A GOVERNMENT OF INDIA & ORS.

v.

B. ANIL KUMAR & ORS.

(Civil Appeal No. 8273 of 2004)

B MAY 11, 2010

[MARKANDEY KATJU AND A.K. PATNAIK, JJ.]

Service Law:

C *Central Civil Services (Revised Pay) Rules, 1986 – r. 7 (1)(B) – Re-fixation of pay – Special pay – Entitlement of – Respondents were investigators as on 01.01.1986 – Promotion to the post of Assistant Superintendents after 01.01.1986 – Grant of revised pay scale of 1600-2660 as*

D *recommended by Fourth Pay Commission – Benefit of special pay of Rs. 75/- p.m. as awarded by Board of Arbitration for the said post in their existing scale-Rs. 470-750 in fixing the scale – Entitlement of – Held: Respondents would be covered u/r. 7(1)(B) which covers employees whose existing*

E *emoluments include special pay, but special pay has not been continued with the revised scale of pay – As per FR 22(a)(1) on promotion to a post carrying duties and responsibilities of greater importance, Government servant is entitled to his initial pay 'in the time scale of higher post' – Special pay of Rs. 75/- p.m. was for the post of Assistant*

F *Superintendent in the existing scale of pay of Rs. 470-750 irrespective of who held the post – The 1986 Rules and F.Rs. 22 and 25 have to be read consistent with the equality clauses in Articles 14 and 16 – All Assistant Superintendents who are performing the same nature of duties and responsibilities*

G *would be entitled to special pay – Thus, respondents entitled to the benefit of special pay of Rs. 75/- pm in fixation of its initial pay – Order of High Court upheld – Fundamental Rules 22(a)(1) – Constitution of India, 1950 – Article 14, 16.*

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The respondents were working in the post of Investigators, in NSSO, Government of India, in the pay-scale of Rs.425-700 prior to 01.01.1986. The next higher post is of Assistant Superintendent. In the year 1978, the Assistant Superintendents raised a demand that the existing pay-scale of Rs.470-750 of the post of Assistant Superintendents be raised to Rs.550-900 with effect from 01.01.1978. The Board of Arbitration made the Award with effect from 01.05.1982 that the Assistant Superintendents be given pay at the existing scale of Rs.470-750 plus a special pay of Rs.75/- pm which would be counted as pay. During pendency before the Board, the Central Fourth Pay Commission made recommendations that the pay-scale of Assistant Superintendents be revised to Rs.1600-2660 with effect from 01.01.1986. The Award of the Board was implemented. The respondents were promoted to the post of Assistant Superintendents after 01.01.1986 and were not given the benefit of the special pay and were only given the pay in the revised scale of Rs.1600-2660. The respondents challenged the same. The tribunal held that the respondents are entitled to the re-fixation of their pay by merging the special pay of Rs.75/- with their basic pay in the then existing pay-scale of Rs.470-750 on the basis of the recommendations of the Fourth Pay Commission with effect from 01.01.1986 and for subsequent corresponding revised pay scales on the basis of the recommendations of the Fifth Pay Commission. The Division Bench of High Court directed that the respondents would be entitled to have the benefit of special pay of Rs.75 in the revised pay-scale of Rs.1600-2660 as recommended by the Fourth Pay Commission and the revised pay-scale of the respondents as recommended by the Fifth Pay Commission will have to be appropriately fixed taking into consideration the special pay of Rs.75/- and its merger in the Fifth Pay Commission scales. Hence the appeal.

