

P.D. Sharma and ors. Vs. Union of India (Uoi) Through

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Court : Central Administrative Tribunal CAT Delhi

Decided On : Feb-20-2008

Judge : V Bali, M R Vice-, J a L.K.

Appellant : P.D. Sharma and ors.

Respondent : Union of India (Uoi) Through

Judgement :

1. P. D. Sharma and sixteen others, who are Junior/Senior Hindi Translators in the Income Tax Department, which is a subordinate office of Ministry of Finance (Department of Revenue), in this Original Application filed by them under Section 19 of the Administrative Tribunals Act, 1985, seek a writ in the nature of certiorari so as to quash order dated 17.5.2004 vide which their representation claiming grant of higher pay scale, i.e., Rs. 5500-9000 and Rs. 6500-10500, has been rejected. In wake of setting aside of the order aforesaid, the applicants pray for the aforesaid pay scale on the only plea that they have been discriminated vis-à-vis employees holding similar posts in Central Secretariat Official Language Service (for short, CSOLS), as also in some other organisations like Central Translation Bureau, Armed Forces Headquarter, etc.

2. This matter came up for adjudication before a Division Bench, but in view of the divergent opinion expressed in the matter, the Bench seized of the matter, in view of provisions contained in Section 26 of the Administrative Tribunals Act, 1985, vide order dated 29.8.2006 framed issues and points of disagreement as under: (i) Whether the Government's decision to extend the revised pay scale only to the

incumbents of CSOLS and not to the employees of attached offices, i.e., counterparts, is a valid principle of legislation in consonance with Articles 14 & 16 of the Constitution of India? (ii) Whether the duties performed by the incumbents in attached offices can be compared at par with counterparts in CSOLS? (iii) Whether in the matter of parity of pay scale and the Directive Principles of State policy enshrined under Article 39 of Constitution of India, the cardinal principle of 'equal pay for equal work' needs to be invoked on comparison of the duty? (iv) Whether the order passed as a consideration of the claim of the applicant is a reasoned order expresses on the face of record of the order the grounds of rejection of the claim of pay parity and if not whether such a parity now can be denied on the grounds taken in the counter reply as a supplement to the reasoning in the order itself? (v) Apart from the policy of the Government to grant revised pay scale to the incumbents of CSOLS, if a claim is made by Junior Hindi Translators and Assistant Directors (Official Languages) in subordinate Offices, it requires consideration on all parameters, including functional requirements and be disposed of by the Ministry by a reasoned order in consonance with the principle of - equal pay for equal work-? Shri Pradeep Raj Sharma and Ors. v. Union of India and Ors. decided on 26.7.2006 is to be followed on the doctrine of precedent Having formulated issues on disagreement, the matter was referred to the Chairman on administrative side for appropriate action and consequent methodology to be adopted as per the Act. The then Hon'ble Chairman decided that the matter be placed before another Member [VC (A)]. The learned third Member noted the contention of the counsel representing the applicants that the applicants who had been working in subordinate offices were being treated at par with those of main Ministries/Departments in matter of pay scales till the pay scales were accorded on the basis of recommendations of IV Central Pay commission, and that the V Pay Commission had also recommended parity between Junior and Senior Hindi Translators in CSOLS and those in subordinate offices, but discrimination between such officials cropped up when vide order Annexure A-6 dated 14.7.2003 the Department of Expenditure approved extension of higher pay scales of Rs. 5500-9000 and Rs. 6500-10500 to CSOLS officials notionally w.e.f. 1.1.1996 with actual payments in higher pay scale from 11.2.2003, however, the applicants were denied the said benefit. The learned third Member

also noted the contention of the learned counsel representing the applicants that the respondents had accorded revised pay scales of Rs. 5500-9000 and Rs. 6500-10500 to Junior Hindi Translators and Senior Hindi Translators of a subordinate office, namely, the Controller of Defence Accounts under the Ministry of Defence effective from the said date. The learned counsel had also brought to the notice of the learned third Member an order passed by this Tribunal in OA No. 2049/2004 - Ram Noraya v. Union of India and Ors. decided on 25.4.2006, by which the respondents were directed to consider granting pay scale of Rs. 7500-250-12000 to the applicant therein, an Assistant Director (Rajbhasha) in a subordinate office, namely, Indian Bureau of Mines, w.e.f. 1.1.1996 as recommended by the V Pay Commission for the post of Hindi Officer, as such scale had already been granted to similar officers in another subordinate office of the same Ministry (Ministry of Steel & Mines) Department of Mines, i.e., Director General of Mines Safety, Dhanbad. The counsel further contended that when the respondents had granted higher pay scale to similar posts in other subordinate offices and the court had also directed the respondents in the case of Ram Noraya (supra) to accord the higher pay scale to an officer of a subordinate office, the present applicants could not be discriminated against by the respondents. The learned third Member also noted the contention of the counsel representing the respondents that one of the Members had taken exception to non-assignment of reasons in the impugned orders for rejecting the claim of the applicants relying upon the decision of the Hon'ble Supreme Court in M. S. Gill v. Chief Election Commissioner , and Hindustan Petroleum Corporation Ltd. v. Dairus Shapur Chennai and Ors.

these decisions was placed without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. In that behalf, the learned counsel relied upon the decision of the Hon'ble Supreme Court in State of Haryana and Ors. v. AGM Management Services Ltd. [2006 (2) SCSLJ 160], and an order passed by this Tribunal dated 26.5.2006 in Anand Kishore and Ors. v. Union of India and Ors. in which a similar OA as the present one was dismissed being bereft of merits. The learned third Member while considering the contentions of the learned counsel representing the parties observed that 'the decisions in matters of Ram Noraya (supra) and Shri Anand Kishore (supra) are at variance though the issues involved in these two cases were identical and also

similar to those as involved in the present case. At this juncture, this Court is facing a predicament, inasmuch as while in the present matter two Hon'ble Members having expressed divergent opinions and the matter having been entrusted with a third Member, its decision shall amount to a decision by a Division Bench of the Tribunal, two Coordinate Division Benches of the Tribunal, i.e., in the matters of Shri Ram Narayan (supra) and Shri Anand Kishore (supra) have rendered opposite decisions, one granting the revised higher pay scale to officials of a subordinate office and the other denying the same to officials of another subordinate office of the Union of India. Obviously, this riddle cannot be resolved by the present Bench, i.e., a Division Bench when two different Division Benches of the Tribunal have taken opposite views on the issues involved in the present case'. The case was referred to Larger Bench, however, the questions of reference remained the same.

