

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK.

Original Application No.287 of 1987.

Date of decision : November 29,1988.

Makhan Chandra Roy, aged about 42 years,
son of Shri Nagendra Nath Roy, Malaria
Laboratory Assistant in the Office of the
Medical Officer, Malaria, Malkangiri, At/
P.O. Malkangiri, District Koraput posted at
P.H.C. Malkangiri, Village No.19.

... Applicant

Versus

1. Union of India, represented by Secretary to Govt. of India, Ministry of Personnel and Training Administration Reforms Public Grievances & Pensions, At Nirvachan Sadan, 6th Floor, Room No.618 New Delhi-110001.
2. Chief Administrative Officer, Dandakaranya Development Authority (Govt. of India), Dandakaranya Project, At/P.O./Dist.Koraput.
3. Chief Medical Officer, Dandakaranya Project, At/P.O.Malkangiri, District- Koraput.
4. Medical Officer, P.H.C., Malkangiri, Village No.19, District- Koraput.

... Respondents

For the applicant ... Mr.R.B.Mohapatra, Advocate.

For the respondents ... Mr.A.B.Mishra, Senior Standing Counsel (Central)

C O R A M :

THE HON'BLE MR.B.R.PATEL, VICE-CHAIRMAN

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? No
3. Whether His Lordship wishes to see the fair copy of the judgment ? Yes.

J U D G M E N T

B.R.PATEL, VICE-CHAIRMAN, The applicant was a Laboratory Assistant (Malaria) under the Dandakaranya Development Authority. As Laboratory Assistant (Malaria) he was getting his pay in the scale of Rs.260-400/-. On the recommendation of the 4th Central Pay Commission his pay has been revised to Rs.950-1500/- with effect from 1.1.1986. His prayer is that he should be given the pay scale of Rs.1200-2040/- with effect from 1.1.1986 till he left the services of the Dandakaranya Development Authority for placement elsewhere.

2. The respondents have maintained in their counter that the applicant was given the pay scale of Rs.950-1500/- on the recommendation of the 4th Central Pay Commission. This pay has been fixed taking into account the applicant's qualification, experience as Laboratory Assistant. According to the respondents, the applicant is not entitled to the pay scale of Rs.1200-2040/-. As the applicant was given the revised pay as recommended by the 4th Central Pay Commission, there is no merit in this application which should be dismissed.

3. I have heard Mr.R.B.Mohapatra, learned counsel for the applicant and Mr.A.B.Mishra, learned Senior Standing Counsel for the Central Government. Mr.R.B.Mohapatra has urged that the applicant was doing the same work as the Laboratory Assistants under the Railways and Defence and as such should be given the pay scale of Rs.1200-20400/- as has been recommended by the 4th Central Pay Commission for the Laboratory Assistants working in different organisations under the Railways. In this connection, Mr.Mohapatra drew my attention to paragraphs 11.46 and 11.48 of the recommendations of the 4th Central Pay Commission which are

[Signature]

reproduced hereunder :

" 11.46. There are posts of laboratory assistant under the Ministry of Defence in the scale of Rs.290-500/-. These are filled from amongst those who have passed higher secondary/intermediate with science with some experience. We recommend that these posts may be given the scale of Rs.1200-2040.

xx xx xx

11.48. There are posts of laboratory assistant in different organisations under the Railways in the scale of Rs.290-500. They are filled by those who have passed higher secondary/intermediate examination with science and have one year experience. These posts may be given the scale of Rs.1200-2040. "

According to Mr. Mohapatra, the applicant has enough experience and training. Mr. Mohapatra drew my attention to Annexure-5. Annexure-5 is a copy of the Office order No. DNK/MAI/UKT/83/101 dated 4.2.1983 by which the applicant along with another was relieved from the Zonal Hospital, Umerkote for colour blind eye test and thereafter to report for training at Indore from 8.2.1983 to 15.3.1983. Annexure-6 is a copy of the office order of the Directorate of Health Services, Madhya Pradesh dated 15.3.1983. This order lists 32 Laboratory Technicians who attended the Microscopic training and were relieved on 15.3.1983 (A.N.) after completion of the course at the Central Laboratory, Indore. Annexure-7 is the copy of the office order of the Dandakaranya Development Authority dated 15.12.1986 fixing the pay of the applicant in the revised scale of pay of Rs.950-1500/- with effect from 1.1.1986. The pay of the applicant has been fixed in terms of Rule 7 (1) of the Central Civil Services (Revised Pay) Rules, 1986.

