(2010) 07 DEL CK 0418

Delhi High Court

Case No: Writ Petition (C.) No. 4391 of 2010

Government of NCT of Delhi		APPELLANT
	Vs	
Raja Ram		RESPONDENT

Date of Decision: July 6, 2010

Acts Referred:

- Constitution of India, 1950 - Article 14

Hon'ble Judges: Pradeep Nandrajog, J; Mool Chand Garg, J

Bench: Division Bench

Advocate: V.K. Tandon, for the Appellant; None, for the Respondent

Final Decision: Dismissed

Judgement

Pradeep Nandrajog, J.
The applicable conditions of recruitment to the post of OT Technician are as under:

(i) B.Sc. or equivalent degree from a recognized university

(ii) Two years Operation Theatre Attendant Course

Or

(i) Matriculation/Higher Secondary/10+2 Senior Secondary in Science

(ii) 10 years experience in any recognized hospital as O.T./CSSD/Anaesthesia Pipeline Technician/Anaesthesia Workshop.

2. It is apparent that two sets of educational qualifications and experience have been prescribed as eligibility conditions.

3. The first is a B.Sc or equivalent degree from a recognized university with two years OT Attendant"s course. The other is a matriculation/higher secondary/senior secondary degree in science with 10 years experience in the applicable field prescribed by the Rules.

4. It is apparent that persons having higher educational qualifications are required to have lesser experience and those with lower educational qualifications are required to have a much higher experience.

5. The question which arose for consideration before the Central Administrative Tribunal was to the decision taken by the petitioner to place such OT Technicians who have a B.Sc degree in a higher pay- scale viz-a-viz their lesser born brethren i.e. those who have lesser educational qualifications.

6. The Tribunal has held in favour of the lesser born, holding that merely because two incumbents holding the same post have different degrees that by itself would not be a justification to grant higher pay to the one holding a higher degree.

7. The issue of equal pay for equal work is a subject matter of various decisions and we do not intend to make a catalogue of the same. Many of them have been noted by the Supreme Court in its decision reported as M.P. Rural Agriculture Extension Officers Association Vs. State of M.P. and Another, .

8. What has been held is that Article 14 does not forbid a reasonable classification and that a classification would be a reasonable classification if it is based on an intelligible differentia and that the differentia has a rational relation to the object sought to be achieved.

9. The decision guides us that the issue of identity of work has to be measured with reference to the nature of duties, responsibilities and functions attached to a post and not on the ipse-dixit of the authority concerned.

10. In the instant case it is not in dispute that all OT Technicians perform identical jobs having same nature of duties, responsibilities etc. Save and except the difference in the educational qualifications prescribed, there is just no other difference between OT Technicians.

11. A Division Bench of this Court deciding LPA No. 1788/2006 MCD v. Ram Krishna and Ors. prima facie opined that educational qualifications as the criteria for discrimination would be a case of acting upon superficial and insignificant factors to warrant a differential treatment.

12. We note that the Tribunal has dealt with the reasoning of the petitioner in the impugned order and has given reasons as to why the same is illegal.

13. Since we fully concur with the reasoning of the Tribunal, giving our additional reasons as hereinabove recorded and incorporating the reasoning of the Tribunal as our reasoning, we dismiss the writ petition in limine.

14. No costs.