

GABRIEL SAVER FERNANDES AND ORS.

A

v.

THE STATE OF KARNATAKA AND ORS.

SEPTEMBER 5, 1994

[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

B

Constitution of India, 1950 :

Articles 14, 39(d)—Equal pay for equal work—Differentiation in pay-scale based on different educational qualifications—Held valid—However difference not to be recovered since the persons have already retired—Service Law.

C

The appellants who were Village Assistants were non-SSLC and the Talatis were SSLC qualified. For Talatis pay scale of Rs. 90-200 was provided for and the appellants were in the scale of Rs. 80-145. Unable to succeed before the State Administrative Tribunal, the appellants preferred the present appeals, claiming parity.

D

Dismissing the appeals, this Court

HELD : 1. The Government made a distinction between Talatis and Village Assistants who possessed of SSLC qualification and those who are non-SSLC candidates. For the Candidates who are having SSLC qualification, pay scale of Rs. 90-200 has been provided for. Admittedly, the appellants are not in that category as they are non-SSLC candidates. The Government, therefore, thought it expedient to make a distinction between qualified and unqualified persons and prescribed different scales of pay. Hence, there is no invidious discrimination made between the two categories to club together and grant them same scale of pay of Rs. 90-200. [106-F-G]

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2. Since the appellants have already been paid the scale of pay of Rs. 90-200 while they were in service and are retired now, it would be appropriate that the Government may not recover from them the salary which they had already received though they are not eligible to the scale of pay of Rs. 90-200. [106-H; 107-A]

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A CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 6238-39 of 1994.

From the Judgment and Order dated 31.12.92 of the Karnataka Administrative Tribunal at Bangalore, in Applications Nos. 1040 and 4408 of 1990.

B

N. S. Hedge and K.R. Nagaraja for the Appellants.

M. Veerappa for the Respondents.

C

The following Order of the Court was delivered :

Leave granted.

D

It is contended for the appellants that as per the directions, issued by the High Court in Writ Petition No. 1173/62, dated March 4, 1965, the High Court had struck down the rules holding that there cannot be any distinction between the Talatis and Village Accountants. They cannot be clubbed together and they constitute different categories and that, therefore, they are entitled to separate scales of pay. When they claimed the scale of pay on the basis of revised pay scales at Rs. 90-200 instead of Rs. 80-145, the Tribunal has committed illegality in not considering the distinction and that therefore, the appellants are not entitled to the benefit of the payment of scale of pay of Rs. 90-200 as per 1970 Rules w.e.f. January 1, 1970.

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It would appear that the Government made a distinction between Talatis and Village Accountants who possessed SSLC qualification and those who are non-SSLC candidates. For the candidates who are having SSLC qualification, pay scale of Rs. 90-200 has been provided for. Admittedly, the appellants are not in that category as they are non-SSLC candidates. The Government, therefore, thought it expedient to make a distinction between qualified and unqualified persons and prescribed different scales of pay. Hence, we do not find any invidious discrimination made between the two categories to club together and grant them same scale of pay of Rs. 90-200. However, since the appellants have already been paid the scale of pay of Rs. 90-200 while they were in service and are

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retired now, it would be appropriate that the Government may not recover

from them the salary which they had already received though they are not eligible to the scale of pay of Rs. 90-200. A

The appeals are accordingly dismissed. No costs.

G.N.

Appeals dismissed.