A B C D E F G H

A Dismissing the appeal, the Court

HELD: 1.1. The High Court gave good reasons for coming to the conclusion that the respondents, who were promoted to the post of Assistant Superintendent after 01.01.1986, were entitled to have the benefit of Rs.75/- as B special pay in the revised pay-scale of Rs.1600-2660 that (1) in paragraphs 10.359, 10.360, 10.361 and 10.362 of the recommendations of the Fourth Pay Commission, which deal with the pay-scale of Assistant Superintendents in National Sample Survey Organization, Department of C Statistics, there is no reference to the pending proceedings before the Board of Arbitration and hence it is difficult to hold that the Fourth Pay Commission has taken into consideration the dispute regarding the pay-scale of Assistant Superintendents pending before the D Board of Arbitration; (2) the Board of Arbitration referred to the recommendations of the Fourth Pay Commission that the pay-scale of Assistant Superintendents should be Rs.1600-2600 and yet the Board of Arbitration awarded a special pay of Rs.75/- per month for Assistant E Superintendents and did not restrict the grant of such special pay upto 01.01.1986; (3) the special pay of Rs.75/- per month was attached to the scale of pay of Assistant Superintendents and employees holding the post of Assistant Superintendent, whether prior to 01.01.1986 or F subsequent to 01.01.1986, were, therefore, entitled to the benefit of Rs.75/- towards special pay. [Para 10] [816-D-H; 817-A-B]

1.2. The recommendations of the Fourth Pay Commission were implemented by the Central Civil G Services (Revised Pay) Rules, 1986. Rule 7(1)(A) of the 1986 Rules covers cases of employees whose existing emoluments do not include special pay, Rule 7(1)(B) covers cases of employees whose existing emoluments include special pay, but special pay has not been H continued with the revised scale of pay and Rule 7(1)(C)

covers cases of employees whose existing emoluments include special pay, but in whose case special pay has been continued with the revised scale of pay. All those employees who were Assistant Superintendents as on 01.01.1986 for whom special pay was awarded by the Board of Arbitration with effect from 01.05.1982 and for whom special pay did not continue with the revised scale of pay would, therefore, be covered under Rule 7(1)(B) and not under Rule 7(1)(A) or 7(1)(C) of the 1986 Rules. This is the reason why the Ministry of Finance, Department of Expenditure, in its letter dated 04.07.1989 directed that pay in the revised scale of Rs.1600-2660 with effect from 01.01.1986 will be fixed under Rule 7(1)(B) of the 1986 Rules. [Para 11] [817-C-G]

1.3. A plain reading of F.R. 22(a)(1) would show that where a Government servant holding a post is promoted to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, "his initial pay in the time scale of the higher post" shall be fixed at the stage next above the notional pay arrived at by increasing his pay in respect of the lower post held by him regularly by an increment at the stage at which such pay has accrued. Thus, on promotion to a post carrying duties and responsibilities of greater importance, a Government servant is entitled to his initial pay "in the time scale of the higher post". In the instant case, the higher post to which the respondents were promoted after 01.01.1986 was the post of Assistant Superintendent. If, therefore, the special pay of Rs.75/- as was awarded by the Board of Arbitration is for the higher post of Assistant Superintendent, the respondents would be entitled to the benefit of special pay, but if the special pay was only for the Assistant Superintendents then serving, and not for the post of Assistant Superintendent, the respondents would not be entitled to the benefit of special pay having been

promoted after 01.01.1986. [Para 12] [818-E-H; 819-A-B]

1.4. 'Special Pay' has been defined in F.R. 25 as an addition, of the nature of pay, to the emoluments of a post or of a Government servant, granted in consideration of (a) the specially arduous nature of the duties; or (b) a specific addition to the work or responsibility. Hence, special pay can be attached to either 'a post' or 'a Government servant'. [Para 13] [819-B-C]

1.5. It is clear from a perusal of the reference and the award of the Board of Arbitration that the special pay of Rs.75/- per month was for the post of Assistant Superintendent in the existing scale of pay of Rs.470-750 irrespective of who held the post. Therefore, the respondents, who have been promoted to the post of Assistant Superintendent after 01.01.1986, would be entitled to the benefit of special pay of Rs.75/- per month in the fixation of its initial pay. [Para 14] [819-G-H]