3. Before we may proceed any further in this case, we would like to mention that in the difference of opinion expressed by two Members, we find that whereas one Member [Mrs. Chitra Chopra, Member (A)] decided the matter on merits holding that having regard to all the facts and circumstances of the case and the discussion as well as case law cited, there was no justification in the claim of the applicants, the other Member [Shri Shanker Raju, Member (J)], on the basis of decision of this Tribunal in OA No. 1736/2005 in Pradeep Raj Sharma and Ors. v. Union of India and Ors. decided on 26.7.2006, in which reliance was placed upon M. S. Gill (supra) and Hindustan Petroleum (supra), held that for the reason that in the order dated 17.5.2004 rejecting the representation of the applicants no reasons were given, the same would be set aside on that ground and the matter would need re-examination by the respondents strictly in accordance with principle of 'equal pay for equal work' as regards relativity and functional requirements of both the posts which would culminate into a detailed and speaking order to be passed within a period of three months.

4. One of the questions that has been framed for adjudication by the Full Bench, i.e., question number (v), in the very nature of controversy, would thus need to be decided first. Surely, if the view expressed by the Hon'ble Member (J) is to find favour with the Full Bench, no occasion would arise to go into the merits of the

controversy, as surely, in that case the matter has to be remitted to the concerned authorities for passing a speaking and well reasoned order. If, however, question No. (iv) is to be answered otherwise, it shall have to be held that the decision of this Tribunal in OA No.1736/2005 in the matter of Pradeep Raj Sharma and Ors. v. Union of India and Ors. decided on 26.7.12006, cannot be followed, as the precedent, if any, laid down therein would not be legally sustainable.

We thus take into hand questions (iv) and (vi) for determination. With a view to determine the controversy relatable to questions (iv) and (vi), a reference to judicial precedents has to be made straightway. It is the common case of the parties that the issues in questions (iv) and (vi) are no more *res integra* and stand clinched by judicial precedents, even though, whereas the counsel representing the applicants would contend that the law stands firmly entrenched in favour of the applicants, the learned counsel for the respondents would join serious issues on that with the counsel representing the applicants, and would thus urge that the only thing in a judge's decision binding on a party is the principle upon which the case is decided, and for this reason, it is important to analyse a decision and isolate it from the *ratio deci dendi*.

5. The counsel representing the applicants for the proposition that the order must be judged by reasons so mentioned and cannot be supplemented by fresh reasons, relies upon two decisions of the Hon'ble Supreme Court in *Hindustan Petroleum Corporation Ltd. v. Darius Shapur Chenai and Ors.* and *Mohinder Singh Gill and Anr.*

counsel also places reliance upon a decision of this Tribunal in *Pradeep Raj Sharma and Ors. (supra)*. In fact, the decision of the Tribunal in *Pradeep Raj Sharma and Ors.* is based upon the two decision of the Hon'ble Supreme Court referred to above. Before we may refer to the law laid down by the Hon'ble Supreme Court in *Hindustan Petroleum Corporation (supra)* and *Mohinder Singh Gill (supra)*, the fact position in the said cases shall have to be seen. The facts of *Hindustan Petroleum Corporation (supra)* would reveal that the Corporation (a government company) was lessee of the premises which were ultimately acquired under the provisions of the Land Acquisition Act. On expiry of the lease, an

eviction suit was filed against the said company, which was decreed and the appeal against that too was dismissed. The company thereafter sent a requisition to the Special Deputy Collector for acquisition of the land for the purpose of continuing the business, for which a notification under Section 4 of the Land Acquisition Act was published on 15.10.1985. Objections under Section 5-A of the Act were filed by the land owner contending that there existed no public purpose for acquisition of his land and, in any event, other suitable lands were available therefor. The Collector, after giving opportunity of hearing to the land owner, conducted an enquiry and submitted his report to the government. A declaration under Section 6 acquiring the land then came to be issued. Proceedings for acquisition of land culminating into declaration under Section 6 were challenged before the High Court, and a learned Single Judge allowed the same, and appeal against the order of the Single Judge came to be filed before the Hon'ble Supreme Court. The order passed by the learned Single Judge was set aside and the matter was remitted to the High Court on the ground that several other contentious issues had been raised, but not dealt with. The High Court, on remand, upon satisfying itself, directed the State to produce the records relating to the case. An affidavit affirmed by Principal Secretary to the government was filed on 7.11.2003 stating that the records were not readily available in view of shifting of the industries and commerce department within the premises of the secretariat buildings twice in four years. The High Court, once again, allowed the writ petition, thus constraining the company to file an appeal before the Hon'ble Supreme Court. In support of the appeal, the counsel representing the appellant, besides others, challenged the judgment of the High Court on following grounds: (iii) Once the owner of the land has been given an opportunity to file his objections which were considered by the Collector, and if the recommendation made by him is accepted by the Government, the owner is not entitled to be afforded any further opportunity of hearing.

(iv) It is not open to the owner of the land to challenge the proceedings on the ground that the Government has not assigned reasons for rejecting the objection.

