

Jaghnath vs Union Of India And Anr on 1 November, 1991

Equivalent citations: 1991 SCR, SUPL. (2) 152 1992 SCC SUPL. (2) 105, AIR 1992 SUPREME COURT 126, 1991 AIR SCW 2817, 1992 LAB. I. C. 90, 1992 (2) SCC(SUPP) 105, (1991) 4 JT 238 (SC), 1992 SCC (SUPP) 2 105, 1992 (1) UJ (SC) 179, (1991) 2 LAB LN 1176, 1992 SCC (L&S) 634, (1991) 63 FACLR 942, (1992) 1 SERVLR 215, (1991) 2 CURLR 860

Author: Kuldip Singh

Bench: Kuldip Singh, Rangnath Misra, M.H. Kania

PETITIONER:

JAGHNATH

Vs.

RESPONDENT:

UNION OF INDIA AND ANR.

DATE OF JUDGMENT 01/11/1991

BENCH:

KULDIP SINGH (J)

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KULDIP SINGH (J)

MISRA, RANGNATH (CJ)

KANIA, M.H.

CITATION:

1991 SCR Supl. (2) 152 1992 SCC Supl. (2) 105
JT 1991 (4) 238 1991 SCALE (2) 925

ACT:

Civil Service-Compositors in printing presses--Promotion
--Categorisation of "highly skilled" and "misplaced"--Seniority basis--Validity
of.

Civil Service--Compositors in printing presses--Promotion
--Stagnation between cadres--Removal of--Ratio prescribed.

HEADNOTE:

Petitioner claiming that he and other similarly placed Compositors working in the Government of India presses all over India were entitled to the status and salary of Compos-

itors, Grade I in the "highly skilled" category with effect from January 1, 1966 on the ground that the decision of the Himachal Pradesh High Court in Thakurs case was applicable in principle to all the Compositors, filed the present petition under Article 32 of the Constitution.

The High Court in Thakur's case held that the categorisation as "highly skilled" and "skilled" on the basis of seniority alone was unreasonable and discriminatory. As no special leave petition against the judgment of the High Court was brought to this Court the judgment became final. Over-ruling Thakur's case and dismissing the petitions this Court,

HELD: I. Academic pursuit and experience are two primary sources of learning. A Compositor's job in a printing press is a skilled job requiring special technique. In such a job it would be reasonable to measure the standards of skill by length of experience. The High Court fell into error in quashing the classification based on experience arising out of length of service. [157 B]

2. "Highly skilled" category was created to handle the nature

work which involved higher skill than the original hand composition. The Compositors with longer service and who were found fit

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for promotion were appointed to Grade I and were categorised as "highly skilled". Experience itself is merit and can be a valid basis for classification. [157 C-D]

3. Keeping in view the large number of Compositors all over the country and to remove stagnation the ratio between the two cadres should be 33 1/3: 66 2/3 %. [158 D]

4. The respondents are directed to increase the strength of the cadre of Compositor Grade-I 'highly skilled' to 33-1/3 percent with effect from April 1, 1992. [158 D]

Thakur's Case (Writ petition C.W. No. 61/69) dated 21.5.1971; overruled.

State of U.P.v. J.P. Chaurasia, [1989] 1 S.C.C. 121; referred to.

JUDGMENT:

EXTRAORDINARY JURISDICTION: Writ Petition (Civil No. 651 of 1986.

(Under Article 32 of the Constitution of India). P.P. Rao, Ms. Bina Gupta, Ms. Vandana Saggar and Ms. Monika Mohil for the Petitioners.

V.C. Mahajan, K. Swamy, Ms. A. Subhashini and Ms. Niranjana Singh for the Respondents.

The Judgment of the Court was delivered by KULDIP SINGH, J. This petition under Article 32 of the Constitution has been filed by Prahalad Singh claiming that he and other similarly placed Compositors working in the Government of India Presses all over India are entitled to the status and salary of Compositors, Grade I in the "highly skilled" category with effect from January 1, 1966, The said relief is claimed on the sole ground that one T.R. Thakur has already been given Grade I in the "highly skilled"

category as a result of the judgment in his favour given by the Himachal Pradesh High Court. The writ petition (C.W. 61/69) filed by T.R. Thakur was allowed by the learned Single Judge of the High Court on May 21, 1971 and Letters Patent Appeal against the said judgment was dismissed on May 9, 1979. The High Court held that the categorisation as "highly skilled" and "skilled" on the basis of seniority alone was unreasonable and discriminatory. No special leave petition against the judgment of the High Court was brought to this Court and as such the judgment has become final. Prahalad Singh and others have claimed that they are entitled to the benefit of the judgment given by the High Court in Thakur's case. According to them the said judgment is applicable in principle to all the Compositors whether they were parties before the High Court or not. This petition came for hearing before a Bench of this Court consisting of R.S. Pathak, CJI, M.N. Venkatachalia, J. The Bench in its order dated April 28, 1989 observed as under :--

