt to curtail their salary and allowances would amount to arbitrariness which cannot be sustained in the eyes of law if no reasonable justification is offered for the same. [Para 17] [668-C]

1.6 A differential scale on the basis of educational qualifications and the nature of duties is permissible. However, it is equally clear that if two categories of employees are treated as equal initially, they should continue to be so treated unless a different treatment is justified by some cogent reasons. In a case where the nature of duties is drastically altered, a differential scale of pay may be justified. Similarly, if a higher qualification is prescribed for a particular post, a higher scale of pay may be granted. However, if the basic qualifications and the job requirements continued to be identical as they were initially laid down, then the Court shall be reluctant to accept the action of the authority in according a differential treatment unless some good reasons are disclosed. [Para 18] [668-D-F]

A           **1.7 The High Court was fully justified in declaring that the vocational masters are entitled to pay scale of Rs.6,400-10,640/- on the ground that the nature of duties being discharged by the vocational masters are the same as vocational lecturers and that there was no rationale behind making a classification between the two, especially when both the categories were treated as one and the same in all the previous pay revisions since 1978 onwards. Vide notification dated 31.03.1995, only the nomenclature of Vocational Masters was changed without changing their nature of duties and pay scales. [Para 19] [668-G-H]**

C           *V. Markendeya and Others v. State of Andhra Pradesh and Others* (1989) 3 SCC 191 : [1989] 2 SCR 422 ;  
 D           *State of U.P. and Others v. J.P. Chaurasia and Others* (1989) 1 SCC 121 : [1988] 3 Suppl. SCR 288 ; *Shyam Babu Verma and Others v. Union of India and Others* (1994) 2 SCC 521 : [1994] 1 SCR 700 ; *Government of W.B. v. Tarun K. Roy and Others* (2004) 1 SCC 347 : [2003] 5 Suppl. SCR 656 ; *Indian Drugs & Pharmaceuticals Ltd. v. Workmen, Indian Drugs & Pharmaceuticals Ltd.* (2007) 1 SCC 408 : [2006] 9 Suppl. SCR 73 ; *State Bank of India and Others v. K.P. Subbaiah and Others* (2003) 11 SCC 646 : [2003] 1 Suppl. SCR 545 – distinguished.

F           **2. Further, the impugned order dated 16.07.2003 deserves to be quashed on the short ground that it has been passed without complying the rules of natural justice. The same could not have been passed without giving an opportunity of hearing to the concerned employees. The respondents had been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter. [Paras 19 and 21] [669-A, H; 670-A]**

G           *Bhagwan Shukla v. Union of India & Ors.* AIR 1994 SC 2480 : [1994] 2 Suppl. SCR 419 – relied on.

<u>Case Law Reference</u>			A
[1989] 2 SCR 422	distinguished	Para 5	
[1988] 3 Suppl. SCR 288	distinguished	Para 5	
[1994] 1 SCR 700	distinguished	Para 8	
[2003] 5 Suppl. SCR 656	distinguished	Para 8	B
[2006] 9 Suppl. SCR 73	distinguished	Para 9	
[2003] 1 Suppl. SCR 545	distinguished	Para 9	
[1994] 2 Suppl. SCR 419	relied on	Para 20	C

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 632 of 2008.

From the final Judgment and Order dated 23.05.2006 of the High Court of Punjab and Haryana at Chandigarh in L.P.A. Nos.66 and 67 of 2006 (O & M). D

Karan Bharihoke, Ms. Anusha Nagarajan, Ajay Pal, Advs. for the Appellants.

