

(1997) 11 AP CK 0030
In the Andhra Pradesh High Court
Case No : Writ Petition No. 17624 of 1989

S. Srihari

APPELLANT

Vs

Principal, Regional Engineering College, Warangal and Others

RESPONDENT

Date of Decision : 05-11-1997

Acts Referred:

Constitution of India, 1950 — Article 12

Citation : (1998) 3 ALD 649

Hon'ble Judges : Bilal Nazki, J

Bench : Single Bench

Advocate : Mr. M. Jagannadha Sarma, for the Appellant; Government Pleader for Education, for the Respondent

Judgement

1. The petitioner joined service in the Regional Engineering College, Warangal as P.A. to the Principal of the College on 5-4-1965 in the pay scale of Rs.180-350. There are two sets of Engineering Colleges in the State. One set of colleges are the Government Colleges and the college in which the petitioner was working is a college created by a Society. The petitioner submits that when he joined service there were no posts of Personal Assistants in the State Government Engineering Colleges. The Government created the posts in its own Engineering Colleges with effect from 1-7-1965 in the pay scale of Rs.350-850. A Government Order was passed on 27-4-1967 by which rules for recruitment to the said posts were made. These rules came into force from 1-7-1965. These posts were described as temporary posts, but, according to the petitioner, they are continuing.

2. The controversy is very short. The petitioner was working in Regional Engineering College as Personal Assistant and he wants parity of pay with Personal Assistants of Principals of Government Engineering Colleges. As is evident, the petitioner was appointed to the post on 5-4-1965 in the pay scale of Rs. 180-350 and he continued to work in this grade even on 1-7-1965 when the posts of Personal Assistants in Government Engineering Colleges were created in the grade of Rs.350-850. The petitioner submits that the Government of India

issued a letter on 16-2-1963 whereby Regional Engineering Colleges were asked to adopt the pay scales of State Governments in their respective Colleges with regard to the posts of Office Assistants, Clerks, Office Superintendents, Stenos, Typists, peons etc. He further submits that, because of this instruction of Government of India, the respondents were bound to place him in the grade of Rs.350-850 with effect from 1-7-1965. He submits that the qualifications laid down by the Government for appointment to the post of Personal Assistant to Principal were possessed by him. He states that he passed his B.A., in 1968. Post graduation in the year 1970 and his services had been regularised with effect from 5-4-1965. He submits that the post of Personal Assistant in the Regional Engineering College was equivalent to the post of Superintendent in the State Government in the ministerial service. He had been promoted to the post of Assistant Registrar from 16-3-1984. For the first time he made a representation on 20-7-1972 that is seven years after the Government created the posts of Personal Assistants in the Government Engineering Colleges. This was replied to by the Principal on 26-10-1972 who declined the request of the petitioner. Aggrieved by this the petitioner represented on 20th June, 1974 to the Chairman, Board of Governors of Regional Engineering College, Warangal. The Board of Governors decided the representation of the petitioner and on 13-9-1974 the Principal conveyed the decision of the Board to the petitioner by which he was informed that his request had been declined. The petitioner submits that he was not aware of the Government order passed on 27-4-1967 and he came to know about it in the year 1988 and therefore he filed another representation on 19-4-1989 that he was entitled to a higher grade after completion of 5 years of service as Personal Assistant. He submits that he has received no reply. Therefore, he filed this Writ petition.

3. Two things emanate from the assertions made by the petitioner in the Writ petition i.e., (1) That the Government passed order creating posts of Personal Assistants in Grade Rs.350-850 on 1-7-1965 and that the rules for recruitment were made on 27th April, 1967. The petitioner did not chose either to file representation or a Writ petition in this Court. For the first time, on his own saying, he filed representation on 22nd of July, 1972. The second representation was filed on 20th of June, 1974 which was decided on 13-9-1974. Still it took the petitioner 5 years to come to this Court; (2) That, according to the petitioner he was not aware of G.O. Ms. No.960, Education, dated 27-4-1967 till the year 1988. I think, this is an after thought and this assertion has only been made for the purpose of explaining the laches as the case is badly hit by laches.

4. Coming to the merits of the case, I have found that the Government Engineering Colleges are a different entity altogether and the petitioner is not working at all in a Government institution, It may be true that the Regional Engineering Colleges are functionaries of the State within the meaning of Article 12 of the Constitution of India as has been laid down in *Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others*, . Even in this case, the Supreme Court has dealt with the constitution of the Regional Engineering Colleges and has

come to the conclusion that Regional Engineering Colleges are essentially creations of societies and are managed by the Board of Governors. Therefore, I do not find that the employer of the present petitioner is in any case the State Government. He continued to be in the employment of the Regional Engineering College and there cannot be parity of grades between two organisations where the employers are different.

5. Generally speaking, the law is well settled that once pay is claimed on the principle of equal pay for equal work, two things must be shown. Firstly, the employer must be same and secondly the functions of the person claiming equal pay with other person must be the same. On both these counts the petitioner has not satisfied this Court. The employer is different and in case parity of pay is allowed in favour of the petitioner with the Personal Assistants working with the Government Engineering Colleges it can have disastrous consequences. There is only one Regional Engineering College in the State whereas there are many Government Colleges. If Regional Engineering College tomorrow decides the increase in pay scales of their employees, the employees of the Government colleges can also claim parity with them and it shall be an unending process and the Government will be forced to enhance the scales of its employees because one college which is not the Government College raised the pay scales of its employees. Coming to the functions discharged by the petitioner and by his counterparts in the Government colleges, I have found that there is no parity between the two.

6. Counter has also been filed and the respondents have stated that there is no parity between the petitioner and the Personal Assistants of the Principals of Government Engineering Colleges. The functions are altogether different and the administrative hierarchy of the Regional Engineering Colleges is different from the administrative hierarchy of the Government Engineering Colleges. It is submitted that the Personal Assistant to Principal in Regional Engineering College is supposed to be a traditional Personal Assistant of the Principal because other administrative jobs which are done by Personal Assistant in a Government Engineering College are being done by other functionaries in the Regional Engineering Colleges. It is stated that there is no post of Registrar, Dy. Registrar and various other officers in the Government Engineering College whereas there is a Registrar with many other Officers to deal with the administration of the college in the Regional Engineering College. It has further been stated that the views of the Director of Technical Education were sought in the matter who gave his opinion vide letter No.C.5/42316/72, dated 19-7-72. In his views, he stated:

"The posts of P.A. to principal of the State Government Engineering Colleges are administrative posts and they assist the Principals in the administrative work of the colleges. Besides, they are entrusted in the supervision work of all the ministerial staff, handling of correspondence, supervision of work relating to the accounting of stores and accounting of the Government and non Government funds excluding the hostels. They are also likely to be given the powers of

drawing and disbursing officers, in respect of all current expenditure, pay and allowances of Non Gazetted staff etc. These Officers are administrative Officers next to the Principal sharing part of his work and responsibilities in non academic matters."

7. Considering the case from any angle, I do not find that the petitioner has any cause of action against the respondents. As such, this Writ petition deserves to be dismissed and it is accordingly dismissed. No costs.