

1972 WL 215

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  
|  
September 25, 1972

See Order on class, June 19, 1967.

3. The defendant Duke Power Company is hereby Permanently Enjoined and Restrained from requiring any Group I members of the affected class to meet or satisfy the education and test requirements in effect prior to March 8, 1971, in considering the selection of employees for promotions, transfers, demotions or lay-offs 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.

## Opinion

GORDON, D. J.; ORDER.

\*1 The following order is entered pursuant to the mandates of the Supreme Court of the United States in *Griggs, et al. v. Duke Power Co.*, [3 EPD P 8137] 401 U. S. 424, 28 L. Ed. 2d 158 (1971) and the United States Court of Appeals for the Fourth Circuit, [2 EPD P 10,143] 420 F. 2d 1225 (1970).

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 Permanently Enjoined and Restrained from engaging in any acts or practices which discriminates, tends to discriminate, or has the effect of discriminating against members of the affected class defined herein because of their race in violation of Title VII of the Civil Rights Act of 1964, 42 U. S. C. § 2000e et seq. at the defendant's Dan River Steam Station located in Draper, North Carolina.

2. The class of persons entitled to relief under this Order, referred to hereinafter as the "affected class," is designated and described as:

*Group I*—All black persons employed at the defendant's Dan River Steam Station as of October 20, 1966 (date this action was initiated); and

*Group II*—All black persons who may subsequently be employed at defendant's Dan River Steam Station.

[*Test or Diploma Requirement Barred*]

4. The defendant Duke Power Company is hereby Permanently Enjoined and Restrained from administering any personnel or aptitude tests or requiring any formal educational background which the defendant had in effect prior to March 8, 1971, as a condition of consideration for employment or promotion or transfer at its Dan River Steam Station for Group II members of the affected class.

[*Job Related Test Permitted*]

5. This Order does not prevent the defendant from applying and acting upon the results of reasonable ability demonstrations for members of the affected class with respect to actual job content, such as the demonstration of driving ability by prospective truck drivers, provided, however, that any such demonstrations are fairly related to the requirements of the particular job in question and are reasonable in terms of the weight accorded to the results of these demonstrations in terms of overall employment decisions.

[*Seniority Provisions*]

6. The defendant Duke Power Company is hereby Permanently Enjoined and Restrained from using any seniority provisions in effect prior to and subsequent to July 2, 1965, which is designed or tends to discriminate

against members of the affected class, or has the effect of discriminating against members of the affected class because of their race. The defendant is Ordered to offer members of the affected class the opportunity to qualify for promotions and transfers to vacancies on the basis of total plant seniority (i.e., the length of continuous service). The defendant shall consider members of the affected class on the basis of plant seniority as demotions and lay-offs occur.

\*2 7. Should any member of the affected class qualify for a promotion or transfer to any vacancy which hereafter may occur based on his plant seniority and is not offered the opportunity to otherwise qualify for the promotion or transfer, the defendant is directed to state the reasons for such disqualification in writing, to place a copy in the employment personnel folder and to send or give each such employee a copy.

*[Terms of Job Transfers]*

8. Defendant shall institute a system of "rate retention" whereby any member of Group I of the affected class who is promoted to or is transferred to a job which carries a lower wage rate than he is currently paid shall continue to receive the rate of pay he was receiving on the job prior to his transfer or promotion until he is permanently assigned to a position paying an equivalent or higher rate of pay.

9. Members of Group I of the affected class shall be allowed to by-pass all jobs, including entry level jobs, in any department or promotion or transfer where such jobs do not provide training or experience necessary to the performance of higher positions in the department.

10. The defendant shall post written notice of all

permanent vacancies and temporary vacancies expected to last two weeks or more in conspicuous places at its Dan River Steam Station in a manner which is reasonably designed to be called to the attention of members of the affected class in order that members of the affected class may have the opportunity to bid and qualify for such vacancies.

11. The defendant shall maintain appropriate records of all personnel assignments and action made at its Dan River Steam Station, and the defendant shall allow reasonable inspection of these records by counsel for the plaintiffs at reasonable times and after fifteen days written notice.

12. The defendant shall post for a period of thirty days a copy of this Judgment in some conspicuous place at its Dan River Steam Station.

13. The costs incurred in this proceeding are taxed against the defendant Duke Power Company. As part of the costs, plaintiffs are entitled to reasonable counsel fees. If after twenty days the parties have not been able to agree upon a fee, the Court will allow it upon consideration of a statement of services filed and served upon counsel for the defendant, who will have ten days to serve and file a response.

14. The Court will retain jurisdiction of this matter to issue such other Orders and to conduct such proceedings as may be necessary to effectuate this Order.

**All Citations**

Not Reported in F.Supp., 1972 WL 215, 6 Fair Empl.Prac.Cas. (BNA) 7, 5 Empl. Prac. Dec. P 8017