

State of H. P.

Vs

Vijay Pal Singh

Civil Appeal No. 2225 of 1997 (Arising out of SLP (C) No. 10924 of 1992)

(K. Ramaswamy, G. T. Nanavati JJ)

14.03.1997

ORDER

1. Leave granted.

2. Though the respondent has been served he is not appearing either in person or through counsel. The admitted position is that the respondent is a State cadre officer discharging the duties of an ex-cadre post meant for 'PS Officer. Admittedly, he has not been empanelled for the promotion as an IPS Officer but since the post was existing due to exigency of service he has been posted and he performed the duties of the post. Under the Fundamental Rules an officer who performs the duties of the post, is entitled to payment of the salary of the scale of pay attached to the post. Since the respondent, admittedly, performed the duties of the post he is eligible to the payment of the scale of pay attached to the post. No doubt, the Tribunal was not right in granting that payment on the ground of equal pay for equal work under Article 39(d) of the Constitution. But in view of the above rules which stand attracted to the fact-situation the result is not vitiated by any error of law warranting interference. The appeal is accordingly dismissed. No cost.