

Before G. C. Mital, ACJ & H. S. Bedi, J.

THE STATE OF PUNJAB AND ANOTHER,—Appellants.

versus

CHAMAN LAL,—Respondent.

Letters Patent Appeal No. 117 of 1990.

3rd April, 1991.

Constitution of India, 1950—Arts. 14, 16 & 226—Classification on the basis of higher qualifications is reasonable—Metric and non-metric Laboratory Attendants—Grant of higher pay-scales to senior Laboratory Attendants is valid and is not discriminatory.

Held, that non-metric Laboratory Attendants are not entitled to the pay-scales of senior Laboratory Attendants since higher educational qualifications are a valid basis of classification for the purposes of grant of higher pay-scale within the same service.

(Paras 6 & 8)

Letters Patent Appeal under Clause X of the Letters Patent against the judgment of Hon'ble Mr. Justice A. L. Bahri, passed in the above noted case on 17th July, 1989.

O. P. Goyal, Addl. Advocate General, Punjab, for the Petitioner.

Rajiv Atma Ram Advocate with Puneet Kansal, Advocate, for the Respondent.

JUDGMENT

Harjit Singh Bedi, J.

(1) This judgment will dispose of L.P.A. 117 of 1990 and Civil Writ Petition Nos. 151, 14505 and 3686 of 1990. The facts are being taken from Letters Patent Appeal No. 117 of 1990, filed by the State of Punjab.

(2) Chaman Lal respondent in the Letters Patent Appeal is working as a Laboratory Attendant in Government College, Gurdaspur. He joined the service of the State of Punjab as Laboratory Attendant in June 1956 and was subsequently confirmed on the post and is still working as a Laboratory Attendant. The qualification for the post of Laboratory Attendant is at least middle pass. In the year 1968 the pay scales of the Laboratory Attendants were revised to Rs. 75—105 as per the revision made under the

Punjab Civil Services (Revised Scales of Pay) Rules, 1969, notified on August 19, 1970. *Vide* these rules the Laboratory Attendants who were matriculates were re-designated as Senior Laboratory Attendants and given a higher scale of pay, i.e., Rs. 90—140, whereas, the non-matriculate Laboratory Attendants, as mentioned above, were given the pay scales of Rs. 75—105. The pay scales of the Laboratory Attendants such as the respondent and the Senior Laboratory Attendants were subsequently revised upwards, but the higher scale of pay was retained by the Senior Laboratory Attendants and they were given the scale of Rs. 400—600, whereas, the Laboratory Attendants who were non-matriculantes were granted the pay scale of Rs. 325—495. The respondent aggrieved by the disparity in the pay scale between him and the Senior Laboratory Attendants, represented to the Government for grant of pay scale of Rs. 400—600 and no relief having been granted by the Government. Civil Writ Petition No. 2972 of 1988. was filed and has been allowed by the learned single Judge and a direction has been issued to give equal pay to the non-matriculantes and the Matriculate Laboratory Attendants as also to grant them selection grade. Against the judgment of the learned single Judge, the State of Punjab has filed the present Letters Patent Appeal..

(3) In reply to the writ petition, written statement was filed on behalf of the State and it was pointed out that there was no discrimination between the Laboratory Attendants and the Senior Laboratory Attendants in view of the fact that the Senior Laboratory Attendants were required to have a minimum educational qualification up to Matriculation, whereas, the Laboratory Attendants were required to be only middle pass. Mr. O. P. Goyal, learned Additional Advocate-General, has asserted that on account of higher educational qualification, the State was entitled to award a higher pay scale to the Senior Laboratory Attendants.

(4) Mr. Rajiv Atma Ram, appearing on behalf of the respondent, has argued that as the duties and nature of work of the Laboratory Attendants and the Senior Laboratory Attendants were similar so the prescription of higher pay scales for Senior Laboratory Attendants as also making of the classification was not legally justified and had no nexus with the object to be achieved. In support of his submissions, Mr. Rajiv Atma Ram has relied upon *Mohammad Shujat Ali and others vs. Union of India and others*, (1). *The State of*

(1) A.I.R. 1974, S.C. 1631.

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Mysore and another vs. P. Narasinga Rao (2), *v. Markendeoya and others vs. State of Andhra Pradesh and others* (3). *The Union of India and others vs. Dr. (Mrs.) S. B. Kohli and others*, (4).

(5) The question, therefore, that falls to be considered is as to whether the State Government can give higher pay scale on account of higher educational qualifications. The Supreme Court has in its judgment reported as *The State of Jammu and Kashmir vs. Triloki Nath Khosm and others* (5), laid down the parameters within which judicial scrutiny of a matter such as the present one is to be confined. It has been clearly stated in the judgment, above mentioned, that the constitutional code of equality and equal opportunity in matters of promotion means an equal promotional opportunity for persons who fall, substantially, within the same class and further that "judicial scrutiny can therefore extend only to the consideration whether the classification rests on a reasonable basis and whether it bears nexus with the object in view. It cannot extend to embarking upon a nice or mathematical evaluation on the basis of classification, for where such an inquiry permissible it would be open to the Courts to substitute their own judgment for that of the legislature or the rule-making authority on the need to classify or the desirability of achieving a particular object." Keeping in view the dictum of the Apex Court, it has necessarily to be held that the scope for judicial scrutiny is severely limited.