1.6. The 1986 Rules and F.Rs. 22 and 25 have to be read consistent with the equality clauses in Articles 14 and 16 of the Constitution and so read, all Assistant Superintendents who are performing the same nature of duties and responsibilities would be entitled to the special pay and to deny such benefit of special pay to the respondents, who have been promoted to the post of Assistant Superintendents after 01.01.1986, would violate of Articles 14 and 16 of the Constitution. [Para 15] [820-A-B]

1.7. Once the Court holds that under the 1986 Rules read with the Fundamental Rules and Articles 14 and 16 of the Constitution, the respondents were entitled to the benefit of special pay along with the revised scale of pay of Rs.1600-2660 as recommended by the Fourth Pay Commission, the court can itself grant the relief and need not direct the respondents to move the Government for

reconsideration for fixation of their pay-scales. The order of High Court is upheld. [Paras 18 and 19] [821-E-F]

Telecommunication Research Centre Scientific Officers' (Class I) Association and Ors. v. *Union of India & Ors.* **(1987) 1 SCC 582;** *M.P. Singh, Deputy Superintendent of Police, C.B.I. and Ors.* v. *Union of India and Ors.* **(1987) 1 SCC 592, referred to.**

Case Law Reference:

(1987) 1 SCC 592	**Referred to.**	**Para 8, 16**
(1987) 1 SCC 582	**Referred to.**	**Para 8, 17**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 8273 of 2004.

from the Judgment & Order dated 12.08.2003 of the High Court of Judicature, Andhra Pradesh at Hyderabad in Writ Petition No. 7596 of 2003.

Indira Jaisingh, ASG, T.S. Doabia, Ashok Bhan, Shailendra Saini, Samridhi Sinha, Sonam Anand (for B.V. Balaram Das) for the Appellants.

P.S. Narsimla, S. Uday Kumar Sagar, Bina Madhavan, Anandita Pujari (for Lawyer's Knit & Co.), for the Respondents.

The Judgment of the Court was delivered by

A. K. PATNAIK, J.1. This is an appeal against the judgment and order dated 12.08.2003 of the Division Bench of the Andhra Pradesh High Court in Writ Petition No.7596 of 2003 (for short 'the impugned judgment').

2. The relevant facts very briefly are that the respondents herein were working in the post of Investigators in the National Sample Survey Organisation, Government of India, Ministry of Planning and Implementation, Department of Statistics at Hyderabad, in the pay-scale of Rs.425-700 prior to

A 01.01.1986. The next higher post is the post of Assistant Superintendent. In the year 1978, there was a demand by the Assistant Superintendents working in the operation units under the Director, National Sample Survey Organisation, that the existing pay-scale of Rs.470-750 of the post of Assistant
B Superintendents be raised to Rs.550-900 with effect from 01.01.1978. The demand was referred to the Board of Arbitration for adjudication on 12.02.1985. When the reference was pending before the Board of Arbitration, the Central Fourth Pay Commission made recommendations that the pay-scale
C of Assistant Superintendents be revised to Rs.1600-2660 with effect from 01.01.1986. Thereafter, on 05.01.1989 the Board of Arbitration made the Award with effect from 01.05.1982 to the effect that the Assistant Superintendents be given pay at the existing scale of Rs.470-750 plus a special pay of Rs.75/-
D per month and this special pay be counted as pay for all purposes as per the rules. On 04.07.1989, the Ministry of Finance, Department of Expenditure, issued an order that the Ministry has agreed to the proposal of the Department of Statistics to implement the Award of the Board of Arbitration
E and allow special pay of Rs.75/- with effect from 01.05.1982 to the Assistant Superintendents in the Operation Units of the National Sample Survey Organisation, but the special pay will continue upto 31.12.1985 and will not be available in the higher revised scale of Rs.1600-2660 with effect from 01.01.1986. The respondents who were promoted to the post of Assistant
F Superintendents after 01.01.1986 were not given the benefit of the special pay and were only given the pay in the revised scale of Rs.1600-2660 as recommended by the Fourth Pay Commission.