While defending the judgment of the High Court, the counsel representing the respondent-land owner, besides others, raised the following points: (iv) Section 5-

A of the Act being the heart of the Act gives the citizen to avail of the only opportunity to make submissions both on the public purpose and the suitability of the acquisition in respect of his land, and, thus, being a valuable right which is akin to a fundamental right, the procedures laid down therein must be strictly complied with.

(v) Section 5-A consists of two parts viz. hearing of objections by the Collector and decision of the Government on the objections on the basis of the Collector's report and both the parts must be strictly complied with.

(vi) Ideally, reasons are required to be assigned while passing an order under Section 5-A of the Act but even if the same is not required to be assigned, reasons for order must exist on the record.

The main question that fell for consideration of the High Court was whether the objections raised by the appellant objecting to the acquisition of land on various grounds had been considered by the government. While dealing with the questions as mentioned above, the Hon'ble Supreme Court examined provisions of Section 5-A of the Land Acquisition Act dealing with objections against acquisition, in context of nature of rights of a citizen who is to be deprived of his land, and held that enquiry under Section 5-A is not merely statutory but also has a flavour of fundamental rights, while relying upon its earlier judgment in *Om Prakash v. State of U.P.* further held that considerations of objections by the owner of the land and the acceptance thereof by the government, it is trite, must precede a proper application of mind on the part of the government, and as and when a person aggrieved questions the decision-making process, the court in order to satisfy itself as to whether one or more grounds for judicial review exist, may call for the records whereupon such records must be produced. It was also held that the State is required to apply its mind not only on the objections filed by the owner of the land but also on the report which is submitted by the Collector upon making other and further enquiries therefor as also the recommendations made by him in that behalf, and the State Government may further enquire into the matter, if any case is made out therefor, for arriving at its own satisfaction that it is necessary to deprive a citizen of his right to property, and that it is in that situation that

production of records by the State is necessary. In the context of provisions of Section 5-A and the nature of right of a citizen who is to be deprived of his land even though on payment of compensation, it was held that declaration under Section 6 may not record reasons with regard to required parameters of acquisition, like public purpose etc., but the same must be contained in the order that the government may pass after examining the report of the collector and the objection raised by the land owner under Section 5-A. The contention raised by the counsel representing the company that the circumstances pointed out in the counter affidavit should be held to be substitute for the reasons for which the State must be held to have arrived at a decision, was repelled by holding that 'When an order is passed by a statutory authority, the same must be supported either on the reasons stated therein or on the grounds available therefor in the record. A statutory authority cannot be permitted to support its order relying on or on the basis of the statements made in the affidavit dehors the order or for that matter dehors the records'. For laying down the law as extracted above, the Hon'ble Supreme Court relied upon following observations made in its earlier decision in *Commissioner of Police v. Gordhandas Bhanji* We are clear that public orders, publicly made in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.

The Hon'ble Supreme Court also relied upon the following observations made in its earlier judgment in *Mohinder Singh Gill* (supra): 8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose J. In *Gordhandas Bhanji* AIR 1952 SC 16 On conspectus of the decisions referred to above, it was held that 'Although assignment of reasons is the part of principles of natural justice, necessity thereof

may be taken away by a statute either expressly or by necessary implication. A declaration contained in a notification issued under Section 6 of the Act need not contain any reason but such a notification must precede the decision of the appropriate Government. When a decision is required to be taken after giving an opportunity of hearing to a person who may suffer civil or evil consequences by reason thereof, the same would mean an effective hearing'. In the context of the nature of legislation enacted in the Land Acquisition Act, it was further observed that 'The Act is an expropriatory legislation. this Court in *State of M.P. v. Vishnu Prasad Sharma* observed that in such a case the provisions of the statute should be strictly construed as it deprives a person of his land without consent'. What clearly emerges from the judgment in *Hindustan Petroleum Corporation (supra)* is that reasons for justifying a notification have necessarily to be recorded, or, alternatively, may emerge from the records of the case, but the observations aforesaid are in the context where a citizen is to be deprived of his right which is akin to a fundamental right, and where under the statute he has a right to file objections against compulsory acquisition, and which have to be, under provisions of the Act itself, decided by the government. It is further clear from the judgment that the necessity of recording reasons in the order arises with regard to public orders publicly made in exercise of a statutory authority. It is in that context it has been observed that reasons to justify the order on the grounds not mentioned therein would not validate the same.

6. The facts in *Mohinder Singh Gill (supra)* reveal that in 1976 elections to Parliament was held from the 13-Ferozepore constituency in Punjab which consisted of 9 assembly segments, the appellant and the third respondent were the principal contestants. According to the scheme for the conduct of elections the postal ballots were to arrive at the returning officer's headquarters where they were to be counted.

An official tally was to be made when the ballot boxes and the returns from the various segment headquarters duly reached the headquarters.

Voting and counting in all the segments took place but the completion of the counting at the constituency headquarters was aborted by mob violence at the

final hour when the postal ballots were being counted.

