

SUPREME COURT OF INDIA

Dy. Dir. Gen. of Geo. Survey of India

Vs.

R. Yadaiah

C.A.No.3032 of 2000

(G. B. Pattanaik and U. C. Banerjee, JJ.)

28.04.2000

ORDER

1. Leave granted.

2. This appeal is directed against the decision of the Central Administrative Tribunal, Hyderabad Bench, which was affirmed by the High Court by dismissing the Writ Petition filed against the said order of the Tribunal. The tribunal followed the earlier decision of the Cuttack Bench in O. A. No. 177/1994, and it is also correct that Special Leave Petition against the said decision of the Cuttack Bench was dismissed in limine. But in an identical matter, the Calcutta Bench of the CAT referred to the Full Bench as it was brought to the notice of the Calcutta Bench that a contrary view had been taken by the Bangalore Bench of the CAT, and that decision had not been brought to the notice of the Cuttack Bench. The Full Bench of the Tribunal, however, thought it appropriate that the matter should be referred to the 5th Pay Commission and the matter on being referred to the 5th Pay Commission, the Commission has granted the higher scale to these groups of employees with effect from 1-1-1996. The later, Cuttack Bench followed the Full Bench of the Calcutta Tribunal and against the said decision of the Cuttack Bench, aggrieved party came to this Court in SLP which was dismissed, as it appears, from the order dated 28-4-1997. The question that arises for our consideration is whether it was appropriate on the part of the Tribunal to go into this question of

upgradation of pay of a particular group of employees and give the relief with effect from a particular date. On examining the order of the Cuttack Bench of the CAT, we find that the Bench did not have the opportunity of a counter affidavit on behalf of the Union of India, and on the other hand, the prayer to file the counter affidavit stood rejected. Ordinarily, the Courts or Tribunal should not go into the question of fitment of the officers in a particular group or the pay-scale thereto, and leave the matter to the discretion and expertise of the Special Commission like Pay-Commission, unless the Court finds on materials produced that there is some apparent error. On going through the judgment of the Tribunal at Cuttack Bench in O. A. No. 177/1994 as well as the decision of the Full Bench of the Calcutta Bench of the CAT, we find that the Full Bench of the Calcutta had taken the correct approach in the matter and the Cuttack Bench was not justified in granting the relief sought for. We are, therefore, of the view that the Tribunal at Hyderabad was in error in granting the relief sought for following the earlier decision of the Cuttack Bench in O. A. No. 177/1994, and not noticing the subsequent Full Bench order of the Calcutta Bench of the CAT. We, accordingly, allow this appeal and set aside the impugned order of the Hyderabad Bench of the CAT as well as the judgment of the High Court of Andhra Pradesh and hold that these groups of employees would be entitled to higher scale with effect from 1-1-1996 pursuant to the decision of the 5th Pay Commission. Needless to mention that those employees who have already got the benefit pursuant to any order in their favour either of the Tribunal or by the Government itself, they should not be deprived of that.

Order accordingly.