

10 SCOB [2018] HCD

HIGH COURT DIVISION  
(SPECIAL ORIGINAL JURISDICTION)

WRIT PETITION NO. 7953 OF 2015.

**Md. Nur Hossain and others.**

..... Petitioners

**Vs.**

**Bangladesh and others.**

..... Respondents

Mr. Sheikh Mohammad Zakir Hossain,  
Advocate

.....For the petitioners

Mr. Mintu Kumar Mondal, Advocate  
... For respondent No. 5

Mr. Rashed Zahangir, D.A.G  
... For respondent No.2

Heard on: 28.02.2017,12.03.2017,  
19.03.2017,02.04.2017and 3.04.2017.

Judgment on: 13.04.2017.

**Present:**

**Mr. Justice Sheikh Hassan Arif**

**And**

**Mr. Justice Md. Badruzzaman**

**Constitution of the People's Republic of Bangladesh, Article 102(1):**

**The issue whether under Article 102(1) judicial review of a decision of authority relating to terms and conditions of service of a person serving in the Republic is maintainable is no longer a res integra.**

Bangladesh vs. Sontosh Kumar Saha, 21 BLC (AD) 94 relied.

... (Para 12)

**Equality before Law:**

**There shall be no discrimination to persons within the same class and that persons similarly situated should be treated alike. Equal protection is the guarantee that similar people will be dealt with in a similar way and that people of different circumstances will not be treated as if they were the same. All who are equal are equal in the eye of law which means that it will not accord favoured treatment to persons within the same class. The concept of equality before law means that among equals the law should be equal and should be equally administered and that the likes should be treated alike.**

Bangladesh vs. Sontosh Kumar Saha, 21 BLC (AD) 94, Jibendra Kishore Achary vs. Province of East Pakistan, 9 DLR (SC) 21, Sheikh Abdus Sabur vs. Returning Officer, 41 DLR (AD) 30 and Indira Gandhi vs. Raj Narayan, AIR 1975, (SC) 2279 relied.

... (Para 21)

**Equal pay for Equal work:**

**It is true that the principle of "Equal pay for Equal work" is not expressly declared by our Constitution to be a fundamental right. Article 20(1) proclaims that everyone shall be paid for his work based on the principle 'from each according to his abilities, to each according to his work' as a directive principle of State Policy. But the principle "Equal pay for Equal Work" has assumed the status of fundamental right in service jurisprudence having regard to the constitutional mandate of equality in Articles 27 of the Constitution.**

Carew and Company Limited vs. Chairman, Labor Court, 50 DLR 396, Bangladesh vs. Shamsul Haq, 59 DLR (AD) 54 and Bangladesh Biman Corporation vs. Rabia Bashri Irene and others, 8 MLR (AD) 223 relied. ... (Para 27)

### Judgment

#### Md. Badruzzaman, J

1. Initially, rule *nisi* was issued on 18.08.2015 in the following terms:

“Let a rule *nisi* be issued calling upon the respondents to show cause as to why they should not be directed to pay salary of Tk. 14,540.00 (Fourteen Thousand Five Hundred and Forty) to the petitioners for the post of Sub-Assistant Engineer, Drafts Men (Sub-assistant Engineer) fixed by the National Pay Scale-2009 (BDT 8,000.00-14,540.00) for 2<sup>nd</sup> Class Gazetted Officer and/or pass such other or further order or orders as to this Court may seem fit and proper.”

2. Thereafter, vide order dated 19.01.2016, supplementary rule *nisi* was issued in the following terms:

“Let a supplementary rule *nisi* be issued calling upon the respondents to show cause as to why the Circular dated 19.11.1994 bearing Memo No. সম(বিধি-২) পদোন্নতি-২৭/৯৪-১৬৪ published in the Establishment Manual (Vol-2) (Annexure-H) and Circular issued by the respondent No.1 dated 03.12.1994 bearing Memo No. অনু/অবি/(বাস্ত-৪) ডিপ্লো-২০/৯২(অংশ)/৬৯ Annexure-H-1 of the writ petition) shall not be declared ultra vires and without lawful authority for being discriminatory and *mala fide* and is of no legal effect.”

