

State of Rajasthan

Vs

Gurcharan Singh Grewal and Others

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Vs

S. S. Gupta and Others

Union of India and Others

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G. S. Grewal and Others

Civil Appeal No. 4034

(K. Jagannatha Shetty, Smt. M. S. Fathima Beevi JJ)

13.07.1990

JUDGMENT

FATHIMA BEEVI, J. :-

1. These appeals by special leave are directed against the judgment and order dated 15th June, 1987 of the Central Administrative Tribunal, Chandigarh whereby the writ petition filed by respondents Nos. 1 to 8 herein had been allowed and the impugned order dated 9th February, 1976 and letter dated 6th December, 1978 of the state of Rajasthan had been quashed. The brief facts giving rise to the present appeals are as under :

The respondents, employees of the Rajasthan State Government/Rajasthan State Electricity Board were transferred on deputation to the Beas Construction Board at Chandigarh, Talwara and Slapper. They joined the Beas Project on various dates from 28th September, 1972 to some time in the year 1973. The Project became the venture of Punjab, Haryana and Rajasthan after the re-organisation of these States. The State of Rajasthan bears the burden of allowances of their employees appointed in this Project.

2. The State Government by order dated 26th August, 1970 directed payment of the Beas Project Compensatory Allowance at the rate of 20% of the pay drawn subject to a maximum of 300/- rupees

per month to the employees of the State of Rajasthan working on the Project. The rate was reduced to 14% in 1978, 12% in 1984 and further to 8 per cent in 1987.

3. The unified scale of pay was introduced with effect from 1st October, 1972 on the basis of the resolution passed by the Standing Committee of the Beas Construction Board on 14th September, 1972. The Beas Construction Board also sanctioned cash payment equal to half a month's pay for every completed year of satisfactory service on the Beas Project whether drawn from Partners States/Electricity Boards. By the proceedings dated 8th February, 1973, in the case of the employees drawn from Rajasthan, who had joined the Beas Project on or before 14th September, 1972, the employees were given the option of either to have the Beas Project Compensatory Allowance sanctioned by the Rajasthan Government or to avail of the benefit of cash payment. In the case of the former, the payment was to be arranged by the Rajasthan Government directly to the employees. The employees drawn from Rajasthan who had joined the Beas Project on or before 14th September, 1972 and who opted to have the Beas Project Compensatory Allowance as sanctioned by the Rajasthan Government at their cost the amount of cash payment that would have become due was to be credited by the Beas Construction Board to the Rajasthan Government.

4. It appears that after the unified pay-scale was made applicable by the Beas Construction Board and the benefit of cash payment was also introduced, the Rajasthan Government by proceedings dated 9th February, 1976 ordered that the concession of Beas Project Compensatory Allowance in terms of the order dated 26th August, 1970 will not be applicable to the officers/ officials of the Irrigation Department and the Rajasthan State Electricity Board who joined the Beas Project after 14th September, 1972. In the Memo dated 6th December, 1978, it was clarified that the circular was issued in supersession of the earlier circular dated 26th August, 1970 that the Beas Project Compensatory Allowance is admissible to those employees who joined the Beas Project upto 14th September, 1972 as per decision of the Beas Construction Board and the same is not admissible to the employees of the Rajasthan State/Rajasthan State Electricity Board who joined the Beas Project after that date.

5. The respondents herein challenged these proceedings dated 9th February, 1976 and 6th December, 1978 filing writ petition before the High Court of Punjab and Haryana which was transferred to the Administrative Tribunal, Chandigarh and by the impugned order, the Tribunal quashed the same holding that these orders are discriminatory and violative of the principle of natural justice. The Tribunal held the view that the denial of the said allowance in respect of those employees who joined the Project after 14th September, 1972 is against the principles of natural justice and that there is no change in the circumstances and the regions to which it was allowed earlier. The order is discriminatory and violative of Articles 14 and 16 of the Constitution.

6. Aggrieved by the decision of the Tribunal the State Government has filed the appeal by way of special leave. The main contentions urged on behalf of the appellant are that the State Government employees serving at the Project before 14th September, 1972 did not enjoy the benefit of the unified pay-scale admissible to the employees who have joined the Project after 1st October, 1972 and they form a different class from those who joined the Project after 14th September, 1972 with a clear notice that they were not to get the Beas Project Compensatory Allowance with effect from 14th September, 1972 and, therefore, there is no violation of Articles 14 and 16 of the Constitution. The Addl. Solicitor General contended before us that the employees who joined the Project after 14th September, 1972 being entitled to the benefit of cash payment could not receive the compensatory allowance as it would amount to double benefits and it cannot, therefore be said that there is any discrimination. In prescribing the specified date, there is no arbitrariness and the

classification is founded on an intelligible differential which distinguishes the employees who had joined the Project before 14th September, 1972 from those who joined the Project after that date and that the differential has a rational nexus to the objects sought to be achieved. It was elaborated that the compensatory allowance was sanctioned to the State Government employees when the pay-scale was low and as an incentive for the employees who take up the work in the Project and since then there had been considerable development, the pay-scale had been revised and the terminal cash benefit had been sanctioned to the employees who joined the Project on or after 14th September, 1972 who form a different class.

