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Court : Karnataka

Decided On : Aug-31-1971

Reported in : AIR1972Kant88; AIR1972Mys88

Judge : A. Narayana Pai, C.J. and ;M.S. Nesargi, J.

Acts : [Constitution of India](#) - Articles 14 and 16; States Reorganisation Act

Appeal No. : Writ Petn. Nos. 714 and 788 of 1967 and 5320 of 1969

Appellant : B.C.K. Murthy and ors.

Respondent : The State of Mysore and ors.

Advocate for Def. : B. Ramachandra Rao, Sr. Standing Counsel for Central Govt. and ;R.S. Mahendra, High Court Govt. Pleader

Advocate for Pet/Ap. : K. Subba Rao and ;N. Santhosh Hegde, Advs.

Disposition : Petition dismissed

Judgement :

Narayana Pai, C.J.

1. All these three cases raise question about the entitlement of the petitioners to special scales of pay given to members of the tutorial staff of Technical Institutions on the recommendation of the All India Council of Technical Education. These

higher scales intended for improving the calibre of teaching staff were first paid out of the funds placed at the disposal of the various State Governments by the Central Government. The scheme was originally intended to last for a period of five years with the expectation that thereafter the State Government might continue them out of State funds. It would appear that in this State though the initial period of five years has lapsed the State Government is continuing the benefit of the higher scales for those to whom they were extended when the scheme was first introduced.

2. The petitioner In W. P. 5320/ 69 was at the time the scheme was initiated working as Principal of the Government Polytechnic at Bellary having been promoted thereto a few months previously from a Class II Post to which he had been recruited as a Diploma holder.

3. The petitioner in W. P. 714 of 1967 was at the relevant period a Lecturer having been promoted from the category of Demonstrators to which he had been recruited as a Diploma holder. The petitioner in W. P. 788 of 1967 was a lecturer in Science who held a bachelor's degree in Science.

4. According to the terms and conditions for the application of these higher scales, a principal to secure the scale of Rs. 800-1250 had to be person who had at least a second class degree In Engineering with not less than eight years* professional experience of which at least four years should be in the teaching field. For a Lecturer to get the higher scale of Rs. 350-850. it is necessary that he should have at least a second class degree in the appropriate branch of Engineering with at least two years' professional experience. For a Lecturer in Science subjects it is necessary that he should possess a Master's degree in the first division in Science with at least two years' teaching or research experience.

5. These petitioners have not been given the benefit of the higher scales because they do not possess the educational qualifications prescribed therefor The petitioner in W. P. No. 5320/69, as already stated, is only a Diploma holder. Likewise the petitioner in W. P. 714 of 1967. The petitioner In W. P. 788 of 1967 has only a Bachelor's degree and not a Master's degree In Science.

6. On the language of the prescription there can be no doubt, therefore, that none of the petitioners was entitled to the benefit of the higher scales.
7. The petitioners however, contend that to extend the benefit of the scale to other persons in their respective categories but deny the same to them on the ground of educational qualifications alone brings about a discrimination violative of Article 14 of the Constitution and that is the only point for investigation common to all these three cases.
8. To a great extent, any discussion on first principles is rendered unnecessary by the declaration of the law made by the Supreme Court in the case of *State of Mysore v. Narasing Rao*, : (1968)11LLJ120SC . That was a case In which different scales of pay were prescribed by the State Government of Mysore for tracers who had passed the S. S. L. C. Examination and those who had not passed the said examination. The Supreme Court upheld the validity of the prescription of different scales to tracers on the ground of possession or non-possession of the educational qualification of having passed the Secondary School Leaving Certificate Examination They point out that the provisions of Art 14 or Article 16 of the Constitution do not exclude the laying down of selective tests nor do they preclude the Government from laying down qualifications for the posts in question and conclude by stating that higher educational qualifications are relevant considerations for fixing a higher pay scale.
9. The statement of the principle, therefore, is that there is nothing intrinsically wrong or unconstitutional in relating pay scales to educational qualifications nor is there anything intrinsically wrong in dividing Government servants into categories on the basis of educational qualifications provided of course the educational qualification is shown to have a reasonable nexus with the nature of service.
10. If that principle is applied to the present cases, it becomes clear that there is no foundation for the attack of anv violation of Article 14 of the Constitution. The object of the scheme of extending the benefit off higher pav scales is itself to raise the calibre of tutorial staff which is proposed to be achieved by making available to persons with higher educational qualifications pay scales higher than are normally applied.

11. Reliance has, however, been placed on behalf of the petitioners on an unreported decision of this Court rendered on 4-2-1969 in W. P. No. 2212 of 1966 (Mys), Channabasaviah v. State of Mysore. That case dealt with a category of craftsman to which recruitment was made from out of the persons holding certificates issued by certain Central Government Institutions as well as from those holding diplomas issued by the Polytechnics of Mysore State. Upon representations made by Diploma holders, the State Government extended the benefit of enhanced or higher pay scales to Diploma holders but not to Certificate holders. This Court held that such a difference between persons recruited on the basis of same or equivalent qualifications and on the same pay scale would amount to an infringement of equality under Article 14 of the Constitution. The ruling of the Supreme Court in the case of Narasing Rao mentioned above was referred to and was considered in the said judgment. It is pointed out that the principle of the Supreme Court case did not apply for the following reason :

'It is seen, however, that the position on the facts was not in all respects the same as in this case. The respondent Narasinga Rao therein was a Tracer allotted from the Ex Hyderabad State, where the possession of any academic qualification was not necessary. In the old Mysore State there were two grades of Tracers viz., Non-S.S.L.Cs. on a lower pay scale and S.S.L.Cs. on a higher pay scale. After the States Reorganisation Act, the cadre of Tracers into which were absorbed Tracers from the old States of Mysore, Hyderabad and Bombay was reorganised by the New Mysore State into two grades, one consisting of Matriculates or S-S.L.Cs. and the others of non-matriculates or non-S. S. L. Cs. with effect from 1st January 1957. There was not therefore in the said case, as in the present one a recruitment on the basis of several qualifications treated as equivalent and one single pay scale irrespective of qualifications; nor is there in the present case a reorganization of the cadre into two grades as in the case of Tracers.

12. It will be seen that In the present case the promotional cadres which the petitioners respectively occupy were fed partly by direct recruitment or partly by promotion. The promotes may be those who hold only Diplomas and not Degrees or only Bachelor's Degree and not Master's degree. But in every case in addition to holding the Diploma or a lower Degree, the promote has to have a specified

period of experience in the lower cadre before he becomes eligible for promotion to the higher cadre. The clear effect of these provisions of the Cadre and Recruitment Rules is that a degree is not treated as equal to or equivalent of a Diploma; whereas a holder of a Degree becomes eligible for promotion or appointment by reason only of his holding that Degree, a Diploma holder does not become eligible for promotion unless he has specified number of years of experience. The prescription of experience as a necessary pre-requisite for acquisition of eligibility clearly points out that the lower educational qualification is not equated to or treated as an equivalent of the higher educational qualification.

13. Hence, these are not cases where the petitioners could say that the cadres occupied by them were such that recruitment thereto was made out of person holding different educational qualifications treated as equivalent of one another.

14. They cannot, therefore. Invoke the ruling of this court in the case of W. P. 2212 of 1966, D/- 4-2-1969 (Mys) cited above.

15. The writ petitions are dismissed.