From the above quoted paragraphs it is clear that the earlier pay scale prescribed for Laboratory Assistants both in the Ministry of Defence and Railways was Rs.290-500/-, whereas

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the pay scale given to the applicant before the recommendation of the 4th Central Pay Commission was Rs.260-400/-. Moreover, the educational qualifications prescribed for the post of Laboratory Assistant in the Ministry of Defence and Railways are higher secondary or intermediate in science with some experience. Admittedly, the applicant is only a Matriculate and he had only about 5 weeks' training in the Central Laboratory of Indore. These recommendations cannot, therefore apply to the applicant.

4. Mr.A.B.Mishra while maintaining that the applicant's pay has been properly fixed on the basis of the recommendation of the 4th Central Pay Commission, drew my attention to paragraph 2(b) of the counter particularly to the following lines :

" If the applicant or any one of his rank was aggrieved it was open for them to advance their cases before the 4th Pay Commission and the 4th Pay Commission having considered all aspects and methods of Recruitment, Recruitment Rules, qualification prescribed therefor, have recommended that the Laboratory Assistants (Malaria) who were getting the pay scale of Rs.260-400/- be given the scale of Rs.950-1500/- and accordingly the applicant's pay scale has been rightly fixed and there has been no discrimination."

Mr.Mishra averred that no pay scale of Rs.1200-2040/- being fixed for any cadre of Laboratory Assistant (Malaria) working in the Dandakaranya Development Authority, the applicant's claim is misconceived. When Mr.Mohapatra asked him to place the particular recommendation of the 4th Pay Commission recommending the pay scale of Rs.950-1500/- for Laboratory Assistants (Malaria), Mr.Mishra said that there is no specific recommendation to this effect but the statement in the counter, quoted above is based on the recommendations of the 4th Central Pay Commission



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contained in paragraphs 8.19, 8.23 and 8.24. The recommendation in paragraph 8.19 is of general nature applicable to Group C and Group B posts and those in paragraph 8.23 is applicable to posts like L.D.C., typist, cabinman Grade I and pointsman Grade 'A' in the railways etc. and the recommendation made in paragraph 8.24 relates to the running staff of the Railways like firemen, assistant drivers etc. As such these recommendations cannot be appropriately made to apply to the case of the applicant who is a Laboratory Assistant (Malaria) and as such performs duties connected with health. The recommendation relating to the staff of the Ministry of Health or any subordinate organisation under the Ministry whose work is similar in nature to the work being done by the applicant would more appropriately apply to the applicant. The recommendation in regard to the paramedical staff as contained in the First Schedule, Part B, IX of the Central Civil Services (Revised Pay) Rules, 1986 would be more appropriate. As the applicant was getting his pay in the scale of Rs.260-400/- prior to the recommendation of the 4th Pay Commission, he should get the corresponding scale recommended by the 4th Pay Commission for this category of Central Government employees. The Auxiliary Nurse and Midwife (ANM) were getting two scales of pay viz. (i) Rs.260-350/- and (ii) Rs.260-400. For both these categories the Revised Pay Rules, 1986 has given only one scale i.e. Rs.975-1540/-. It is further mentioned that there will also be a promotional grade in scale of Rs.1200-2040. In my opinion, the scale of Rs.975-1540/- will be more appropriate to be given to the Laboratory Assistants

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(Malaria) who were working under the Dandakaranya Development Authority. This pay scale should, therefore, be given to the applicant and the differential amount should be given to the applicant with effect from 1.1.1986 till he was relieved from the Dandakaranya Development Authority. Arrear dues should accordingly be calculated and paid to the applicant within two months from the date of receipt of a copy of this judgment.

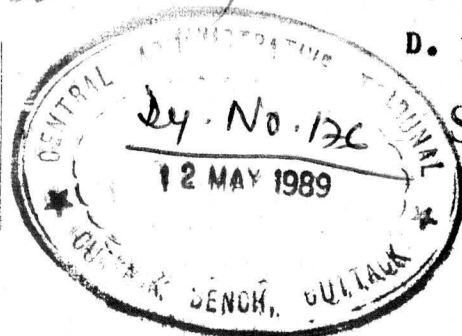
5. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.



[Signature]
..... 29.11.88
Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack
November 29, 1988/S. Sarangi.

All communications should be addressed to the Registrar, Supreme Court, by designation, NOT by name.
Telegraphic address :—
"SUPREMECO"



SUPREME COURT
INDIA

FROM **D. Banerjee,**
Assistant Registrar (Judicial)

To **The Registrar,**
Central Administrative Tribunal,
Cuttack Bench, Cuttack.

Dated New Delhi, the 6th May, 1989.

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 3886 of 1989.

WITH

CIVIL MISCELLANEOUS PETITION NO. 9787 of 1989.
(Application for Stay)

Union of India and Ors.

