

having nexus to the objects sought to be achieved as contained in the letter dated 1st October 1985.

So far as the ministerial cadre and stenographers cadre are concerned, they have throughout been the cadres of different type and were feeder cadres to the post of inspectors of Income Tax.

On behalf of applicants the validity and introduction of the quota to both the cadres, it is contended as bad and violative of Articles 14 and 16 of the Constitution of India. Learned counsel for the applicant contended that these rules create unreasonable classification and gives ~~waifage~~ ^{waifage} to one particular cadre. But it has not been stated that if it gives ~~waifage~~ ^{waifage} to a particular cadre in a state whether the ~~same waifage~~ ^{same waifage} is given to the same cadre in other states also because the position may vary from state to state. In support of his contention learned counsel made a reference to the case of Mohd, Shujat Ali V. Union of India A.I.R. 1974 SC 1631, wherein the court observed as under:

"To permit discrimination based on educational attainments not obligated by the nature of the duties of the higher post is to stifle the social thrust of the equality clause. A rule of promotion which while conceding that non-graduate Supervisors are also fit to be promoted as Assistant Engineers, reserves a higher quota of vacancies for promotion for graduate Supervisors as against non-graduate Supervisors would clearly be calculated to destroy the guarantee of equal opportunity. But even so, we do not think we can be persuaded to strike down the Andhra Pradesh Rules in so far as they make differentiation between graduate and non-graduate Supervisors. This differentiation is not something brought about for the first time by the Andhra Pradesh Rules."

The court also observed -

".. the two categories of Supervisors were thus never fused into one class and no question of unconstitutional discrimination could arise by reason of differential treatment being given to them."

The case is not very ~~correctly~~ ^{directly} on the point. 2

The counsel drew our attention to the case of

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1989(1) SCALE 1473, wherein the dispute was inter. se seniority, ratio, quota. The writ petition was filed by non-graduate Excise Inspectors alleging that the amendment to Special Rule 2 of the aforesaid Rule is violative of Articles 14 and 16 of the Constitution inasmuch as an invidious discrimination has been made between graduates and non-graduates by prescribing a ratio between them in the matter of promotion from the post of Excise Preventive Officer to that of Second Grade Excise Inspectors. The ~~writ petition~~ was dismissed and it was held that the prescription of ratio dividing the quota of promotion between graduate Preventive Officers and non-graduate Preventive Officers is invalid on the ground that it violates Articles 14 and 16 of the Constitution.

In the case of Mervyn Continho & Others

V. Collector of customs, Bombay & Others, AIR 1967, SC 52 the court accepted the validity of rotational system where ^{the} cadre was from two sources and held that the system is ^{not} violative of principles of Equality enshrined in Article 16(1) of the Constitution.

In the case of Govind Dattatray Kelkar & Ors.

V. Chief Controller of Imports and Exports & Ors., AIR 1967, SC 839 the Constitution Bench followed the cases of Banarsidas v. State of Uttar Pradesh, 1956 SCR 357; and All India Station Masters' and Assistant Station Masters' Association, Delhi V. General Manager, Central Railways, 1960-2 SCR 311; & General Manager, Southern Railway V. Rangachari, 1962-2 SCR 586, held that the recruitment to posts from different sources relate to what ratio between sources would be adequate ~~as~~ depends upon facts of each case and requirements and needs of particular post and unless the ratio is so

unreasonable as to amount to discrimination, court cannot strike it down or suggest different one. In this connection the court observed as follows:

"The relevant law on the subject is well settled and does not require further elucidation. Under Article 16 of the constitution, there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State or to promotion from one office to a higher office thereunder. Article 16 of the Constitution is only an incident of the application of the concept of equality enshrined in Article 14 thereof."

The learned counsel for the respondents stated that the change in policy is on all India basis and not on state wise basis. The quota system which was fixed was fixed after taking into consideration the position in the country and this is not restricted to a particular state. By fixing the quota system the respondents have done justice by following the laid down rules and the same is reasonable and cannot be said to be unreasonable.

This indicates that earlier both the cadres were taken in the matter of unification and in order to maintain efficiency and in order that both the cadres may get adequate representation the ratio is fixed and same cannot be said to be unreasonable so as to amount to discrimination. After all the other category was also entitled for promotion and it was considered for certain reason the other category is not yet having adequate representation which may lead to frustration or efficiency.

if a quota of lion-share is not given to the category. We do not find any unfair or discriminatory action has been taken. It is always permissible to amend the rules and fix the quota for making any recruitment from amongst a particular set of employees which are divided into 2 or 3 or more categories.

Accordingly the cases relied on by the learned counsel are distinguishable and are inapplicable and the ratio which has been fixed cannot be said to be without any authority of law, arbitrary or violative of Articles 14 and 16 of the Constitution of India. In this view we do not find any merit in the application which is accordingly dismissed with no order as to costs.