Ballot boxes from one of the segments were also done away with en route and the returning officer had to postpone the declaration of the result. An observer who had been sent earlier by the Election Commission was present at the time of counting and he and the returning officer reported the happenings to the Election Commission. The appellant, who was having a substantial lead over the respondent before the disturbance took place, met the Chief Election Commissioner on the next day, i.e., March 22 with a request that he should direct the returning officer to declare the result of the election but the Commission gave a direction to have a fresh poll for the whole constituency. The Commission declined to re-consider its decision and thereupon the appellant filed a writ petition in the High Court. The Commission filed a counter-affidavit wherein it stated that after taking into account the circumstances and the information including the oral representation of the appellant, it passed the order cancelling the poll in the said Parliamentary constituency. High Court dismissed the petition. One of the points raised before the Hon'ble Supreme Court was as to whether the impugned orders would be justified on the grounds other than mentioned in the order. It was in the context that an affidavit came to be filed by the Chief Election Commissioner, wherein variety of grounds were detailed justifying the order of cancellation of the election and re-poll. The Hon'ble Supreme Court reproduced the order by which the poll was cancelled, which reads as follows: S. O. Whereas the Election Commission has received reports from the Returning Officer of 13 Ferozepore Parliamentary Constituency that the counting on 21 March, 1977 was seriously disturbed by violence; that the ballot papers of some of the assembly segments of the parliamentary constituency have been destroyed by violence; that as a consequence it is not possible to complete the counting of the votes in the constituency and the declaration of the result cannot be made with any degree of certainty; And whereas the commission is satisfied that taking all circumstances into account, the poll in the constituency has been vitiated to such an extent as to affect the result of the election; Now, therefore, the Commission, in exercise of the powers vested in it under Article 324 of the Constitution, Section 153 of the Representation of the People Act, 1951 and all other powers enabling it so to do, cancels the poll already taken in the constituency and extends the time for the

completion of the election up to 30 April, 1977 by amending its notification No. 464/77 dated 25 February, 1977 in respect of the above election as follows: In Clause (d) of item (i) of the said notification relating to the completion of election - (a) in the existing item (i), after the words 'State of Jammu and Kashmir', the words 'and 13-Firozepur parliamentary constituency in the State of Punjab' shall be inserted; and (b) The existing item (ii) shall be renumbered as item (iii), and before the item (iii) as so renumbered, the following item shall be inserted, namely: (iii) 30 April 1977 (Saturday) as the date before which the election shall be completed in "13-Firozepur parliamentary constituency in the State of Punjab.

While dealing with the question as to whether the grounds justifying the order aforesaid mentioned in the affidavit could be taken into consideration, the Hon'ble Supreme Court observed that 'when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out'. Once again, for holding so, reliance was placed by the Hon'ble Supreme Court in its judgment in Gordhandas Bhanji (supra), relevant para of which has been extracted above.

7. This Tribunal in Pradeep Raj Sharma (supra) while setting aside the impugned orders therein on the ground that the same did not contain reasons negating the claim of applicants therein for parity in pay, placed reliance upon the two decisions of the Hon'ble Supreme Court in Hindustan Petroleum Corporation (supra) and Mohinder Singh Gill (supra).

8. Having heard the learned counsel representing the parties and giving our anxious thoughts to the issues under consideration, we are of the firm view that non-recording of reasons in the order that may be impugned before the Court or the Tribunal would not always be fatal, and, therefore, it shall be open for the government to support the order on grounds other than mentioned in the order, either from records or from pleadings made in the counter reply. In the present case, this Tribunal is examining the plea of the applicants with regard to pay parity

between those who are working in subordinate offices of the Ministry of Finance, with their counter-parts who are holding similar posts in the Central Secretariat. Such an issue is not relatable to any statute. While determining such an issue, the concerned authorities are not governed by any set of rules, instructions or standing orders.

Equal pay for equal work, or for that matter, even maintaining pay parity between one set of employees and the others, is normally a question of fact and, in any case, is not, as mentioned above, traceable to any right of a citizen recognised under any statute. The authorities, thus determining such a question, as mentioned above, were not exercising any statutory duties. The matter in hand is also not one which affects general public, or public orders as generally understood, but are orders of administrative nature alone. It is trite that the Courts or Tribunals should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Judgments of courts cannot be construed as statutes, and that too taking out of reference and context. In our this view, we are fortified by a recent judgment of the Hon'ble Supreme Court in *State of Haryana and Ors. v. AGM Management Services Ltd.* [2006 (3) SCT 202]. The facts of the case aforesaid would reveal that High Court disposed of the writ petition with the following directions: The only prayer of the petitioner at this stage is that the present matter be disposed of by the respondents by keeping in mind the order of this Court appended as Annexure P-7 with application. We accordingly issue a direction to the respondents that necessary exercise be completed within a period of four months from the date that a certified copy of this order is supplied to them.

In support of the appeal, it was submitted that the High Court did not indicate as to how its order in an earlier case had any relevance to the dispute raised by the respondent before it. It was urged that the judgment referred to related to refusal to register a sale deed, whereas by the impugned letter the respondent was required to obtain no objection certificate from the office of the District and Town Planner, and, therefore, the High Court was not justified in giving the directions as reproduced above. While considering the matter, the Hon'ble Supreme Court observed as follows: 7. The Courts should not place reliance on decisions without

discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context.

These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments.

They interpret words of statutes; their words are not to be interpreted as statutes. In *London Graving Dock Co. Ltd. v. Horton* 1951 AC 737 at p.761, Lord Mac Dermot observed: The matter cannot, of course, be settled merely by treating the ipsissima verba of Willes, J as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge.

8. In *Home Office v. Dorset Yacht Co.* 1970 (2) All ER 294 Lord Reid said, "Lord Atkin's speech.....is not to be treated as if it was a statute definition. It will require qualification in new circumstances." Megarry, J in (1971) 1 WLR 1062 observed: "One must not, of course, construe even a reserved judgment of Russell L.J. as if it were an Act of Parliament." And, in *Herrington v. British Railways Board* 1972 (2) WLR 537 Lord Morris said: There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances made in the setting of the facts of a particular case.

While so holding the Hon'ble Supreme Court relied upon judgments in *London Graving Dock Co. Ltd. v. Horton* 1951 AC 737 at p. 761, *Home Office v. Dorset Yatch Co.* 1970 (2) All ER 294, and *Herrington v. British Railways Board* 1972 (2) WLR 537. It was further observed that 'Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases.