... Petitioners

-versus-

Makhan Chandra Roy

... Respondent

Sir,

I am directed to forward herewith for your information and necessary action a certified copy of the Order dated the 2nd May, 1989, of this Court, passed in the matter above mentioned.

Please acknowledge receipt.

Yours faithfully,

D. Banerjee

ASSISTANT REGISTRAR (JUDL.)

Encl:—as above.

S.O (T)
Pl. bring it to
the notice of
Hon'ble Member
Hon'ble V.C

For 13
12.5.89

Pl. put up on relevant file
and
Supply a copy of the letter with
enclosure to Shri Mohan Patra.
Shri S. K. Roy

copy served to
H.M. Mahapatra
20/5/89

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 3886 of 1989.
(Petition under Article 136 of the Constitution of India for Special Leave to appeal from the judgment and order dated the 29th November, 1988, of the Central Administrative Tribunal, Cuttack Bench at Cuttack in Original Application No. 287 of 1987).

AND WITH

CIVIL MISCELLANEOUS PETITION NO. 9787 of 1989.

(Application for Stay by Notice of Motion with a prayer for an ex-parte Order).

1. Union of India, represented by Secretary to Govt. of India, Ministry of Personnel and Training, Administration Reforma Public Grievances, & Pensions, at Nivachan Sadan 6th Floor, Room No. 618, New Delhi-110001.
2. Chief Administrator, Dandakaranya Development Authority (Govt. of India) Dandakaranya Project, at P.O. Dist. Koraput through Secretary, Ministry of Home Affairs, Deptt. of Internal Security (Rehabilitation Division) Jaisalmer House, New Delhi, -110011.
3. Chief Medical Officer, Dandakaranya Project, at P.O. Malkangiri, Distt. Koraput.
4. Medical Officer, P.H.C., Malkangiri, Village No. 19, Distt. Koraput.

Certified to be true copy

D. Singh
Assistant Registrar (Judl)
... 6-5-1989 ... 198
Supreme Court of India

... Petitioners

-versus-

Makhan Chandra Roy, L.D.C.
Central Excise Collectorate,
Bolpur (W.B.) Distt. Birbhum.

... Respondent

DATED THE 2ND MAY, 1989.

CORAM:

HON'BLE MR. JUSTICE K.N. SINGH
HON'BLE MR. JUSTICE A.M. AHMADI

For the Petitioners: Dr. M.B. Rao, M/s. C. Ramasesh, and
C.V.S. Rao, Advocates.

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...2/-

THE PETITION FOR SPECIAL LEAVE TO APPEAL
alongwith THE APPLICATION FOR STAY above-mentioned
being called on for hearing before this Court
on the 2nd day of May, 1989, UPON hearing counsel
for the Petitioners herein, THIS COURT while
directing issue of Notice to the Respondents
herein to show cause as to why special leave be
not granted to the Petitioners herein to appeal
to this Court against the judgment and order of
the Administrative Tribunal above-mentioned,
DOETH ORDER that pending the hearing and final
disposal by this Court of the aforesaid Application
for Stay after notice, the operation of the
judgment dated the 29th November, 1988 of the
Central Administrative Tribunal, Cuttack Bench
at Cuttack passed in Original Application No.
287 of 1987 be and is hereby stayed;

AND THIS COURT DOETH FURTHER ORDER that
this ORDER be punctually observed and carried into
execution by all concerned.

WITNESS the Hon'ble Shri Raghunandan Swarup
Pathak, Chief Justice of India, at the Supreme Court,
New Delhi, dated this the 2nd day of May, 1989.

5/1
(I.J.SACHDEVA)
DEPUTY REGISTRAR (JUDICIAL)

Spsharma*

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SUPREME COURT

CIVIL APPELLATE JURISDICTION

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 3886 of 1989.

WITH

No. of 196

CIVIL MISC. PETITION NO. 9787 of 1989.
(Application for Stay)

Appellant
Applicant

Union of India and Ors.

Versus...Petitioners

-versus-

Respondent

Makhan Chandra Roy

...Respondent

CENTRAL ADMINISTRATIVE TRIBUNAL, CUTTACK
BENCH, CUTTACK.

ORDER DIRECTING ISSUE OF SHOW CAUSE NOTICE
AND GRANTING EX PARTE STAY OF OPERATION OF
THE JUDGMENT OF THE CENTRAL ADMINISTRATIVE
TRIBUNAL, CUTTACK IN ORIGINAL APPLICATION
NO. 287 of 1987.

Dated the 2nd day of May, 1989.

