

Satish Kumar

Vs

Jalandhar Improvement Trust, Jalandhar and Another

SLP (C) No. 807 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

29.01.1996

ORDER

1. Though the learned counsel has tried his best to persuade us to disagree with the impugned order of the High Court, we think that the High Court is right in its conclusion that the petitioner is not entitled to the equal pay as Pumpset Operator. The learned counsel sought to rely upon Section 18 of the Punjab Town Improvement Trust Act, 1922 (for short 'the Act'). Section 18 envisages power of the trust to fix the number of employees, their salaries, etc. Section 17 envisages constitution of the trust and subject to the constitution Section 18 says that the trust may from time to time employ such other servants on such terms and conditions as it may deem necessary and proper for carrying out its functions under the Act. Sub-section (2) gives controlling power of appointment, promotion, granting of leave, suspension of the servants, reducing them in their hierarchy of position, removing them from service, dismissing them from service for misconduct for reasons other than misconduct. Chairman also has power under the Act.
2. It is stated that in exercising this power, the Chairman being the controlling authority had relaxed the service conditions of the petitioner and also appointed him as Pumpset Operator though he was not possessed of the minimum qualification prescribed under the Act. It is not in dispute that for the said post Matriculation with ITI are qualifications which the petitioner admittedly did not possess. General power of supervision and control does not include the power to appoint any person of his choice without basic qualification. Therefore, the exercise of the power by the Chairman would obviously be illegal. Under these circumstances, the doctrine of equal pay for equal work envisaged in Article 39(d) of the Constitution has no application. It would apply only when a person is discharging the same duties but is not being paid the same pay for the same work. In this case since the petitioner is not possessed of the minimum basic qualification to the post to which he was appointed, unequals cannot be made equals for paying equal pay for equal work. Therefore, he is not entitled to equal pay.
3. The petition is accordingly dismissed.