3. The case of the petitioners in brief, is that, the petitioners are government servants. Initially, they joined in the post of Work Assistant, Estimator and Surveyor in different offices under Local Government Engineering Department (LGED) under the Ministry of Local Government, Rural Development and Co-operatives. After completion of at least 15 years of their service and having been successful in departmental promotion examinations, they were promoted to the post of Sub-Assistant Engineer (SAE) between 2003-2009. By an office order dated 24.09.2006 (Annexure-C), respondent No. 3 (Ministry of Local Government, Rural Development and Co-operatives) fixed salary of Tk. 5100-280-760, EB 30-10360/- as per National Pay Scale 2005 for the Sub-Assistant Engineers who have been promoted to the said post from the post of Surveyor, Work-Assistant and Estimator. But said decision of Respondent No. 3 could not be implemented for the petitioners because of the barrier made in the impugned Circular dated 26.08.1995 (Annexure-H) issued by the Ministry of Establishment in which the post of Sub-Assistant Engineers having diploma in engineering degree have been upgraded to 2<sup>nd</sup> Class post followed by another impugned Circular dated 03.12.1994 (Annexure-H-1) issued by the Ministry of Finance (respondent No. 1) re-fixing pay scale of Tk. 2300-4480/- from Tk. 1725-3725/- as per National Pay Scale 1991, corresponding to Tk. 5100-10360/- as per National Pay Scale 2005.

4. Since the petitioners have been serving as Sub-Assistant Engineers, it is stated, they are entitled to the same status and pay scale which have been given to the Sub-Assistant Engineers having diploma in engineering degree but they are not getting the equivalent scale which was accorded by Circular dated 19.11.1994 and Circular dated 3.12.1994 for the Sub-Assistant Engineers. Therefore, it is stated, the decisions of the respondents in giving higher pay scale and status to SAOs having diploma-in-engineering degree depriving other Sub-Assistant Engineers of getting such status and benefit are discriminatory and ultra vires to

Articles 27, 29 and 31 of the Constitution. The petitioners, being Sub-Assistant Engineers, agitated their grievance to the respondents by several representations in particular representation dated 18.01.2015 followed by a notice demanding justice dated 01.02.2015 praying for granting equal pay scale and status at par with Sub-Assistant Engineers having diploma-in-engineering degree and to do justice to them but the respondents did not pay any heed to their grievances.

5. In the above factual background, the petitioners have come up with this writ petition and obtained the rule and supplementary rule as quoted above.

6. The rule is opposed by respondent No. 2, the Secretary, Ministry of Public Administration and respondent No. 5, Chief Engineer Local Government Engineering Directorate by filing separate affidavits-in-opposition. The case of respondent No. 2 is that, initially the petitioners were appointed as Work Assistant, Estimator and Surveyor having no diploma-in-engineering degree and through departmental examinations they were promoted to the post of Sub-Assistant Engineer. Before joining in the post of Sub-Assistant Engineer, the petitioners were well aware about the impugned Circulars dated 19.11.1994 and 3.12.1994 and their service conditions as Sub-Assistant Engineer and accordingly they joined in their respective posts and as such they cannot claim service benefit now equivalent to the service benefit and status at par with Sub-Assistant Engineers who possess diploma-in-engineering degree in accordance with the provision of the impugned circulars. It is further stated that since the petitioners are government servants and they have come before this Court in respect of their terms and conditions of their service, this writ petition is not maintainable in view of the provisions under Article 117 of the Constitution and their proper forum lies with the Administrative Tribunal constituted by the Administrative Tribunal Act 1980. It is further stated that the respondents issued the impugned circulars after following all legal formalities and in that view, the respondents did not commit any illegality. Accordingly, this rule is liable to be discharged.

7. The case of respondent No. 5 and that of respondent No. 2 is more or less same. Further case of respondent No. 5 is that the petitioners were appointed as Work Assistant, Estimator and Surveyor and then, through departmental examinations, they were promoted to the post of Sub-Assistant Engineer from 2003 and they have no diploma-in-engineering degree. The petitioners got promotion to the post of Sub-Assistant Engineer having known fully well about impugned circulars that they would not get equal pay scale and status at par with the Sub-Assistant Engineers having diploma-in-engineering degree and as such at this stage, the petitioners cannot claim that the impugned circulars are arbitrary and ultra vires the Constitution. The government, considering the constitutional as well as legal aspects of the matter, issued the impugned circulars because the educational qualification can be substantially reasonable ground for classification, and that the classification or alleged discrimination as has been occurred by the impugned notification is based on the doctrine of permissible criteria and intelligible differentia and thus intra vires the Constitution. Since the petitioners do not possess any diploma-in-engineering degree, they are not entitled to get same salary and status at par with Sub-Assistant Engineers who possess diploma-in-engineering degree.

