

(2015) 11 KAR CK 0014

In the Karnataka High Court

Case No : Writ Petition No. 23998/2013 (S-CAT)

N. Radhakrishna

APPELLANT

Vs

The Commandant, Air Force Technical College and Others

RESPONDENT

Date of Decision : 27-11-2015

Acts Referred:

Constitution of India, 1950 — Article 14, 39(d)

Citation : (2015) 11 KAR CK 0014

Hon'ble Judges : Mohan M. Shantana Goudar and B. Veerappa, JJ.

Bench : Division Bench

Advocate : Basavaraj Veerabhadra, Advocate, for the Appellant; Gangadhar Sangolli, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Mohan M. Shantana Goudar, J.—The order dated 20th February, 2015 passed by the Central Administrative Tribunal, Bangalore Bench in Original Application No. 15/2009 is called in question in this writ petition. By the impugned order, the original application filed by the petitioner herein claiming the benefit of higher pay-scale is rejected on the ground of delay as well as on merits.

2. The records reveal that the petitioner was appointed as Draughtsman in Air Force Technical College, Bangalore by virtue of the appointment order dated 10.12.1987. However, the petitioner joined the duties on 19.12.1987 and therefore, the appointment of the petitioner is deemed to be from 19.12.1987. The order of appointment specifies the terms and conditions of service. The first term is that the petitioner was appointed as Draughtsman in the pay-scale of Rs. 1200-2040 plus dearness and other allowances as applicable. With regard to his Educational qualification, the appointment order reads thus:

"7. His appointment is subject to his being a matriculate with Diploma in Mechanical/Electrical or Mechanical (Sic.) Drawing or Diploma in Draughtsmanship/Trade Certificate (Mechanical) and within the prescribed age

limit (18-25 years) at the time of appointment in proof of which he must produce the Matriculation or its equivalent examination certificate, in original, together with two copies on reporting for duty, and also to his being medically fit."

3. Since the petitioner had obtained Diploma in Mechanical Engineering, he was appointed as Draughtsman. He continued in service as a Draughtsman. On 15th September, 1995, the Government of India, Ministry of Defence, New Delhi revised the pay-scale of Draughtsman Grade - I, II and III in all Government of India Offices, on the basis of the award of Board of Arbitration in the case of CPWD. According to the petitioner, since he was appointed in the pay-scale of Rs. 1200-2040, the revised pay-scales as found in Annexure "A3" dated 15th September, 1995 as applicable to Draughtsman, Grade-II are to be made applicable to him. Annexure "A3" which discloses the revision of pay-scales of Draughtsman states that the Draughtsman of any designation, who are in the pay-scale of Rs. 1200-2040 would have the revised designation of Draughtsman Grade-II and they would get revised pay-scale of Rs. 1400-2300. The very document Annexure "A3", under which the pay-scales are revised, further clarifies that the Draughtsman appointed on or after 13.05.1982 may be placed in the revised scales of pay in the following manner:

(b) In case of D'Men appointed in the scale of Rs. 1200-2040 (pre-revised Rs. 330-560), they may be placed in the revised scale of Rs. 1400-2300 if they have been appointed with a qualification of certificate or Diploma in Draughtsmanship from a recognized institution of not less than 2 years (including 6 months practical training) with 1 years experience as D'Man. If they have been recruited with a qualification of certificate or Diploma in D'Manship or not less than 2 yrs (including 6 months practical training) without 1 yr experience they will continue in the scale of Rs. 1200-2040. Those appointed to this post by promotion may be placed in the revised scale of pay of Rs. 1400-2300 as and when they complete requisite length of service prescribed under Para 3(1)(b).

(Emphasis supplied)

4. From the aforementioned clarification issued to the revised pay-scales, it is clear that the Draughtsmen, who are appointed on or after 13.05.1982 may be placed in the revised pay-scale of Rs. 1400-2300, if they have been appointed with the qualification of Certificate or Diploma in Draughtsmanship from the recognized Institution of not less than two years (including six months practical training) with one year's experience as Draughtsman. Hence, it is amply clear that in order to get revised pay-scale of Rs. 1400-2300 from the pay-scale of Rs. 1200-2040, the qualification prescribed is, Certificate or Diploma in Draughtsmanship from the recognized Institution. Since the petitioner did not have Diploma in Draughtsmanship from recognized Institution, he was not provided with revised pay-scale by the respondents. Hence, the petitioner approached the Central Administrative Tribunal by filing Original Application No. 15/2009, which came to be dismissed by the impugned order dated 20th February, 2013.

5. We do not find any ground to interfere with the impugned order inasmuch as the petitioner does not have the qualification of Diploma in Draughtsmanship of a recognized Institution. The petitioner has got the qualification of Diploma in Mechanical Engineering. Since specific qualification of Diploma in Draughtsmanship is required by the employer, the petitioner cannot insist that he should be given revised pay-scale though he does not possess the prescribed qualification. According to the petitioner, the qualification of Diploma in Draughtsmanship from the recognized Institution was only two years course whereas Diploma in Mechanical Engineering is three years course and therefore, the petitioner's qualification is higher than the prescribed qualification and hence, he should have been given the revised pay-scale.

6. Such contention cannot be accepted. As mentioned supra, it is only when the petitioner has the Diploma in Draughtsmanship exclusively, he will be eligible to claim the benefit of revised pay-scale. It is the exclusive domain of the employer to grant different pay-scales to the persons holding different grades. It is a sound and valid reasoning inasmuch as the same is based on intelligible criteria. In this regard, it is relevant to note certain observations made by the Apex Court in the case of State of West Bengal and another Vs. T.K. Ghosh and others reported in (2005) 10 SCC 339 which reads as under:

"9. So far as proposition of law is concerned, there cannot be nor is there any dispute that one would be entitled to equal pay for equal work but that alone is not and cannot be the sole criterion much less where it has also not been established that all the persons of the Subordinate Engineering Services constitute one class of draftsmen performing identical nature of duties. Even though there may be similar nature of work yet distinction is permissible based upon their educational qualifications. In support of this proposition the learned counsel for the appellants has placed reliance upon a decision of this Court in Govt. of W.B. v. Tarun K. Roy more particularly the observations made in paragraph 14 which are as follows: (SCC p. 355)

14. Article 14 read with Article 39(d) of the Constitution of India envisages the doctrine of equal pay for equal work. The said doctrine, however, does not contemplate that only because the nature of the work is same, irrespective of an educational qualification or irrespective of their source of recruitment or other relevant considerations the said doctrine would be automatically applied. The holders of a higher educational qualification can be treated as a separate class. Such classification, it is trite, is reasonable. Employees performing the similar job but having different educational qualification can, thus, be treated differently.

The observation of the proposition in law in the above case is clear that persons having different qualifications though performing similar job can be treated differently."

7. From the aforementioned dictum laid down by the Apex Court, it is clear that even though there is similar nature of work, yet the distinction is permissible

based on their educational qualification.

8. It is not in dispute that the respondents have not declared that the qualification of Diploma in Mechanical Engineering is equivalent to Diploma in Draughtsmanship. In the absence of such declaration, it is not open for the petitioner to contend that his case also should be taken into consideration for the purpose of granting revised pay-scale. Hence, we find that the order passed by the Tribunal on merits is just and does not warrant interference. We find no reason to interfere with the impugned order. There is no merit in this petition. Hence, petition stands dismissed.