7. On the other hand, counsel for the respondents pointed out that the payment of the compensatory allowance or the terminal cash benefit was not linked with the unified pay-scale and that the employees of the state Government irrespective of whether the pay is drawn by them in the Beas Construction Board pay-scale or Rajasthan State pay-scale according to the option given by them were entitled to the Beas Project Compensatory allowance if they had joined the Project before 14th September, 1972 and the terminal cash benefit in their case was to be credited to the State Government. The question of any double benefit cannot arise and even if the terminal cash benefit has been withdrawn by some of the petitioners, the same could be deducted in the compensatory allowance to be paid and adjusted.

8. This Court held in *D. S. Nakara v. Union of India*. (SCC paras 14 nd 15)

"Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. It is attracted where equals are treated differently without any reasonable basis. Though Article 14 forbids class legislation, yet it permits reasonable classification. The classification must be founded on an intelligible differential which distinguishes persons or things that are grouped together from those that are left out of the group and that differential must have a rational nexus to the object sought to be achieved by the statute in question. There ought to be casual connection between the basis of classification and the object of the statute. An executive action could be sustained only if the twin tests of reasonable classification and the rational principle co-related to the object sought to be achieved are satisfied.

"The appellant has therefore, to satisfy the Court that the classification was based on some valid principle which in itself was not irrational, unreasonable or discriminatory.

9. Annexures I & II produced by the appellant indicate that the compensatory allowance was sanctioned by the Government of Rajasthan taking into account the extra cost of maintenance of two establishments and also as an incentive to work on the Project. These considerations would apply in the case of all officers whether they joined the Project before 14th September, 1972 or after that date. The benefit of the compensatory allowance appears to have been withdrawn so far as the employees who joined the Project after 14th September, 1972 on the premises that the unified pay-scale has been made applicable and the employees who are brought under the new scale are also entitled to the terminal cash benefit. It is clear from Annexure R-1 a letter written by the Secretary, Beas Construction Board to the General Manager & Ors. That the terminal cash benefit was payable in the case of all regular employees working on the Beas Project whether drawn from Partner States or allocated or recruited after 1st November, 1966 and in the case of the employees who had joined before 14th September, 1972 and who opted for drawing the compensatory allowance, such cash benefit was to be credited to the Government. The liability of the terminal cash benefit was

therefore that of the Construction Board and the liability for the payment of the compensatory allowance was that of the state Government. Even in the case of the employees who joined the Project before 14th September, 1972 if they had opted for the unified pay-scale they had the option either to receive the compensatory allowance or the terminal cash benefit as is clarified in clause (vii). Those employees had thus two options before them, the first option being that regarding the unified pay-scale and the second option with regard to the Beas Project Compensatory Allowance or the benefit of the cash payment. If the employees had opted for the unified pay-scale and also for the benefit of the cash payment, compensatory allowance would not be payable in that case, even if he had been drawing the pay on the unified pay-scale. Similarly, if such employees had opted for the compensatory allowance after having opted for the unified pay-scale, the terminal cash benefit would not be payable, the same would be credited to the State Government.

10. In the case of the employees who joined the Project after September 14, 1972, they had no option regarding the pay-scale. The order granting compensatory allowance was also in force on 14th September, 1972. There had been no indication in the proceedings dated 8th February, 1973 that the employees who joined the Project after 14th September, 1972 should be given the option either to have the compensatory allowance or the terminal cash benefit. If the employees who joined the Project before 14th September, 1972 could exercise their option in the matter of compensatory allowance, there is no reasonable basis for denying that benefit of option to the employees who joined the Project after 14th September, 1972. Even if they exercise the option for the compensatory allowance, they could not claim the cash benefit which would only be credited to the state Government and there will not be any additional burden for the State Government. The order denying the option is thus arbitrary and discriminatory treating differently the employees who had joined the Project after 14th September, 1972 in the matter of exercising their option for the compensatory allowance or the terminal cash benefit. The payment of the compensatory allowance is not linked with the unified pay-scale as argued for the appellant. It has been made clear in the order reducing the rate of compensatory allowance that the employees would be entitled to receive the compensatory allowance at the reduced rate irrespective of their option to receive their pay in the unified pay-scale.

11. We, therefore, hold that the Tribunal was correct in quashing the impugned orders dated 9th February, 1976 and 6th December, 1978. The petitioners have been denied the benefit of compensatory allowance arbitrarily and they have been discriminated against persons who had been similarly placed. We do not, therefore, see any merit in the appeal which is accordingly dismissed. In the circumstances of the case, we make no order as to costs.

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