Nidhesh Gupta, Neeraj Kr. Jain, Sr. Advs, Tarun Gupta, Puneet Varshney, Ms. Vriti Gujaral, Varinder Kumar Sharma, Ms.Parul Sharma, Aditya Kr. Choudhary, Akhil Anand, Ms. Vaishali Dixit, Ashok K. Mahajan, Advs for the Respondents. E

The Judgment of the Court was delivered by

**R.K. AGRAWAL, J.** 1. The above appeal has been filed against the impugned common judgment and order dated 23.05.2006 passed by the High Court of Punjab & Haryana at Chandigarh in L.P.A. No. 66 of 2006 in CWP No. 10928 of 2003 and L.P.A. No. 67 of 2006 in CWP No. 7527 of 1995 whereby the Division Bench while dismissing the appeals filed by the appellants herein upheld the order dated 27.04.2005 passed by learned single Judge of the High Court in CWP Nos. 10928 of 2003 and 7527 of 1995. F G

## 2. Brief facts:

(a) The Senior Vocational Staff Masters Association-the respondent Association represents the Vocational Masters in the State H

A of Punjab appointed during the years 1975, 1982, 1983 and thereafter.  
The respondents were appointed on their respective posts by the State  
of Punjab in the year 1975 on *ad-hoc* basis. In the year 1978, the  
Punjab Public Service Commission advertised 132 posts of Vocational  
Masters to be filled up by way of regular appointment. These posts  
B were to be filled up under the Punjab School Education (PSE) Class III  
(School Cadre) Rules. The minimum educational qualification for the  
posts of Vocational Masters was degree or post graduation except very  
few courses where the educational qualification was Diploma under the  
advertisement.

C (b) In the year 1992-93, the State Government decided to revise  
the minimum qualification for being appointed as vocational masters and  
Diploma was provided as the minimum educational qualification in place  
of Degree for some courses. Due to revision, there were two classes of  
Vocational Masters in the State, viz., Diploma holder vocational masters  
and degree holder vocational masters or post-graduate vocational masters.  
D The State Government, taking note of the fact that the unequals are  
being treated as equals due to the revision in qualification, vide Notification  
dated 31.03.1995, re-designated degree holder vocational masters and  
post-graduate vocational masters as vocational lecturers with the rider  
that their present responsibilities and financial matters will have no  
change. It is also pertinent to mention here that Diploma holder vocational  
E masters were also provided an opportunity to re-designate as vocational  
lecturers as and when they acquire the degree or post-graduate  
qualification.

(c) The said notification dated 31.03.1995 was challenged before  
the High Court in CWP No. 7527 of 1995 by the remaining Vocational  
F Masters for a direction to the appellants to grant the designation of  
Vocational Lecturers to all the Vocational Masters in the State of Punjab.  
During the pendency of the said writ petition, the State Government  
made rules to amend the Punjab State Education Class III (School Cadre)  
Service Rules, 1978 prescribing separate qualification for vocational  
G masters and vocational lecturers.

(d) On the onset of 4<sup>th</sup> Punjab Pay Commission, the Commission  
had not treated Vocational Masters separate from Masters of General  
Studies and the Vocational Lecturers from the Lecturers of General  
Studies and merged the Vocational Masters with that of the School  
H Masters and Vocational Lecturers with School Lecturers by amendment,

viz., Punjab Civil Services (revised pay)(first amendment) Rules, 1998 A  
wherein School Lecturers were granted the pay scale of Rs. 6,400-  
10,640/- and School Masters were given the pay scale of Rs. 5,800-  
9,200/-. It is pertinent to mention here that earlier the Vocational Masters  
and Vocational Lecturers were given the same pay scales.

(e) The respondents herein, being aggrieved by the disparity in B  
pay scales granted by the 4<sup>th</sup> Pay Commission, approached the State  
Government claiming that they should be granted pay scales at par with  
the Lecturers. Vide Notification dated 07.11.2002, the Government of  
Punjab, Department of Education clarified that “the Vocational Masters  
appointed on or after 08.07.1995 neither can be designated as Vocational C  
Lecturers based upon the educational qualification nor the revised scale  
of Rs. 6,400-10,640/- in place of Rs. 5,800-9,200/- be granted to them  
with effect from 01.01.1996. In other words, the benefit of higher scale  
will be admissible to those who were in service prior to 08.07.1995”.  
Vide a subsequent notification dated 16.05.2003, the State Government  
reiterated the stand taken in the Notification dated 07.11.2002 and also D  
sought for strict compliance of the same.

