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Air India v. Nargesh Meerza: Detailed Case Analysis

Khushi Malviya · 11 Jul 2024

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The case of ***Air India v. Nargesh Meerza*** (1981) is a landmark judgment by the Supreme Court of India that addressed issues related to gender discrimination and female cabin crew employment rights in Air India.

Background of the Case

In the 1970s, Air India, the national airline, had discriminatory employment policies against female flight attendants (air hostesses). These policies included:

1. Termination upon First Pregnancy: Female flight attendants were required to resign or be terminated upon their first pregnancy.
2. Retirement Age: The retirement age for female flight attendants was 35 years, extendable to 45 at the airline's discretion, compared to a higher retirement age for male crew members.
3. Marital Status: Air hostesses were not permitted to marry within the first four years of their service. Violation of this rule also led to termination.

Issues Identified

Nargesh Meerza, along with other air hostesses, challenged these policies in court, arguing that they were discriminatory and violated their fundamental rights under the Indian Constitution

1. Constitutional Validity: Whether Regulations 46 and 47 of the Air India Employees Service Regulations violate Articles 14, 15, and 16 of the Constitution of India, which ensure equality before the law, prohibit discrimination based on religion, race, caste, sex, or place of birth, and guarantee equality of opportunity in matters of public employment.

2. Excessive Delegation: Whether the discretionary powers granted under Regulation 47, allowing the Managing Director to extend the service of employees, constitute excessive delegation of authority and violate legal principles.

Judgement

1. Invalidation of Certain Regulations: The court found portions of Regulation 46 and Regulation 47 of the Air India Employees Service Regulations to be unconstitutional. Specifically, the provision allowing the Managing Director to extend the service of Air Hostesses was deemed invalid, as was the provision mandating termination upon the first pregnancy.
2. Separation of Discriminatory Provisions: While invalidating specific parts of the regulations, the court ruled that the objectionable clauses could be separated from the rest of the regulations. Thus, the entire regulations were not struck down.
3. Clarification on Discrimination and Classification: The court clarified the principles regarding discrimination and classification under Article 14 of the Constitution. It emphasised that while discrimination against equals in similar circumstances is prohibited, reasonable classification based on legitimate factors is permissible.
4. Discretionary Powers and Excessive Delegation: The court raised concerns about the unguided discretion granted to the Managing Director under Regulation 47, highlighting the potential for excessive delegation of powers. It stressed the need for clear guidelines when conferring discretionary authority.
5. Consideration of Various Factors: In evaluating the retirement age and service conditions, the court considered factors such as the nature of the job, individual capabilities, and the need to avoid arbitrary discrimination based on sex.
6. Recognition of Separate Categories: The court recognized Air Hostesses as a distinct category from Airline Flight Pursers, with different service conditions and retirement ages. This acknowledgment influenced the court’s decision regarding discrimination and classification.
7. Humanitarian Considerations: The court underscored the importance of considering humanitarian aspects in employment regulations, particularly concerning pregnancy and family planning. It advocated for reasonable and compassionate treatment of employees.

Analysis and Conclusion

The court struck down the policies that mandated termination of employment on grounds of pregnancy and marriage within the first four years of service. It ruled these policies as unconstitutional and discriminatory.

The Court in Air India v. Nargesh Meerza found specific provisions to be manifestly unreasonable and arbitrary. It struck down the part of Regulation 47 that allowed the Managing Director to extend an AH's service, as it could lead to discrimination between AHs. The provision in Regulation 46 (i) (c) that terminated an AH's service on the first pregnancy was also deemed unconstitutional and void, as it interfered with a woman's right to have children and violated Article 14.

The Court emphasized that the policies were an affront to the dignity of women and that treating pregnancy as a disability was irrational. It reinforced the principle of equality, asserting that both men and women should be treated equally in employment matters.

The judgement emphasised that while reasonable classification is permissible under Article 14, discrimination against equals or individuals in similar circumstances is not allowed. The Court highlighted the importance of relevant factors and guidelines while fixing the retirement age and criticised unbridled discretion given to authorities.

The Court also suggested amending the rules to allow termination of an Air Hostess' service on a third pregnancy, provided two children are already alive, for health and family planning reasons. It concluded that regulations that impede a woman's right to have children are detestable and violate human values.

In summary, the judgement in Air India v. Nargesh Meerza upheld the validity of specific service regulations but struck down unreasonable and discriminatory provisions. It underscored the need for relevant factors and guidelines when making decisions and highlighted the importance of upholding the right to equality under Article 14.