G 3. Aggrieved, the respondents moved the Central Administrative Tribunal, Hyderabad Bench, (for short 'the Tribunal') in O.A. No. 827 of 2002 and by order dated 22.01.2003 the Tribunal allowed the O.A. declaring that the respondents are entitled to the re-fixation of their pay by
H merging the special pay of Rs.75/- with their basic pay in the

then existing pay-scale of Rs.470-750 on the basis of the recommendations of the Fourth Pay Commission with effect from 01.01.1986 and for subsequent corresponding revised pay scales on the basis of the recommendations of the Fifth Pay Commission and directed the appellants to take steps to get the pay of the respondents re-fixed accordingly and further directed that the respondents shall be paid all the arrears of salary as a result of re-fixation of their pay. A B

4. The appellants challenged the order dated 22.01.2003 of the Tribunal before the High Court and by the impugned judgment, the Division Bench while sustaining the order of the Tribunal modified the same directing that the respondents would be entitled to have the benefit of special pay of Rs.75 in the revised pay-scale of Rs.1600-2660 as recommended by the Fourth Pay Commission and the revised pay-scale of the respondents as recommended by the Fifth Pay Commission will have to be appropriately fixed taking into consideration the special pay of Rs.75/- and its merger in the Fifth Pay Commission scales. C D

5. Miss Indira Jaising, learned Additional Solicitor General appearing for the appellants, submitted that the Tribunal and the High Court failed to appreciate that the Fourth Pay Commission, while recommending revision of the pay-scale of Assistant Superintendents from Rs.470-750 to Rs.1600-2660 with effect from 01.01.1986 had taken into consideration the duties and responsibilities of the Assistant Superintendents and, therefore, the special pay of Rs.75/- given to Assistant Superintendents prior to 01.01.1986 pursuant to the Award of the Board of Arbitration would not be available to those who were promoted as Assistant Superintendents after 01.01.1986. She submitted that the respondents who were promoted to the post of Assistant Superintendent after 01.01.1986 would therefore not be entitled to the benefit of the special pay of Rs.75/- as awarded by the Board of Arbitration for fixation of their scale. She submitted that the benefit of Rule 7(1)(B) of E F G H

A the Central Civil Services (Revised Pay) Rules, 1986 (for short 'the 1986 Rules') will be available only to those who were in receipt of the special pay as on 01.01.1986 and as the respondents were not Assistant Superintendents as on 01.01.1986 and were not in receipt of the special pay of Rs.75/
B - as awarded by the Board of Arbitration, they were not entitled to the benefit of the special pay. She further submitted that the respondents are also not entitled to the benefit of Rule 7(1)(B) of the 1986 Rules as the rule only applies to those who are in receipt of special pay granted by the Fourth Pay Commission
C and Assistant Superintendents were not given any special pay by the Fourth Pay Commission. She submitted that the pay of the respondents who were promoted as Assistant Superintendents after 01.01.1986 has to be fixed in accordance with F.R. 22(a)(1) and not in accordance with Rule
D 7(1) A or Rule 7(1)B of the 1986 Rules.

6. Miss Jaising submitted that some of the aggrieved Assistant Superintendents, who have been denied the benefit of special pay of Rs.75/-, had filed O.A. No.695 of 1990 before the Central Administrative Tribunal, Madras Bench, and O.A.
E No.1232 of 1997 before the Central Administrative Tribunal, Hyderabad Bench, and the two Benches of the Tribunal disposed of the O.As. with the direction to the applicants to approach the Anomalies Committee of the respective Pay Commissions. She submitted that in the present case also the
F Tribunal and the High Court, instead of allowing the benefit of special pay to the respondents, should have directed the respondents to approach the authorities for reconsideration of the fixation of their pay-scale after giving the benefit of special pay as awarded by the Board of Arbitration.