Disposal of cases by blindly placing reliance on a decision is not proper'. The Hon'ble Supreme Court also relied upon following words of Lord Denning in the matter of applying precedents: Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cordozo) by matching the colour of one case against the colour of another. To decide, therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive.

The Hon'ble Supreme Court has reiterated its view in a very recent judgment in Appeal (Civil) No. 3021/2006 decided on 10.12.2007 in State of Rajasthan v. Ganeshi Lal. The matter pertained to award of labour court which decided the reference made with regard to termination of service of the workman by holding that the same was violative of the provisions of Section 25-G of the Industrial Disputes Act, 1947. One of the questions that arose in the case aforesaid was as to whether the law department was an 'industry'.

The labour court, and a learned Single Judge and a Division Bench of the Rajasthan High Court held that the law department was an 'industry'. While so holding, however, the labour court and the High Court did not indicate as to how the law department is an 'industry', and by merely stating that in some cases irrigation department and public works department have been held to be covered by the expression 'industry', the finding was returned in favour of the workman. The Hon'ble Supreme Court in appeal calling in question the award of the labour court and the decision rendered by the learned Single Judge and the Division Bench of the High Court, held as follows: 11. ...Each case presents its own features. It is not everything said by a Judge while giving a judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the ratio decidendi. According to the well-settled theory of precedents, every decision contains three basic postulates - (i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by

the facts; and (iii) judgment based on the combined effect of the above. A decision is an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically flows from the various observations made in the judgment. The enunciation of the reason or principle on which a question before a Court has been decided is alone binding as a precedent.

We are of the firm view that the decisions of Hon'ble Supreme Court on which reliance has been placed by the counsel representing the applicants have no parity whatsoever with the facts and circumstances in the present case and the observations made therein could not possibly be applied.

9. In view of our discussion, question (iv), as reproduced above, has to be answered by holding that the requirement of recording reasons in the order would depend upon facts of each case. No straitjacket formula can be laid down. It may be desirable to record reasons in every administrative order, but non-recording thereof would not and cannot be always fatal, and, therefore, it would be open for a party defending the order to rely upon the records and pleadings. It may be recalled that even in the judicial precedents relied upon by the learned counsel representing the applicants, it has been held that the order that may not contain reasons can still be supported from records. It is trite that writ runs on records and, therefore, even if there would be no pleadings or the order may not contain reasons, but the records would justify the same, the order cannot be set aside.

10. In view of our finding on question (iv), the law laid down in the judgment of this Tribunal in OA No. 1736/2005 decided on 26.7.2006 in the matter of Pradeep Raj sharma and Ors. v. Union of India and Ors.

has to be overruled.

11. From questions other than questions (iv) and (vi) what we find is that question (ii) is crucial, which is entirely related to the facts.

If the duties performed by the incumbents in attached/subordinate offices can be compared with counterparts in Central Secretariat, there would be need to deal

with other questions. If, however, a finding on facts may be recorded that the duties performed by incumbents in attached/subordinate offices and Central Secretariat are different, no occasion would arise to deal with other questions. The answer to question (ii) surely lies in pleadings of parties. The applicants, as mentioned above, are Junior and Senior Hindi Translators in the Income Tax Department, which is a subordinate office of the Ministry of Finance (Department of Revenue). It is the case of applicants that in terms of the statutory recruitment rules notified under Article 309 of the Constitution, Junior Hindi Translator is appointed by way of transfer on deputation/transfer failing which by direct recruitment.

Minimum educational qualification for appointment to the post of Junior Hindi Translator is Master's degree of a recognized university in Hindi/English with English/Hindi as a main subject at the degree level, or Master's degree of a recognized university in any subject with Hindi as the medium of instruction and examination with English as a compulsory subject at degree level. The post of Senior Hindi Translator is also Group 'C' post and as per recruitment rules is to be filled up by promotion failing which by transfer on deputation, failing both by direct recruitment. It is the case of applicants that similar posts as referred to above are in existence in other subordinate offices of the Central Government and also in CSOLS, and not only the designation but the nature of duties and responsibilities of the aforesaid posts are also identical in all respects, and further that since the nature of duties and responsibilities of the aforesaid posts were also most identical, same pay scales, i.e., Rs. 1400-2300/1400-2600 and Rs. 1600-2660/1640-2900, were given to all. It is further the case of applicants that in all the subordinate offices of Central Government, except one or two, as well as in CSOLS pay scales of Junior Hindi Translator and Senior Hindi Translator were same, and that as in CPWD pay scales of the post of Junior Hindi Translator and Senior Hindi Translators were not equal to that of Junior/Senior Hindi Translators in CSOLS, they approached the Tribunal and prayed for revision of their pay scale. OA No. 157/1990 filed by CPWD Translators association was allowed by this Tribunal vide order dated 10.1.1992 with direction to the respondents to grant scale of Rs. 1640-2900 and Rs. 1400-2600 to Senior Hindi Translators and Junior Hindi Translators, respectively. It is then the case of applicants that in CSOLS pay