8. Mr. Sheikh Mohammad Zakir Hossain, learned Advocate appearing for the petitioners, by drawing this Court's attention to the impugned Circular (Annexure-H to the application for issuance of supplementary rule), submitted that Annexure-H dated 19.11.1994 having been issued by the order of the Hon'ble President and duly notified in the official Gazette,

have the force of law within the meaning of Article 152 of the Constitution and since the writ petitioners have challenged the vires of the Circular on the ground of its constitutionality, this writ petition is maintainable. In support of this contention, he referred to the case of Bangladesh vs. Shafiuddin reported in 50 DLR (AD) 27, Bangladesh vs. Md. Shamsul Haq reported in 59 DLR (AD) 54 and Bangladesh vs. Sontosh Kumar Saha and others reported in 21 BLC (AD) 94.

9. Learned Advocate further submitted that, though as per law the persons similarly situated should be treated equally and equal opportunity should be given to those who stand on the same footing, but the impugned Circulars though upgraded the status of Sub-Assistant Engineers having diploma-in-engineering degree to 2<sup>nd</sup> Class with higher pay scale, left other Sub-Assistant Engineers and equivalents like the petitioners having had no diploma-in-engineering degree. Such classification being discriminatory is hit by Articles 27 and 29 of the Constitution and ultra vires. Accordingly, the impugned Circulars along with other circulars, orders etc. issued pursuant thereto are liable to be struck down and necessary direction should be given upon the respondents to provide similar status and pay scale to the petitioners as has been given to Sub-Assistant Engineers possessing diploma-in-engineering degree. In this connection, learned Advocate referred to the decision of the case of Bangladesh Biman Corporation vs. Rabiabashri Irene and others reported in 8 MLR (AD) 223, Carew and Company (BD) Limited vs. Chairman, Labour Court reported in 50 DLR 396 and Municipal Corporation of Delhi vs. Gonesh Raj and another reported in 52 (1993) DIT 594.

10. As against the above submissions, Mr. Rashed Zahangir, learned Deputy Attorney General appearing for respondent No. 2, by drawing this Court's attention to Article 117 of the Constitution submitted that since the petitioners are government servants and the dispute relates to the terms and conditions of their service, the only forum available to them is before the Administrative Tribunal constituted under the provisions of Article 117 read with the provisions under Administrative Tribunal Act, 1980 and as such, this writ petition is not maintainable. Learned Deputy Attorney General, by referring to paragraph 29 of the case of Sheikh Abdus Sabur vs. Returning Officer and others reported in 41 DLR (AD) 30, submits that 'equality before law' is not to be interpreted in its absolute sense to hold that all persons are equal in all respects disregarding different conditions and circumstances in which they are placed or special qualities and characteristics which some of them may possess but which are lacking in others. A single law, therefore, cannot be applied uniformly to all persons disregarding their basic differences with others and if these differences are identified, then the persons or things may be classified into different categories according to those distinctions; this is what is called 'permissible criteria' or "intelligible differentia" which have been done in the instant case. Learned Deputy Attorney General further submits that, Sub-Assistant Engineers, who have diploma-in-engineering degree and Sub-Assistant Engineers who have no diploma-in-engineering degree can not constitute one and single class and as such the classification made by the impugned circular is within the constitutional mandate and as such consistent with the provisions under the Constitution. Learned DAG further referred to the case of State of Mysore and another vs. P. Narasingo Rao, AIR1968 (SC) 349.

11. Mr. Mintu Kumar Mondal, learned Advocate appearing for the respondent No.5, adopted the submissions of the learned Deputy Attorney General. However, learned Advocate in addition, referred to a decision of the case of State of T.N and another vs. Mr. Alagappan and others reported in (1997) 4 SCC 401.

12. The issue whether under Article 102(1) judicial review of a decision of authority relating to terms and conditions of service of a person serving in the Republic is maintainable is no longer a *res integra*. On several occasions, this issue went up to the Apex Court. Finally, in Bangladesh vs. Sontosh Kumar Saha, 21 BLC (AD) 94, this issue has been settled in the following language:

“In this issue, this court clearly observed that except challenging the vires of law or violation of fundamental rights, judicial review of a decision of authority relating to the terms and conditions of service under article 102(1) is not permissible.”

