

Appeal**RTI APPEAL DETAILS**

<b>RTI Appeal Registration No. :</b>	PGCIL/A/2017/60061	<b>RTI Appeal Received Date :</b>	13/07/2017
<b>RTI Request Registration No. :</b>	PGCIL/R/2017/50296	<b>RTI Request Registration Date :</b>	12/06/2017
<b>Name :</b>	PARIJAT PATEL		<b>Gender :</b> Female
<b>Address :</b>	PARIJAT PATEL PLOT -120-121 POCKET -18 SECTOR-24 THIRD FLOOR ROHINI		
<b>Pin Code :</b>	110085		
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<b>Status :</b>	Urban	<b>Educational Status :</b>	Above Graduate
<b>Citizenship :</b>	Indian	<b>Is Appellant below poverty line ? :</b>	No
<b>CPIO of Public Authority Approached :</b>		<b>CPIO's Order/Decision Date :</b>	Details not provided
<b>CPIO's Order/Decision No. :</b>	Details not provided		
<b>Ground For Appeal :</b>	No Response Within the Time Limit		
<b>Text of RTI First Appeal :</b>	<p>FIRST APPEAL SUB: FIRST APPEAL FOR INFORMATION SOUGHT UNDER RTI ACT 2005 SIR, THIS IS TO BRING TO YOUR ATTENTION THAT ON DATE 12-06-2017. I HAD REQUESTED CERTAIN INFORMATION FROM YOUR ORGANISATION BUT EVEN AFTER PASSAGE OF DUE TIME LIMIT OF 30 DAYS NO INFORMATION HAS BEEN PROVIDED TO ME. KINDLY TAKE COGNISANCE OF MATTER AND PROVIDE ME THE REQUESTED INFORMATION IN DUE TIME. IF THE MATTER DOES NOT PERTAIN TO YOUR OFFICE KINDLY REFER IT TO APPROPRIATE AUTHORITY. PARIJAT PATEL</p>		

## JUDGMENT:

Analyzing in length the principles laid down by various courts, the SC observed that the issue at hand necessitated a bird's eye view on the underlying ingredients which govern the principle of 'equal pay for equal work'. The principle has been extensively deliberated in a catena of decisions. In order to make the determination, the SC examined (i) the situations where the principle was extended to employees engaged on permanent basis and thereafter (ii) the situations in which the principle was extended/declined to different categories of temporary employees. Accordingly, various principles have been discerned and distinguished by the SC. Analyzing claims by temporary employees under the principle, the SC observed:

1. Not paying the same wages, despite the work being the same, is violative of Article 14<sup>5</sup> of the Constitution of India ("**Constitution**") and amounts to exploitation in a welfare state committed to a socialist pattern of society<sup>6</sup>.
2. The right of equal wages claimed by temporary employees emerges, *inter alia*, from Article 39<sup>7</sup> of the Constitution<sup>8</sup>.
3. The claim for equal wages would be sustainable where an employee is required to discharge similar duties and responsibilities as permanent employees and the concerned employee possesses the qualifications prescribed for the particular post.
4. In a claim for equal wages, the duration for which an employee remains or has remained engaged, the manner of selection/appointment etc. would be inconsequential, insofar as the applicability of the principle is concerned.<sup>9</sup>
5. Based on the principle flowing from Article 38(2)<sup>10</sup> of the Constitution, the Government cannot deny a temporary employee at least the minimum wage being paid to an employee in the corresponding regular cadre, alongwith dearness allowance and additional dearness allowance, as well as all other benefits which are being extended to casual workers.
6. The classification of workers (as unskilled, semi-skilled and skilled), doing the same work, into different categories, for payment of wages at different rates is not tenable. Such an act of the employer would amount to exploitation and shall be arbitrary and discriminatory, and therefore, violative of Articles 14 and 16<sup>11</sup> of the Constitution<sup>12</sup>.
7. If daily-wage employees can establish that they are performing equal work of equal quality, and that all the other relevant factors are fulfilled, a direction by a court to pay such employees equal wages (from the date of filing the writ petition), would be justified<sup>13</sup>.

The SC observed that an employee engaged for the same work cannot be paid less than another who performs the same duties and responsibilities and certainly not in a welfare state. Such an action besides being demeaning, strikes at the very foundation of human dignity. Anyone who is compelled to work at a lesser wage does not do so voluntarily - he/she does so to provide food and shelter to his/her family, at the cost of his/her self-respect and dignity, at the cost of his/her self-worth, and at the cost of his/her integrity. Any act of paying less wages as compared to others similarly situated, constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation. The SC further observed that India being a signatory to the International Covenant on Economic, Social and Cultural Rights, 1966, there is no escape from the obligations there under in view of the different provisions of the Constitution. Thus, the principle of 'equal pay for equal work' constitutes a clear and unambiguous right and is vested in every employee, whether engaged on a permanent or temporary basis.