scales for the post of Junior and Senior Hindi Translators were revised from Rs. 1400-2600 to Rs. 5000-8000 and from 1640-2900 to Rs. 5500-9000, and since parity was being maintained in the aforesaid posts in CSOLS as well as in subordinate offices, therefore, after revision of pay scales in CSOLS, the pay scale of applicants was also revised in terms of letter dated 8.11.2000. As per letter aforesaid, the pay scale of the applicants was revised and brought at par with Junior and Senior Hindi Translators in CSOLS. Some time thereafter the government again upgraded the pay scale of the posts in question from Rs. 5000-8000 to Rs. 5500-9000 and Rs. 5500-9000 to Rs. 6500-10500 vide order dated 19.2.2003. The said revised scales were approved by the Ministry of Finance (Department of Revenue) vide order dated 13.2.2003 notionally w.e.f. 1.1.1996 and the actual payments were allowed w.e.f. 11.2.2003. Since parity in pay scales of aforesaid posts in CSOLS and subordinate offices was being maintained earlier to recommendations of the Fifth Central Pay Commission and even thereafter, and further Junior and Senior Hindi Translators were performing similar functions and discharging same type of duties and responsibilities and there was no difference in the educational qualifications, therefore, it is the case of the applicants, it was imperative for the respondents to revise the pay scale of applicants on the same analogy without any delay. It is the case of applicants that they were meted out with hostile discrimination by not maintaining parity in pay scales vis-à-vis Junior Hindi Translator and Senior Hindi Translator in CSOLS, and, therefore, they submitted representation to the respondents for maintaining parity. It is further the case of applicants that initially their representation evoked no interest with the respondents, but after great persuasion the respondents decided the representation but did not remove the disparity. Vide order dated 17.5.2004 (Annexure A-1), Directorate of Income Tax rejected the representation for equal pay by observing, thus: Assistant Directors (OL) pay scale 6500-10500 and Sr./Jr.

Translators in pay scales of Rs. 5500-9000 and 5000-8000 respectively had requested through the Heads of Department that their pay scale be upgraded so as to bring at par with the ADs/Translators of Central Secretariat Official Language Service cadre in pay scales of Rs. 7500-12000, 6500-10500 & 5500-9000 respectively in view of the fact that there is violation of principle of Equal pay for equal work on account of the recent order of Department of Official Language

upgrading the pay scales of the CSOL cadre.

The Department of Expenditure has not conceded to the proposal of upgrading the pay scales of the ADs/Translators of IT Department to remove disparity vis-à-vis the officials of CSOL cadre.

Kindly apprise the ADs (OL)/Translators working in your region accordingly. This disposes of all applications received in this regard.

In the counter reply filed on behalf of the respondents, it has inter alia been pleaded that traditionally the posts in Central Secretariat are placed in higher pay scales vis-à-vis posts in subordinate offices.

It is then pleaded that the fifth CPC had held existence of a differential of pay scales of posts in the Secretariat and subordinate offices as appropriate as the work in Secretariat offices is much more onerous, and that extension of higher pay scale on par with CSOLS to staff of subordinate offices apart from not being in conformity with the existing practice which is based on functional justification and recommendations of the fifth CPC, would have far reaching repercussions on various other posts in subordinate offices with concomitant financial repercussions, which the government may find difficult to bear, given its present resource crunch. It is further pleaded that as per the decision of the government the upgraded pay scales are specific to posts in CSOLS and are not applicable to posts similarly designated, which are not part of CSOLS, and that the question of granting same pay scale to Assistants and Stenographers in subordinate offices at par with Assistants/Stenographers covered under Central Secretariat Service and Central Secretariat Stenographers Service was considered in depth by a Larger Bench of this Tribunal in OA No. 1901/1999 along other OAs decided on 15.3.2001 in M. v. Rao and Ors. v. Union of India and Ors.

which decided that Assistants and Stenographers of subordinate offices are not entitled to the parity of pay scale with the Central Secretariat Service and Central Secretariat Stenographers Service. It is then pleaded that there is a vast difference between the duties and responsibilities of persons included in CSOLS and persons in subordinate offices, and recruitment to the posts included in CSOLS is

done on all India basis while that is not the position in the case of posts in subordinate offices of Income Tax Department, and that duties and responsibilities are more onerous in the Secretariat. The Government of India, it is the case of the respondents, has never conceded any parity between these posts in the Secretariat vis-à-vis those in subordinate offices, as evidenced by the fact that pay scales of Senior/Junior Hindi Translators in CSOLS were notionally upgraded w.e.f. 1.1.1996. While making a mention of the background behind upgradation of pay scales of posts belonging to CSOLS, it is pleaded that parity of some of the posts in CSOLS vis-à-vis posts in CHTI and CTB had been disturbed subsequent to implementation of recommendations of the Fifth CPC as under: (i) The post of Hindi Pradhyapak in CHTI which was earlier in an identical pay scale as that of Senior Translators in CSOLS (Rs.1640-2900 corresponding to the revised scale of Rs. 5500-9000) has been upgraded to the scale of Rs. 2000-3500 (Revised: Rs. 6500-10500) whereas no such upgradation has been made in case of the latter post.

(ii) The post of Technical Assistant in CTB which was earlier in a lower pay scale (Rs.1400-2300 corresponding to the revised pay scale of Rs. 4500-7000) vis-à-vis that of Junior Translators in CSOLS (Rs.1600-2660 corresponding to the revised pay scale of Rs. 5000-8000) has been placed in the scale of Rs. 1640-2900 whereas the pay scale of Junior Translators has not been changed at all.

(iii) The post of Senior Translators in CTB which was earlier in the same pay scale as that of Sr. Translators in CSOLS (Rs.1640-2900) corresponding to the revised pay scale of Rs. 5500-9000) has been upgraded to 2000-3500 (Revised: Rs. 6500-10500) without any change being made in the pay scale of Sr. Translators in CSOLS. (iv) Post of Assistant Director in CHTI has been upgraded from 2000-3500 (Revised: Rs. 6500-10500) to Rs. 2500-4000 (Revised: 7500-12000) but identically placed posts in CSOLS have been bifurcated in two pay scales of Rs. 3000-3500 (Revised: Rs. 6500-10500) and Rs. 2500-4000 (Rs.7500-12000).

