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SATISH KUMAR

v.

THE JALANDHAR IMPROVEMENT TRUST,
JALANDHAR AND ANR.

B

JANUARY 29, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

Constitution of India, 1950 :

C

Art. 39(d) & 14—Equal pay for equal work—Applicable only when a person discharges same duties but not paid same pay—Unequals cannot be treated as equals for paying equal pay for equal work—Person appointed without the minimum basic qualification—Not entitled to equal pay on par with persons appointed with the minimum qualification—Service Law—Equal pay for equal work.

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CIVIL APPELLATE JURISDICTION : Special Leave Petition (C)
No. 0807 of 1996.

From the Judgment and Order dated 5.9.95 of the Punjab & Haryana High Court in R.S.A. No. 691 of 1995.

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Puneet Bali and M.T. George for the Petitioner.

The following Order of the Court was delivered :

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Though the learned counsel has tried his best to persuade us to disagree with the impugned order of the High Court, we think that the High Court is right in its conclusion that the petitioner is not entitled to the equal pay as Pumpset Operator. The learned counsel sought to rely upon section 18 of the Punjab Town Improvement Trust Act, 1923 (for short the Act). Section 18 envisages power of the Trust to fix number of employees, their salaries etc. Section 17 envisages constitution of the trust and subject to the constitution section 18 says that the Trust may from time to time employ such other servants on such terms and conditions as it may deem, necessary and proper for carrying out its functions under the Act. Sub-section (2) gives controlling power of appointment, promotion, granting leave, suspension of the servants, reducing them into their hierarchy of position removing them from service, dismissing them from service for

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misconduct for reasons other than misconduct Chairman also has power under the Act. A

It is stated that in exercising this power, the Chairman being the controlling authority had relaxed the service conditions of the petitioner and also appointed him as Pumpset Operator though he was not possessed of the minimum qualification prescribed under the Act. It is not in dispute that for the said post Matriculation with I.T.I. are qualifications which the petitioner admittedly has not possessed of. General power of supervision and control does not include the power to appoint any person of his choice without basic qualification. Therefore, the exercise of the power by the Chairman would obviously be illegal. Under those circumstances, the doctrine of equal pay for equal work envisaged in Article 39 (a) of the Constitution has no application. It would apply only when a person is discharging the same duties but not being paid the same pay for the same work. In this case since the petitioner is not possessed of minimum basic qualification to the post to which he was appointed, unequals cannot be made equals for paying equal pay for equal work. Therefore, he is not entitled to equal pay. B C D

The Petition is accordingly dismissed.

G.N.

Petition dismissed.