13. It appears that Appellate Division finally fixed two criteria to maintain a writ petition for invoking judicial review under Article 102(1) by a person relating to his terms and conditions of service serving in the Republic i.e the aggrieved party have to challenge the vires of law or he/she must satisfy that his/her fundamental rights have been infringed. Now we will consider whether the petitioners have been successful in fulfilling any of two criterias.

14. It appears that the petitioners have challenged the vires of two Circulars (Annexure H and H-1). The first one (Annexure-H) was published on 19.11.1994 upgrading the status of Sub-assistant Engineers having diploma-in-engineering degree to second class leaving other Sub-assistant Engineers and equivalents and Annexure-H(1) has been issued on 03.12.1994 pursuant to Annexure-H, upgrading their pay scale from Tk. 1735-3725 to Tk.2300-4480 as per National Pay Scale 1991. Annexure-H is quoted below:

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15. Now question arises as to whether the impugned Circular dated 19.11.1994 have the force of law. It appears that the Circular was issued by the order of the Hon’ble President and published in the official Gazette of Government. Law has been defined in Article 152 of the Constitution which provides that “*law means any Act, ordinance, order, rule, regulation, bye-law, notification or other legal instrument, and any custom or usage, having the force of law in Bangladesh*”. Annexure-H having been issued by the order of the Hon’ble President and duly notified in the official Gazette, have the force of law within the meaning of Article 152 of the Constitution. Since the petitioners have challenged the vires of the Circular, this writ petition is maintainable (ref: Govt. vs. Md. Shamsul Huq, 59 DLR (AD) 54).



163. In *Jibendra Kishore (supra)*, it has been observed, “It is not possible to formulate a comprehensive definition to the clause ‘equal protection of law’; nevertheless, some broad propositions as to its meaning have been enunciated. One of these propositions is that equal protection of the laws means that no person or class of persons shall be denied the same protection of the laws which is enjoyed by other persons or other classes, in like circumstances, in their lives, liberty and property and in pursuit of happiness. Another generalization more frequently stated is that the guarantee of equal protection of the laws requires that all personal shall be treated alike, under like circumstances and conditions, both in the privileges confirmed and in the liabilities imposed. In the application of these principles, however, it has always been recognized that classification is not arbitrary or capricious, is natural and reasonable and bears a fair and substantial relation to the object of the legislation. It is not for the Courts, in such cases, it is said, to demand from the legislature a scientific accuracy in the classification adopted. If the classification is relevant to the object of the Act, it must be upheld unless the relevancy is too remote or fanciful. A classification that proceeds on irrelevant consideration, such as differences in race, colour or religion will certainly be rejected by the Courts. Applying these tests to the present case, it cannot but be held that if, in consequence of abolishing the system of private rent for agricultural land, it also became necessary to make some provision for the outgoing landlords, the classification of the landlords in the basis of their net incomes at the time of their expropriation was a necessary, and not an unreasonable classification.

164. In *Sheikh Abdus Sabur (supra)*, this court held: “Equality before law” is not to be interpreted in its absolute sense to hold that all persons are equal in all respects disregarding different conditions and circumstances in which they are placed or special qualities and characteristics which some of them may possess but which are lacking in others. The term ‘protection of equal law’ is used to mean that all persons or things are not equal in all cases and that persons similarly situated should be treated alike. Equal protection is the guarantee that similar people will be dealt with in a similar way and that people of different circumstances will not be treated as if they were the same. A single law therefore cannot be applied uniformly to all persons disregarding their basic differences with others; and if these differences are identified, then the persons or things may be dissatisfied into different categories according to those distinctions; this is what is called ‘permissible criteria’ or “intelligible differentia”. The legislature while proceeding to make law with certain object in view, which is either to remove some evil or to confer some benefit, has power a make classification on reasonable basis. Classification of persons for the purpose of legislation is different from class legislation, which is forbidden. To stand the test of ‘equality’ a classification, besides being based on intelligent differentia, must have reasonable nexus with the object the legislature intends to achieve by making the classification. A classification is reasonable if it aims at giving special treatment to a backward section of the population; it is also permissible to deal out distributive justice by taxing the privileged class and subsidizing the poor section of the people. The above views have been approved in *Azizur Rahman (supra)*.”