"The principal objection to the grant of relief to the Petitioner and those for whom he claims to act is the gross delay with which the writ petition appears to have been brought in this Court. To surmount that difficulty the petitioner relies upon the plea that the judgment of the High Court in T.R. Thakur's case is a judgment operative in principle in favour of all compositors situated in the circumstances in which T.R. Thakur found himself. There are other pleas which have been taken by the petitioner, but the substantial one is whether he and the other compositors can enforce in their favour the benefit granted in T.R. Thakur's case although they were not parties to that proceeding. At first blush it would seem that the High Court considered the particular facts of T.R. Thakur, the petitioner before it, and while granting relief it appears, in terms, to have confined it to T.R. Thakur. It is an important point whether, as the petitioner now contends before us, the direction issued by the High Court can be regarded as a direction operative in respect of all compositors employed in the Government of India Presses all over India, The point is important since the objection on the plea of laches seems to be a substantial one in view of the several compositors who have over the years been promoted to the category of "highly skilled" compositors, and interfering with their status now could materially prejudice them. At the same time, it cannot be doubted that there can be cases where although the facts of a particular petitioner have been taken into consideration what the Court intends, when it adjudicates on the claim, is to lay down the law to be applied by the respondents to all similar situations. There are other cases where relief may be granted or refused upon the consideration of a question involved --the question being one which affects several persons of the category to which the

petitioner belongs -- and the grant or refusal of the relief may turn on the particular facts of that case. Various possible categories of cases can be conceived in this context. We think it desirable that in cases such as this the Court should formulate a set of appropriate guidelines indicating when directions rendered by the Court in one particular case can be regarded as operative in other cases. As the matter will be governed both by principle and by the practice of the Court, it is appropriate that this case be referred to a larger Bench for consideration on this and the other points arising in it."

This is how the writ petition has come before us for final hearing. It is not necessary to go into the merits of the question posed by the Two Judges Bench of this court because we are of the view that the High Court judgment in Thakur's case does not lay-down the correct law. The facts which led to the filing of the writ petition by Thakur are as under:

Prior to January 1, 1966, there was one grade of Compos- itors (Rs. 110-Rs. 180) in the Government of India Presses. In the year 1963 a committee called "The Committee for Categorisation of the Government of India Press Workers" was constituted to review the classification of posts of indus- trial workers in the Government of India printing presses. The said Committee, inter alia, made the following recommen- dations :--

"There was an equally persistent and wide spread demand from the workers that the cate- gory of Compositors should be treated as highly skilled instead of skilled as at present. We have very carefully examined this case as well and were unable to subscribe to this demand. Hand composing in the Govt. of India presses is essentially a skilled job. The Managers were, however, of the opinion that 10-15% of the Compositors are frequently expected to handle composition work of mathe- matical or scientific discourses. For this, a knowledge application of diacritical marks superior and inferior letters/figures, scien- tific signs/symbols etc. are essential. This work, admittedly, involved much higher skill than originally hand composition. The Commit- tee, therefore, recommend that a suitable percentage of compositors should be upgraded to the highly skilled category with pay scale of Rs. 175- 205. This category should be given an appropriate designation to distinguish it from the ordinary grade of Compositors who should still be in the skilled group."