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7. Mr. P.S. Narasimha, learned counsel appearing for the respondents, on the other hand, submitted that the Tribunal and the High Court had given good reasons to hold that the respondents who were promoted to the post of Assistant Superintendent after 01.01.1986 were also entitled to the
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benefit of special pay of Rs.75/- per month as awarded by the Board of Arbitration in fixation of their pay in the revised pay-scales as recommended by the Fourth Pay Commission. He further submitted that the Award dated 05.01.1989 of the Board of Arbitration itself states that the special pay of Rs.75/- per month as awarded will count for all purposes as per rules and, therefore, will have to be counted for the purpose of fixation of the revised pay-scale in accordance with Rule 7(1)(B) of the 1986 Rules. He submitted that the order dated 04.07.1989 of the Ministry of Finance, Department of Expenditure, also states that the special pay will be recognized and be implemented for the purpose of revision according to Rule 7(1)(B) of the 1986 Rules. He argued that Rule 7(1)(B) of the 1986 Rules provides that the special pay will be added to the existing emoluments for the purpose of fixation of the revised pay-scale and hence the respondents who had been promoted as Assistant Superintendents were entitled to this benefit of addition of special pay of Rs.75/- per month in the existing emoluments for fixing their pay in the revised scale.

8. Mr. Narasimha also argued that there cannot be different pay for persons working in the same post of Assistant Superintendents as this would amount to discrimination and would be violative of Articles 14 and 16 of the Constitution of India. He relied on the decisions of this Court in *Telecommunication Research Centre Scientific Officers' (Class I) Association & Ors. v. Union of India & Ors. [(1987) 1 SCC 582] and M.P. Singh, Deputy Superintendent of Police, C.B.I. & Ors. v. Union of India & Ors.* [(1987) 1 SCC 592] for the proposition that there can be no discrimination in matters of pay. He submitted that the Assistant Superintendents have been given the benefit of special pay of Rs.75/- after 01.01.1986 and that their revised pay has been fixed accordingly, whereas the respondents who have been promoted to the post of Assistant Superintendent after 01.01.1986 have been denied the benefit of special pay while fixing their revised scale of pay and this amounts to

A discrimination against the respondents.

9. Mr. Narasimha finally submitted that the respondents were not parties to O.A. No.695 of 1990 or O.A. No.1232 of 1997 in which directions for reconsideration were given by the Tribunal and that they had separately moved the Central B Administrative Tribunal, Hyderabad Bench, and the Tribunal, after considering all the facts and circumstances of the case, have directed the appellants to give the benefit of special pay of Rs.75/- while re-fixing the revised pay-scale of the respondents on the basis of the recommendations of the Fourth C Pay Commission and the directions given by the Tribunal in O.A. No.695 of 1990 and O.A. No.1232 of 1997 to approach the authorities for reconsideration were not binding on them.

10. We have read the impugned judgment and we find that D the High Court has given good reasons for coming to the conclusion that the respondents, who were promoted to the post of Assistant Superintendent after 01.01.1986, were entitled to have the benefit of Rs.75/- as special pay in the revised pay-scale of Rs.1600-2660. The reasons given by the E High Court are: (1) in paragraphs 10.359, 10.360, 10.361 and 10.362 of the recommendations of the Fourth Pay Commission, which deal with the pay-scale of Assistant Superintendents in National Sample Survey Organisation, Department of Statistics, there is no reference to the pending proceedings F before the Board of Arbitration and hence it is difficult to hold that the Fourth Pay Commission has taken into consideration the dispute regarding the pay-scale of Assistant Superintendents pending before the Board of Arbitration; (2) On the other hand, the Board of Arbitration has in its deliberations quoted in the impugned judgment referred to the G recommendations of the Fourth Pay Commission that the pay-scale of Assistant Superintendents should be Rs.1600-2600 and yet the Board of Arbitration has awarded a special pay of Rs.75/- per month for Assistant Superintendents and has not restricted the grant of such special pay upto 01.01.1986; (3)

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The special pay of Rs.75/- per month was attached to the scale of pay of Assistant Superintendents and employees holding the post of Assistant Superintendent, whether prior to 01.01.1986 or subsequent to 01.01.1986, were, therefore, entitled to the benefit of Rs.75/- towards special pay.

