

(2001) 03 DEL CK 0115
In the Delhi High Court
Case No : C.W.No. 5532 of 1998

NTPC Employees Union

APPELLANT

Vs

National Thermal Power Corporation Limited

RESPONDENT

Date of Decision : 20-03-2001

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2001) 03 DEL CK 0115

Hon'ble Judges : Dr. M.K. Sharma, J

Bench : Single Bench

Advocate : Ms. Richa Kapur, for the Appellant; Mr. Rakesh Dwivedi and Mr. Rajinder Dhawan, for the Respondent

Final Decision : Dismissed

Judgement

DR. Mukundakam Sharma, J.—The present writ petition has been filed by the employees' Union of the NTPC staying at Noida township of the respondent.

2. The contention of the petitioner is that the said employees staying at Noida township of the respondent should be treated at par with the employees of the respondent staying in the other townships, particularly, in respect of levy of electricity charges, house rent and free water supply. The petitioner-union seeks for squashing of the circulars dated 8th May, 1998, 19th June, 1998 and 15th September, 1998. By the aforesaid circulars, the respondent has issued instructions for recovery of residing at Noida township. The petitioner-union contends that in the other townships water charges, electricity charges and rent/license fee from the employees who are of the respondent-NTPC at Rehand, Singrauli, Oraiya, Badarpur, Unchchahar, the respondent has given benefit of flat rate system of payment of electricity charges and has provided free water supply and the house rent is also charged at the rate of 2.5% of pay whereas, from the employees of the respondent staying at Noida township, recovery of water charges, electricity charges and rent/license fee at the usual rate is ordered. It is contended that discrimination is writ large on the face of the records and,

Therefore, the said circulars are to be quashed and the petitioner should be treated at par with the employees of the respondent staying in other townships.

3. Counsel appearing for the petitioner- Union drew my attention to circular No. 29/1979 dated 25th June, 1979, circular No. 59/1980 dated 14th October, 1980 as also the circular dated 12th March, 1980. In support of her contention that in other townships like Singrauli, Korba, Ramagundam and Farakka, employees staying in those places have been given the benefits of flat rate system of payment of electricity charges and making available free water supply and house rent being also charged at the rate of 2.5% of pay as per circular dated 14th October, 1980 and 25th June, 1979, an order for recovery of water charges, electricity charges and rent/license fee from the employees who are residing at Noida township at the usual rate violates the provisions of Article 14 of the Constitution of India as there is no intelligible criteria for making such a discrimination.

4. Mr. Rakesh Dwivedi, senior counsel appearing for the respondent on the other hand, while refuting the aforesaid allegations submitted that there is an intelligible differentiation between the Noida township which is in the National Capital Region and the townships attached to the Power generating Projects which are away from towns. It was also submitted that the said differentiation being need based, substantial and just and being not artificial or evasive or inconsequential, there is a reasonable basis for differential treatment and, Therefore, the charge of discrimination cannot be sustained. He also submitted that the township at Noida is not situated at par with the townships which are attached to the power generating projects situated in interior areas and away from towns and that both from the point of view of geographical situation and from the functional aspects and needs, the township at Noida is differently situated and forms a different class altogether. In support of his contention, he relied upon the decision of the Supreme Court in *M.V. Srinivasa and others Vs. State of Andhra Pradesh and others*, .

5. The question that, Therefore, arises for my consideration in this writ petition is whether any case of discrimination is made out by the petitioner in respect of the employees staying at Noida township of the respondent and whether the said act of the respondent seeking to recover water charges, electricity charges and rent/license fee at the usual rate from the employees who are residing at Noida township is arbitrary, discriminatory and violative of articles 14 and 16 of the Constitution of India.

