

Chief Engineer-Cum-Secretary

Vs

Jagdish Mittar and Others

Civil Appeal No. 2703 of 1991

(K. Jagannatha Shetty, Yogeshwar Dayal JJ)

26.07.1991

JUDGMENT

K. JAGANNATHA SHETTY, J. –

1. Special leave granted.

2. The Central Administrative Tribunal by the judgment under appeal has allowed selection grade of Rs 1700-2000 to the respondent who is a Sub-Divisional Engineer. He was originally a Junior Engineer (Electrical) in the Central Public Works Department of Government of India. On September 16, 1976, he was selected as Assistant Engineer (Electrical) by the Chandigarh Administration. The post of the Assistant Engineer is also termed Sub-Divisional Engineer. He claimed selection grade admissible to his post under the guidelines issued by the Chandigarh Administration. The relevant extract of the guidelines reads as follows :

"Selection grade will not be admissible to an officer unless he has completed 15 years service. The service should either be in the basic scale where appointment to the basic scale is from the point of fresh entry into service or as the sum total of employees' service in the basic scale and in the one scale next below."

3. The department rejected the claim on the ground that he did not complete fifteen years service in the post of Assistant Engineer. But the Tribunal has stated that the respondent is entitled to count the sum total of his service rendered as Junior Engineer in the CPWD and also in the post of Assistant Engineer/Sub-Divisional Engineer in the Chandigarh Administration. The selection grade has to be given on the basis of experience and the applicant has gained the requisite experience of fifteen years and as such he is entitled to the selection grade.

4. The Tribunal, in our opinion, has wholly misconstrued the provisions of the guidelines prescribed for allowing selection grade. The guidelines evidently indicate that the service of not less than 15 years should be rendered by the officer either from the date of entry into service or as the sum total of the employee's service in the basic scale and in the one scale next below. It goes without saying that the service must be in the Chandigarh Administration unless the guidelines provide for entitlement to antecedent service under another employer private or public. There is no such provision in the guidelines. The antecedent service under another employer seems to have no relevance for determining the 15 years of service. The respondent was not transferred and posted from CPWD to Chandigarh Administration. It was a fresh appointment. He is therefore, not entitled to count the service in the lower scale in CPWD for the purpose of earning selection grade in the Chandigarh Administration.

5. We may however, observe that if any junior of the respondent is given selection grade on the basis of the aforesaid guidelines it is proper that the respondent is also placed in the same scale since the denial of such benefits to senior would be discriminatory. No junior in the same grade could be given a higher pay scale than his senior unless the pay of the junior is personal to him.

6. In the result the appeal is allowed. The order of the Tribunal is set aside. In the circumstances of the case, however, we make no order as to costs.

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