THE CHIEF COMMISSIONER OF INCOME TAX (ADMINISTRATION), BANGALORE A

v.

V.K. GURURAJ AND ORS.

JANUARY 22, 1996 B

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

Service Law :

Civil Services—Special pay to UDCs in non-secretariat administrative C *offices—10% of posts earmarked for grant of special pay—Those UDCs directed to handle cases of complex nature involving deep study and competence—Grant of special pay to compensate discharge of such duties—UDCs not actually discharging such special duties—Claiming special pay—Central Administrative Tribunal directing payment—Held; UDCs who do not perform the special duties, though seniors, not entitled to get the special pay.* D

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 2537-43 of 1996.

From the Judgment and Order dated 18.5.92 of the Central Administrative Tribunal, Bangalore in O.A. Nos. 190-94, 204, 217 of 1991. E

K. Lahiri, T.V. Ratnam and S.N. Terdol for the Appellant.

The following Order of the Court was delivered :

Office report shows that notice was issued to the respondents on F 25.8.1993. Though it was served on respondent No. 2 on 14.9.1993 and on respondent No. 7 on 7.9.1993, they do not appear either in person or through counsel. Neither unserved envelops nor A/D cards have been received in respect of respondent Nos. 1, 3 to 6. Under these circumstances, notice to them must be deemed to have been served. G

Leave granted.

We have heard the counsel for the appellant. The Government in O.M. No. F7(52) E III/78, dated May 5, 1979 have stated that special grant of pay of Rs. 35 per month to the Upper Division Clerks in the non- H secretariat administrative offices was provided. Out of the UDCs carrying the scale of Rs. 330-560, 10% of the posts were earmarked with special grant of pay of Rs. 35 in the secretariat and other places and they were directed to handle cases of complex nature involving deep study and competence. For dealing with such cases certain officers have been promoted to that 10% posts specified among the UDCs in the secretariat as well as non-secretariat administrative officers. They were being paid @ Rs. 35 per month as compensation for discharge of special duties. The respondents were not actually discharging those duties but being UDCs they claimed special pay of Rs. 35. The Tribunal in the impugned order following its earlier decision dated 9.10.1991 made in O.A. 394/90 allowed the petition and directed payment. We have directed the counsel to find out whether any appeal has been filed against the said order. It would appear that no appeal has been filed against the said order. However, it being a question of law and since the matter is of perennial problem applicable to several places, we are of the considered view that the failure to file an appeal in one case does not have the effect of following in all other cases. It is seen that payment of Rs. 35 per month to UDCs discharging special duties of onerous nature, is personal pay so long as they discharge the same. Therefore, other UDCs who do not perform the special duties, though seniors, do not *ipso facto* get the same pay on the posity of equal pay due to juniors getting higher pay. Under these circumstances we are of the view that the Tribunal was wholly incorrect in directing payment to all the persons who did not discharge such duties assigned to the 10% special posts of UDCs carrying special pay of Rs. 35 per month.

The appeal is accordingly allowed. No costs.

G.N. Appeal allowed.