6. It is disclosed from the records that the Noida township was constructed and established very recently and the said township caters to the employees working in the Corporate office of the respondent and in the establishment of NTPC at Noida. It cannot be disputed that there is no power generating project at Noida and no power generating project is attached to the said township. On the other hand, the circulars on which the petitioner-Union is relying upon in support of its case relate to townships which are attached to the power generating projects. it

is also stated in the counter affidavit filed by the respondent that the said townships which are attached to the power generating projects are situated outside the towns and, Therefore, facilities of free water, low house rents and subsidised electricity charges are given to the employees working at such projects with the idea that it would induce the employees to take up employment and work at such stations located at remote places where such amenities would be available. It is also indicated that at the power projects the company supplies electricity from its own generation of power and does not have to purchase electricity from any State Electricity Board and so far the water supply is concerned, the Company has got its own tube-wells and supplies water to its employees residing in these stations and NTPC does not have to obtain water from any Water supply Authority whereas, at Noida, the NTPC has to obtain electricity from the U.P. State Electricity Board and water supply from the Noida at the rates fixed by the said authorities.

7. In the light of the aforesaid position and difference between the township at Noida and townships attached to the power generating projects, the respondent sought to submit that the township Noida is differently situated and forms a different class altogether. It cannot be doubted that the respondent-NTPC is empowered and is vested with the jurisdiction and discretion to grant special allowance and amenities to some of the employees depending on their nature of work, place of posting and unfavorable conditions of working. In the decision in *M.V. Srinivasa and others* (supra), the Supreme Court in paragraph 5 has held in the following manner:-

"In view of the admitted fact that the appellants through are engaged in the project but have been stationed not within the project area and are stationed in Taluk Headquarters and elsewhere, the question for consideration is whether they can be said to have been treated discriminately when project amenities are being given only to those who are stationed within the project areas. the answer must be in the negative. The power to grant special allowance and amenities to those employees who serve the Government and are posted in places with unfavorable conditions is within the discretion of the Government. Considering the nature of duties discharged by those who have been posted within a project area as well as non-availability of several basic amenities of life, the Government would be well within its power to grant some incentives like project allowance and other amenities like free quarters, free electricity and free water supply. But such incentives and amenities cannot be claimed as of right by all the employees who might have been employed in the project but are stationed outside the project areas and are serving in Taluk Headquarters or elsewhere. It is the place of work which entitles a group of employees to get incentives and amenities in question and not the employment in the project itself. In the facts and circumstances we do not find any discrimination in the matter of grant of project allowance and amenities to those employees who are posted in the project site itself."

In my considered opinion, the ration of the aforesaid decision squarely applies to the facts and circumstances of the present case.

8. The petitioner-Union is claiming similar benefits as is being given to the employees staying in townships like Singrauli, Rehand, Badarpur, etc. Those townships are attached to power generating projects and some of them are located outside the towns and at remote place and, Therefore, providing of facilities like free water, low house rent and subsidised electricity charges could be given to the employees working at such projects at the discretion of the respondent and grant of such benefits to such employees cannot be claimed by those employees who are staying outside the project area and at Noida township which admittedly does not have any power generating projects attached to it. Therefore, the township at Noida stands at a different class.

9. It is brought out on record that in the townships attached to the power generating projects, the NTPC supplies electricity from its own generation of power and does not purchase electricity from any State Electricity Board and so far supply of water is concerned, in those townships, the Company has made arrangement of its own tube-wells and supplies water to its employees there from and it does not obtain water from any water supply authority whereas, at Noida, the NTPC has to obtain electricity supply from U.P. State Electricity Board and is also obtaining water supply from the Noida authorities at the rates fixed by the said authority. Therefore, the employees stationed at Noida township constitute a different class altogether and they cannot be equated with that of the employees staying at the townships which are attached to the power generating projects situated in interior areas and away from towns.

10. The township at Noida could, Therefore, be said to be differently situated and forms a different class altogether and they cannot equate themselves with the employees stationed at the townships attached to the power generating projects. There is an intelligible differentia between the two classes of people and which, as the respondent has submitted, is need based and is not artificial or evasive. There is a reasonable basis for differential treatment between the two classes of employees and, Therefore, no case of discrimination is made out by the petition, Therefore, has no merit and is dismissed accordingly.