Dated the day of 196

Engrossed by **sps***

Examined by

Compared with

No of folios

SHRI

C.V. Subba Rao, Advocate on record
for the Petitioners.

Advocate for

SHRI

Advocate for

MGIPRRND-IV-3S.C./75-24-5-75-1,00,000

SEALD IN MY PRESENCE

21
D.No.304/89/XIA
Supreme Court of India
New Delhi
25th November, 1995

From: Assistant Registrar

Alm
11.12.95
sh B Bag.
To: The Registrar,
Central Administrative Tribunal,
CUTTACK

Central Admn. Tribunal
Cuttack Bench
By. No 137/3rd.
Date 11.12.95
File No

CIVIL APPEAL NO.10608 of 1995

(Appeal by Special Leave granted by this Court's order dated 17th November, 1995, in petition for Special Leave to Repeal (Civil) No.3886 of 1989 from the Judgment and order dated the 29.11.1988 and ~~23.8.88~~ of the Central Administrative Tribunal, Cuttack, in OA Nos 287/87 .

Union of India & Ors.

.....Petitioners

Versus

Makhan Chandra Roy

....Respondent

Sir,

In continuation of this Registry's letter of even unnumber dated 6th May, 1989, I am directed to forward herewith a certified copy of the order as contained in the Record of Proceedings dated 17th November, 1995 for your information and necessary action. Formal order will follow.

Please acknowledge receipt.

Yours faithfully,

for ^{KM} 27/11
ASSISTANT REGISTRAR

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

Petition (s) for Special Leave to Appeal (Civil / Cr.) No. (s) 3886/89 and 19927/95

(From the Judgement and order dated 29.11.88, 23.8.89
CAT, Cuttack, in OA No.287/87 and 338/87

(of the High Court of)

U O I & ORS.

Petitioner (s)

Versus

37847

MAKHAN CHANDRA ROY/K. NARASIMHULU

Respondent(s)

(WITH APPLN. FOR STAY AND C/D IN FILING SLP)

Date: 17.11.95

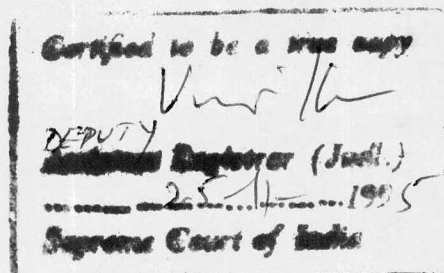
This / These Petition (s) was/were called on for hearing today.

CORAM : Hon. the Chief Justice

Hon'ble Mr. Justice S.C. Sen

~~Hon'ble Mr. Justice S.C. Sen~~

Hon'ble Mr. Justice



For the petitioner (s) : Mr.HL Aggarwal, Sr.Adv.

in SLP.3886/89

in SLP.19927/95 : Mr.NN Goswami, Sr.Adv. with
M/s AK Sharma, Hemant Sharma, CVS Rao, Adv.s.

For the Respondent(s)

UPON hearing counsel the Court made the following
ORDER

Delay condoned in SLP(C) No.19927/95.

Special leave granted in both petitions.

Printing dispensed with.

Pending appeal, stay to continue in SLP(C)No.3886/89.

(Sunil Kumar)
Court Master

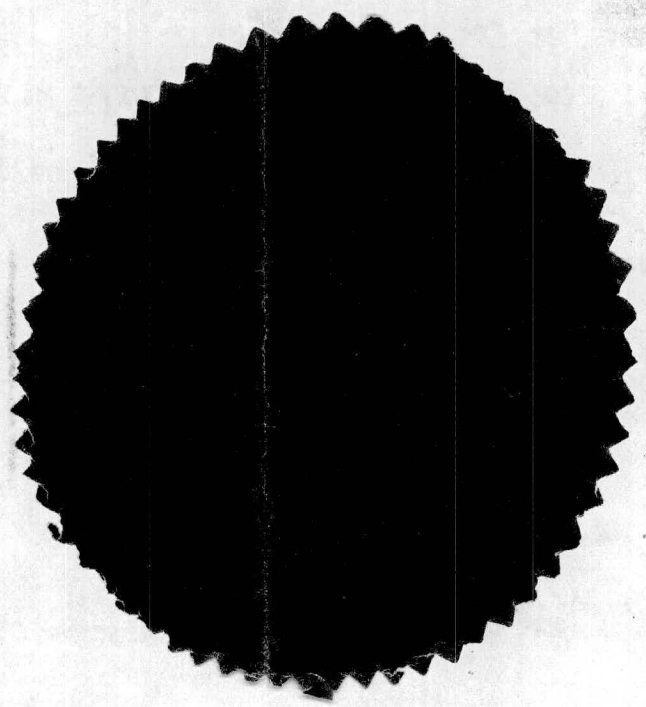
Prem Lata Sharma
(Prem Lata Sharma)
Court Master