(f) The Government of Punjab, Department of Education, vide  
Notification dated 16.07.2003, cancelled the Notifications dated  
07.11.2002 and 16.05.2003 clarifying the position that only those  
Vocational Masters who were appointed prior to 08.07.1995 and those E  
who acquired the qualification of post-graduate or degree in engineering  
by 08.07.1995 would be eligible for scale of pay of Rs. 6,400-10,640/-  
with effect from 01.01.1996 and also issued a direction to recover the  
excess amount being paid to any ineligible vocational master on the basis  
of the earlier Notifications.

(g) Being aggrieved by the Notification dated 16.07.2003, the F  
respondents herein preferred CWP No. 10928 of 2003 before the High  
Court. Learned single Judge of the High Court, vide a common judgment  
and order dated 27.04.2005 in CWP Nos. 10928 of 2003 and 7527 of  
1995, quashed the Notification dated 16.07.2003 and directed the State  
Government to give the benefit of Notification dated 31.03.1995 to all G  
the Vocational Masters recruited prior to 08.07.1995.

(h) Aggrieved by the order dated 27.04.2005, the State  
Government preferred L.P.A. No. 66 of 2006 in CWP No. 10928 of  
2003 and L.P.A. No. 67 of 2006 in CWP No. 7527 of 1995 before the

A High Court. The Division Bench of the High Court, vide common judgment and order dated 23.05.2006, dismissed the appeals filed by the appellants herein.

(i) Aggrieved by the order dated 23.05.2006, the appellants have preferred this appeal by way of special leave.

B 3. Heard the arguments advanced by Mr. Karan Bharihoke, learned counsel for the appellants and Mr. Neeraj Kumar Jain and Mr. Nidhesh Gupta, learned senior counsel for the respective respondents and perused the records.

**Point(s) for consideration:-**

C 4. The only point for consideration before this Court is whether in the present facts and circumstances of the case, the Notification dated 16.07.2003 is valid in the eyes of law or not?

**Rival submissions:**

D 5. Learned counsel for the appellants contended before this Court that the respondents do not fulfill the basic qualification of Lecturer. It was further contended that the High Court has not considered the fact that the respondents could not have challenged the Notification dated 31.03.1995 as the said Notification has been superseded by the Statutory Rule dated 08.07.1995. He further contended that the High Court has recorded an erroneous finding of fact that the Notification dated 16.07.2003 is violative of principles of natural justice and there is no question of recovering the excess amount paid as salaries and allowances to the respondents. Learned counsel further contended that it is a well settled proposition of law that the pay scales of a class of employees are determined by the State Government keeping in view the qualifications, responsibilities, nature of work and resources of the State and the High Court ought not have granted the pay scale of Rs. 6,400-10,640/- to the respondents herein-Vocational Staff Masters. Learned counsel further contended that in order to rectify the error committed earlier, the Notification dated 16.07.2003 was issued by the State Government withdrawing the pay scale of Rs. 6,400-10,640/- to the vocational masters w.e.f. 01.01.1996 which was inadvertently given vide Notification dated 07.11.2002, and there is no foul play on the part of the State to hamper any legitimate right of the respondents as it is the prerogative of the State. Learned counsel finally contended that the orders passed by the  
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H High Court are erroneous and are in flagrant violation of the statutory

rules and be set aside by this Court. In support of his submissions, learned counsel has relied upon the following decisions of this Court which are as under:-

(i) In *V. Markendeya and Others vs. State of Andhra Pradesh and Others* (1989) 3 SCC 191, it was held as under:-

