

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal Nos.7505-7511 of 2012

COMPROLLER AND AUDITOR GEN.OF
INDIA & ORS.

Appellant(s)

VERSUS

PRADEEP DESHMUKH & ORS. ETC.

Respondent(s)

WITH

Civil Appeal No.7504 of 2012

O R D E R

We have heard learned counsel for the parties.

It is undisputed that the respondents were senior to the persons receiving a higher pay scale but the rational for the same is stated to be that they were assigned a special task which carried an additional allowance and that they had to be taken into consideration for the calculation of the pay scale.

What has weighed both before the Tribunal and the High Court while granting reliefs to the respondents is as under:

"we are of the view that higher pay can be awarded to a junior as a special case and the doctrine of parity in employment can be overruled for a particular case but for that it would be necessary for the Government to fix some criteria and apply the same on all the employees and thereafter, scrutiny can be made out of lot. If no criteria is applied and if it is done arbitrarily seeing the face of the particular person it cannot be held that nay procedure was adopted by selecting a particular person for granting a special pay of Rs.35/- If a person is selected out of lot then a reason required to be assigned but in this case as we have found that the petitioners have failed to furnish any foundation or ground to say that whether the case of other employees at par with the respondent no.5 was considered, any criteria was fixed an the case of respondent No.5 and other employees those who were senior to him were also examined and considered.

We are in complete agreement with the aforesaid view as it cannot be left to the subjective satisfaction of an officer as to who will get the special allowance on the basis of

work assigned irrespective of the seniority. There has to be a criteria for the said purpose. This is not so. We do not want to say that work cannot be taken from a particular person if the superior deem it appropriate but once it has a financial implication on what is payable to the employee, a parameter has to be set out.

In view of the aforesaid, we are not inclined to interfere with the impugned order. The appeals are accordingly dismissed.

The financial implication of the orders be remitted to the respondents within a maximum period of three months from today.

....., J.
(SANJAY KISHAN KAUL)

....., J.
(NAVIN SINHA)

NEW DELHI
MAY 2, 2019

ITEM NO.107

COURT NO.13

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal Nos.7505-7511/2012

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C.A. No. 7504/2012 (IV-A)

Date : 02-05-2019 These appeals were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE NAVIN SINHA

For Parties (s)

Ms. Kiran Suri, Sr. Adv.
Ms. Rekha Pandey, Adv.
Mr. Chandra Prakash, Adv.
Ms. Anil Katiyar, Adv.
Mr. Satyendra Kumar Shrivastava, Adv.

Mr. B. Krishna Prasad, AOR

Mr. Niraj Sharma, AOR

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

The appeals are dismissed in terms of the signed order.

Pending application(s), if any, shall also stand disposed of.

(POOJA ARORA)
COURT MASTER

(ANITA RANI AHUJA)
COURT MASTER

(Signed order is placed on the file)