

Tarsem Lal Gautam and Another

Vs

State Bank of Patiala and Others

Writ Petition No. 13369 of 1984

(M. N. Venkatachaliah, Ranganath Misra JJ)

11.10.1988

JUDGMENT

VENKATACHALIAH, J. –

1. This writ petition under Article 32 of the Constitution of India raises the question of the validity of Regulation 7 read with Schedule I of State Bank of Patiala (Officer's) Service Regulations, 1979 ("Regulations" for short) pertaining to the placement and fitment of existing officers in the service of the State Bank of Patiala in the new grades and scales of pay.

2. In the year 1959, all "State Banks" - State Bank of Patiala was one of them - were made subsidiaries of the State Bank of India under State Bank of India (Subsidiary Banks) Act, 1959. Section 63 of this Act provided :

63. Power of the State Bank of make regulations - (1) The State Bank may, with the approval of the Reserve Bank, make in respect of a subsidiary bank regulations, not inconsistent with this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for -

* * *

(m) the conditions and limitations, subject to which the subsidiary bank may appoint officers, advisers and other employees and fix their remuneration and other terms and conditions of service;

* * *

3. Pursuant to and in exercise of the powers of Section 63 State Bank of Patiala (Officers') Service Regulations, 1979 were promulgated. On the pattern of the recommendations made in regard to the rationalisation and standardisation of pay scales of nationalised banks made by what is known as the "Pillai Committee", the pay scales in State Bank of Patiala were also revised and restructured introducing new grades and scales. The Regulations were to take effect from October 1, 1979. Regulation 7 read with Schedule I provided the placement and fitment of the existing officers of the bank in the new grades and scales of pay. In the present case, we are concerned with the placement

and fitment of existing officers "Grade A" to which both the petitioners Sri Tarsem Lal Gautam and Sri C. V. Madan belong.

4. The "Regulations" were promulgated, in exercise of the powers conferred by the State Bank of India (Subsidiary Banks) Act, 1959, by the Central Board of Directors of the State Bank of India in consultation with the Board of Directors of State Bank of Patiala and with the previous approval of the Reserve Bank of India. Regulation 4(1) introduced the following new grades and scales of pay for the officers in the bank :

4(1) There shall be the following four grades for officers with the scales of pay specified against each of the grades :

#(A) Top Executive Grade Scale VII - Rs. 3000-125-3500 Scale VI - Rs. 2750-125-3250(B) Senior Management Grade Scale V - Rs. 2500-100-2700 Scale IV - Rs. 2000-100-2400(C) Middle Management Grade Scale III - Rs. 1800-75-2250 Scale II - Rs. 1200-70-1550- 75-2000(D) Junior Management Grade Scale I - Rs. 700-40-900-50- 1100-EB-1200-60- 1800##

5. The petitioners were "existing officers" as on the appointed date i.e. on October 1, 1979 in Grade A. Existing officers in Grade A were placed in the corresponding new grades and scales of pay. The officers in the earlier existing Grade A in the pay scale of Rs. 1200-60-50-75-950 were placed in two different cadres and scale of pay, viz., "Senior Management Grade Scale IV" with the pay scale of Rs. 2000-100-2400, and "Middle Management Grade Scale III" with the pay scale of Rs. 1800-75-2250, on the sole basis whether the officers had been promoted to the existing Grade A on or prior to December 31, 1975 or thereafter. The effect of Regulation 7 read with Schedule I was that all existing Grade A officers who had been promoted to that grade prior to December 31, 1975 were placed in the new scale ("Senior Management Grade Scale IV" : Rs. 2000-100-2400) and those existing Grade A officers who are promoted as such after December 31, 1975 were placed in the new scale of "Middle Management Grade Scale III : Rs. 1800-75-2250".

6. Petitioners challenged this classification of existing officers belonging to same grade and scale of pay into two different categories for fitment in the revised pay scales solely on the basis of date of their promotion as arbitrary and violative of Article 14 of the Constitution of India.

7. Regulation 7 reads :

Subject to the provisions of Regulation 6, existing officers serving in the grades and scales of pay mentioned in column 1 of the table given in Schedule I to these Regulations shall be placed as on the appointed date in the grades and scale specified there against in column 2 of the said schedule :

Provided that any difficulties or anomalies arising out of the above placement shall be referred to a committee of such persons as the Board or Executive Committee may appoint and the decision of that committee in this regard shall be final.

