

(2003) 05 AHC CK 0164

Allahabad High Court

Case No: Civil Miscellaneous Review Petition No. 104056 of 2002 In Civil Miscellaneous
Writ Petition No. 30319 of 2001

Shah Jade

APPELLANT

Vs

Chairman, Rajya Krishi Utpadan
Mandi Parishad, U.P., Lucknow
and others

RESPONDENT

Date of Decision: May 23, 2003

Acts Referred:

- Uttar Pradesh Krishi Utpadan Mandi Adhiniyam, 1964 - Rule 4(1)

Hon'ble Judges: M.Katju, J and Rakesh Tiwari, J

Final Decision: Dismissed

Judgement

Rakesh Tiwari, J.

This review application has been filed by the respondents Krishi Utpadan Mandi Parishad for setting aside the judgment dated 23.4.2002, in the writ petition.

2. We have heard Sri B.D. Mandhyan and have perused the record again.

3. The grievance of the Counsel for the respondent Mandi Samiti is that counteraffidavit and written arguments filed on its behalf have not been considered by us in our judgment.

4. The main contention of Sri Mandhyan in support of the review application is that this Court has overlooked the impugned order dated 22.5.2002, passed by the Director of Mandi Samiti rejecting the representation of the petitioner and the counteraffidavit filed by him.

5. In the judgment the averments made in the counteraffidavit and also the order dated 22.5.2001 were considered. However, we are again considering the grievance of the respondent in the interest of justice.

6. The petitioner Shahjadc moved this Court for placing him in the pay scale of Rs. 3000/4500/ on the principle of equal pay for equal work. It has further been stated that under Rule 4(1) of the U.P. Krishi Utpadan Mandi Adhiniyam, 1964, there were four categories of Secretaries, but no basis of classification of Secretaries in Grade (i), (ii) and (iii) has been disclosed either in the letter or in Mandi Rules, 1965, except on the basis of posting in a class of Mandi. All this have been considered in the internal Page 3 of the judgment.

7. In the order dated 22.5.2001 passed by the Director of Mandi Samiti. It is admitted at Page 5 that the powers, duties and functions of all the Secretaries are equal and they can be posted in any Mandi. They are transferable from one Mandi to another. The classification of Mandis in A, B, C and D has now been abolished by the amendment in Centralized Service Rules, 1991. There is no difference in qualification of Secretaries nor has been pointed out even in this order.

8. The only basis shown in the order dated 22.5.2002 is that the Mandis have been classified in Category A, B and C. This means that whoever is appointed in Category A Mandi, will automatically become Secretary Grade (i) or deemed to be senior to the other Secretaries. It is further noteworthy that in Regulation 62 it is provided that the services of the Secretaries are transferable from one Mandi to another. Classification of Secretary on the basis of posting in Mandi cannot be the basis of classification of Secretaries. Merely because a person is appointed in Category A Mandi, his classification cannot change, when his duties and responsibilities remain same. The load of work is also not a criteria for classification. It is the nature of duties and responsibilities, which are the basis of classification.

9. Admittedly, there is no difference in duties and responsibilities of Secretaries nor has been pointed out either in the counteraffidavit or in the impugned order. Thus, there is no basis much less any relation basis of classification of the Secretaries has been placed before us even at the time of the review.

10. Thus, if A, B and C selected for the post of Secretary in the same selection and if A is appointed in Category A Mandi, he will become Grade (i) Secretary and if he is appointed in Category B Mandi, he will become Grade (n) Secretary. Thus, the classification on the basis of appointment is wholly illegal, arbitrary and violative of Article 14 of the Constitution of India. It is not reasonable and has no nexus to the object of classification. It cannot be upheld.

11. It is also admitted in the order dated 22.5.2001 that the powers functions, duties and responsibilities of all class of Secretaries are same. The Paras 5 of order dated 22.5.2001 is as under :

12. As stated in Para 5 of the order dated 22.5.2001 all these contentions have been dealt with the judgment. The averment made in the review application that we have not considered the counteraffidavit while passing the judgment is also incorrect. We have considered the counteraffidavit filed by the respondents. The points raised in

the judgment dated 22.5.2001 and the counteraffidavit do not disclose any other ground, which may not have been considered in our judgment dated 23. 4.2002.

13. All the aspects of the matter that the petitioner is entitled to have been considered and no case for interference is made out. The order also states that classification of Mandis has been abolished, then the category of Secretaries also stands abolished and as such the doctrine of equal pay for equal work is attracted and has been applied in this case.

14. In short the averments made by the Director in the order dated 22.5.2001, as well as in the counteraffidavit were fully dealt with in our judgment and this Court had not over looked the same.

15. All types of Secretaries of Mandi Samitis are selected by the same process for carrying on the same duties as are done by all directly recruited Secretaries. Their qualification, duties and responsibilities are the same. Any one of the Secretaries can be appointed to work in any class of Mandi. There is no difference in the nature of work, duty or responsibility, hence the classification of Secretaries is Grade (i), (ii) and (iii) on the basis of their posting in a Mandi is discriminatory and against Article 14 of the Constitution of India.

16. No case for review is made out.

17. The review petition has no substance and is rejected.

Review petition rejected.