

PURNA CHANDRA NANDA
v.
STATE OF ORISSA AND ANR.

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MAY 1, 1996

[K. RAMASWAMY AND SUJATA V. MANOHAR, JJ.]

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Service Law :

Equal pay for equal work—Dairy Overseer under Government of Orissa—Claiming to have been promoted as Dairy Supervisor in 1969 and posted as Farm Manager—Claim for pay as Farm Manager—Held, Farm Manager is a Class II post—Claimant obtained B.V.S. degree in 1977 and on its basis he was given the pay scale applicable to class II Gazetted post - He can not claim pay equivalent to Farm Manager from 1969 to 1977—Principle of equal pay for equal work cannot be used as a shield to reach higher cadre of service.

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 509 of 1992.

From the Judgment and Order dated 13.9.91 of the Orissa Administrative Tribunal, Bhubaneswar in T.A. No. 302 of 1986.

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P.N. Misra for the Appellants.

A.K. Panda for the Respondents.

The following Order of the Court was delivered :

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This appeal by special leave arises from the order of the Orissa Administrative Tribunal made on September 13, 1991 in T.A. No. 302/86. 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 In-charge 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 Firm. He claimed that he is entitled to equal pay for equal work.

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- A from 1969 to 1974 and from 1974 to 1977 as From Manager. It is an admitted position that in 1977, he obtained B.V.S. degree and on his securing the degree he was given the pay-scale of Rs. 525-975 applicable to Class II Gazetted scale from 1.7.77. Farm Manager is Class II post. The Tribunal has pointed out in the order that though the Farm Manager is an
- B inter-changeable 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
- C I officers depending upon the exigencies of the post.

Shri Misra, Learned counsel for the appellant, contended that the High Court in Writ Petition O.J.C. No. 1189/73 and other matters had held that the Farm Manager post is an intermediary post for promotion to the

D Gazetted cadre. All person who hold that post are entitled to equal pay. The 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

E Court, the Government has pointed that the holders of the post are having different scale of pay. Mere exigency of holding the post as a Farm Manager do not *per se* entitle the incumbent to the same scale of pay which was not admissible to the person who held that 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

F 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 inter-changeable as Farm Manager, they do not automatically became entitled to be the holder of the post and for the same scale of pay. The meet of the matter is that scales of pay are different and direction to

G 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 on 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 find any acceptable

H 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 cadder 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. A

The appeal is accordingly dismissed. No costs.

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R.P.

Appeal dismissed.