

CASE NO.:
Appeal (civil) 6423 of 1998

PETITIONER:
UNION OF INDIA & ORS.

Vs.

RESPONDENT:
SMT. SUJATHA VEDACHALAM & ANR.

DATE OF JUDGMENT: 07/04/2000

BENCH:
V.N. KHARE & DORAISWAMY RAJU

JUDGMENT:

V.N. KHARE, J.

L...I...T.....T.....T.....T.....T.....T.....T.....T..J
The respondent in C.A. No.6423/98 was working as a Senior Accountant in the pay scale of Rs.1400-2600 in the office of the Accountant General, Maharashtra at Nagpur and was drawing a pay of Rs.1260/- per month. Subsequently for personal reasons the respondent sought transfer to the office of the Accountant General, Karnataka at Bangalore. Her request for transfer was accepted on certain terms and conditions stipulated by the appellants and the same were accepted by the respondents. One of the conditions of the transfer was that the respondent has to technically resign from the post which she was holding and she was to join as direct recruit to a lower post of Clerk in the pay scale of 950-1500. On acceptance of terms and conditions the respondent was transferred as a Clerk to the office of Accountant General, Karnataka at Bangalore. After the transfer to a lower post her pay was erroneously fixed at Rs.1250/- per month. Subsequently when the mistake came into light her pay was fixed at a stage of Rs.1070/- by order dated 1.12.1995. The order for recovery of excess pay to the respondent was also passed. The respondent challenged the said order before the Central Administrative Tribunal and the tribunal allowed the Original Application filed by the respondent. The writ petition filed by the appellants was dismissed.

The respondent in C.A. No.6422/98 was working as Accountant in the office of the Accountant General, Andhra Pradesh at Hyderabad in the pay scale of Rs.1200-2040. Subsequently, the respondent sought transfer from the office of Accountant General, Andhra Pradesh to the office of the Accountant General, Karnataka at Bangalore. The said transfer was accepted with certain terms and conditions to the effect that in case of such a transfer she has to technically resign from the post of Accountant and accept the reverted post of Clerk and has to join as a direct recruit. After transfer to the post of Clerk in the office of the Accountant General, Karnataka at Bangalore the pay of respondent was fixed at Rs.1260/- per month. Subsequently it was found that the pay of respondent on reversion ought

to be fixed at Rs.1090/-. Consequently, orders for re-fixation of pay and recovery of excess amount were issued. The respondent challenged the said orders by means of Original Application before the Central Administrative Tribunal. The tribunal allowed the application of the respondent and the writ petition filed by the appellants was dismissed.

For the reasons stated in Civil Appeal No.13020/96 titled Comptroller & Auditor General of India & Ors. v. Farid Sattar, decided today and decision of this Court in Special Leave Petition No.9324/96 titled Chandan Saha v. Union of India & Ors., decided on 25.4.96 the impugned orders and judgments under appeal are set aside. Both these appeals are allowed. There shall be no order as to costs. However, so far as recovery of excess pay paid to the respondents is concerned, the appellants may recover the said amount in easy installments which may be spread over for fifteen years or till the date of retirement whichever is earlier.

STATE OF WEST BENGAL VS NARAYAN K.PATODIA