“10. In *Randhir Singh case* and later in *Dhirendra Chamoli case*, *Surinder Singh case*, *Bhagwan Dass case*, *Jaipal case* and *P. Savita case*, this Court implemented the principle of “equal pay for equal work”. The court granted relief on the principle of equal pay on the basis of same or similar work performed by two classes of employees under the same employer even though the two classes of employees did not constitute the same service. But in all the aforesaid cases relief was granted only after it was found that discrimination was practised in giving different scales of pay in violation of the equality clause enshrined in Articles 14 and 16 of the Constitution. The principle of equal pay for equal work was enforced on the premise that discrimination was practised between the two sets of employees performing the same duties and functions, without there being any rational classification. The principle of “equal pay for equal work” is not an abstract one, it is open to the State to prescribe different scales of pay for different cadres having regard to nature, duties, responsibilities and educational qualifications. Different grades are laid down in service with varying qualifications for entry into particular grade. Higher qualification and experience based on length of service are valid considerations for prescribing different pay scales for different cadres. The application of doctrine arises where employees are equal in every respect, in educational qualifications, duties, functions and measure of responsibilities and yet they are denied equality in pay. If the classification for prescribing different scales of pay is founded on reasonable nexus the principle will not apply. But if the classification is founded on unreal and unreasonable basis it would violate Articles 14 and 16 of the Constitution and the principle of equal pay for equal work, must have its way. In the decisions reference to which have been made by the learned counsel for the appellants, this Court granted relief, after recording findings that the aggrieved employees were discriminated in violation of the equality clause under Articles 14

A and 16 of the Constitution, without there being any rationale for the classification.

B **11.** In a number of decisions of this Court the claim for equal pay for equal work has been negated on the ground that the different pay scales prescribed for persons doing similar or same work is permissible on the basis of classification founded on the measure of responsibilities, educational qualifications, experience and other allied matters. In *Federation of All India Customs and Central Excise Stenographers (Recognised) v. Union of India*, Justice Sabyasachi Mukharji said:

C “... there may be qualitative differences 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 criterion 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.”

The learned Judge further observed:

F “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 sought for, as 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.”

H **12.** In *State of U.P. v. J.P. Chaurasia*, this Court negated the claim of Bench Secretaries for equal pay for equal work on the

basis of reasonable classification based on merit, experience and seniority though both sets of employees were performing the similar duties and having similar responsibilities. In *Mewa Ram Kanojia v. AIIMS* this Court refused to grant relief to the petitioner for parity in pay on the application of the principle of "equal pay for equal work" on the ground of reasonable classification on the basis of educational qualifications.

13. In view of the above discussion we are of the opinion that where two classes of employees perform identical or similar duties and carrying out the same functions with the same measure of responsibility having same academic qualifications, they would be entitled to equal pay. If the State denies them equality in pay, its action would be violative of Articles 14 and 16 of the Constitution, and the court will strike down the discrimination and grant relief to the aggrieved employees. But before such relief is granted the court must consider and analyse the rationale behind the State action in prescribing two different scales of pay. If on an analysis of the relevant rules, orders, nature of duties, functions, measure of responsibility, and educational qualifications required for the relevant posts, the court finds that the classification made by the State in giving different treatment to the two classes of employees is founded on rational basis having nexus with the objects sought to be achieved, the classification must be upheld. Principle of equal pay for equal work is applicable among equals, it cannot be applied to unequals. Relief to an aggrieved person seeking to enforce the principles of equal pay for equal work can be granted only after it is demonstrated before the court that invidious discrimination is practised by the State in prescribing two different scales for the two classes of employees without there being any reasonable classification for the same. If the aggrieved employees fail to demonstrate discrimination, the principle of equal pay for equal work cannot be enforced by court in abstract. The question what scale should be provided to a particular class of service must be left to the executive and only when discrimination is practised amongst the equals, the court should intervene to undo the wrong, and to ensure equality among the similarly placed employees. The court however cannot prescribe equal scales of pay for different class of employees."

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A (ii) In *State of U.P. and Others vs. J.P. Chaurasia and Others*  
(1989) 1 SCC 121, it was held as under:-

B “20. The second question formulated earlier needs careful  
examination. The question is not particular to the present case. It  
is pertinent to all such cases. It is a matter affecting the civil  
services in general. The question is whether there could be two  
scales of pay in the same cadre of persons performing the same  
or similar work or duties. All Bench Secretaries in the High Court  
of Allahabad are undisputedly having same duties. But they have  
been bifurcated into two grades with different pay scales. The  
Bench Secretaries Grade I are in a higher pay scale than Bench  
Secretaries Grade II. The entitlement to higher pay scale depends  
upon selection based on merit-cum-seniority. Can it be said that it  
would be violative of the right to equality guaranteed under the  
Constitution?”

