

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No. 7783 of 2001@@  
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(Arising out SLP(C) No. 17535 of 1999)

Satya Dev ...Appellant (s)

Versus

State of U.P. & Ors. ...Respondent(s)

O R D E R~@@  
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Leave granted.

The appellant is a work-charged employee and is working as a Junior Engineer (JE). He is working as such since 1981. But as he was not being paid in the pay-scale available to a JE in the Government, he filed an application before the Tribunal. The Tribunal disposed of the matter by directing that he should be paid the regular pay scale as is available to a JE in the Government. The State of U.P. being aggrieved by the said order, filed a writ petition in Lucknow Bench of the Allahabad High Court. By the impugned judgment the order of the Tribunal having been set aside, the appellant has approached this Court.

Mr. Pramod Swarup, learned counsel appearing for the appellant, contends that the High Court committed an error in coming to a conclusion that the appellant does not possess the minimum qualification for the post of a JE. According to him, the appellant having served for more than 20 years by now on being duly selected, and undoubtedly having discharged the duties of a JE, should be entitled to the regular scale of pay ...2

as is available to a JE in the Government and the High Court therefore was in error in interfering with the order of the Tribunal.

The learned standing counsel appearing for the State of U.P. contended that the very nature of appointment of the appellant being work-charged, question of granting the regular scale of pay does not arise. He also further contended that the appellant could have been terminated at any point of time, but merely because he has been continued for this length of time of about 20 years, he cannot claim a right of regularisation or a right to be paid in the same scale of pay as is available to a JE under the Government.

From the rival contentions, the question that arises for consideration is whether, in the facts and circumstances of the present case, the appellant is entitled to any relief, as claimed by him. It is not disputed by the learned standing counsel for the State of U.P. that diploma in Engineering is the minimum qualification required for a person to be appointed as a JE and that the appellant does possess the said qualification. But, under the statutory Recruitment Rules, the process of selection for a regular JE is through a Service Commission and it is conceded by the counsel appearing for the appellant that he had not been selected through any

Service Commission. The fact that the appellant has been serving as a work-charged JE from 1981 is also not disputed.

In the aforesaid premises, the minimum what the ...3

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appellant is entitled to is to draw the minimum in the time-scale of pay as is available to a JE in the Government plus all allowances, including the dearness allowance that is permissible so long as he is discharging the duties of a JE. We, therefore, set aside the impugned order of the High Court and direct that the appellant shall be paid in the minimum of the pay-scale of a JE plus all allowances as permissible from the date of the order of the Tribunal.

This appeal stands disposed of accordingly.

.SP1

.....J@@  
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( G.B. PATTANAİK )@@  
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New Delhi;  
  
November 07, 2001.

.....J@@  
BBBBBBBBBBBBBBBBBBBB  
( DORAISWAMY RAJU )@@  
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.PA  
.PL65  
ITEM No.4

Court No. 3

SECTION XI  
A/N MATTER

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.17535/1999

(From the judgement and order dated 17/08/1999 in WP 2867/97 of The HIGH COURT OF JUDICATURE AT ALLAHABAD, BENCH AT LUCKNOW)

SATYA DEV

Petitioner (s)

VERSUS

STATE OF U.P. AND ORS.

Respondent (s)

( For Final Disposal )

Date : 07/11/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAİK  
HON'BLE MR. JUSTICE DORAISWAMY RAJU

For Petitioner (s)      Mr. Pramod Swarup, Adv.  
                                 Ms. Pareena Swarup, Adv.  
                                 Mr. Praveen Swarup, Adv.

For Respondent (s)      Mr. Y P Singh, Adv.  
                                 Mr. Ajay K. Agrawal., Adv.  
                                 Ms. Anamika Agrawal, Adv.  
                                 Mr. C. Siddharth, Adv.

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

.....L.....I.....J  
.SP2

Leave granted.

The appeal stands disposed of in terms of the signed  
order.

.SP1

(J.S. Rawat)  
Court Master

(Suneet Bala Sharma)  
Court Master

(Signed order is placed on the file)