

(2007) 07 KAR CK 0015

In the Karnataka High Court

Case No : Review Petition No. 368 of 2006 in Writ Petition No. 7239 of 2006

G.B. Suryaprakash, Asst. Controller(retd.)

APPELLANT

Vs

The State of Karnataka and The Controller, State Accounts
Department

RESPONDENT

Date of Decision : 27-07-2007

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 19

Citation : (2007) ILR (Kar) 3540 : (2008) 2 KarLJ 591

Hon'ble Judges : V. Gopala Gowda, J;C.R. Kumaraswamy, J

Bench : Division Bench

Advocate : Party in Person, for the Appellant; L. Umakanath, AGA, for the Respondent

Final Decision : Allowed

Judgement

Gopala Gowda, J.—Heard the petitioner-in-person.

2. One of the conditions prescribed in Clause 4 of the Government Order dated 7-11-1984 for stepping-up the pay of the senior to the pay of junior is:

(ii) On the date of promotion or on the date on which he was allowed the selection time-scale of pay, the senior Government servant should have been drawing pay equal to or higher than that of the junior Government servant.

The same is contrary to the Constitutional mandate enshrined under Articles 14, 16, 19 and 39 of the Constitution. The decision reported in 1994 K.S.L.J 156 (Gopalappa v. State) was not brought to our notice at the time of disposing of the writ petition. In that decision, the decision of the Supreme Court reported in State of Andhra Pradesh and Others Vs. G. Sreenivasa Rao and Others, is followed, in which at paragraph 15 it is held as under:

15...When a single running pay scale is provided in a cadre the constitutional mandate of equal pay for equal work is satisfied. Ordinarily grant of higher pay

to a junior would ex-facie be arbitrary....

3. The Government has introduced stepping-up system with a view to bring the pay of a senior official on par with Ms junior when junior get higher pay on promotion. This object is Whittled down by incorporating condition (ii) in Clause 4 of the Government Order. It is an unconstitutional condition. Hence, the order passed by us in the writ petition warrants review.

4. Accordingly, the review petition is allowed. The order dated 29-6-2006 passed in W.P. No. 7239/2006 is modified. The writ petition is allowed and the order of K.A.T in O.A. No. 285/2001 is quashed. Respondents are directed to consider the claim of the petitioner keeping in view the observations made above and dispose of the same within three months from the date of receipt of a copy of this order.