

A U.P. STATE CEMENT CORPORATION LTD. AND ORS.

v.

B.K. TEWARI

DECEMBER 11, 1997

B

[D.P. WADHWA AND A.P. MISRA, JJ.]

Service Law :

C *Appointment—Offer of—Terms and conditions—Acceptance—Implications of—Employee declined offer for the post of Deputy Manager (P & IR) since he had applied for the post of Manager (P & IR)—Subsequently, there was revision of pay scales—Posts of Dy Manager/Sr. Dy Manager/Manager in pay scale of Rs. 1,400-1,800 re-designated as Manager (Works) in pay scale of Rs. 1,500-2,000 whereas the posts of Manager/Company Secretary in pay scale of Rs. 1,500-2,000 re-designated as Senior Manager (Works)/Company Secretary in pay scale of Rs. 1,800-2,250—Amended offer given to employee designating him as Manager (P & IR) in pay scale of Rs. 1,500-2,000—Employee accepted amended offer—Thereafter, he raised a claim for the revised grade of Rs. 1,800-2,250—Held : Employee entitled to pay scale as per offer of appointment which was accepted by him—Therefore, the employee could not claim better terms—Hence, his claim for higher pay scale rejected.*

F **In pursuance to an advertisement issued by the appellant, the respondent applied for the post of Manager (P & IR). The respondent was, however, offered the post of Deputy Manager (P & IR). The respondent declined this post stating that he had applied for the post of Manager (P & IR) and could not accept the post of Deputy Manager (P & IR). In the meanwhile, there was a revision of pay scale and the posts of Dy Manager/Sr. Dy. Manager/Manager in the pay scale of Rs. 1,400- 1,800 were re-designated as Manager (Works) in the pay scale of Rs. 1,500-2,000 whereas the posts of Manager/Company Secretary in the pay scale of Rs. 1,500-2,000 were re-designated as Joint Sr. Manager (Works)/Company Secretary in the pay scale of Rs. 1,800- 2,250. The amended offer of appointment was given to the respondent designating him as Manager (P & IR). The appellant rejected the respondent's representation for placement in the revised grade of Rs. 1,800-2,250. High Court allowed the writ petition filed by the respondent challenging the aforesaid rejection of his representation. Hence this appeal.**

Allowing the appeal, the Court

HELD : 1. The letter offering the respondent the appointment of Manager is specific. This letter was written after the revision of pay scales. Not only that, the letter mentioning the designation of the respondent had also, in clear terms, mentioned the pay scale of the Manager which was being offered to him. This letter was accepted by the respondent with the terms and conditions contained therein. The respondent cannot read in the letter more than what it says. Offer of appointment was given to the respondent after revision of the pay scales and the appellant could not possibly have given the old pay scales. [439-G-H; 440-A]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 8664 of 1997

From the Judgment and Order dated 4.4.97 of the Allahabad High Court in C.M. W.P. No. 14129 of 1988.

Vijay Hansaria, Sunil K. Jain, M/s. Jain Hansaria & Co. for the Appellants.

Ashok K. Sharma, Indra Makwana for the Respondent.

The Judgment of the Court was delivered by

D.P. WADHWA, J. Special Leave granted.

This appeal is directed against the judgment dated April 4, 1977 of Division Bench of the High Court of Judicature at Allahabad allowing the writ petition of the respondent whereby he was held entitled to the benefits of the revised pay scale and designation of the post he was holding.

In pursuance to an advertisement issued by the appellant the respondent applied for the post of Manager (Personnel) Grade E4 by letter dated May 1, 1986. He was however, offered the post of Deputy Manager (P & IR) on terms and conditions as mentioned in letter dated October 23, 1986 of the appellant. The respondent declined this post stating that he had applied for the post of Manager (P & IR) and could not accept the post of Deputy Manager (P & IR). This was by letter dated November 5, 1986. In the meanwhile, there was revision of pay scales of the officers and staff of the appellant, which was communicated to the appellant by letter dated November 12, 1986 of the State Government. The relevant part of the revision of pay scales is as under :

A	Sl. No.	Designation	Pay Scales (In Rs.)	Designation	Pay Scales (In Rs.)
	3.	Dy. Manager/ Sr. Dy. Manager / Manager	1400-1800	Manager (Works)	1500-60- 1800-100- 2000
B	4.	Manager/ company Secretary	1500-2000	Joint Sr. Manager (Works)/Company Secretary	1800-100- 2000-125- 2-2250

Then comes the appointment letter issued to the respondent. This letter is in brief and we merely produce the same as under :

"Gram : UP CEMENT CHURK

The Uttar Pradesh State Cement Corporation Ltd.
(AUP Govt. Undertaking)
Registered Post

(Seal)

UNIT : CHURK CEMENT FACTORY
REGD. OFFICE
CHURK 231206

Dept : Ref. No. PS/HQ/R-10/1038 Dated : December 4, 1986

To,

Shri B.K. Tiwari,
120, Vindhvashni Nagar,
Orderly Bazar,
Varanasi Cantt.,
221002.

Sub. : Offer of Appointment for the
Post of Manager (Personnel & IR)

Dear Sir,

Please refer to your letter No. NIL of dated 5th November, 1986 on the above subject. After due consideration it has been decided

to amend your appointment offer to the following extent.

1. Your designation is hereby amended as Manager (Personnel & IR).
2. Your basic pay will be Rs. 1.500 per month in the scale of pay of Rs. 1500-60-1800-100-2000.
3. Your joining time is hereby extended upto 15th February, 1987. No further extension will be granted.

All other terms and conditions of our appointment offer No. PS/HQ/R-10/872 dated 23.10.1986 remain unaltered.

Yours faithfully

Sd/- (N.M. Majumdar)
Chairman and Managing Director"

The respondent accepted the offer given to him by the aforesaid appointment letter and accepted the post of the Manager (P & IR). He joined this post on February 28, 1987 and on April 24, 1987 represented to the appellant that he was entitled to placement in the revised grade of Rs. 1800-2250 which according to him was applicable to Manager (P & IR) Head Quarters. This representation was rejected and this led to filing of the writ petition by the respondent in the High Court which was allowed as aforesaid.

We do not think there is much controversy involved in the present case. The respondent said that at the time when he had applied for the post of Manager (E-4) it was in the pay scale of Rs. 1500-2000 and what was offered to him was the post of Deputy Manager in the pay scale of Rs. 1400-1800. Thus, according to the respondent, when he was offered the post of Manager, the pay scale had already been revised to Rs. 1800-2550 to which, he said, he was entitled to. We don't think this contention of the respondent can be accepted. Letter offering him the appointment of Manager is specific. This letter, as noted above, was written after the revision of pay scales. Not only that, the letter mentioning the designation of the respondent had also, in clear terms, mentioned the pay scale of the Manager which was being offered to him.

A This letter was accepted by the respondent with the terms and conditions contained therein. The respondent cannot read in the letter more than what it says. Offer of appointment was given to the respondent after revision of the pay scales and the appellant could not possibly have given the old pay scales. We, therefore, do not accept the view taken by the High Court.

B

We, accordingly, set aside the impugned judgment of the High Court and dismiss the writ petition filed by the respondent. The appeal is allowed with no order as to costs.

V.S.S.

Appeal allowed.