11. We would like to give, in addition, a few more reasons in support of the conclusion of the High Court that the respondents, who were promoted to the post of Assistant Superintendents after 01.01.1986, are entitled to have the benefit of Rs.75/- as special pay in the revised pay-scale of Rs.1600-2660 as recommended by the Fourth Pay Commission. The recommendations of the Fourth Pay Commission were implemented by the 1986 Rules. Rule 7(1)(A) of the 1986 Rules covers cases of employees whose existing emoluments do not include special pay, Rule 7(1)(B) covers cases of employees whose existing emoluments include special pay, but special pay has not been continued with the revised scale of pay and Rule 7(1)(C) covers cases of employees whose existing emoluments include special pay, but in whose case special pay has been continued with the revised scale of pay. All those employees who were Assistant Superintendents as on 01.01.1986 for whom special pay was awarded by the Board of Arbitration with effect from 01.05.1982 and for whom special pay did not continue with the revised scale of pay would, therefore, be covered under Rule 7(1)(B) and not under Rule 7(1)(A) or 7(1)(C) of the 1986 Rules. This is the reason why the Ministry of Finance, Department of Expenditure, in its letter dated 04.07.1989 directed that pay in the revised scale of Rs.1600-2660 with effect from 01.01.1986 will be fixed under Rule 7(1)(B) of the 1986 Rules.

12. The contention of the appellants, however, is that the respondents, who were Investigators as on 01.01.1986 and were promoted to the post of Assistant Superintendent after 01.01.1986, would not be covered under Rule 7(1)(B) of the 1986 Rules and that on such promotion their pay would be fixed

A under F.R. 22(a)(1), the relevant portion of which is quoted hereinbelow:

> "F.R.22: The initial pay of a Government servant who is appointed to a post on a time scale of pay is regulated as follows:-
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> (a)(1): Where a Government servant holding a post, other than a tenure post, in a substantive or temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity, as the case may be, subject to the fulfillment of the eligibility conditions as prescribed in the relevant Recruitment Rules, to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time scale of the higher post shall be fixed at the stage next above the notional pay arrived at by increasing his pay in respect of the lower post held by him regularly by an increment at the stage at which such pay has accrued or rupees twenty five only, (now Rs.100) which is more."

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A plain reading of F.R. 22(a)(1), quoted above, would show that where a Government servant holding a post is promoted to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, "his initial pay in the time scale of the higher post" shall be fixed at the stage next above the notional pay arrived at by increasing his pay in respect of the lower post held by him regularly by an increment at the stage at which such pay has accrued. Thus, on promotion to a post carrying duties and responsibilities of greater importance, a Government servant is entitled to his initial pay "in the time scale of the higher post". In the present case, the higher post to which the respondents were promoted after 01.01.1986 was the post of Assistant Superintendent. If, therefore, the special pay of Rs.75/- as has been awarded by the Board of Arbitration is for the higher post of Assistant Superintendent, the respondents would be entitled to the

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benefit of special pay, but if the special pay was only for the Assistant Superintendents then serving, and not for the post of Assistant Superintendent, the respondents would not be entitled to the benefit of special pay having been promoted after 01.01.1986.

13. 'Special Pay' has been defined in F.R. 25 as:

> "an addition, of the nature of pay, to the emoluments of a post or of a Government servant, granted in consideration of (a) the specially arduous nature of the duties; or (b) a specific addition to the work or responsibility".

Hence, special pay can be attached to either 'a post' or 'a Government servant'.

