

PETITIONER:
GABRIEL SAVER FERNANDES

Vs.

RESPONDENT:
STATE OF KARNATAKA

DATE OF JUDGMENT 05/09/1993

BENCH:
(K. RAMASWAMY AND N. VENKATACHALA, JJ.)

ACT:

HEADNOTE:

JUDGMENT:
ORDER

1. Leave granted.

2. It is contended for the appellants that as per the directions, issued by the High Court in Writ Petition No. 1173 of 1962, dated 4-3-1965, the High Court had struck down the rules holding that there cannot be any distinction between the Talatis and Village Accountants. They cannot be clubbed together and they constitute different categories and that, therefore, they are entitled to separate scales of pay. When they claimed the scale of pay on the basis of revised pay scales at Rs 90-200 instead of Rs 80-145, the Tribunal has committed illegality in not considering the distinction and that therefore, the appellants are not entitled to the benefit of the payment of scale of pay of Rs 90-200 as per 1970 Rules w.e.f. 1-1-1970.

3. It would appear that the Government made a distinction between Talatis and Village Accountants who possessed SSLC qualification and those who are non-SSLC candidates. For the candidates who are having SSLC qualification, pay scale of Rs 90-200 has been provided for. Admittedly, the appellants are not in that category as they are non-SSLC candidates. The Government, therefore, thought it expedient to make a distinction between qualified and unqualified persons and prescribed different scales of pay. Hence, we do not find any invidious discrimination made between the two categories to club together and grant them same scale of pay of Rs 90-200. However, since the appellants have already been paid the scale of pay of Rs 90-200 while they were in service and are retired now, it would be appropriate that the Government may not recover from them the salary which they had already received though they are not eligible to the scale of pay of Rs 90-200.

4. The appeals are accordingly dismissed. No costs.