

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 3412 OF 2007

STATE OF KARNATAKA & ANOTHER ...APPELLANTS

VERSUS

H.K. DASAPPA & OTHERS ...RESPONDENTS

WITH

CIVIL APPEAL NO. 4515 OF 2007

STATE OF KARNATAKA & OTHERS ...APPELLANTS

VERSUS

G.S. SHANKARANANDHA MURTHY & ORS. ...RESPONDENTS

O R D E R

1. The only controversy involved in these appeals filed by the State of Karnataka is as to whether the non-graduate Junior Engineers who were in service up to 9.1.1974 and whose pay-scales were identical with the graduate Junior Engineers till that date can retain their pay though the State of Karnataka has brought in a lesser pay-scale for the non-graduate Junior Engineers.

2. It so happened that prior to 9.1.1974, admittedly by reason of the judgment of this Court, the pay-scales of both the graduate Junior Engineers and non-graduate Junior Engineers were identical. This Court in K.Ravindranath Pai & Another Vs. State of Karnataka & another 1995 Suppl (2) SCC 246 unequivocally held that the non-graduate Junior Engineers would get the identical pay-scales as applicable to the graduate Junior Engineers up to 9.1.1974. The Karnataka Government thereafter created two cadres, one of the graduate Junior Engineers naming it to be Junior Engineers (Division-I) and non-graduate Junior Engineers naming it to be Junior Engineers (Division-II) providing separate pay-scales for the two cadres. Needless to mention here the pay-scales provided for Junior Engineers (Division-I ) were better while the pay-scales provided for Junior Engineers (Division-II ) were

inferior. Then the question arose as to how to equate and what pay-scales and in what manner the pay of those Junior Engineers (Division II) who were going to continue to be regulated. The Government of Karnataka tried to slash the pay which the the Junior Engineers (Division-II) were drawing on 9.1.1974 for fixing them into the inferior pay-scales.

3. This was challenged before the Karnataka Administrative Tribunal (for short "the Tribunal"). The Tribunal held on the basis of Rules 42 and 43 of the Karnataka Civil Services Rules that it was not possible to slash the pay in order to fix them in a new pay-scale. The Tribunal also held and, in our opinion absolutely correctly, that if the initial pay in the new pay-scale of the Junior Engineer (Division-II) was lesser than the one which was

being drawn by that Junior Engineer (Division-II) on 9.1.1974, the pay should be treated as a personal pay till such time as that pay comes in line with the new pay-scales.

4. We have heard learned counsel appearing for the parties and gone through the record.

5. Mr. Sanjay R. Hegde, learned counsel appearing for the State of Karnataka tried to argue that since a totally new pay-scale was applicable to Junior Engineers (Division II), then the two results should normally follow. Firstly; that no right would accrue to the non-graduate Junior Engineer (Division-II) to the pay-scale of graduate Junior Engineer. Insofar as this first contention of Mr. Hagde is concerned, it is undoubtedly correct. After 9.1.1974, there would undoubtedly be two pay-scales and the Junior Engineers (Division-II) will not be entitled to claim the pay-scales granted to the Junior Engineers (Division-I) only on the basis of the parity of their pay-scales prior to 9.1.1974.

Mr. Hegde goes further and canvasses that such persons cannot claim protection of their pay in the said scales for the period subsequent to 9.1.1974. This is certainly not possible, particularly, in view of Rules 42 and 43 as also the definition of "personal pay" in Karnataka Civil Services Rules.

6. In our opinion, the judgment of the Tribunal is absolutely correct and the Tribunal has rightly relied upon

the judgment of this Court in K. Ravindranath Pai (supra).

The High Court has also rightly affirmed the judgment of the Tribunal.

7. It will indeed be the travesty if by fixing the new pay-scales, the available pay, which has been rightfully drawn by Junior Engineers (Division-II), should be slashed.

In doing so, the Government would unnecessarily be touching upon the area which it could not do namely; bringing in the parity in the pay-scales of Junior Engineers (Division-I) and Junior Engineers (Division-II) up to 9.1.1974.

That was not permissible.

8. In that view, we do not find any merit in these appeals which are, accordingly, dismissed. No costs.

9. The State of Karnataka would be well-advised in fixing the pay-scales of the respondents protecting their pay as on 9.1.1974 and taking necessary steps as per the order of the Tribunal within three months from today.

.....J.  
[ V.S. SIRPURKAR ]  
.....J.  
[ SURINDER SINGH NIJJAR ]

NEW DELHI  
JANUARY 19, 2010.

RECORD OF PROCEEDINGS  
CIVIL APPEAL NO(s). 3412/2007

STATE OF KARNATAKA & ORS.

Appellant (s)

VERSUS

H.K. DASAPPA & ORS.

Respondent(s)

(With appln(s) for impleadment and as party respondent and permission to file additional documents)

WITH

Civil Appeal No. 4515 of 2007  
[with office report]

Date: 19/01/2010 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.S. SIRPURKAR  
HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR

For Appellant(s) Mr. Sanjay R. Hegde, Adv.

For Respondent(s) Mr. L.N. Rao, Sr. Adv.  
Mr. Naveen R. Nath, Adv.  
Ms. Lalit Mohini Bhat, Adv.  
Mr. A. Dasharatha, Adv.  
Ms. Hetu Arora, Adv.

UPON hearing counsel the Court made the following  
O R D E R

The appeals are dismissed in terms of signed order.

No costs.

In view of the order passed in the appeal, no orders are necessary to be passed on the application for impleadment.

(Pardeep Kumar)  
Court Master

(Shashi Bala Vij)  
Court Master

[SIGNED ORDER IS PLACED ON THE FILE ]