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Case Comment: Savita Samvedi vs Union of India

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INTRODUCTION

This case voices a cry for gender discrimination. Gender discrimination or Gender Inequality means the unequal or disadvantageous treatment of an individual or group of people based on gender. Indian Constitution says that every citizen irrespective of their gender, caste, or religion has the same rights. No one shall be discriminated against based on their colour, caste, or any other parameters. Gender discrimination is still prevalent in India. It happens in various places. For Example homes, schools, offices, and in almost all the fields where women have been employed. It is a harsh reality that even after so many years of independence gender discrimination is still prevalent in India. There are many cases related to Gender discrimination that are registered in different Courts of India. This case Savita Samvedi vs Union of India set an example of one such case in which judgement was given by the Supreme Court of India and the Judgement was given by Justice Punchhi, M.M, on 30th January 1996.

FACTS OF THE CASE

There were two appellants, a married daughter, and her father. The father and daughter both were employed in the service of Indian Railways. When the father was in service, he was

allotted a quarter. He was due to retire on 31. 12. 1993¹. Before his retirement, he requested the railway authorities to permit his married daughter to share the quarter with her which had been allotted to him. Since the daughter was also a railway employee, so he made the request. The request was approved by the railway authorities but they put a condition that the daughter can stay with him as long as the father has the service and after the retirement of her father she has to vacate the quarter. She started staying with her father then and before the retirement of her father, she requested railway authorities to permit her to continue in the railway quarters as she is the only one who took care of her parents. Her brothers are not capable of doing this. The request got rejected on the ground that a married daughter was not eligible to look after her parents and was not eligible for the regularization of the railway quarter.²

The main issue before the court:

1. Whether a married daughter is eligible for the regularization of a railway quarter.

When a Railway servant who is allotted Railway accommodation retires from service, his or her son, unmarried daughter, wife, husband, or father, as the case may be, maybe allotted Railway accommodation on an out-of-turn basis subject to the fulfillment of a prescribed condition, according to the government circular. Even though the government later included married daughters in this category by issuing a new circular, it did so on the condition that the retiring official had no sons or, if he did, that they were minors or otherwise incapable of supporting their parents, and that the daughter was the only earning member of the family, among other things. As a result, it is clear from the Circular's plain reading that a married daughter of a retiring official is eligible for regularisation if her retiring father has no son.

JUDGEMENT

The judgement was appealed, and the matter eventually reached India's Supreme Court. The Supreme Court ruled that the government's circular is discriminatory and illegal since it

¹ *Ms Savita Samvedi & Anr v Union of India* 1996 SCC (2) 380

² *Ibid*

restricts married daughters. The Apex Court also overturned the Tribunal's decision, noting that the circular was only intended to identify those who were eligible for regularisation and that the crucial criterion of being a railway employee had to be met before a claim could be filed. In this situation, none of his kids worked for the railways, thus they were not eligible for railway quarters despite having a job and being able to support their parents in other ways. Only the married daughter will be eligible for railway quarters if no one else in the family works for the railroad. So, in this case, the father may utilise his right to retain the accommodation in her favor, obliging the railway authorities to regularise the quarter in her favour. The limitation on married daughters is unlawful, according to the court, and they should not be restricted on that basis. It was also pointed out before us that the Central Administrative Tribunal, Bombay Bench in one of its decisions in OA 314 of 1990 decided on 12.2.1992 (Ann. P-8) relying upon its own decision in *Ms. Ambika R. Nair and another vs. Union of India and others*,³ in which the earlier Circular of the railway board dated 27.12.1982 had been questioned, held that the same to be unconstitutional per se as it suffered from the twin vices of gender discrimination and discrimination inter se among women on account of marriage⁴.

The Circular shall be assumed to have been interpreted in this manner from the time of its commencement in favour of the married daughter as one of the eligibles, subject, among other things, to the twin criteria that she is married:

(i) A railway worker

(ii) The retiring official has exercised the option of regularisation in her favour. It's quite well-organized.

The daughter is qualified for railway quarters at the request of her father, who was a railway officer, to the officials involved, according to the Apex Court.

³ *Ms Ambika R Nair & Anr v Union of India & Ors* TA No 467/1986

⁴ *Ibid*

It was held that the distinction between a married and an unmarried Daughter may be unconstitutional.⁵ The observations made by Mr. Justice Punchhi are relevant; " The eligibility of a married daughter must be placed on par with an unmarried daughter (for she must have been once in that state), to claim the benefit.⁶

RELATED PROVISIONS

Everyone is equal before the law, according to Article 14 of the Indian Constitution,⁷ meaning everyone should have equal protection under the law. It's worth noting that the reach of article 14 applies not just to Indian nationals but also to foreigners. Article 15 further states that no one should be discriminated against based on their gender, religion, race, caste, or place of birth. Access to stores, public eateries, parks, and other areas of public amusement should not be discriminated against.⁸

Articles 19⁹ and 21¹⁰ deal with freedom of speech and expression and the right to life and personal liberty, respectively. Without any unlawful restrictions, all Indian people have the freedom to express their opinions on anything they wish. They can express their thoughts and opinions on it in whatever way they like. It also grants the right to establish a union or association, the freedom to move freely across India's territory, the right to reside in any region of India, and the right to engage in any trade, profession, or vocation without fear of retaliation. This article of the Indian constitution guarantees the implicit right of freedom of the press. Everyone has the right to life and the right to personal liberty, according to Article 21. Articles 14, 19, and 21 of the Indian constitution are regarded essential and are referred to as the "Golden Triangle of the Indian Constitution." Article 41 strives to protect people's rights to labour, education, and public aid in instances of unemployment, old age, disease, disability, and unjust poverty.

⁵ Law Commission, *Property Rights of Women: Proposed Reforms under the Hindu Law* (Law Com No 174, 2000)

⁶ *Ibid*

⁷ Constitution of India, art 14

⁸ Constitution of India, art 15

⁹ Constitution of India, art 19

¹⁰ Constitution of India, art 21

CONCLUSION

Several laws and legislation are prohibiting any form of discrimination against the weaker members of society, particularly women. However, it is a reality that many inequities have been perpetrated against women. Women face several challenges in their families, jobs, and nearly every industry in which they work. Women have been discriminated against in terms of property, education, and political power. Gender equality is more than an issue of fundamental rights. It's also a crucial tool for establishing a more equitable society and eradicating poverty. And we all have a role to play in making it a reality.