8. Relevant entries in Schedule I are :

Schedule I (See Regulation 7) Placement of existing officers in the new grades and scales in the State Bank of Patiala-----
Grade and scale immediately before Grade and scale in which the appointed date

placed----- * * *3. Officers 'A' Grade promoted as Senior Management Grade such on or before December 31, Scale IV Rs. 2000-100-2400 1975 Scale - Rs. 1200-60-1500- 75-19504. Other officers 'A' Grade Scale - Middle Management Grade Rs. 1200-60-1500-75-1950 Scale III Rs. 1800-75-2250-----###

9. Sri Tarsem Lal Gautam was promoted as Grade A Officer on December 1, 1978. Sri C. V. Madan was promoted as Grade A Officer on December 1, 1976. Both of them having been promoted after December 31, 1975 in the matter of their placement they, by circular dated July 23, 1980 of the first respondent, were held to fall outside entry 3 of Schedule I and within entry 4 of that schedule and, accordingly, placed them in the "Middle Management Grade Scale III" and not in the higher revised scale, viz., "Senior Management Grade Scale IV".

10. It is to be mentioned here that second petitioner Sri C. V. Madan was removed from service on December 30, 1977. But the prayers in the petition, to the extent they bear upon the correctness of his placement insofar as the benefits that he may be entitled to on that basis up to December 30, 1977, shall survive.

11. The main grievance of the petitioners is that the new Regulations merely brought about a revision of pay scales and that the differentiation amongst the existing "Grade A" officers who were doing the same nature of work and who would continue even after the placement in the new cadre to do the same work into two grades with different scales of pay based purely on the fortuitous circumstance of the date of their promotion to the existing "Grade A" is arbitrary. The effect of this is illustrated by the possibility that two officers doing the same duty both in the existing grades and in the revised grades are placed in two different scales of pay by reason alone that one of them had been promoted to 'Grade A' on December 31, 1975, would go to the higher grade and scale of pay in the revised scale and the other would be placed in the lower scale by reason alone of the fact that he was promoted to the existing grade the next day.

12. In the memorandum of writ petition, petitioners contend that existing officers belonging to Grade A are split into two groups with reference to their date of promotion to Grade A and this differentium is an irrational one. It is averred :

Thus, the same class of officers i.e. officers "A" Grade, were bifurcated into two different categories with reference to wholly irrational, illegal, inequitable, unreasonable and arbitrary criteria like the fortuitous event of promotion to "A" Grade on or before December 31, 1975

The number of posts in SMGS IV were far more than the officers were arbitrarily cut-off and initially placed in SMGS IV at that time

13. In counter-affidavit dated March 15, 1985 filed by the General Manager of the first respondent-bank it is stated :

It is denied that 'A' Grade officers were bifurcated into two different categories with reference to irrational, illegal, inequitable, unreasonable and arbitrary criteria like the fortuitous event of promotion as alleged. This date was fixed having regard to the number of posts vacant with respondent 1 in the Senior Management Grade Scale IV and the number of such posts came to 32 and it was further found that 26 officers had

been promoted to then officer Grade 'A' on or before December 31, 1975 The seniority of the officers for placement in Senior Management Grade Scale IV was strictly maintained and no officer junior to the petitioner was placed in Senior Management Grade Scale IV. Thus, there was a rational differentia in placing certain officers in Senior Management Grade Scale IV and there was rational relationship of such placement to the objects sought to be achieved, procuring the services of seniormost experienced officers for the senior management Grade Scale IV posts

14. Setting out the antecedents and the background for this restructuring of the cadres and pay scales it is averred :

It is submitted that in the year 1973, a Committee known as Pillai Committee was appointed by the Government of India for bringing uniformity and standardisation in the conditions of service of the officers of various nationalised banks. The recommendations of the Pillai Committee were later on sought to be applied to the State Bank of India and its associate banks with suitable modifications having regard to their special features