Accepting the above recommendations, the Government of India, by an order dated March 14, 1966, divided the exist- ing cadre of Compositors Compositors Grade-I (Rs. 150- Rs. 206) and Compositors Grade-II (Rs. 110- 180). It was further decided that the Compositors Grade-I would be classified as "highly skilled"

and Compositors Grade-II as "skilled". The ratio of Grade-I to Grade II was fixed as 20: 80. The initial constitution of the cadre of Compositors Grade-I was done by appointing 20% of the Compositors on the basis of seniority-cum-fitness but trade test was made obligatory for future promotions to Grade-I. While implementing the

above said decision of the Government of India, 18 Compositors who were senior to Thakur were given the pay scale of Compositor Grade-I. Thakur challenged the denial of higher pay scale of Compositor Grade-I to him on the ground that he and the 18 Compositors who were promoted were performing the same duties and were holding similar posts which were inter-changeable. According to him all of them were performing the duties of "highly skilled" Compositors and as such the higher grade could not have been denied to him. The learned Single Judge allowed the writ petition and held that the categorisation of the senior-most persons as "highly skilled" was arbitrary and discriminatory. The learned Judge issued the following directions:--

"In the light of the above I am of the view that the petitioner is entitled to the relief prayed for and direction is issued to the respondents not to enforce the revised scale of pay in such a manner as to subject the petitioner to a lower scale of pay than the one allowed to the compositors who have been so fixed in the scale laid down for the highly skill compositors."

The Letters Patent Appeal filed by the Union of India against the judgment of the learned Single Judge was dismissed by the Division Bench of the High Court on the following reasoning:--

"The contention of the appellants, as raised by them in paragraph 5 of their return, that by length of service a person acquires more and more skill and, therefore, the test of seniority for the purpose of putting a person in the higher category of Grade I was justified, not acceptable because it is very well-known that a mere length of service does not always result in more skill in the working of the person concerned. Seniority would have of course relevance in a situation where two persons having equal skill are to be considered. But unless such a situation arose it is very much evident that initial placing of the present incumbents on the post of Compositor in the higher category of Grade I could not have been done in total disregard of the degree of skill which each of these incumbents possessed."

Academic pursuit and experience are two primary sources of learning. A Compositor's job in a printing press is a skilled job requiring special technique. In such a job it would be reasonable to measure the standards of skill by length of experience. The High Court, in our view, fell into error in quashing the classification based on experience arising out of length of service.

It is obvious from the recommendations of the Committee quoted above that "highly skilled" category was created to handle the nature of work which involved higher skill than the original hand composition. The Compositors with longer service and who were found fit for promotion were appointed to Grade I and were categorised as "highly skilled". Experience itself is merit and can be a valid basis for classification. This Court in *State of U. P. v. J.P. Chaurasaia*, [1989] 1 S.C.C. 121 has upheld the classification based on experience as reasonable classification. Jagannatha Shetty, J. speaking for this Court observed:

"Article 14 permits reasonable classification founded on different bases. It is now well established that the classification can be based on some qualities or characteristics of persons grouped together and not in others who are left out. Those qualities or characteristics must, of course, have a reasonable relation to the object sought to be achieved. In service matters, merit or experience could be the proper basis for classification to promote efficiency in administration. He or she learns also by experience as much as by other means. It cannot be denied that the quality of work performed by persons of longer experience is superior than the work of newcomers. Even in Randhir Singh case, this principle has been recognised. O. Chinnappa Reddy, J. observed that the classification of officers into two grades with different scales of pay based either on academic qualification or experience or length of service is sustainable. Apart from that, higher pay scale to avoid stagnation or resultant frustration for lack of promotional avenues is very common in career service. There is selection grade for District Judges. 'there is senior time scale in Indian Administrative Service. There is supertime scale in other like services. The entitlement to these higher pay scales depends upon seniority-

cure-merit or merit-cure-seniority. The differentiation so made in the same cadre will not amount to discrimination. The classification based on experience is a reasonable classification. It has a rational nexus with the object thereof. To hold otherwise, it would be detrimental to the interest of the service itself."

We, therefore, hold that the judgment of the Himachal Pradesh High Court in T.R. Thakur's case does not lay-down correct law and is overruled. The only ground on which this petition is based, having become non-existent, the petitioners are not entitled to the relief claimed by them and the writ petition is liable to be dismissed. We are, however, of the view that the cadre of Compositors Grade-I 'highly skilled' should be enlarged. The Compositors are persistently demanding the upgrading of the whole of the cadre. The "Committee" also recommended that suitable percentage be upgraded. The Government created the higher grade for 20% of them. Keeping in view the large number of Compositors all over the country and to remove stagnation we are of the opinion that the ratio between the two cadres should be 33-1/3: 66-2/3%. We, therefore, commend to the respondents to increase the strength of the cadre of Compositor Grade-I 'highly skilled' to 33-1/3 per cent with effect from April 1, 1992.

The writ petitions is disposed of in the above terms with no order as to costs.

V.P.R.
dismissed.

Petition