

C. R. Seshan and Another

Vs

State of Maharashtra and Others

Writ Petition Nos. 13486 and 13487 of 1983

(K. Jagannatha Shetty, Kuldip Singh JJ)

15.03.1989

JUDGMENT

K. JAGANNATHA SHETTY, J. –

1. The petitioners are Personal Assistants in the High Court of Bombay. In these petitions under Article 32 of the Constitution, they seek a writ or order directing the High Court to treat them on par with Private Secretaries and place them in the pay scale of Rs. 1000-50-1500 with effect from October 25, 1982.

2. The matter arises in this way : Prior to April 1, 1966, only shorthand writers were attached to the Chief Justice and Judges of the High Court. On April 1, 1966, the shorthand writers were designated as selection grade shorthand writers due to revision of pay. In 1970, they were redesignated as Personal Assistants to the Judges. The pay scale of the Personal Assistants as well as Court Stenographers Assistants, although they were initially appointed as Court Stenographers. On February 8, 1980, the Association of Personal Assistants made a representation to the State Government complaining that for want of promotional outlets, they were frustrated by stagnation. They therefore, requested to convert one-fifth of the post of Personal Assistants into those of Private Secretaries to the Judges in the pay scale of Rs. 1000-50-1500 and the remaining in the pay scale of Rs. 680-1250. The High Court also recommended to the Government that the request of the Personal Assistants could be accepted. The government by order dated October 25, 1982 directed that eight out of thirty-seven posts of Personal Assistants should be converted into those of the Private Secretaries to the Judges in the pay scale of Rs. 1000-50-1500 and the remaining twenty-nine posts should be converted into those of the Personal Secretaries to Judges in the pay scale of Rs. 680-1250.

3. Pursuant to the conversion of eight of Personal Assistants into that of Private Secretaries, the Chief Justice made consequential orders converting eight posts and promoting eight Personal Assistants as Private Secretaries on the basis of seniority-cum-merit. The Chief Justice ordered that the promoted eight Private Secretaries should be posted with the Chief Justice and other Administrative Judges.

4. The petitioner who are relatively junior in the cadre of Personal Assistants, have moved this Court with writ petitions contending, inter alia, that there is no difference in the nature of duties and responsibilities of Private Secretaries and Personal Assistants. All Judges except the Chief Justice have equal powers and are performing similar functions. There is not difference worth the name in the nature of duties performed by Personal Assistants attached to Administrative and/or senior Judges. The theory evolved by the High Court for differently classifying eight Personal Assistants

from their counterparts is arbitrary and unsustainable. There is no basis for converting only eight out of thirty-seven posts of Personal Assistants to those of Private Secretaries. The distinction made amongst the Personal Assistants who are identically situated is irrational, unjust, unintelligible and unfair. With these and other allegations, they have demanded the pay scale similar to that of the Private Secretaries.

5. There are two counter-affidavits filed denying the averments made in the writ petitions, - one by the Registrar, High Court and the other by the General Secretary of the Personal Assistants' Association, High Court of Bombay. They have explained the difference in duties and responsibilities of Private Secretaries and Personal Assistants. They have stated that the Administrative Judges have administrative business in addition to their judicial work. Various administrative subjects are also assigned by the Chief Justice to the Administrative Judges and their Private Secretaries are burdened with that additional work. They have denied that the Private Secretaries and Personal Assistants are doing the same work. It is also stated that the government resolution dated October 25, 1982 converting eight posts of Personal Assistants into that of Private Secretaries was only to provide promotional avenues to Personal Assistants and, therefore, cannot be said to be arbitrary or discriminatory.

6. From these averments, it becomes clear that the government sanctioned two different pay scales for those who were in the same cadre. The Chief Justice gave the benefit of higher pay scale with different designation of posts strictly on the basis of seniority-cum-merit. It is indeed undisputed that the persons with higher pay scale are posted as Private Secretaries to the Chief Justice and Administrative Judges. The petitioners contend that this is discriminatory and contrary to the principle of "equal pay for equal work". They claim parity with the pay scale of Private Secretaries.

7. There are several decisions of this Court dealing with the principle of "equal pay for equal work". It is unnecessary to lengthen this judgment by reference to all those decisions. Even assuming for the sake of argument that the petitioners perform similar duties and functions as those of Private Secretaries, we cannot accept their claim for higher pay scale, since it is given of the basis of seniority-cum-merit.

8. This Court in *State of U. P. v. J. P. Chaurasia*, has considered almost an identical question. There are government converted ten posts of Bench Secretaries into Bench Secretaries Grade I with a higher pay scale and the remaining Bench Secretaries were classified as Bench Secretaries Grade II. The latter challenged that classification before the High Court contending that there was no valid reason to give higher pay scale only to ten Bench Secretaries and step-motherly treatment to others. The High Court accepted their claim and directed that Bench Secretaries Grade II should be given the same pay scale as that of the Bench Secretaries Grade I. This Court reversed the decision of the High Court. It was observed therein that there is a difference in the quality of work performed by persons of longer experience and a higher pay scale to avoid stagnation or resultant frustration for lack of promotional avenues is very common for career service. The entitlement to higher pay scales depending upon seniority-cum-merit or merit-cum-seniority and the distinction so made in the same cadre will not amount to discrimination. It was also stated that classification based on experience is a reasonable classification having a rational nexus with the object thereof and to hold otherwise, it would be detrimental to the interest of the service itself. The ratio of that decision is clearly applicable to the facts of the present case since it is said that the posts of Private Secretaries with higher pay scale are filled up on the basis of seniority-cum-merit and the petitioners are juniors in the cadre.

9. In the result, these petitions fail and are dismissed with costs.

</html