I say that the new structure of grades and scales created by State Bank of Patiala (Officers') Service Regulations, 1979, does not lay down grades and scales corresponding to the earlier grades and scales, but it is an entirely new structure created on the basis of recommendations of the Pillai Committee suitably adopted for the subsidiary banks of the State Bank of India with some modifications and there have been bifurcations, which have resulted in intermediate grades and scales. As such, it cannot be said that the new grades and scales correspond to old grades and scales and they cannot be construed in a manner that a person who was in a particular grade or scale earlier, would automatically get entitled to be placed in some specified corresponding grade and scale without any reference to the date of his promotion in an earlier grade or scale. It is very likely that whenever reorganisation of cadres takes place in service, some grades may have to be split up into more than one grade or class of posts, or more than one grade or class of posts may have to be merged to form a single cadre and as long as the inter se seniority of the officers is not disturbed, it would be quite permissible to do so in law. In the present case also, the grade and scales were reorganised, but the inter se seniority of the officers vis-a-vis the petitioner was not disturbed and no officer junior to the petitioner got higher grade or scale in the reorganised structure

15. We have heard Sri M. K. Ramamurthy, learned Senior Counsel in support of the petitioners and Sri Shanti Bhushan, learned senior counsel for the first respondent-bank.

16. In addition to the challenge to the unconstitutionality of the classification of the existing A Grade officers into two classes for purposes of fitment into the revised scales of pay, petitioner, Sri Tarsem Lal Gautam has alleged mala fides on the part of senior officers. It would appear, that he had appeared before the Selection Committee for purposes of promotion from 'Middle Management Grade Scale III' to the 'Senior Management Grade Scale IV' and was, allegedly, overlooked for promotion owing to what according to him was a hostile bias against him. There are lengthy averments in the memorandum of petition in regard to these grievances and equally lengthy refutations thereof in the counter-affidavit.

17. At the hearing, Sri Ramamurthy, did not rest the case on mala fides and bias but confined the arguments to the question of constitutionality of the criteria of classification in entry 3 of Schedule I. Sri Ramamurthy contended that the exercise contemplated by the Regulations, insofar as pay scales were concerned, was a mere revision of the scales of pay and that when in the year 1983, the placements and fitments were undertaken with retrospective effect from October 1, 1979, the two sets of existing officers Grade A, who were earlier doing the same kind of work and who even thereafter continued to do same kind of work, were bifurcated into two classes on the mere fortuitous line of demarcation of the respective dates of their promotion to the existing Grade A post. Sri Ramamurthy submitted that the line of demarcation was irrational in fact and impermissible in law. Those who had put in longer number of years of service, learned counsel submitted, would, of course, be entitled to and get higher pay in the same pay scale : but dividing the officers of the same cadre into two groups for purposes of the benefit of revision of pay merely on the basis of the date of their promotion would be palpably arbitrary and violative of Article 14.

18. Sri Ramamurthy contended even on the avowed basis of justification of the choice of the cut-off date line of December 31, 1975, namely, that it was intended to bring about a uniformity in all the subsidiary banks would, apart altogether from its legality, by itself negate and detract from the feebly suggested stand of the first respondent that the cut-off date was intended to secure the requisite number of senior and more experienced officers to man certain posts which were to be categorised against "Senior Management Grade Scale IV". Sri Ramamurthy submitted that the words 'promoted as such on or before December 31, 1975' occurring in item 3 of the Schedule I of the Regulations, which has the effect of bringing about this hostile discrimination, would require to be struck down. With those words so deleted from item 3 of Schedule I, it was urged, the provision would be purged of the vice of unconstitutionality.

19. In support of his contention that mere seniority of service cannot support a classification for purposes of higher pay scales, Sri Ramamurthy placed particular reliance on the pronouncement of this Court in *P. Savita v. Union of India* (1985 Supp SCC 94 : 1985 SCC (L&S) 826 : 1985 Supp 1 SCR 101). In that case, Senior Draughtsmen who were holding the posts as on December 31, 1972, were alone held entitled to a higher pay scale and those who had been promoted after December 31, 1972 were denied the benefit of the revision of the pay scale. The High Court did not see substance in the challenge of the Senior Draughtsmen who were denied the benefit to the rule; but this Court relying on the principle of "equal pay for equal work" as recognised and effectuated in *Randhir Singh v. Union of India* ((1982) 1 SCC 618 : 1982 SCC (L&S) 119 : (1982) 3 SCR 298) held the classification to be bad. Sri Ramamurthy invited our particular attention to the following observations of this Court made while striking down the basis of the classification : [SCC pp. 100 and 102 : SCC (L&S) pp. 831 and 833, paras 11 and 17]