D 31. In the present case, all Bench Secretaries may do the  
same work, but their quality of work may differ. Under the rules  
framed by the Chief Justice of the High Court, Bench Secretaries  
Grade I are selected by a Selection Committee. The selection is  
based on merit with due regards to seniority. They are selected  
among the lot of Bench Secretaries Grade II. When Bench  
Secretaries Grade II acquire experience and also display more  
merit, they are appointed as Bench Secretaries Grade I. The rules  
thus make a proper classification for the purpose of entitlement to  
higher pay scale. The High Court has completely overlooked the  
criterion provided under the Rules. The merit governs the grant  
of higher pay scale and that merit will be evaluated by a competent  
authority. The classification made under the Rules, therefore,  
cannot be said to be violative of the right to have equal pay for  
equal work.”

G 6. *Per contra*, learned senior counsel for the respondents-  
Vocational Staff Masters Association submitted that since beginning the  
educational qualification for appointment as Vocational Masters had been  
a degree or a diploma with three years’ experience as both the  
qualifications were placed at par. The process of selection as well as  
the nature of the job was same. There was no such difference or  
distinction brought about between the persons so appointed. Learned  
senior counsel further submitted that the State Government sought to  
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bring about an arbitrary distinction amongst people who had been appointed to teach the same classes of 10+1 and 10+2 and such arbitrary action is contrary to law and has rightly been directed to be rectified by the High Court. Learned senior counsel further submitted that there cannot be any discrimination between similarly situated persons whether by way of a government notification or by any amendment in the Rules. The plea that there was an inadvertent mistake is contrary to the record and it is a deliberate distinction in law sought to be brought about by the appellants. Learned senior counsel finally contended that the High Court was right in upholding the order passed by the learned single Judge and the present appeal is liable to be dismissed.

7. Learned senior counsel appearing for the vocational lecturers (Respondent Nos. 5 and 7) submitted that the State Government, while exercising powers under Section 309 of the Constitution, framed Punjab Civil Services (Revised Pay) (First Amendment) Rules, 1998. As per the said Rules, different scales of pay have been prescribed for Vocational Lecturers and Vocational Masters. The government, after examining various factors including different qualifications required for both the posts, has prescribed higher pay scale for Vocational Lecturers than the Vocational Masters. The said differentiation is made bona fide, reasonably on an intelligible criterion, which has a rational nexus with the object of differentiation. Notably, the said Rules were not assailed by the Vocational Masters before the High Court. Thus, there are statutory rules which hold the field and different pay scales for both the posts have been prescribed on the basis of the said Rules. However, the High Court without even noticing the said rules, by way of order, erroneously struck down the action of the government in not granting the pay scales of Vocational Lecturers to Vocational Masters.

8. Learned senior counsel further submitted that it has been held in a catena of cases of this Court that the doctrine of 'equal pay for equal work' has no mechanical application in every case and Article 14 permits reasonable qualification based on qualities or characteristics of persons recruited and grouped together, as against those who are left out. For claiming the benefit of the doctrine of 'equal pay for equal work', the concerned employee has to establish that the qualification, eligibility, mode of selection/recruitment, nature and quality of work and duties and effort, reliability, confidentiality, dexterity, functional need and responsibilities and status of both the posts are identical. In support of

A this claim, learned senior counsel pointed out the judgments of this Court in *Shyam Babu Verma and Others vs. Union of India and Others* (1994) 2 SCC 521 and *Government of W.B. vs. Tarun K. Roy and Others* (2004) 1 SCC 347.

