

**(1997) 12 AHC CK 0010**

**In the Allahabad High Court**

**Case No :** C.M.W.P. No. 10391 of 1985 & C.M.W.P. No. 10391 of 1986

N.T.C. Mills Staff Association

APPELLANT

Vs

National Textile Corporation (U.P.) Ltd. and Others

RESPONDENT

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**Date of Decision :** 02-12-1997

**Acts Referred:**

Constitution of India, 1950 — Article 14

National Textile Corporation (U.P.) Limited T.A. Rules, 1975 — Rule 10

**Citation :** (1997) AWC 630 Supp

**Hon'ble Judges :** S.H.A. Raza, J; Bhagwan Din, J

**Bench :** Division Bench

**Advocate :** K.P. Agrawal, for the Appellant; V.B. Singh, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

S.H.A. Raza and Bhagwan Din, JJ.—By means of this petition, the N. T. C. Mills Staff Association, U.P., Kanpur has claimed for grant of leave travel concession to its Supervisory and other staff as provided under Rule 10 of the National Textile Corporation (U.P.) Limited T.A. Rules, 1975 and to order to compute the money benefit of leave travel concession from 1975 to 1984 in terms of money and pay the same to the members of the Supervisory Staff.

2. The main thrust of the Petitioner in this petition is that the Respondents have been acting in a discriminatory manner inasmuch as they gave L.T.C. to the Supervisors who are working in the factory as well as in the Head Quarter and to other employees. But the supervisors and other workers who are working in the Mill are denied that concession.

3. The case of the Respondents on the other side is that the leave travel concession facility has been given to such employees who are drawing more than 1,600 basic salary including clearness allowance and additional clearness allowance because they are not given the bonus and other facilities which the employees drawing less than Rs. 1,600 have been enjoying. Besides the above, it

was contended that the leave travel concession is only a concession and cannot be claimed as a matter of right. The employees who are working in the same office have different service conditions. The employees who are working at the Head Quarter may be designated as supervisors but according to the Respondent they are a different class. But the employees who are working in the factory" are governed under the Provisions of the Factories Act and the employees who are working in the Head Quarter are not governed by the Factories Act. The leave travel concession was never extended to the Textile Mills because they get Bonus and other facilities under the Factories Act, like grant of one day leave after completion of 20 days work. Besides the above, the workers engaged in factory, work through relay system on shift basis while the employees working in the Head Office has fixed timings from 9.30 a.m. to 5.30 p.m. besides five days working in a week. But the leave travel concession is given to the employees of the factory as well as to those who are drawing more than Rs. 1,600 per month and the employees whose case has been represented by the Petitioner, are drawing less than Rs. 1,600 per month and are not entitled for leave travel concession.

4. Ms. Manima Maurya argued that the State cannot be permitted to discriminate between two sets of employees drawing below Rs. 1,600 and above Rs. 1,600 per month, because such a classification would be against the golden principle of equality as enshrined in the Constitution of India. The philosophy as contained in the fundamental right as well as in the directive principle of the State Policy is for the benefit of the weaker section of the society. Grant of leave travel concession to such citizens who draw less salary, would be in accordance with the social philosophy as contained in the Constitution. Hence that benefit or concession to the persons drawing less than Rs. 1,600 per month would be in tune with the spirit of the Constitution.

5. On the other side, Sri V.B. Singh, learned Counsel appearing on behalf of the Respondents, submitted that Article 14 of the Constitution abhor but does not rule out classification. The object of the rule is to provide leave travel concession to the persons who are drawing above Rs. 1,600 because they are few in numbers and the grant of concession to them would not financially burden the factory". He further submitted that as workers drawing below Rs. 1,600 in different factories of the National Trade Corporation are entitled for bonus as well as one day leave after 20 days working and some other facilities, the persons who are drawing above Rs. 1,600 do not get those facilities and they are not covered with the provisions of Factories Act which means that they belong to a class, hence it cannot be said that the classification made under the Rule cannot be said to be irrational. The object of the Rule is based on reasonable and rational different having a nexus with the object sought to be achieved by the said Rule.

6. We have very minutely looked into the pleadings of the parties as set out in the writ petition and in the counter-affidavit. We are of the view that the leave

travel concession cannot be claimed as a matter of right. Although, the amplitude of Article 14 of the Constitution is as such, where even those rights, which are not statutory can be judged on the scale of equality but in the present case, if we allow the writ petition, according to the argument advanced by learned Counsel for the Petitioner, the Mill which is facing financial troubles and have been declared as a sick Mill, would be considerably financially burdened. The grant of leave travel concession to few drawing above Rs. 1,600 would not amount to such a financial burden.

7. The contention of the Petitioner that the workers who are drawing above Rs. 1,600 and the workers drawing below Rs. 1,600 per month are at par in the matter pertains to leave travel concession and the discrimination is writ at large is misconceived. The equality can be claimed by equals who are similarly circumscribed. Article 14, prohibits discrimination amongst the equals, but Article 14, has inbuilt flexibility and it also permits different treatment to unequals. The scope of judicial review of the Court in matters of Economic Policy is minimal and highly circumscribed as observed by Hon"ble Supreme Court in State of Uttar Pradesh and Others Vs. Vijay Bahadur Singh and Others, ; Kasturi Lal Lakshmi Reddy, Represented by its Partner Shri Kasturi Lal, Jammu and Others Vs. State of Jammu and Kashmir and Another, ; M/s. Shri Sitaram Sugar Co. Ltd. and another Vs. Union of India and others, ; India Cement Ltd. etc. Vs. Union of India and others, . The claim of equality or parity with unequals would also be hit by Article 14 of the Constitution, as two classes, drawing above Rs. 1,600 and below Rs. 1.600 cannot be said to be equals. The Supervisors who are working at the Head Quarter and Factory are not equal and the principle of equality in that regard would not be applicable between two different sets of employees. Hence we are of the view that the object sought to be achieved by the Rules is not, as such which can be said to be irrational in any manner.

8. In view of the above, we are not inclined to interfere. The writ petition is accordingly dismissed.