(6) Mr. Goyal has placed primary reliance on a Full Bench judgment of this Court reported as *State of Punjab vs. Gurcharan Singh* (6). The question specifically posed before the Full Bench was as to whether on the basis of higher qualifications, different pay scales could be provided. The question was answered holding that higher educational qualifications are a valid basis of classification for the purposes of grant of higher pay scale within the same service. The Full Bench judgment also relied upon *P. Narasinga Rao's case* (supra) and *Mohammad Shujat Ali's case* (supra). In addition to a large number of other judgments. These judgments

(2) A.I.R. 1968. S.C. 349.

(3) A.I.R. 1989, S.C. 1308.

(4) A.I.R. 1973, S.C. 811.

(5) A.I.R. 1974, S.C. I.

(6) 1983(2) S.L.R. 142.

are the ones on which reliance has also been placed by Mr. Rajiv Atma Ram. A portion of the judgment of the Hon'ble Supreme Court in *P. Narasinga Rao's case* (supra) is reproduced below for ready reference :

"In our opinion, therefore, higher educational qualifications such as success in the S.S.L.C. examination are relevant considerations for fixing a higher pay scale for tracers who have passed the SSLC examination and the classification of two grades of tracers in the new Mysore, one for matriculate tracers with a higher pay scale and the other for non-matriculate tracers with a lower pay scale is not violative of Article 14 or 16 of the Constitution."

It would be plain from a reading of the above-quoted passage that the classification on the basis of educational qualifications between the matriculate and non-matriculate tracers was specifically upheld. The matter was re-iterated in *Triloki Nath Khosa's case* (supra) as under :

"We are, therefore, of the opinion that though persons appointed directly and by promotion were integrated into a common class of Assistant Engineers, they could for purposes of promotion to the cadre of Executive Engineers, be classified on the basis of educational qualifications. The rule providing that graduates shall be eligible for such promotion to the exclusion of diploma holders does not violate Articles 14 and 16 of the Constitution and must be upheld".

The two cases mentioned above, were also considered in *Mohammad Shujat Ali's case* (supra) and the same were affirmed and approved in this case. It would, therefore, be plain from a resume of the above judgments that the classification on the basis of educational qualifications leading to the grant of a higher pay scale within the same service, was accepted and approved by the Hon'ble Supreme Court also by the Full Bench of this Court. In *Shri Isher Singh and others vs. The State of Punjab and others* (7), the very question was again decided by a Division Bench of this Court, with respect to this very controversy in the same service, i.e., matric and non-matric Laboratory Attendants. The Hon'ble Division Bench held as under:

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“In the instant case, the basis for classification, is the higher educational qualification, i.e., two separate grades have been provided for Senior Laboratory Attendants who are matriculates and the Laboratory Attendants who are not Senior Laboratory Attendants. In other words, higher scales of pay were fixed having regard to the educational qualifications. In this situation, the pay scales fixed for the two categories have a rational basis and have relation to the object sought to be achieved, i.e., efficiency in the service. In our view, such a classification cannot be regarded as arbitrary nor is the same violative of Article 16 of the Constitution of India.”

In view of the above, the judgment of the learned single Judge has to be set aside on the point under reference and it has to be held that the grant of higher pay-scale to the Senior Laboratory Attendants is valid.

(7) Mr. Rajiv Atma Ram has also contended that in view of the fact that the Laboratory Attendants who were non-matriculates have absolutely no channel of promotion, some benefits towards selection grade should be given to this category of employees. He has referred to Annexure P-6 in this connection. The learned Single Judge had also given the respondents the requisite relief regarding the grant of selection grade. We are, therefore, of the view that the grant of selection grade in terms of the judgment of the learned single Judge is fully justified and to that extent the State appeal must fail.

(8) In view of the reasons recorded above, the appeal is partially allowed and it is held that non-matriculate Laboratory Attendants are not entitled to the pay scale of the Senior Laboratory Attendants. However, so far as the grant of selection grade and interest are concerned they shall be entitled to it. Civil Writ petition No. 3686 of 1990 is also disposed of in the same terms. Civil Writ Petition Nos. 151 of 1990 and 14505 of 1989 pertaining to the State of Haryana are dismissed *in toto* as there are no instructions issued by the State of Haryana with regard to selection grade.

(9) In view of our findings recorded above, the Letters Patent Appeal is partially allowed. No costs.

R.N.R.