

Kishori Mohanlal Bakshi

Vs

Union of India

Writ Petition No. 28 of 1959

(CJI B. P. Sinha, K. C. Das Gupta, S. K. Das, N. Rajgopala Ayyangar, A. K. Sarkar, JJ)

11.04.1961

JUDGMENT

DAS GUPTA J. –

The petitioner, an Income-tax Officer, in the service of the Government of India has filed this petition for protection of his fundamental rights under article 14 and article 16 of the constitution which he claims to have been violated by the respondent, the Union of India. The petitioner who was appointed an income-tax inspector in the Income-tax Department of the Government of India in 1943 became an Income-tax Officer in the same department on promotion in 1946. It appears that the income-tax services were reconstituted by an order of the Government of India dated September 29, 1944, and later on in 1953 section 5 of the Income-tax Act was amended in accordance with this decision to reconstitute. One of the feature of the reconstitution was that in place of the one class of Income-tax Officer, two classes came into existence, one consisting of Income-tax Officers of Class I service and the other class in which all the then existing Income-tax Officers were placed forming the Class II office

The main contention which Mr. Jha has pressed before us on behalf of the petitioner is that this provision as regards recruitment to post of Commissioners and Assistance Commissioners from class I Officers but not directly from Class II Officers violates article 16 (1) of the Constitution. It is difficult to understand this argument. What article 16 (1) provides is that there should be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. It might very well be that "matters relating to employment or appointment to any office" are wide enough to include the matter of promotion. Inequality of opportunity for promotion as between citizens holding different posts in the same grade may therefore be an infringement of article 16. Thus, if, of the Income-tax Inspectors some were made eligible for promotion as Income-tax Officers and others were not, there would be legitimate ground for complaint that article 16 (1) has been violated. No such complaint

The only other contention raised is that there is a distinction between class I and Class II Officers inasmuch as though they do the same kind of work their pay scales are different. This, it is said, violates article 14 of the Constitution. If this contention had any validity, there could be no incremental scales of pay fixed dependent on the duration of an officer's service. The abstract doctrine of equal pay for equal work has nothing to do with article 14. The contention that article 14 of the constitution has been violated therefore also fails.

The petition is accordingly dismissed with costs.

Petition dismissed.

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