

1970 WL 160

United States District Court; M.D. North Carolina,
Greensboro Division.

Willie S. Griggs et al., Plaintiffs
v.
Duke Power Company, Defendant.

No. C 210-G-66

|
December 23, 1970

GORDON, D. J.

[Procedural Questions]

*1 This action presents a curious procedural phenomenon in that the plaintiffs have been divided into three groups—Group A consisting of four of the plaintiffs who have an appeal pending in this action before the United States Supreme Court; Group B consisting of three plaintiffs who were accorded no relief in either the United States District Court or the United States Court of Appeals for the Fourth Circuit and who have not appealed to the United States Supreme Court; and Group C consisting of six plaintiffs (Junior Blackstock, William Purcell, Clarence Jackson, Eddie Galloway, Lewis Hairston, and James Tucker) who were found to be entitled to relief by the Fourth Circuit Court of Appeals, and accordingly, that phase of the action has been remanded to this Court.

It has been urged by certain members of Group B that this Court also consider allegations of discrimination which are purported to have occurred subsequent to the decision in *Griggs, et al. v. Duke Power Company*, 4 Cir., [2 EPD P 10,143, 61 LC P 9379] 420 F. 2d 1225 (1970). The Court feels that the proper course to be taken for members of this group is to file their complaints with the Equal Employment Opportunities Commission. Since the District Court and the Court of Appeals determined that the members of Group B were entitled to no relief, their present allegations are not properly before this Court.

[Terms of Order]

The following Order is hereby entered in accordance with the decision of the Court of Appeals in *Griggs, et al. v. Duke Power Company*, 4 Cir., *supra*.

Now, Therefore, it is Ordered, Adjudged and Decreed as follows:

1. That defendant, Duke Power Company, its officers, agents, employees, servants, successors and all persons and organizations in active concert or participation with them are hereby Enjoined and Restrained from discriminating against plaintiffs, Junior Blackstock, William Purcell, Clarence Jackson, Eddie Galloway, Lewis Hairston, and James Tucker, at the defendant's Dan River Steam Station, located in Draper, North Carolina, because of their race in violation of Title VII of the Civil Rights Act of 1964, 42 U. S. C., § 2000e et seq.

2. That the education and testing requirements of the defendant in effect prior to and subsequent to July 2, 1965, be waived as to any of the above-named plaintiffs in considering the selection of employees for promotions and demotions and the selection of employees for training for any of the job vacancies which may hereafter occur at the defendant's Dan River Steam Station.

3. As vacancies occur, the defendant is directed to offer the above-named plaintiffs the opportunity to qualify for such vacancies on the basis of their length of service with the defendant.

4. Should any of the above-named plaintiffs qualify for a job vacancy which hereinafter occurs based on his plant seniority and are not offered the opportunity to otherwise qualify for the position the defendant is directed to state the reasons for such disqualification in writing, to place a copy in the employment personnel folder of the said plaintiff and to send or give each such employee a copy.

*2 5. The defendant is ordered to institute a system of "red circle" wage rates whereby any of the above-named plaintiffs who transfer to a job vacancy shall continue to be paid the wage rate of his position immediately prior to transfer until such time as he is assigned to a position paying an equivalent or greater wage rate.

6. The defendant shall maintain appropriate records of personnel assignments and action taken pursuant to this Judgment for inspection by plaintiffs' attorneys at reasonable times and after fifteen days written notice.

[Hearing on Added Charges]

It also appearing to the Court that members of Group C have made allegations of discrimination against them which have purportedly occurred since January 9, 1970, the date of the decision in *Griggs, et al. v. Duke Power Company* by the United States Court of Appeals for the

Fourth Circuit, it is further Ordered that the Clerk of Court set a date at the earliest possible time for an evidentiary hearing concerning these allegations.

The Court retains jurisdiction of this matter to issue such other Judgments and Orders and to constitute such proceedings as may be necessary to effectuate this Order.

All Citations

Not Reported in F.Supp., 1970 WL 160, 3 Fair Empl.Prac.Cas. (BNA) 129, 3 Empl. Prac. Dec. P 8093