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**(2002) 08 GAU CK 0027**

**Gauhati High Court (Imphal Bench)**

**Case No:** Civil Rule No. 258 of 1997

R.K. Kraditor Singh

APPELLANT

Vs

State of Manipur and Others

RESPONDENT

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**Date of Decision:** Aug. 27, 2002

**Acts Referred:**

- Constitution of India, 1950 - Article 14, 226

**Citation:** (2003) 1 GLR 224

**Hon'ble Judges:** Ranjan Gogoi, J

**Bench:** Single Bench

**Advocate:** R.K. Nokulsana and Manichandra Oinam, for the Appellant; R.S. Seisang, Government Advocate, for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

Ranjan Gogoi, J.

The writ petitioner, who is holding the post of Artist in the Directorate of Youth Affairs and Sports, Government of Manipur, claims parity of pay with Artists engaged in the other Directorates of the State particularly, in the Directorate of Economics and Statistics and Family Welfare. According to the writ petitioner, by the Manipur Services (Revised Pay) Rules, 1990, the pay scale of Artist in the Directorate of Youth Affairs and Sports has been enhanced from Rs. 575-1050-950-1500/- whereas the pay scale of Artists in the Economics and Statistics Directorate as well as in the Directorate of Family Welfare has been enhanced to Rs. 1350-2220. Alleging discrimination in the matter of grant of pay scale on a claim that the writ petitioner is similarly situated to the Artists appointed in the aforesaid Directorates, the instant recourse to the writ jurisdiction of this Court has been made.

2. Mr. Manichandra, learned counsel for the petitioner has placed before the Court the relevant provisions of the amendment to the R.O.P. Rules granting the pay scale of Rs. 1350-2200/- to the Artists to the Economics and Statistics Directorate and in

support of the relief claimed in the writ petition, has argued that in respect of the pay scales as fixed by the R.O.P. Rules, 1990, the matter was re-examined and on such re-examination, by an amendment to the R.O.P. Rules in question, the benefit of scale of Rs. 1350-2200 has been granted to the Artists working in the other Directorates whereas similar benefit has not been given to the writ petitioner though he has been working as an Artist in the Directorate of Youth Affairs and Sports. Learned counsel by referring to the provisions of the Recruitment Rules governing the recruitment to the post of Artists in all the three departments i.e. (i) the Directorate of Youth Affairs and Sports, (ii) Economics and Statistics and (iii) Family Welfare, has contended that the qualifications prescribed by the Recruitment Rules for appointment to the post of Artist in all the cases are at par. The nature of work and duties and responsibilities of Artists in all the three cases are stated to be the same and similar, as averred to in para - 5 of the writ application. Learned counsel contends that when the qualifications prescribed are same and duties and responsibilities for the posts in question are identical, there can be hardly any reasonable basis for giving the higher pay scale to the Artists in the Directorate of Economics and Statistics and Family Welfare, while denying the same to the writ petitioner.

3. Mr. R. S. Reisang, learned counsel appearing on behalf of the State has placed before the Court the averments made in the counter affidavit filed by the respondents. According to the learned counsel, the pre-revised scale of Artists in the Directorate of Youth Affairs and Sports was Rs. 575-1050 and that of Artist in the other two Directorates was Rs. 575-1380. The pay scale of Artist in other two departments was, therefore, higher than the pay scale of Artist in the Directorate of Youth Affairs and Sports, it is contended. Accordingly, by the R.O.P. Rules, 1990 and the amendments thereto, while the pay scale of Artist in the Directorate of Youth Affairs and Sports has been enhanced to Rs. 575-1050, the pay scale of Artist in two departments/directorates had been enhanced to Rs. 1350-2200. Learned State counsel by referring to the affidavit filed has further contended that by virtue of the R.O.P. Rules, 1990, as many as 10 (ten) posts in different departments as mentioned in the affidavit which were in the pay scale of Rs. 575-1050 prior to the revision, were granted the pay scale of Rs. 950-1500 and the post of Artist in the Directorate of Youth Affairs and Sports is one of such posts. Similarly, as many as seven different posts in different departments including the post of Artist in Directorate of Economics and Statistics and Family Welfare which were in the pre-revised pay scale of Rs. 575-1380 were granted higher pay scale of Rs. 1350-2200 by the R.O.P. Rules in question. It is the contention of the learned State counsel that on the aforesaid facts, no discrimination as alleged, is made out and the case of the petitioner is not an isolated incident as has been sought to be contended on behalf of the writ petitioner. Learned State counsel Mr. Reisang by relying on the averments made in Para - 6 of the counter affidavit of the respondents has contended that the grant of higher pay scale to Artists in the Directorate of Economics and Statistics and Family

Welfare in comparison with the Artists in the Directorate of Youth Affairs and Sports would naturally go to show that higher and different responsibilities were attached to the post of Artists in the other two directorates. No case of discrimination and, therefore, infringement of the writ petitioner's Fundamental Rights under Article 14 of the Constitution can be stated to have been made out, it is submitted by the learned State counsel.

4. The arguments and counter arguments advanced by the learned counsels for the parties have been duly considered. The pay scale that should be attached to a particular post in any Government department is primarily a matter to be decided by the Expert Body, i.e., by the Pay Commission on whose recommendation, revision of pay is effected. It is not the province of the writ Court to determine such entitlement of an incumbent in public service as well as quantum and extent thereof. The role of the writ Court is extremely limited and would be confined to examination of cases of patent discrimination resulting in infringement of the Fundamental Rights guaranteed by Article 14 of the Constitution. "Equal pay for equal work" is a thorny problem in service jurisprudence and the judicial verdict is yet to determine the correct barometer for resolution of the aforesaid question. There are several factors that would have to be considered in determining a claim of "equal pay for equal work" and similar qualifications and/or duties and responsibilities are not the sole determining factors. In the instant case, it is evident from the materials on record that the pay scale of Artists in the Directorate of Economics and Statistics as well as Family Welfare was higher than the pay scale of Artist in the Directorate of Youth Affairs and Sports prior to revision thereof, by the R.O.P. Rules, 1990. While the pay scale of Artist in the other two directorates was Rs. 575-1380, the pay scale of Artist in the Directorate of Youth Affairs and Sports was Rs. 575-1050. When the pay scales prior to revision were different, naturally after revision, the same are bound to be different. The pay scale of Artist in the Directorate of Youth Affairs and Sports, i.e., Rs. 575-1050, prior to revision, was similar to pay scale of several other posts in the different departments and by the R.O.P. Rules, 1990, the said pay scale attached to all posts in question were revised to Rs. 950-1500. The same is the position with regard to the higher pay scale of Artist in the two other directorates. The contention advanced by the writ petitioner to the effect that the duties and responsibilities of Artists in the three directorates are the same, is not borne out by the materials on record. Grant of higher pay scale to Artists in the other two Directorates carry a strong inference that the posts of Artist in the other two Directorates carry higher duties and responsibilities than the posts of Artist in the Directorate of Youth Affairs and Sports. This is the precise stand of the State respondents in the counter affidavit filed. It will therefore be highly inappropriate for the writ Court, in exercise of power under Article 226 of the Constitution, to embark upon an enquiry as to whether the duties and responsibilities of the post of Artists in all the three directorates are the same. Consequently, I am of the view that no case of discrimination has been made out by

the writ petitioner so as to entitle him to the reliefs claimed in the writ application.

5. For the aforesaid reasons, I do not find any merit in this writ application and the same, therefore, stands dismissed. No costs.