

Umesh Chandra Gupta and Others

Vs

Oil and Natural Gas Commission and Others

Civil Appeal No. 3269 of 1979

(G. L. Oza, M. M. Dutt, K. Jagannatha Shetty JJ)

07.10.1988

JUDGMENT

JAGANNATHA SHETTY, J. –

1. This appeal by special leave arises out of a judgment of the Gujarat High Court dismissing the appellants Special Civil Application No. 1222 of 1973. The appellants are employees of the Oil and Natural Gas Commission. They were appointed in the basic pay scale of Rs. 120 as Technicians Grade III. Respondents 3 to 9 are also employees in the same establishment but in Grade II. Their basic pay scale was Rs. 175. The contention of the appellants is that there is practically no difference in the nature of duties and responsibilities of technicians Grade II and Grade III, and therefore, they are entitled to be treated and paid as Technicians Grade II. The management refused to accede to their request. They approached the Gujarat High Court for a direction against the management to treat them on equal terms with respondents 3 to 9 from the date of their respective appointments. There also they could not succeed. So they are now before us.

2. It is not in dispute and indeed cannot be disputed that the appellants were recruited as Technicians Grade II. It is the case of the management that there is difference between Technician Grade II and Grade III on qualifications as well as on recruitment policy. But it is the case of the appellants that they do the same job as Technicians Grade II.

3. The nature of work and responsibilities of the posts are matters to be evaluated by the management and not for the court to determine by relying upon the averments in the affidavits of interested parties; We have stressed this point in a recent judgment in State of U. P. V. P. Chaurasia disposed of on September 17, 1988. There we said : (SCC 130, para 18)

The question depends upon several factors. It does not just depend upon either the nature or volume of work done by Bench Secretaries. Primarily it requires among other, evaluation of duties and responsibilities of the respective posts. More often functions of two posts may appear to be the same or similar, but there may be difference in degrees in the performance. The quantity of work may be the same, but quality may be different. That cannot be determined by relying upon averments in affidavits of interested parties. The equation of posts or equation of pay must be left to the Executive Government. It must be determined by expert bodies like Pay Commission. They would be the best judge to evaluate the nature of duties and responsibilities of posts. If there is any such determination by a Commission or Committee, the court should normally accept it. The court should not try to tinker with such equivalence unless it is shown that it was made with extraneous consideration.

4. What applies to the government and government servants must equally apply to any management and its employees. If the management for good reasons have clarified the posts into two categories with different pay scales, the courts generally must accept unless it is demonstrated that it is patently erroneous either in law or on fact.

5. The high Court, however, in the instant case, has examined the qualifications and respective terms of appointment of Technicians Grade II and Grade III. The High Court has summarised thus :

It is, therefore, quite clear that in the advertisement of 1968, the qualifications required were higher than those required prior to that. Again it is pertinent to note that from 1962 the training was to be taken for a period of two years. In 1966, the period of training was raised to three year. In 1967, the period was again brought down to two years, but the required qualifications were higher than what were required previously. In 1968, the period of training was two years There also the qualification required were higher than those required in 1966 and prior to that.

It is quite clear from all these advertisements that the attempt of the Commission was to attract better qualified persons for the posts of Technicians Grade II.

6. There is thus a distinction between Technicians Grade II and Grade III. The Technicians Grade II appear to be better qualified than Technicians Grade III. The nature of work of Technicians Grade II and Grade III may be the same but there may be qualitative difference in the performance. It is for the management to evaluate and not for the court to determine.

7. In view of the aforesaid conclusion of the High Court we do not think that the claim of the appellants that they should be treated as Technicians Grade II along with respondents 3 to 9 is tenable. There is therefore, no merit in this appeal and it is accordingly dismissed. In the circumstances, however, we make no order as to costs.

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