(underlined by us)

20. In *Smt. Indira Gandhi vs. Raj Narayan*, AIR 1975, (SC) 2279 it was held that, “All who are equal are equal in the eye of law”, meaning that it will not accord favoured treatment to persons within the same class.”

21. The sum and substance of the observations made in aforesaid *Sontosh Kumar, Jibendra Kishore, Shaikh Abdus Sabur and Smt. Indira Gandhi (supra)* cases follows that there shall be no discrimination to persons within the same class and that persons similarly

situated should be treated alike. Equal protection is the guarantee that similar people will be dealt with in a similar way and that people of different circumstances will not be treated as if they were the same. All who are equal are equal in the eye of law which means that it will not accord favoured treatment to persons within the same class. The concept of equality before law means that among equals the law should be equal and should be equally administered and that the likes should be treated alike.

22. But the question is what does this ambiguous and crucial phrase ‘similarly situated’ mean? Answer has been given in the case of *Mohammad Shujat Ali vs. Union of India*, AIR 1974 SC 1631 saying that “Where are we to look for the test of similarity of situation which determines the reasonableness of a classification? The inescapable answer is that we must look beyond the classification to the purpose of the law. A reasonable classification is one which includes all persons or things similarly situated with respect to the purpose of the law. There should be no discrimination between one person or thing and another, if as regards the subject-matter of the legislation their position is substantially the same. This is sometimes epigrammatically described by saying that what the constitutional code of equality and equal opportunity requires is that among equals, the law should be equal and that like should be treated alike ...”.

23. All employees standing on the same position (in this case Sub-Assistant Engineers and equivalents) make one class irrespective of their educational qualifications. According to the equality doctrine, no classification can be made among the employees holding same post for giving special status and benefits because of having special educational qualification or degree. In this case, as and when the petitioners were promoted to post of Sub-Assistant Engineer irrespective of their educational qualification, they grouped together with other Sub-Assistant Engineers having diploma-in-engineering degree and thus made one class. Sub-Assistant Engineers or equivalents cannot be classified into two groups namely Sub-Assistant Engineers having diploma-in-engineering degree in one group and Sub-Assistant Engineers and equivalents having no diploma-in-engineering degree in another group for the purpose of up-gradation of status and for giving special benefits or privileges to the 1<sup>st</sup> group and thereby depriving the other group of such status, benefits and privileges etc.

24. It appears that the Circular dated 19.11.1994 (Annexure-H to the application for supplementary rule) clearly made two classes of Sub-assistant Engineers and equivalents; first- Sub-assistant Engineer having diploma-in-engineering degree and second- Sub-assistant Engineer having no diploma-in-engineering degree by putting the words “ইঞ্জিনিয়ারিং-এ ডিপ্লোমাস্বামী” in the said circular and thereby upgraded the status of the 1<sup>st</sup> group as 2<sup>nd</sup> Class posts depriving the 2<sup>nd</sup> group of giving such status and benefit. This classification in the post of Sub-Assistant Engineer, on the face of it, is discriminatory and inconsistent with the provisions of Article 27 of the Constitution and thus ultra vires and void according to the provision under Article 26 (1) of the Constitution and, accordingly, the words “ইঞ্জিনিয়ারিং-এ ডিপ্লোমাস্বামী” employed in Annexure-H are liable to be struck down.

25. On the other hand, on perusal of Annexure-H-1 it appears that the same has been issued by the Ministry of Finance dated 03.12.1994 pursuant to Circular dated 19.11.1994 re-fixing the pay scale for Sub-Assistant Engineers having diploma-in-engineering degree from Tk. 1725 -3725 to Tk. 2300-4480 as per National Pay Scale 1991 leaving other Sub-Assistant Engineers and equivalents from getting such benefit.



26. It is the case of the petitioners that, after their promotion in the post of Sub-assistant Engineer or equivalent posts, they stood on the same footing or at par with Sub-assistant Engineers having diploma-in-engineering degree, but the government by the impugned Circular upgraded the pay scale for them by depriving the petitioners and equivalents from getting such increased salary and other service benefits and thereby they have been discriminated and thus the action of the respondents has violated the principle of “Equal Pay for Equal Work.”