14. We find that the reference that was made to the Board of Arbitration was whether the pay-scale of Assistant Superintendent of the Field Operations Division of NSSO, Government of India, be revised from the existing scale of Rs.470-750 to Rs.550-900 with effect from 01.01.1978 and the Board of Arbitration gave the following Award:

> "The Assistant Superintendents of the FOD of the NSSO, Government of India, shall be given pay at the existing scale of Rs.470-750 plus a special pay of Rs.75/- per month. This special pay shall count as pay for all purposes as per rules. This award shall take effect from 1st May 1982"

It is thus clear from a perusal of the reference and the award of the Board of Arbitration that the special pay of Rs.75/- per month was for the post of Assistant Superintendent in the existing scale of pay of Rs.470-750 is irrespective of who held the post. Therefore, the respondents, who have been promoted to the post of Assistant Superintendent after 01.01.1986, would be entitled to the benefit of special pay of Rs.75/- per month in the fixation of its initial pay.

A 15. In our considered opinion, the 1986 Rules and F.Rs. 22 and 25 have to be read consistent with the equality clauses in Articles 14 and 16 of the Constitution and so read, all Assistant Superintendents who are performing the same nature of duties and responsibilities would be entitled to the special B pay and to deny such benefit of special pay to the respondents, who have been promoted to the post of Assistant Superintendents after 01.01.1986, would violate of Articles 14 and 16 of the Constitution. In support of this view, we may now cite the authorities.

C 16. In *M.P. Singh, Deputy Superintendent of Police, C.B.I. & Ors. v. Union of India & Ors.* (supra), this Court held:

> "**10.** From the foregoing discussion it emerges that the Special Pay that was being paid to all the officers in the D cadre of Sub-Inspectors, Inspectors and Deputy Superintendents of Police in the Central Investigating Units of the Central Bureau of Investigation has nothing to do with any compensation for which the deputationists may be entitled either on the ground of their richer experience or E on the ground of their displacement from their parent departments in the various States, but it relates only to the arduous nature of the duties that is being performed by all of them irrespective of the fact whether they belong to the category of the "deputationists" or to the category of the F "non-deputationists". That being the position, the classification of the officers working in the said cadres into two groups, namely, deputationists and non-deputationists for paying different rates of Special Pay does not pass the test of classification permissible under Articles 14 and 16 G of the Constitution of India since it does not bear any rational relation to the object of classification."

17. Similarly, in *Telecommunication Research Centre Scientific Officers' (Class I) Association & Ors. v. Union of India & Ors.* (supra), this Court held:

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"**10.** Following the decision of this Court in *Randhir Singh* v. *Union of India* ((1982) 1 SCC 618) and the decision of this Court in (*M.P. Singh* v. *Union of India* (1987) 1 SCC 592 (Writ Petition Nos. 13097-13176 of 1984 decided today) we hold that the direct recruits (to which category the petitioners belong) in the Telecommunication Research Centre are entitled to the Special Pay at the same rates at which it is paid to the transferred officers working in that centre with effect from the date from which the transferred officers have been drawing the Special Pay. We accordingly direct Respondent 1 — Union of India to pay the Special Pay to the direct recruits with effect from the date on which the transferred officers commenced to draw the Special Pay up to date and to continue to pay it in future also as long as the transferred officers continue to get it. The arrears of the Special Pay up to date payable to the direct recruits shall be paid within four months from today."

18. Once the Court holds that under the 1986 Rules read with the Fundamental Rules and Articles 14 and 16 of the Constitution, the respondents were entitled to the benefit of special pay along with the revised scale of pay of Rs.1600-2660 as recommended by the Fourth Pay Commission, the Court can itself grant the relief and need not direct the respondents to move the Government for reconsideration for fixation of their pay-scales.

19. For the aforesaid reasons, we sustain the impugned judgment of the High Court and dismiss this appeal with no order as to costs.

N.J. Appeal dismissed.