

UNION OF INDIA

v.

K.R. THAMPI

NOVEMBER 4,1996

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

*Service Law :*

*Payscale—Appointment to temporary post of Veterinary Doctor—On closure of the Project allotted to SC/ST Commission as Assistant Director—But not assigned any work—Later reallotted to the Geological department as Administrative Officer—Whether entitled to scale of pay higher than the one attached to the post on par with his earlier posting as Assistant Director—Held, no.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 14778 of 1996.

From the Judgment and Order dated 4.1.96 of the Central Administrative Tribunal, Ernakulam in Kerala in O.A. No. 462 of 1995.

Ms. A. Jain, Ms. Indra Sawhney and A.K. Sharma for the Appellant.

Mahender Singh, P.R. Malhotra, C.N. Sree Kumar and K.M. Balgopal, for the Respondent.

The following Order of the Court was delivered :

Leave granted.

This appeal by special leave arises from the judgment and order of the Central Administrative Tribunal, Ernakulam, made on 4.1.1996 in OA. No.462 of 1995.

The admitted position is that the respondent was appointed as a veterinary doctor on a temporary post in the pay-scale of Rs. 650-1200 which was subsequently revised to Rs.2000-3500. After closure of the Dandakaranya Project, instead of dismissing him from service as an

- A Administrative Officer, they adjusted the respondent as per the Deployment of Surplus Staff Rules. Initially, the respondent was allotted to the Scheduled Caste and Scheduled Tribe Commission on their willingness to receive him, but later on, he was not assigned any duty. On receipt of letter from the Commission, the respondent was allotted to the Geological Department as an Administrative Officer by offer dated 26.2.1987. The scale of pay
- B therein also was the same as was of the Administrative officer in the Dandakaranya Project, viz., Rs. 2000-3500. He claimed the scale of Rs. 700-1300 which was subsequently revised to Rs. 2200-4000. The Tribunal has directed grant of the aforesaid relief. It is obvious that the scale of pay of Rs. 2200-4000 is higher scale of Assistant Director than the Administrative Officer to which post the respondent was appointed. On
- C deployment to Geological Department, he cannot be fitted into a higher cadre than in which he was actually drawing the scale of pay. His services were transferred to Geological Department, Dandakaranya Project.

- D Learned counsel for the respondent contends that since he was given posting as Assistant Director in the Scheduled Castes and Scheduled Tribes Commission and he had agreed to report to join the duty, the mere fact that he was not assigned any work, does not take away his right to the salary attached to that post. We find no force in this contention. Due to the letter addressed by the Commission, the Government reallocated him to the Geological Department as Administrative Officer carrying the same scale
- E of pay drawn by him in Dandakaranya Project. Under these circumstances, the view taken by the Tribunal is clearly illegal.

- F The appeal is accordingly allowed. He is entitled to the pay-scale of Rs. 2000-3500 in Geological Department as Administrative Officer. There will be no order as to costs.

It would be open to the respondent to make a representation to the Government on his claim for non-practicing allowance; and it is for the Government to consider and dispose it of according to the Rules.

G G.N.

Appeal allowed.