27. It is true that the principle of “Equal pay for Equal work” is not expressly declared by our Constitution to be a fundamental right. Article 20(1) proclaims that everyone shall be paid for his work based on the principle ‘from each according to his abilities, to each according to his work’ as a directive principle of State Policy. But the principle “Equal pay for Equal Work” has assumed the status of fundamental right in service jurisprudence having regard to the constitutional mandate of equality in Articles 27 of the Constitution. References in this connection are *Carew and Company Limited vs. Chairman, Labor Court*, 50 DLR 396, *Bangladesh vs. Shamsul Haq*, 59 DLR (AD) 54 and *Bangladesh Biman Corporation vs. Rabia Bashri Irene and others* 8 MLR (AD) 223.

28. In *Carew and Company Limited (supra)* it was held that “In such circumstances we fail to understand why the petitioner refused the similar benefits to the respondent Nos.2 to 22 when they became illegible under the agreement being promoted to the post of office assistants or equivalents and thus became entitled to get the scale. Giving benefit to some and denying the same to others under the same agreement and service condition, is not only illegal but also offends fundamental rights of the respondents guaranteed under Articles 28 and 29 of the Constitution. We, therefore, hold that in the aforesaid facts and circumstances the agreement is also applicable to the respondents.”

29. In *Shamsul Haq (supra)*, our Apex Court held: “The respondent and Personal Officers of the Secretariat having been similarly situated have been discriminated and cannot be treated differently and is repugnant to the equality doctrine and, under like circumstances and conditions, should be treated alike both in their rights and privilege.”

30. In *Bangladesh Biman Corporation (supra)* it was held: “Since one employees of the Corporation inter’ se standing in the similar situation have not been treated in the similar manner or in other words have been treated differently from the others the contention of the writ-petitioners that they have been discriminated has rightly been found genuine by the High Court Division.”

31. Employees are entitled to receive equal pay who are discharging the same duties as their counterparts (Ref. *Municipal Corporation of Delhi vs. Ganesh Razak and another*, 52 (1993) DLT 594). The principle of equal pay for equal work must prevail and inequality in wages cannot be allowed to stand (*U.P Rajya Sahakari Bhoomi Vikas Bank Ltd vs. Its Workmen*, AIR 1990 SC 495).

32. It appears that, by order dated 03.12.1994 (AnnexureH-1), the Government amended “চাকুরী (বেতন ও ভাতাদি) 1997” re-fixing the pay scale of Tk. 2300-4480/- for the Sub-Assistant Engineer who possesses diploma-in-engineering degree leaving other Sub-Assistant Engineers and equivalents. This memo was issued pursuant to Annexure-H dated 19.11.1994 to giving financial benefit to the Sub-Assistant Engineers of the same class though as per constitutional mandate all service holders standing on the same class are entitled to same

service benefit and status. Accordingly, we are of the view that, the Administrative order dated 03.12.1994 upgrading the pay scale of Sub-Assistant Engineers having diploma-in-engineering degree leaving other sub-assistant engineers and equivalents based on extraneous or irrelevant consideration, discriminatory, actuated by *mala fides*, perverse and manifestly wrong and also liable to be struck down.

33. Now, question arises from which date the petitioners and left out sub-assistant engineers and equivalents would get the benefit of this judgment.

34. Since the impugned Circulars (Annexure-H and H-1) have come into force long back in 1994 but the petitioners have challenged those in a belated stage and since the implementation of our decision retrospectively may incur huge monetary involvement of the government exchequer, we are of the view that, this verdict would operate prospectively from the date of this judgment in respect of giving financial benefit to the left out sub-assistant engineers and equivalents of the Government functionary including the petitioners.

35. In view of the discussions made above, we find merit in this rule.

36. Accordingly, the rule is made absolute however, without any order as to costs.

37. Thus, the impugned Circulars dated 19.11.1994 (Annexure-H) and 03.12.1994 (Annexure-H-1), so far insertion of words “ইঞ্জিনিয়ারিং-এ ডিপ্লোমাবারী” therein, are declared ultra vires the Constitution, void and those words are struck-down from those Circulars prospectively with effect from today.

38. The respondents are directed to provide equal pay scale, status and other service benefits to the petitioners as have been provided by the impugned Circulars to the Sub-Assistant Engineers having diploma-in-engineering degree with effect from the date of pronouncement of this judgment within 60(sixty) days from the date of receipt of the copy of this judgment in accordance with law.

39. It is also declared that, this judgment would operate as a judgment in-rem in respect of all Sub-Assistant Engineers and equivalents serving under the Government functionaries.

40. Communicate a copy of this judgment at once.