20-11-95

23

8588

Sealed in my presence
Notary Public
State of New York
County of Westchester



SEALED IN MY PRESENCE

OK
2/27/11/11

All communications should be addressed to the Registrar, Supreme Court, by designation. NOT by name
Telegraphic address: "SUPREMECO"

SUPREME COURT
INDIA

Dated New Delhi, the 22nd April, 1996 19

FROM

K.D. Sharma,
Assistant Registrar

TO

The Registrar,
Central Administrative Tribunal
Cuttack Bench, at Cuttack.

CIVIL MISCELLANEOUS PETITION NO. 9787 OF 1989
(Application for stay after notice)

IN THE MATTER OF:-

CIVIL APPEAL NO. 10608 OF 1995

Union of India & Ors.

.... Petitioners/
Appellants

Versus

Makhan Chandra Roy

.... Respondents

Sir,

In continuation of this Registry's letter of even number dated the 6th May 1989, I am directed to forward herewith for your information and necessary action a certified copy of the order dated 17th November, 1995, of this Court, passed in the matter above-mentioned.

Please acknowledge receipt.

Yours faithfully,

ASSISTANT REGISTRAR

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Sup. C. 52
Certified to be a true copy

IN THE SUPREME COURT OF INDIA

CRIMINAL/CIVIL APPELLATE JURISDICTION
XXXXXXX

CIVIL MISCELLANEOUS PETITION NO. 9787 OF 1989
(Application for stay)

K.D. Sharma
25/4/96
Assistant Registrar (Judl.)
..... 199
Supreme Court of India

IN THE MATTER OF:-

of

199

CIVIL APPEAL NO. 10608 OF 1995

(Appeal by Special Leave granted by this Court's order dated 17.4.1995 in petition for special leave to appeal (Civil) No. 3886 of 1989 from the judgment and order dated 29th November, 1988 of the Central Administrative Tribunal, Cuttack Bench, Cuttack, in O.A.No. 287 of 1987)

1. Union of India, represented by Secretary to Govt. of India, Ministry of Personnel and Training, Administration Reforma Public Grievances & Pensions, at Nivachan Sadan 6th Floor, Room No. 618, New Delhi-110001.
2. Chief Administrator, Dandakaranya Development Authority (Govt. of India) Dandakaranaya Project, at P.O. Dist. Koraput through Secretary, Ministry of Home affairs, Deptt. of Internal Security (Rehabilitation Division) Jaisalmer House, New Delhi-110011.
3. Chief Medical Officer, Dandakaranya Project at P.O. Malkangiri, Distt. Koraput.
4. Medical Officer, P.H.C. Malkangiri, Village No. 19, Distt. Koraput.

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.... Petitioners/
Appellants

- V e r s u n s -

Makhan Chandra Roy, L.D.C.
Central Excise Collectorate,
Bollapur (W.E.) Distt. Birbhum.

.... Respondent

17th November, 1995

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE S.C.SEN

For the Petitioners/Appellants : Mr. H.L.Aggarwal,
Senior Advocate
(M/s. A.K.Sharma, Hemant Sharma
and C.V.S.Rao, Advocates
with him)

THE APPLICATION FOR STAY above-mentioned being called on for hearing before this Court on the 17th day of November, 1995 UPON perusing the papers and hearing counsel for the petitioners/appellants herein above-mentioned, THIS COURT DOTH ORDER

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that pending the hearing and final disposal by this Court of
the aforesaid ^{appeal} ~~Application for Stay after notice~~, the interim
order dated the 2nd May 1989 of this Court made in Civil Misce-
llaneous Petition No. 9787 of 1989 above-mentioned be and is
hereby continued;

AND THIS COURT DOETH FURTHER ORDER that this ORDER be
punctually observed and carried into execution by all concerned.

WITNESS the Hon'ble Shri Aziz Mushabber Ahmadi, Chief
Justice of India, at the Supreme Court, New Delhi, dated this
the 17th day of November, 1995.

Sd/-
(A.P.JAIN)
JOINT REGISTRAR (JUDL.)

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SUPREME COURT

CRIMINAL/CIVIL APPELLATE JURISDICTION

CIVIL MISCELLANEOUS PETITION NO. 9787 OF 1989
(Application for ex-parte stay)

No.

of 199

IN THE MATTER OF:-

CIVIL APPEAL NO. 10508 OF 1995.

Union of India & Ors.