9. Learned senior counsel further stressed upon the point that the matters concerning pay fixation etc. exclusively falls within the domain of Expert Committees constituted by the government and court should refrain from interfering with the decisions regarding fixation of pay arrived at by such Committees. So long as the decision of those who are charged with the administration in fixing the scales of pay and other service conditions etc. is made bona fide, reasonably on an intelligible criterion, which has a rational nexus with the object of differentiation, such differentiation will not amount to discrimination. The determination as to whether two posts are equal or not is the job of Expert Committee and the Court should not interfere with the same. In support of this submission, learned senior counsel point out the following judgment of this Court, viz., *Indian Drugs & Pharmaceuticals Ltd. vs. Workmen, Indian Drugs & Pharmaceuticals Ltd.* (2007) 1 SCC 408 and *State Bank of India and Others vs. K.P. Subbaiah and Others* (2003) 11 SCC 646.

10. Learned senior counsel finally submitted that in the absence of wholesome identity between the Vocational Masters and the Vocational Lecturers, the High Court erred in quashing the order dated 16.07.2003 passed by the State Government whereby it has decided not to extend the benefit of higher pay scales to those Vocational Masters who did not acquire the qualification of post graduate or degree in engineering by 08.07.1995. The said decision of the Government was in consonance with the statutory rules and had been made bona fide, reasonably on an intelligible criterion which has a rational nexus with the object of differentiation. Hence, the High Court erred in quashing the same and that too without even noticing much less advertent to the statutory rules which govern the field.

G **Discussion:**

11. The respondents herein are claiming the pay scale of Rs. 6,400-10,640/- with effect from 01.01.1996 which would be at par with the scale granted to the lecturers. It is their claim that when they were initially appointed as Vocational Masters on *ad-hoc* basis and were placed in the pay scale of Rs. 300-600/- a degree in Engineering was the

necessary qualification for teaching students in the Engineering trade and for non-engineering trade, a candidate was required to have the qualification of B.A. with ITI Diploma. These qualifications were at par with Lecturers under the PES Class III Rules. It is also on record that at the relevant time, the posts of Lecturers were in the lower scale of Rs. 250-550/-. The scale which had been given to Vocational Masters was equivalent to the scale which had been enjoyed by the Head Masters. In the year 1978, the Pay Commission recommended the pay scale of Rs. 700-1300/- both for lecturers as well as for vocational masters. Thus, the vocational masters and lecturers were placed in the same scale. The parity in pay continued even in the subsequent pay revision and both the categories were placed in the pay scale of Rs. 1,800-3,200/-. In this view of the matter, the nature of duties of the Lecturers and Vocational Masters has not undergone any change.

12. However, when the pay scales were revised in the year 1998 with effect from 01.01.1996, a disparity was created between the pay scales of Lecturers and Vocational Masters. Whilst the Lecturers were granted the pay scale of Rs. 6,400-10,640/-, the respondents herein-Vocational Masters were fixed in the converted pay scale of Rs. 5,800-9,200/-. It is also on record that the Vocational Masters, who were appointed earlier to 08.07.1995 claimed that they cannot be granted a pay scale lesser than the Lecturers. Vide Notification dated 07.11.2002, the State Government issued a clarification that the Vocational Masters appointed on or after 08.07.1995 neither can be designated as Vocational Lecturers based upon the educational qualification nor can be granted the revised scale of Rs. 6,400-10,640/- to them with effect from 01.01.1996 stating that the higher scale will be admissible to those who were in service prior to 08.07.1995. In view of the Notification dated 07.11.2002, the higher scale was given to the Vocational Masters. On 21.05.2003, the State Government granted a quota of 15% to the Vocational Masters for being considered for promotion to PES Class II. In the meantime, on 16.07.2003, the State Government, by way of subsequent Notification, superseding earlier Notifications dated 07.11.2002 and 16.05.2003, directed that the designations and pay scale of Rs. 6,400-10,640/- with effect from 01.01.1996 will be admissible to only those Vocational Masters who have been appointed prior to 08.07.1995 and had the qualification of post-graduate or degree in engineering by 08.07.1995. On the basis of the said Notification, the State Government passed orders to recover the excess amount paid to

A Vocational Masters after following the due procedure under the Rules. However, the claim of the respondents herein to re-designate all the Vocational Masters as Vocational Lecturers was still pending.