The explanation is that this division is based on seniority. This cannot be accepted as sufficient to meet the requirements of law. By seniority, a Senior Draughtsman will get higher pay with the increments that he earns proportionate to the number of years he is in service. Here that is not the case. It is the classification of the Senior Draughtsmen into two groups, that is responsible for the higher pay In view of the total absence of any plea on the side of the respondents, that the Senior Draughtsmen who are placed in the advantageous group, do not perform work and duties more onerous or different from the work performed by the appellants' group, it will have to be held that this grouping violates Article 14 of the Constitution.

For the purposes of the case on hand, it is sufficient to note that the classification between two groups of Senior Draughtsmen is without any basis. They do the same work, they perform the same

duties, and as such the ratio of the decision in Randhir Singh case ((1982) 1 SCC 618 : 1982 SCC (L&S) 119 : (1982) 3 SCR 298) applies to this case with greater force.

Sri Ramamurthy submitted that this is a full answer to the first respondent's contention and stated that the proper authority to plead any tenable justification for the purported classification in item 3 of Schedule I of the Regulations was the State Bank of India, which has framed and promulgated the Regulations and said that though the State Bank of India was impleaded as a party, it did not enter appearance and seek to justify the principle justifying the classification.

20. Sri Shanti Bhushan, however, submitted that the petitioners' approach to the matter on the strength of Savita case (1985 Supp SCC 94 : 1985 SCC (L&S) 826 : 1985 Supp 1 SCR 101) is somewhat misconceived as the former case was one of revision of pay scales simpliciter while the present Regulations do not contemplate a mere revision of pay scale of the existing cadres of officers but an exercise involving rationalisation, standardisation and restructuring of the whole administrative set up of the management cadres of the subsidiary banks of the State Bank of India. Sri Shanti Bhushan submitted that where, as here, new categories of posts and new scales to pay, not corresponding to the pre-existing categories of posts and new scales are created, criteria will have to be evolved and applied for the subsumption and fitment of the existing officers into the new categories of posts and scales of pay. It might happen that all the officers of any particular pre-existing category, it was urged, cannot, en bloc, be grafted on a particular new category or scale of pay and a fair and reasonable criteria would, therefore, require to be formulated which, while protecting the inter se seniority of the existing officers, would also make for their absorption and distribution in the new cadres and scales of pay on some reasonable basis. Sri Shanti Bhushan submitted that Regulations 4, 6 and 7 read with Schedule I envisage such an exercise and that, indeed, similar exercises have been undertaken and implemented both in the State Bank of India and in all the other subsidiary banks. Sri Shanti Bhushan submitted that any acceptance of the contentions urged for by the petitioners would have the effect of introducing new and unforeseen complications and unsettlements in respect of a large number of similar cases.

21. Referring to Savita case (1985 Supp SCC 94 : 1985 SCC (L&S) 826 : 1985 Supp 1 SCR 101), Sri Shanti Bhushan submitted that that was a case of a mere unreasonable withholding of the benefits of pay revision to some of the members who were part of a well defined class. That apart, that was a case where Senior Draughtsmen were divided into two pay scales of Rs. 330-560 and Rs. 425-700 respectively and the important factor was that under the same pay revision the lesser grade of "Draughtsmen" had the benefit of revised pay scale of Rs. 330-560. The unreasonableness and injustice of the case were writ large and set it apart.

22. On a careful consideration of the matter, we are persuaded to the view that the 'Regulations' did not bring about a mere revision of pay and that the analogy of precedents dealing with revision of pay would not be wholly determinative and that the contentions urged by Sri Shanti Bhushan are not without force. Regulation 6 required the categorisation of posts under the various new categories of posts. At the hearing, Sri Shanti Bhushan brought to our notice that about 32 posts had been categorised against the "Senior Management Grade IV" by the statutorily envisaged committee constituted for the purpose. It has been urged for the first respondent-bank that the seniority and greater experience of the existing officers in Grade A have been taken into account by the Regulations in the placement and fitment of the existing officers in the "Senior Management Grade Scale IV".