It is pleaded that as the relativities mentioned above have been disturbed solely on account of implementation of recommendations of Fifth CPC, the issue was considered by the government and it was decided that it was anomalous to

operate analogous posts in Central Secretariat in a lower scale vis-à-vis subordinate offices, especially as the nature of work handled by incumbents of these posts in Central Secretariat and the level of secrecy which includes translating various gazette notifications, Parliament questions, Cabinet notes and other government notifications, is more onerous. This was also considered against the existing policy wherein various posts in Central Secretariat have been placed in higher pay scale vis-à-vis the scales existing in subordinate offices, and accordingly it was agreed to upgrade pay scales of the posts of Junior/Senior Hindi Translators in CSOLS to Rs. 5500-9000/6500-10500.

12. The learned counsel representing the applicants refers to pleadings made in para 4.3 of the counter reply wherein it is mentioned that there was a difference in pay scales of translators of Income-Tax Department vis-à-vis Translators of CSOLS cadre, which reads as follows: 4.3 There was a difference in pay scales of translators of Income-Tax Department vis-à-vis translators of CSOLS cadre. This fact is also true, so far as the duties and responsibilities of these posts are concerned.

While making a reference to para 4.3 in the Application, wherein it has been averred that similar posts as referred to above are also in existence in other subordinate offices of Central Government and also in CSOLS, it is relevant to note that not only designation but the nature of duties and responsibilities is identical in all respects, and that since the nature of duties and responsibilities for the aforesaid posts were also most identical, therefore, pay scale was same, i.e., Rs. 1400-2300/1400-2600 and Rs. 1600-2660/1640-2900; it is argued that the respondents have candidly admitted that nature of duties and responsibilities in the two offices is same, and once, the respondents have made an admission in the pleadings with regard to crucial fact pertaining to duties and responsibilities, this Tribunal would go by such an admission and hold accordingly. We do not find any substance in the aforesaid contention of the learned counsel. Para 4.3 in the counter reply, at the most, can be said not to be happily worded. In the first sentence, it is mentioned that there was a difference in pay scale of translators of Income-Tax Department vis-à-vis translators of CSOLS cadre. In the next sentence it is mentioned that this fact is also true, so far as duties and responsibilities of

these posts are concerned. The para in the counter reply under consideration does not appear to be admission with regard to duties and responsibilities being the same. That apart, it is settled proposition of law that the pleadings made by parties have to be considered in their entirety. An isolated sentence cannot be picked up to make it a case of admission.

In the other parts of the counter reply, it has been specifically mentioned that there is a vast difference between the duties and responsibilities of persons included in the CSOLS and those in subordinate offices, and that the recruitment to the posts in CSOLS is done on all India basis while that is not the position in the case of posts in subordinate offices, and further that duties and responsibilities are more onerous in the Secretariat. The respondents have gone further in pin-pointing the exact difference in the nature of duties of employees of the two cadres. It is specifically averred that the nature of work handled by employees in the Secretariat and the level of secrecy which includes translating various gazette notifications, Parliament questions, Cabinet notes and other government notifications, is more onerous. The applicants have not rebutted this averment, as no rejoinder has been filed, nor during the course of arguments, the factual position with regard to more onerous duties, as mentioned in the counter reply, has been controverted. It is thus apparent that not only the mode of appointment in the Central Secretariat and subordinate offices is different, but the nature of work done by the two sets of employees is different in a way that employees in the Secretariat are entrusted with more onerous duties.

Once, factual position is that it is not a case of equal work for two sets of employees, equal pay on the principles or propositions of law as contained in other questions, as referred to by the Division Bench, would need no examination or determination, but, inasmuch as the third Member [VC(A)] to whom the matter was referred by the then Hon'ble Chairman, noted a conflict of opinion in the two decisions of the Tribunal in Ram Noraya (supra) and Anand Kishore (supra), the said issue shall have to be addressed and the conflict of opinion of, if any, shall have to be resolved. Before we may make a mention of the two decisions noted above, we would like to mention that one of the Hon'ble Members [Shri v. K. Majotra, the then VC(A)] was a Member on both the Benches. In fact, Ram

Noraya's case has been decided by a Single Bench of Shri v. K. Majotra, the then VC(A). The decision of this Tribunal in Anand Kishore (supra) has been delivered by a Division Bench presided over by Shri v. K. Majotra. The facts in Ram Noraya (supra) reveal that the applicant therein was aggrieved of rejection of his representation, which came to be decided pursuant to direction issued by this Tribunal, for upgradation of the post of Assistant Director (Rajbhasha) to the scale of Rs. 7500-12000 on the ground that 50% of the existing live posts of Assistant Director (Official Language) in the subordinate offices of Ministry of Mines could be placed in the pay scale of Rs. 7500-12000 with prospective effect, and the post of Assistant Director (Rajbhasha) being a solitary post in Indian Bureau of Mines could not be upgraded to the scale of Rs. 7500-12000, and that the aforesaid scale of Rs. 7500-12000 would exist as a distinct scale for purpose of grant of ACP benefit. It was the case of the applicant therein that the Fourth CPC recommendations stated that the Department of Official Language under the Ministry of Home Affairs is the nodal Ministry/Department for implementation of Official Language Policy of the Government of India, and it granted the pay scale of Rs. 2000-60-2300-75-3200-100-3500 to all Hindi Officers [since re-designated as Assistant Director (Rajbhasha)] working in different departments of the Government of India. The post was classified as Group 'B' Gazetted. Ministry of Home Affairs vide OM dated 8.6.1988 prescribed uniform duties for the post of Hindi Officers in various departments of the Government of India, and the Hindi posts in subordinate offices had been upgraded. As such the post of Assistant Director had been bifurcated and upgraded as Assistant Director Grade-I in the higher replacement scale of Rs. 2500-4000, and the post of Assistant Director Grade-II in the existing scale of Rs. 2000-3500. It was also his case that the Fifth CPC had recommended the higher replacement scale for Assistant Directors in all departments of the Government of India, and in pursuance of these recommendations, the pay of Hindi Officers in the Directorate General of Mines Safety had been fixed in the replacement scale of Rs. 7500-250-12000 vide order dated 8.3.1999, but the pay scale of the applicant in the Indian Bureau of Mines had not been upgraded as such. It was also his case that the Ministry of Home Affairs had upgraded the pay scale of Assistant Director (Rajbhasha) in all departments to Rs. 7500-12000 w.e.f.