13. As the name suggests, vocational courses are those courses in which teaching is not on regular basis. Vocational courses play a very important role in the grooming of students in different fields. It trains young people for various jobs and helps them acquire specialized skills. Vocational education can also be termed as job-oriented education. It helps a person in becoming skilled in a particular field at a comparatively lower age. In the present case, the State Government, in the year 1975, felt the need of Vocational courses and accordingly made the suitable provisions for the regulation of these courses. As per the government orders, initially, except very few subjects, the minimum educational qualification for the appointment to the post of "Vocational Masters" was Degree or Post Graduation.

14. It is a cardinal principle of law that government has to abide by rule of law and uphold the values and principles of the Constitution. Respondents herein alleged that creating an artificial distinction between the persons in the same cadre would amount to violation of Article 14 i.e. equality before law and hence, such an act cannot be sustained. The doctrine of equality is a dynamic and evolving concept having many dimensions. Articles 14-18 of the Constitution, besides assuring equality before the law and equal protection of the laws, also disallow discrimination which lacks the object of achieving equality, in matters of employment. It is well settled that though Article 14 forbids class legislation but it does not forbid reasonable classification. When any rule of statutory provision providing classification is assailed on the ground that it is contrary to Article 14, its validity can be sustained if it satisfies two tests, namely, that the classification was to be based on an intelligible differentia which distinguishes persons or things grouped together from the others left out of the group, and the differentia in question must have a reasonable nexus to object sought to be achieved by the rule or statutory provision in question. In other words, there must be some rational nexus between the basis of classification and the object intended to be achieved by the Statute or the Rule.

15. It is evident that at the time of initial appointment, both the degree holders and the Diploma holders were appointed by a common process of selection where for the engineering trade a degree was

required and for the non-engineering trade a diploma was considered as the appropriate qualification. A common advertisement was issued and a common process of selection led to the appointment of all persons who were designated as Vocational Masters. They were appointed on a pay scale higher than the general lecturers. They continued to draw a higher scale till the year 1978 when the pay scale of the general lecturers was brought at par with the pay scale of the Vocational Masters. It is only in the year 1995 that an effort was made by the State Government to create a distinction between the degree holders as vocational lecturers and diploma holders as vocational masters.

16. Further, since the very inception, the educational qualification for appointment as Vocational Masters had been a degree or a diploma with three years' experience as both the qualifications were placed at par. All persons were appointed by a common process of selection and they teach the same classes, performing the same work. No distinction can be brought about between the persons so appointed. It is only subsequently that the appellants designated some of the Vocational Masters as Vocational Lecturers and brought about an artificial distinction between the two. Even on account of re-designation of the degree holders and post graduates as vocational lecturers, there was no change in the responsibilities and the financial matters as between the degree holders and diploma holders before the alleged Notification which fact is duly admitted by the State. There is no distinction between the vocational lecturers and vocational masters and they form one unified cadre and class. There cannot be any discrimination between similarly situated persons, whether by way of a government notification or any amendment in the Rules. As far as nature of work is concerned, it is stated that the vocational masters are discharging their duty in the Senior Secondary Schools in the Engineering/non-Engineering trades and have the technical qualifications while the vocational lecturers are also discharging the same duties in the same schools. Both vocational masters and lecturers are teaching the same classes, i.e., 10+1 and 10+2 and hence the nature of work, responsibilities and duties being identical and the pay scales were also kept identical since 1978 onwards.

