
(2006) 11 JH CK 0096
In the Jharkhand High Court

State of Jharkhand and Others

APPELLANT

Vs

Satyendra Kumar Dubey

RESPONDENT

Date of Decision : 23-11-2006

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2007) 1 JCR 489

Hon'ble Judges : M. Karpagavinayagam, C.J;N.N. Tiwari, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The appellants seeking for the quashing of the notification contained in Memo No. 5407 Fin. dated 3.9.2002 issued by the Deputy Secretary.

State of Jharkhand whereby the decision has been taken to grant pay scale of Rs. 5000-8000/- to the Accountants working in the in the Treasury, who were appointed prior to 1979, and other Accountants of the Treasury appointed after 1979 will be placed in the pay scale of Rs. 4,000-6,000/-. have challenged the same before the learned Single Judge. The learned Single Judge, on consideration of various records and also on consideration of the arguments advanced on behalf of the petitioners and the respondents, quashed the said notification holding that the classification is not reasonable.

2. Having aggrieved by the said order, the State has filed this appeal. Mr. P. Modi, learned Counsel for the State, strenuously submitted that the learned Single Judge has failed to consider the various aspects of the matter regarding classification of cadre dealt with by the Fitment Appellate Committee as well as the Appellate Committee and has come to the incorrect conclusion that the classification is unreasonable. He has also cited three decisions of the Supreme Court reported in (1989)ILLJ309aSC State of U.P. and Ors. v. J.P. Chaurasia and Ors. [2002]SUPP1SCR118 State of Haryana and Anr. v. Haryana Civil Secretariat Personal Staff Association and(2004) II LLJ 1114 SC M.P. Rural Agriculture

Extension Officers Association v. State of M.P. and Anr.

3. It is vehemently contended that when the Expert Committee has given the reason for showing the classification, it is not proper for the learned Single Judge to interfere with the said decision in the light of the observations made by the Supreme Court in the decisions cited (supra).

4. On the other hand, learned Counsel for the respondent cited two decisions of the Supreme Court reported in [1987] 3 SCR 714 Bhagwan Dass and Ors. v. State of Haryana and Ors. and AIR 1992 SC 713 Sandeep Kumar and Ors. v. State of U.P. and Ors. and submitted that since the reasons for classification are not acceptable, the conclusion arrived at by the learned Single Judge is perfectly Justified.

5. We have carefully considered the submissions made by the learned Counsel for the parties and we give our anxious consideration to the rival contentions.

6. Before dealing with this question, it would be better to refer to the observations made by the Supreme Court cited by the learned Counsel for both the parties.

The relevant observations made in the decision of the Supreme Court reported in Bhagwan Dass and Others Vs. State of Haryana and Others, are as follows:

Be that as it may, so long as the petitioners are doing work which is similar to the work performed by respondents 2 to 6 from the standpoint of "equal work for equal pay" doctrine, the petitioners can not be discriminated against in regard to pay scale. Where equal work is put in by candidates, whether they are selected by a process whereat candidates from all parts of the country could have competed or whether they are selected by a process where candidates from only a cluster of a few villages could have competed is altogether irrelevant and immaterial for the purposes of the applicability of "equal work for equal pay" doctrine. A typist doing similar work as another typist cannot be denied equal pay on the ground that the process of selection was different inasmuch as ultimately the work done is similar and there is no rational ground to refuse equal pay for equal work.

The relevant observations made in the decision of the Supreme Court reported in M.P. Rural Agriculture Extension Officers Association Vs. State of M.P. and Another, are as follows:

Article 14 does not forbid a reasonable classification. Article 14 forbids class legislation but permits reasonable classification subject to the conditions that it is based on an intelligible differentia and that the differentia must have a rational relation to the object sought to be achieved. Constitutional interpretation is a difficult task. Its concept varies from statute to statute, fact to fact, situation to situation and subject-matter to subject-matter.

The relevant observations made in the decision of the Supreme Court reported in

State of Haryana and Another Vs. Haryana Civil Secretariat Personal Staff Association, are as follows:

The Courts should approach such matters with restraint and interfere only when they are satisfied that the decision of the Government is patently irrational, unjust and pre-judicial to a section of employees and the Government while taking the decision has ignored factors which are material and relevant for a decision in the matter.

In the light of the above observations, we have to analyse the question which has been posed before this Court.

7. At the out set, it has to be stated that there is nothing to indicate that the nature of duty performed by the persons appointed prior to 1979 and the persons appointed subsequent to 1979 is different and on the other hand, it is one and the same. The only submission of the learned Counsel for the appellants is that the persons appointed prior to 1979 were working under the Directorate of Treasuries and therefore on that basis the payment has been fixed on the recommendation of the Fitment Appellate Committee. We are unable to accept this submission.

8. It is settled law as referred to in the decisions of the Supreme Court in the cases cited (*supra*) that where two classes of employees perform identical or similar duties and carrying out the same functions with the same measure of responsibility having same academic qualifications, they would be entitled to equal pay. If the State denies them equality in pay, its action would be violative of Articles 14 and 16 of the Constitution. In that event, the Court will strike down the discrimination and grant relief to the aggrieved employees.

9. If the above principle which has been laid down by the Supreme Court has been taken into consideration, it is proper for this Court to come to the conclusion that the classification is not on the basis of the principles enunciated under law.

10. As already indicated that it has been admitted that the cadre is same, both the groups merged into one cadre. Their posting are inter-transferable and interchangeable. So, in absence of any material to show that there is difference in performance of duty, we cannot hold that there is a reasonable classification. Of course, the Supreme Court says in the decisions cited (*supra*) that this Court can not interfere with the decision taken by the Expert Committee of the Government, but there is no blanket bar for this Court to say that this Court should not be permitted to review the situation in the light of the principles laid down for the reasonable classification, particularly, in the light of the fact which has been admitted by the appellants that there is no difference between both the cadres of the employees. Therefore, we find no merit in this appeal which is, accordingly, dismissed.