

**(2007) 06 KAR CK 0004**  
**In the Karnataka High Court**  
**Case No : Writ Petition No. 17045 of 2006**

L. Siddaiah

APPELLANT

Vs

The State of Karnataka

RESPONDENT

**Date of Decision :** 07-06-2007

**Acts Referred:**

Karnataka Civil Services Rules, 1974 — Rule 50 (3)

**Citation :** (2008) 3 KCCR 1877

**Hon'ble Judges :** Cyriac Joseph, C.J;B.S. Patil, J

**Bench :** Division Bench

**Advocate :** Party in Person, for the Appellant;

**Final Decision :** Dismissed

## Judgement

Cyriac Joseph, C.J.—The Challenge in the writ petition is against the order dated 17.7.2006 passed by the Karnataka Administrative Tribunal in Application No. 6813/2003. The Petitioner is the applicant in the said application, which was dismissed by the Tribunal.

2. The Petitioner worked in the post of Assistant Draftsman and Ex-Officio Under Secretary to Government in the Department of Parliamentary Affairs and Legislation during the period from 14.10.1996 to 4.8.2005. He submitted Annexure-A5 representation dated 20.11.2001 to the Government requesting for sanction of special pay of Rs. 150/- per month with effect from 14.10.1996. The claim was based on the fact that the Civil Judges working on deputation in the post of Assistant Draftsmen and Ex-officio Under Secretaries to Government, Department of Law and Parliamentary Affairs were paid such special pay of Rs. 150/- per month. The Petitioner's representation was rejected by the Government as per Annexure-A7 endorsement dated 23.10.2002. In Annexure-A7, the Government pointed out that the special pay of Rs. 150/- per month was being paid to the Judicial Officers who came on deputation against the post of Assistant Draftsman and Ex-officio Under Secretary to Government, Department of Law and Parliamentary Affairs in accordance with Karnataka Government

Secretariat Services (Recruitment) Rules, 1957 and that the said benefit was being paid only to attract and encourage the experienced Judicial Officers from the Judiciary and that the special pay will be personal to the Officers coming on deputation. It was also pointed out that the benefit of special pay was not applicable to the post of Assistant Draftsman and Ex-officio Deputy Secretary / Under Secretary to Government and therefore the benefit cannot be extended to the Officers who were promoted to the post from the Secretariat Service. Aggrieved by the rejection of his demand for special pay the Petitioner filed O.A. No. 6813/2003 in the Karnataka Administrative Tribunal. The claim of the applicant/Petitioner was resisted by the Government by filing reply statement before the Tribunal. After considering the rival contentions, the Tribunal dismissed the O.A. No. 6813/2003 on 17.7.2006. Thereupon the applicant has filed this writ petition.

3. According to the Karnataka Government Secretariat Service (Recruitment) Rules, 1957, the method of recruitment to the post of Assistant Draftsman and Ex-officio Under Secretary to Government, Department of Law and Parliamentary Affairs is by deputation of an Officer of the Karnataka Judicial Service in the cadre of Civil Judges or Munsiffs or by promotion from the cadre of Section Officer (Drafting), provided that not more than two posts shall be filled by promotion. The minimum qualification in the case of deputation is that the Officer must have practised in Courts of Civil and Criminal jurisdiction for a period of not less than four years and must have worked for not less than four years as a Munsiff. The minimum qualification in the case of promotion is that the Officer must have worked for not less than five years as Section Officers (Drafting) provided that if Officers who have put in minimum service of five years are not available, Officers who have put in a minimum service of three years shall be considered. As per Note-1 in the Rule, an Officer of the Karnataka Judicial Service in the cadre of Civil Judges or Munsiffs shall be initially taken on deputation for a period of two years, notwithstanding anything contained in Sub-rule (3) of Rule 50 of Karnataka Civil Service Rules, on his own pay and a special Pay of Rs. 150/- per month. If at the end of the said period he is found suitable and if no person is eligible for promotion, he shall be absorbed as Assistant Draftsman and Ex-officio Deputy/Under Secretary as the case may be. On such absorption, if he was a Civil Judge before he was taken on deputation his pay shall be fixed at the appropriate stage in the Senior scale and if he was a Munsiff before he was taken on deputation, his pay shall be fixed at the appropriate stage in the Junior scale and he shall be given the senior scale from the sixth year of the date of his appointment on deputation. Thus, it can be seen that the Civil Judges working on deputation as Assistant Draftsman and Ex-officio Under Secretary to Government, Department of Law and Parliamentary Affairs are paid special pay of Rs. 150/- per month on the basis of the Recruitment Rules. No such special pay is provided under the Rules for Section Officers (Drafting) who are in the Government Secretariat Service who are promoted to the post of Assistant Draftsman and Ex-officio Under Secretary to Government, Department

of Law and Parliamentary Affairs. Therefore, the Petitioner could not have claimed the special pay on the basis of any Rules or Government Orders. In that view of the matter, the Government was right and justified in rejecting his claim for special pay.

4. However, the contention of the Petitioner is that since the Section Officers who are promoted to the cadre of Assistant Draftsman and Ex-officio Under Secretary and the Civil Judges who are working on deputation are discharging the same duties and in the absence of any difference in the nature of duties, they are entitled to be treated similarly and they are entitled to be paid the same pay. According to the Petitioner the payment of Special pay to the Civil Judges and the denial of special pay to the promotee Officers is discriminatory. This contention regarding discrimination was rejected by the Tribunal. Even though promotee Officers and the Civil Judges on deputation are discharging similar functions and duties as Assistant Draftsman and Ex-officio Under Secretary it cannot be said that they are similarly situated. The promotee Officers are eligible for promotion to the post under the relevant Rules and on acceptance of such promotion they are liable to discharge the functions and duties of the post. The Civil Judges are not part of the Government Secretariat Service. They are members of the judiciary whose services are lent to the Government on request of the Government. Considering the need for qualified and experienced Judicial Officers as Assistant Draftsman and Ex-officio Under Secretary to Government in the Department of Law and Parliamentary Affairs, the Government framed the Rules providing for deputation of Civil Judges to the post. In order to attract the Civil Judges to work in the Department of Law and Parliamentary Affairs, Government considered it fit, proper and necessary to offer a special pay of Rs. 150/- per month to such Officers. There is also vast difference in the qualifications of the promotee Officers and the Officers on deputation. The Officers on deputation must have practised in Courts of Civil and Criminal Jurisdiction for a period of not less than four years and must have worked for not less than four years as a Munsiff. Such qualification and experience of the Officer on deputation are found to be necessary by the Government. It is also to be noted that the Civil Judges have to leave their parent service and to go over to the Department of Law and Parliamentary Affairs to hold the post of Assistant Draftsman and Ex-officio Under Secretary to Government. In such circumstances, the Government was justified in treating the Civil Judges on deputation differently from the Officers on promotion and in paying the Civil Judges on deputation a special pay.

5. The Petitioner appearing in person placed reliance on the decisions of the Supreme Court in the case of Union of India and Ors. v. G. Chakrapani and Ors. 1995 (5) SLR 507 and Telecommunication Research Centre Scientific Officers (Class-1) Association and Ors. v. The Union of India and Ors. 1987 (1) SLR 489. In our view the facts of those two cases are different from the facts of this case and therefore the said decisions of the Supreme Court are inapplicable to the facts of this case.

6. Therefore, we hold that the Tribunal was right and justified in dismissing O.A. No. 6813/2003. There is no merit in the writ petition and the writ petition is dismissed.