17. The principle of equality, is also fundamental in formulation of any policy by the State and the glimpse of the same can be found in Articles 38, 39, 39A, 43 and 46 embodied in Part IV of the Constitution of India. These Articles of the Constitution of India mandate

- A that the State is under a constitutional obligation to assure a social order providing justice- social, economic and political, by *inter alia*, minimizing monetary inequalities, and by securing the right to adequate means of livelihood and by providing for adequate wages so as to ensure, an appropriate standard of life, and by promoting economic interests of the weaker sections. Meaning thereby, if the State is giving some economic
- B benefits to one class while denying the same to other then the *onus* of justifying the same lies on the State specially in the circumstances when both the classes or group of persons were treated as same in the past by the State. Since Vocational Masters had been drawing same salary as Vocational Lecturers were drawing before the application of 4<sup>th</sup> pay
- C commission, any attempt to curtail their salary and allowances would amount to arbitrariness which cannot be sustained in the eyes of law if no reasonable justification is offered for the same.

18. We are conscious of the fact that a differential scale on the basis of educational qualifications and the nature of duties is permissible.
- D However, it is equally clear to us that if two categories of employees are treated as equal initially, they should continue to be so treated unless a different treatment is justified by some cogent reasons. In a case where the nature of duties is drastically altered, a differential scale of pay may be justified. Similarly, if a higher qualification is prescribed for a particular
- E post, a higher scale of pay may be granted. However, if the basic qualifications and the job requirements continued to be identical as they were initially laid down, then the Court shall be reluctant to accept the action of the authority in according a differential treatment unless some good reasons are disclosed. Thus, the decisions relied upon by learned senior counsel are clearly distinguishable and are not applicable to the
- F facts of the present case.

#### Conclusion:

19. In view of the forgoing discussion, we are of the considered opinion that the High Court was fully justified in declaring that the vocational masters are entitled to pay scale of Rs. 6,400-10,640/- on the
- G ground that the nature of duties being discharged by the vocational masters are the same as vocational lecturers and that there was no rationale behind making a classification between the two especially when both the categories were treated as one and the same in all the previous pay revisions since 1978 onwards. Vide notification dated 31.03.1995,
- H only the nomenclature of vocational masters was changed without

changing their nature of duties and pay scales. Further, the impugned order dated 16.07.2003 deserves to be quashed on the short ground that it has been passed without complying the rules of natural justice. The same could not have been passed without giving an opportunity of hearing to the concerned employees. A

20. It is by now well settled that no orders causing civil consequences can be passed, without observing rules of natural justice as it was held in *Bhagwan Shukla vs. Union of India & Ors.* AIR 1994 SC 2480 wherein it was held as under: B

“3. We have heard learned counsel for the parties. That the petitioner’s basic pay had been fixed since 1970 at Rs, 190 p.m. is not disputed. There is also no dispute that the basic pay of the appellant was reduced to Rs. 181 p.m. from Rs. 190 pan. in 1991 retrospectively w.e.f. 18.12.1970. The appellant has obviously been visited with civil consequences but he had been granted no opportunity to show cause against the reduction of his basic pay. He was not, even put on notice before his pay was reduced by the department and the order came to be made behind his back without following any procedure known to law. There, has, thus, been a flagrant violation of the principles of natural justice and the appellant has been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter. Since, that was not done, the order (memorandum) dated 25.7.1991. which was impugned before the Tribunal could not certainly be sustained and the Central Administrative Tribunal fell in error in dismissing the petition of the appellant. The order of the Tribunal deserves to be set aside. We, accordingly, accept this appeal and set aside the order of the Central Administrative Tribunal dated 17.9,1993 as well as the order (memorandum) impugned before the Tribunal dated 25.7.1991 reducing the basic pay of the appellant From Rs. 190 to Rs. 181 w.e.f. 18.12,1970.” C  
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21. The order dated 16.07.2003 came to be made behind the back of vocational masters without following any procedure known to law. Thus, there has been a flagrant violation of the principles of natural justice and the respondents had been made to suffer huge financial loss H

A without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter.

B 22. In our considered view, the High court while dealing with the matter on merits, has rightly quashed the letter dated 16.07.2003 and directed the State government to give benefits of the Notification dated 31.03.1995 to all the Vocational Masters.

C 23. In view of above discussion, we are not inclined to interfere in the decision passed by the High Court. Accordingly, the appeal is dismissed with no order as to costs.

Kalpana K. Tripathy

Appeal dismissed.