

Purna Chandra Nanda

Vs

State of Orissa and Another

Civil Appeal No. 509 of 1992

(K. Ramaswamy, Sujata V. Manohar JJ)

01.05.1996

JUDGMENT

1. This appeal by special leave arises from the order of the Orissa Administrative Tribunal made on 13-9-1991 in TA No. 302 of 1986. The admitted position is that the appellant was appointed as a Veterinary Extension Officer on 10-10-1958. Thereafter in 1965, he was posted as a Supervisor in Milk Service Scheme at Rourkela as incharge of animals stationed at Khapuria. In 1969 also, he was posted as Dairy Overseer. The appellant claimed to have been promoted to the rank of Dairy Supervisor on 26-11-1969 and was posted as a Farm Manager in District Livestock Breeding Farm. He claimed that he is entitled to equal pay for equal work from 1969 to 1974 and from 1974 to 1977 as Farm Manager. It is an admitted position that in 1977, he obtained B. V. S. r degree and on his securing the degree he was given the pay scale of Rs 525-975 applicable to Class II gazetted scale from 1-7-1977. Farm Manager is Class II post. The Tribunal has pointed out in the order that though the Farm Manager is an interchangeable post, it is not an intermediary between gazetted cadre and the immediate post held by the appellant. It has pointed out that in the Dairy Department of Dairy Wing, the service consists of Dairy Overseer, Dairy Supervisor and Dairy Inspector last of which is equivalent to a gazetted post. The Farm Manager post is held by both Class II and Class I officers depending upon the exigencies of the post.

2. Shri Misra, the learned counsel for the appellant, contended that the High Court in writ petition OJC No. 1189 of 1973 and other matters had held that the Farm Manager post is an intermediary post for promotion to the gazetted cadre. All persons who hold that post are entitled to equal pay. That order came to be final by dismissal of the SLP by this Court. Consequently, the appellant having held the post of a Farm Manager is entitled to equal pay. In the counter-affidavit filed in the Tribunal as well as in this Court, the Government has pointed out that the holders of the post are having different scale of pay. Mere, exigency of holding the post as a Farm Manager does not per se entitle the incumbent to the same scale of pay which was not admissible to the person who held the post as a Dairy Supervisor. It is pointed out that the scale of pay varies according to the gazetted or non-gazetted cadre. In paragraph 7 of the Counter-affidavit filed in this Court, they have reiterated the distinction between the various posts held by the persons in the Farm branch and Dairy branch. Merely because the posts are interchangeable as Farm Manager, they do not automatically become entitled to be the holder of the post and for the same scale of pay. The meat of the matter is that scales of pay are different and direction to grant equal pay is to allow the appellant to jump the queue and land in a higher ladder. The Tribunal therefore, was right in refusing to grant the same scale of pay to the appellant on the day at which he was not entitled as per his seniority. Though Shri Misra contended that the appellant was promoted to the post of a Farm Manager, we do not and acceptable material on record to conclude that he was holding Class II gazetted post in his own right. Under these circumstances, the principle of equal pay for equal work cannot be used as a

shield to reach higher cadre of service in accordance with rules of promotion and seniority. The Tribunal is well justified in distinguishing the judgment of the High Court not giving the same benefit.

3. The appeal is accordingly dismissed. No costs.