Appellant

Petitioner/ Appellants

Versus

Makhen Chandra Roy

Respondent

ORDER DIRECTING STAY TO
CONTINUE.

17th day of November, 199 5

Engrossed by

SHRI

C.V. Subba Rao,

Examined by

Advocate on Record for

the Petitioners/Appellants

Compared with

SHRI

No. of folios

Advocate on Record for

MAILED IN MY PRESENCE

26/11/96

28
IN THE SUPREME COURT OF INDIA

SEC.XI-A

D.No. 304/89/SC/XI A

Dated: 1-5-1997

From:

The Registrar,
Supreme Court of India,
New Delhi.

To:

The Registrar,
Central Administrative Tribunal,
Cuttack Bench at Cuttack.

CIVIL APPEAL NOS. 10608-10609 OF 1995.

(High Court Reference No. 287 of 1987 and 338 of 1987 respectively)

Union of India & Ors.

... Appellant(s)

VERSUS

Makhan Chandra Roy etc

... Respondent(s)

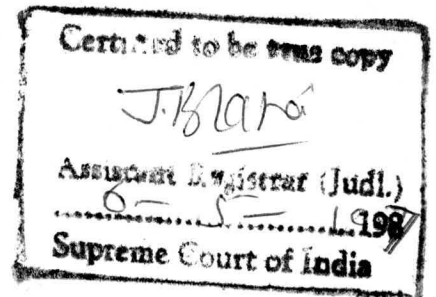
Sir,

I am directed to transmit herewith, under Rule 6, Order XIII, S.C.R. 1966 (as amended) a certified copy of the ~~Order~~/Judgment of this Court dated the 23-4-1997 in the appeal above-mentioned. A certified copy of the decree and the Original Records, if any, in the matter will be sent in due course.

Yours faithfully,

ASSISTANT REGISTRAR

27
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 10608/95



Union of India and others ... Appellants

Versus

Makhan Chandra Roy ... Respondent

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. WITH

Civil Appeal No. 10609/95

J U D G M E N T

Majmudar, J.

These two civil appeals on special leave have been moved by the Union of India and its officers challenging the orders passed by the Central Administrative Tribunal, Cuttack Bench at Cuttack by which each of the respondents in these appeals was given a higher pay-scale. We shall first deal with Civil Appeal No. 10608 of 1995.

The respondent herein was working as a Laboratory Assistant under Dandakaranya Development Authority. He was granted pay-scale of Rs. 260-400. After the recommendations of the Fourth Pay Commission, the Central Government promulgated

Central Civil Service Revised Pay Rules, 1986. As per these Pay Rules, respondent's pay scale got a hike. This revised pay-scale with effect from 1.1.1986 worked up to 950-1500. According to the respondent he was entitled to a still higher pay-scale and as that was not granted to him, he moved the Tribunal by Original Application. The Tribunal after hearing the contesting parties took the view that the respondent was not entitled to any higher pay-scale only on the ground of equal pay for equal work. That a higher pay-scale given to Laboratory Assistant both in the Ministry of Defence and Railways could not automatically be given to the respondent as he was a mere matriculate having only 5 weeks' training in the Central Laboratory of Indor.. While those Laboratory Assistants in the aforesaid Ministries of Defence and Railways were having better educational qualifications. On the aforesaid finding reached by the Tribunal on facts, the O.A. should have been dismissed. Instead, the Tribunal perhaps thinking that because the petitioner had moved the Tribunal, he should not go empty handed and must be given some relief from somewhere, took the view that because the Auxiliary Nurses and Midwife who were also earlier getting two scales of pay of Rs.260-350/- and Rs. 260-400/- were given a revised pay-scale of Rs. 975-1540/- under the same Pay Rules, the respondent should also be granted the said pay scale of Rs. 975-1540/- instead of Rs.950-1500/-. In our view the

aforesaid reasoning adopted by the Tribunal is totally misconceived and cannot be sustained. When we turn to the Central Civil Services Revised Pay Rules, 1986, we find in the First Schedule to the said Rules framed in the light of Rules 3 and 4, item 6 of Part 'A' dealing with all posts carrying present pay-scales and pay-scales of Rs.260-400/- which were revised to Rs. 950-1500/-. The respondent admittedly got the benefit of those revised pay-scales. But the Tribunal thought it fit to award to the respondent still higher pay-scale which was made available under the Rules to the Auxiliary Nurses and Miswife. Their pay-scale is mentioned in Part B of the Schedule at item No.4 in paragraph IX dealing with Paramedical Staff. The Auxiliary Nurses and Miswife who were getting the pay-scale of Rs.260-350/- and Rs. 260-400/- were given a uniform higher pay-scale of Rs.975-1540/-. The Tribunal compared the earlier pay-scales of Auxiliary Nurses and Miswife with the earlier pay-scales of the respondent and thought it fit to grant the same hike in the pay-scale which was made available under the Revised Pay Rules to Auxiliary Nurses and Miswife to respondent also. In our view that exercise was totally unauthorised as it amounted to taking a policy decision which was within the domain of the authorities themselves who are the authors of the Revised Pay-scales. The Tribunal having come to the conclusion that on merits the respondent had no case on the ground of equal pay for equal