23. This, we think, is not an instance to which the principle of 'equal pay for equal work' could

straightway be applied. Indeed, the qualitative differences in regard to degrees of reliability and responsibility cannot be put aside as irrelevant. There cannot be any thumb rule to decide the invalidity of the provisions which recognise and provide for differentiation on the basis of higher experience, reliability and responsibility.

24. Indeed, the observations of this Court in *Federation of All India Customs & Central Excise Stenographers (Recognised) v. Union of India* ((1988) 3 SCC 91 : 1988 SCC (L&S) 673 : (1988) 7 ATC 591) are apposite : [SCC pp. 100 and 104-5 : SCC (L&S) pp. 682 and 686-87 : ATC pp. 600 and 604-5, paras 7 and 11]

... there may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference. One cannot deny that often the difference is a matter of degree and that there is an element of value judgment by those who are charged with the administration in fixing the scales of pay and other conditions of service. So long as such value judgment is made bona fide, reasonably on an intelligible criterion which has a rational nexus with the object of differentiation, such differentiation will not amount to discrimination.

The same amount of physical work may entail different quality of work, some more sensitive, some requiring more tact, some less - it varies from nature and culture of employment. The problem about equal pay cannot always be translated into a mathematical formula. If it has a rational nexus with the object to be sought for, as reiterated before a certain amount of value judgment of the administrative authorities who are charged with fixing the pay scale has to be left with them and it cannot be interfered with by the court unless it is demonstrated that either it is irrational or based on no basis or arrived mala fide either in law or in fact.

25. In *Randhir Singh* case ((1982) 1 SCC 618 : 1982 SCC (L&S) 119 : (1982)3 SCR 298) itself it was recognised thus : [SCC p. 622 : SCC (L&S) pp. 122-23, para 7]

The higher qualifications for the higher grade, which may be either academic qualifications or experience based on length of service, reasonably sustain the classification of the officers into two grades with different scales of pay. The principle of 'equal pay for equal work' would be an abstract doctrine not attracting Article 14 if sought to be applied to them.

26. In a recent pronouncement, this Court dealt with a case, the facts of which, in comparison with those of the present one, would render the latter as a fortiori position. In *State of U. P. v. J. P. Chaurasia* ((1989) 1 SCC 121) this Court noticed the question thus : (SCC p. 123, para 1)

The question is whether it is permissible to have two pay scales in the same cadre for persons having same duties and having same responsibilities.

27. Reversing the decision of the High Court which in the facts of the case answered in the negative this Court observed : [SCC pp. 130-31 and 134, paras 20 and 29]

The second question formulated needs careful examination. The question is not particular to the present case. It is pertinent to all such cases. It is a matter affecting the civil services in general. The question is whether there could be two scales of pay in the same cadre of persons performing the same or similar work or duties. All Bench Secretaries in the High Court of Allahabad are undisputedly having same duties. But they have been bifurcated into two grades with different pay scales.

In service matters, merit or experience could be the proper basis for classification to promote efficiency in administration. He or she learns also by experience as much as by other means. It cannot be denied that the quality of work performed by persons of longer experience is superior than the work of newcomers.

28. We think that the principle of classification amongst the existing officers Grade A for purposes of fitment in the new dispensation brought about by the statutory regulations cannot be said to be unreasonable and arbitrary requiring to be struck down as violative of Article 14.

29. Some arguments were advanced on the question if the number of posts categorised against "Senior Management Grade Scale IV" was higher than those filled up by the initial fitment under Regulation 7 read with Schedule I, the excess number of posts would automatically go, by way of placement, to the existing officers in Grade A without the requirement of "promotion". The categorisation of posts under Regulation 6 is an exercise which is not in any way fettered by Regulation 7. If more number of posts are categorised under 'Senior Management Grade Scale IV' than the number of existing officers placed into the higher scale pursuant to Regulation 7 read with Schedule I, the proper construction to be placed on the scheme of the regulation is that these extra number of posts in the higher scale would have to be filled up by promotion under Regulation 17 and not by a continuing process of placement and fitment.

30. There is thus, no merit in the writ petition which is accordingly dismissed. But in the circumstances, we make no order as to costs.

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