Automobile Workers v. Johnson Controls

499 U.S. 187 (1991)

Country: United States
Region: Americas
Year: 1991
Court: Supreme Court
Health Topics: Child and adolescent health, Occupational health, Sexual and reproductive health
Human Rights: Freedom from discrimination

Facts

The Appellants, a class of current and future employees of the Respondentâ€™s battery manufacturing company, Johnson Controls, brought suit claiming that the companyâ€™s policy of barring fertile women from employment for reasons based on occupational safety, constituted sex discrimination in violation of Title VII of the Civil Rights Act of 1964 (the Act).

The primary ingredient in the Respondentâ€™s battery manufacturing process was lead, occupational exposure to which entailed health risks, including the risk of harm to fetal health. The Respondentâ€™s policy barred from employment all women, except those whose infertility was medically documented, from jobs involving actual or potential lead exposure exceeding the critical level noted by the Occupational Safety and Health Administration (OSHA) for a worker who was planning to have a family. The Respondent introduced the policy after eight employees became pregnant while maintaining blood levels exceeding this critical level.

The legislation and policies relevant to the claim were:

Section 703(a) of the Act, which prohibited â€œsex-based classifications in terms and conditions of employment, in hiring and discharging decisions, and in other employment decisions that adversely affect[ed] an employee's statusâ€•;
Section 703(e)(1) of the Act, which stated that an employer may discriminate on the basis of "religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise"; and
The Pregnancy Discrimination Act (the PDA), which made clear, for Title VII purposes, that discrimination based on a woman's pregnancy was the same, on its face, as discrimination based on her sex, and that pregnant employees must be treated the same as other employees for all employment related purposes, unless pregnant employees differed from others in their ability or inability to work.

The District court granted summary judgment for the Respondent. The Court of Appeals affirmed.

Decision and Reasoning

The Court held that the Respondentâ€™s policy of excluding women with childbearing capacity from jobs involving lead exposure because of its concern for the health of an unborn fetus was discriminatory under the Act. The policy created a facial classification based on gender and explicitly discriminated against women on the basis of their sex under Â§ 703(a) of the Act. The Court explained that use of the terms "capable of bearing children" as the criterion for exclusion explicitly created a classification based on the potential for pregnancy, which under the PDA was to be regarded in the same light as explicit sex discrimination. It added that the policy was not neutral because it did not apply to the reproductive capacity of the companyâ€™s male employees despite â€œevidence in the record about the debilitating effect of lead exposure on the male reproductive system.â€•

The Court held that the Respondentâ€™s policy did not fall within the Actâ€™s â€œbona fide occupational qualificat (BFOQ) defense. The Court held that Respondent did not establish a BFOQ defense. Referring to â€œthe language of both the BFOQ provision and the PDA which amended it, as well as the legislative history and the case lawâ€• the Court concluded that an employer was prohibited from discriminating against a woman based on her capacity to become pregnant, â€œunless her reproductive potential prevent[ed] her from performing the duties of her job.â€• It added that â€œan employer must direct its concerns about a woman's ability to perform her job safely and efficiently to those aspects of the woman's job-related activities that fall within the â€˜essenceâ€™

of the particular business.â€• The Court concluded that the BFOQ exception could not be satisified here because fertile women could â€œparticipate in the manufacture of batteries as efficiently as anyone else.â€• It added that concerns about the welfare of future children were â€œnot a part of the â€˜essenceâ€™ of the Respondentâ€™s businessâ€• and â€œmust be left to the parents who conceive, bear, support and raise them.â€•

The Court further held that the Respondentâ€™s potential tort liability for a possible injury to a fetus did not justify its policy barring fertile women from employment. The Court held that â€œthe incremental cost of hiring women cannot justify discriminating against them.â€• It noted that if an employer fully informed a woman of all risks, and the employer had not acted negligently, the basis for holding an employer liable seemed â€œremote at best.â€•

Decision Excerpts

â€œThe bias in Johnson Controls' policy is obvious. Fertile men, but not fertile women, are given a choice as to whether they wish to risk their reproductive health for a particular job. Section 703(a) of the Civil Rights Act of 1964, 78 Stat. 255, as amended, 42 U. S. C. Â§2000e-2(a), prohibits sex-based classifications in terms and conditions of employment, in hiring and discharging decisions, and in other employment decisions that adversely affect an employee's status. Respondent's fetal-protection policy explicitly discriminates against women on the basis of their sex. The policy excludes women with childbearing capacity from lead-exposed jobs and so creates a facial classification based on gender.â€• 499 U.S., p. 197.

â€œFirst, Johnson Controls' policy classifies on the basis of gender and childbearing capacity, rather than fertility alone. Respondent does not seek to protect the unconceived children of all its employees. Despite evidence in the record about the debilitating effect of lead exposure on the male reproductive system, Johnson Controls is concerned only with the harms that may befall the unborn offspring of its female employees. Accordingly, . . . its policy does not â€˜effectively and equally protec[t] the offspring of all employees.â€™â€•Â 499 U.S., p. 198.

â€œ[T]he absence of a malevolent motive does not convert a facially discriminatory policy into a neutral policy with a discriminatory effect. Whether an employment practice involves disparate treatment through explicit facial discrimination does not depend on why the employer discriminates but rather on the explicit terms of the discrimination.â€• 499 U.S., p. 199.

â€œOur case law [] makes clear that the safety exception is limited to instances in which sex or pregnancy actually interferes with the employee's ability to perform the job. This approach is consistent with the language of the BFOQ provision itself, for it suggests that permissible distinctions based on sex must relate to ability to perform the duties of the job. Johnson Controls suggests, however, that we expand the exception to allow fetal-protection policies that mandate particular standards for pregnant or fertile women. We decline to do so.â€• 499 U.S., p. 204.

â€œWomen who are either pregnant or potentially pregnant must be treated like others â€˜similar in their ability ... to work.â€™ [] In other words, women as capable of doing their jobs as their male counterparts may not be forced to choose between having a child and having a job.â€• 499 U.S., p. 205.

â€œ[T]he incremental cost of hiring women cannot justify discriminating against them.â€• 499 U.S., p. 211.