work, the O.A. ought to have been dismissed. Our attention was also drawn by the learned Senior Counsel for the appellant to a decision of this Court reported in (1989) 1 SCC 121 (State of U.P. and others vs. J.P. Chaurasia & others). In that judgment the following observations are made :-

"The first question regarding entitlement to the pay scale admissible to Section Officers should not detain us longer. The answer to the question depends upon several factors. It does not just depend upon either the nature of work or volume of work done by Bench Secretaries. Primarily it requires among others, evaluation of duties and responsibilities of the respective posts. More often functions of two posts may appear to be the same or similar, but there may be difference in degrees in the performance. The quantity of work may be the same, but quality may be different that cannot be determined by relying upon averments in affidavits of interested parties. The equation of posts or equation of pay must be left to the Executive Government. It must be determined by expert bodies like Pay Commission. They would be the best judge to evaluate the nature of duties and responsibilities of posts. If there is any such determination by a Commission or Committee, the court should normally accept it. The Court should not try to tinker with such equivalence unless it is shown that it was made with extraneous consideration."

Consequently, it must be held that the Tribunal had committed patent error of law in passing the impugned order. In the result, this appeal is allowed. The judgment and order of the Tribunal are quashed and set aside and the Original

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Application filed by the respondent is dismissed. However, in the facts and circumstances of the case there will be no order as to costs.

That takes us to the Civil Appeal No.10609/95.

In this case the respondent was a Malaria Technician working with the Dandakarnaya Development Authority. His earlier pay-scale was Rs.380-560/-. As per the Revised Pay Rules, 1986 his pay scale was raised to Rs. 1320-2040/- with effect from 1.1.1986. The respondent felt aggrieved by the said hike as in his view he first deserved to be placed in selection grade by the authorities and then the increased pay scale for selection grade employees should have been made available to him. With that grievance he approached the same Tribunal. The Tribunal rejected his contention that he was entitled to be placed in selection grade as there was no vacancy in that grade. Once that conclusion is reached, the respondent's O.A. should have been dismissed. Instead, following the same logic which appealed to the Tribunal in the earlier case, the Tribunal thought that some relief atleast should be given to the respondent who should not be turned out empty handed. With the result, the Tribunal undertook a very

curious unauthorised exercise. The Tribunal considered the fact that Pharmacists, Radiographers and X-Ray Technicians who were earlier getting the pay scale of Rs.330-560/- were granted a higher pay scale of Rs. 1350-2200/-. The same pay scale should be made available to the respondent also who was earlier getting the pay scale of Rs. 380-560/-. It is difficult to appreciate this line of reasoning which appealed to the Tribunal. When we turn to the Revised Pay Rules, we find in Schedule I, Part B, item No. 12 which deals with all posts carrying present pay scales wherein the pay scale of Rs. 380-560 which was earlier available to the respondent is mentioned and the revised pay scale as per Revised Pay Rules is stated to be Rs.1320-2040. This pay scale is admittedly made available to the respondent. But the Tribunal found out another pay scale mentioned in part B of the Schedule to the Rules wherein in paragraph IX dealing with Paramedical staff, radiographers, X-ray Technicians and Pharmacists are referred to. Their earlier pay scale was Rs.330-560/- which was increased to Rs. 1350-2200/-. According to the Tribunal this pay scale should have been given to the respondent. It is difficult to appreciate how the respondent who was a Malaria Technician should be straightaway given pay scale of Radiographers or Pharmacists who are admittedly working in a different department and were doing entirely different type of work. What enhanced pay scale should given to a particular

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employee is within the domain of the authorities themselves who appoint them and the Tribunal should not have ventured in this forbidden field.

Consequently, the decision of the Tribunal in this case also cannot be sustained. In the result this appeal is also allowed. The judgment and order of the Tribunal are set aside and the O.P. filed by the respondent is dismissed. In the circumstances of the case, there will be no order as to costs.

Sb
.....J
(S.B. Majmudar)

New Delhi,
April 23, 1997.

Sd/-
.....J
(M. Jagannadha Rao)

3/6



SEALED IN MY PRESENCE

✓
6/17/17

All communications should be
addressed to the Registrar.
Supreme Court. by designation.
NOT by name
Telegraphic address —
"SUPREMECO"

D. No. 304/89/Sec. XI-A

**SUPREME COURT
INDIA**

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Dated New Delhi, the.....September.....19 97

From:

The Registrar (Judicial)
Supreme Court of India,
New Delhi.

To,

The Registrar,
Central Administrative Tribunal
Cuttack Bench, Cuttack

CIVIL APPEAL NOS. 10608 and 10609 of 1995

Shri P. Mukherjee
J. Am.
23/10
Union of India & Ors.

... Appellants

Versus

Mathan Chandra Roy etc.


... Respondents

Sir,

In continuation of this Registry's letter of even
number dated the 1st May, 1997, I am directed to forward
herewith for information and necessary action a certified
copy of the Decree of this Court dated the 23rd April,
1997 made in the matter above-mentioned.

Please acknowledge receipt.

Yours faithfully,


for Registrar (Judicial)

IN THE SUPREME COURT OF INDIA

CRIMINAL/CIVIL APPELLATE JURISDICTION

XXXXXX

No.
XX

210121

Certified to be true copy

Assistant Registrar (1991)

Supreme Court of India

CIVIL APPEAL NO. 10608 OF 1995

(Appeal by special leave from the Judgment and Order dated the 29th November, 1988 of the Central Administrative Tribunal, Cuttack Bench, Cuttack in Original Application No. 287 of 1987)

1. Union of India, represented by Secretary to Government of India, Ministry of Personnel and Training, Administration Reforms Public Grievances, & Pensions, at Nivachal Sadan, 6th Floor, Room No. 618, New Delhi-110001.
2. Chief Administrator, Dandakaranya Development Authority (Govt. of India) Dandakaranya Project, at P.O. Dist. Koraput through Secretary, Ministry of Home Affairs, Deptt. of Internal Security (Rehabilitation Division) Jaisalmer House, New Delhi-110011.
3. Chief Medical Officer, Dandakaranya Project at P.O. Malkangiri, Distt. Koraput.
4. Medical Officer, P.H.C. Malkangiri, Village No. 19, Districtt. Koraput

... Appellants

Versus

Mathan Chandra Roy, L.D.C.
Central Excise Collectorate,
Bollpur (W.B) Distt. Birbhum.

... Respondent

23rd April, 1997.

CORAM:

HON'BLE MR. JUSTICE S.B. MAJUMDAR
HON'BLE MR. JUSTICE M. JAGANNADHA RAO

For the Appellants : Mr. T.L. Viswanatha Iyer, Senior Advocate
(M/s. CVS Rao and Hemant Sharma,
Mrs. Anil Katiyar and Mrs. Shashi Kiran,
Advocates with him)

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The Appeal above-mentioned alongwith connected matter being called on for hearing before this Court on the 23rd day of April, 1997. UPON perusing the record and hearing counsel for the Appellants herein, respondent not appearing though served THIS COURT DOETH in allowing the appeal ORDER :

1. THAT the Judgment and Order dated 29th November, 1988 of the Central Administrative Tribunal, Cuttack Bench, Cuttack in Original Application No. 287 of 1987 be and is hereby set aside and in place thereof an order dismissing the ssid Original Application No. 287 of 1987 filed by the respondent herein before the aforesaid Tribunal be and is hereby substituted;
2. THAT there shall be no order as to costs of this appeal in this Court;

AND THIS COURT DOETH FURTHER ORDER that this ORDER be punctually observed and carried into execution by all concerned;

WITNESS the Hon 'ble Shri Jagdish Sharan Verma, Chief Justice of India, at the Supreme Court, New Delhi, dated this the 23rd day of April 1997.

Sachdeva
(I.J. SACHDEVA)
JOINT REGISTRAR

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SUPREME COURT

~~CRIMINAL~~ CIVIL APPELLATE JURISDICTION

~~No~~

~~XXXX~~

CIVIL APPEAL NO. 10608 OF 1995

Union of India & Ors.

Appellant
Petitioner

Versus

Mathan Chandra Roy

Respondent

CENTRAL ADMINISTRATIVE TRIBUNAL CUTTACK BENCH AT
CUTTACK.

(Original Application No. 287 of 1987)

DECREE ALLOWING THE APPEAL WITH NO ORDER AS TO COSTS.

Dated the 23rd day of April 1997



C.V. Subba Rao,

Advocate on Record for the Appellants

Compared with

SHRI

No. of folios

Advocate on Record for

SEALED IN MY PRESENCE.

SB

3/17/97