11.2.2003. On the facts as mentioned above, the plea of discrimination and violation of Articles 14, 16 and 39 of the Constitution was raised.

The matter was contested on the ground that 50% of the existing live posts of Assistant Director (Official Language) in subordinate offices of Ministry of Mines could be placed in the pay scale of Rs. 7500-12000 with prospective effect, and the post of Assistant Director (Rajbhasha) being a solitary post in the Indian Bureau of Mines could not be upgraded to Rs. 7500-12000, and that the scale of Rs. 7500-12000 was available as a distinct scale for purposes of grant of ACP benefit. On the pleadings and submissions as mentioned above, the Tribunal required the respondents to produce any circular to the effect that 50% of the existing live posts of Assistant Director (Official Language) in subordinate offices of the Ministry of Mines could be placed in the pay scale of Rs. 7500-12000 with prospective effect. It was observed that no such circular could be produced on behalf of the respondents. It was further observed that the respondents had not decided the claim of the applicant in the spirit of OM dated 27.2.2003 of the Ministry of Home Affairs and OM dated 14.7.2003 issued by the Ministry of finance. It is for this reason, it was observed, that denial of the respondents to grant the pay scale of Rs. 7500-12000 to the applicant would be discriminatory. From the facts as detailed above, we do not find the issue involved in the said case to be the same as the one in hand. It is for this precise reason, it appears, that while disposing of OA No.914/2005 in the matter of Anand Kishore and Ors. (supra), even though, reference of the decision in the case of Ram Noraya (supra) was made, but the Bench did not consider it even proper to take the same into consideration for purposes of deciding the controversy therein, as the issue was entirely different. The facts in Anand Kishore (supra) reveal that the question involved therein was same as the one subject matter of discussion before us. The question that came to be framed recorded in the opening part of the order reads as follows: 2. Whether Assistant Directors (OL), Income Tax Department, an attached and subordinate office, are entitled to parity in pay scale with their counterparts working in CSOLS, is the question posed in this OA? It is the precise question posed in this OA as well. The only difference, which shall not at all be material, in the facts of the said case and the one in hand, is that whereas the applicants before us are Senior/Junior Hindi Translators in the Income Tax

Department, a subordinate office of the Ministry of Finance, Department of Revenue, the applicants in Anand Kishore (supra) were Assistant Directors in the same very department. The grievance of the applicants therein was the same based upon the same or similar facts. The grievance of the applicants had been noted in para 5 of the judgment. The applicants had urged that the grievance arose when the fifth CPC's recommendations were implemented by the Government. It was highlighted that from the First to the Fourth CPC, pay parity was maintained in the cadre of Assistant Directors working in CSOLS as well as subordinate offices and all were placed in pay scale of Rs. 2000-3500. The Fifth CPC recommended two grades in the cadre of Assistant Director (CSOLS) and bifurcated it into two grades - Grade-I and Grade-II in pay scale of Rs. 2500-4000 and Rs. 2000-3500, respectively. Vide para 70.134, it was recommended that scale for different categories of posts in subordinate offices be the same as in CSOLS subject to their functional requirement. In CSOLS, for Junior Hindi Translator, Senior Hindi Translator and Assistant Director (OL) the pay scales were upgraded from Rs. 5000-8000, Rs. 5500-9000 and Rs. 6500-10500 to Rs. 5500-9000, Rs. 6500-10500 and Rs. 7500-12000 respectively, notionally from 1.1.1996 and actual benefit w.e.f. 11.2.2003. The applicants urged that similar benefit had not been extended to officials outside CSOLS cadre.

On rejection of their representation, they filed the OA aforesaid seeking pay parity with their counterparts in CSOLS. For the relief, as mentioned above, besides relying upon other judgments, they had also relied upon the judgment of this Tribunal in Ram Noraya (supra). The cause of the applicants was contested on the same grounds as have been pleaded in the counter reply filed by the respondents in the present case. It was inter alia pleaded, and so urged, that the relativities had been disturbed solely on account of implementation of the Fifth CPC recommendations in the Central Secretariat vis-à-vis subordinate offices as the nature of work handled by the officials in the Secretariat, and the level of secrecy, which includes translating various gazette notifications, Parliament questions, Cabinet notes and other government notifications, etc., is more onerous vis-à-vis the subordinate offices. On the respective contentions raised by the learned counsel representing the parties, the Tribunal observed as follows: 11. On consideration of entire matter including rival contentions raised, the question,

which needs to be addressed, is whether applicants are entitled to relief based on principle of 'equal pay for equal work'.

12. As noticed hereinabove, the law is well settled that though the said doctrine is not an abstract doctrine and is capable of being enforced in a Court of law, but the said principle has no mechanical application. Even though a person may do same work, the quality of work may differ. It is not just a comparison of physical activity.

Application of principle of 'equal pay for equal work' requires consideration of various aspects of a given job. It is further well settled that equal pay must depend upon the nature of work done. It cannot be judged by mere volume of work, there may be qualitative difference as regards reliability and responsibility. Even the source of recruitment is one such principle, which has to be considered while making comparison. What has been emphasized by the Hon'ble Supreme Court is that such exercise must be evaluated and determined by an expert body. It is not in dispute that though 5th CPC vide para 70.134 recommended same scale for different categories of posts in subordinate offices as of CSOLS, but had put a rider i.e. 'subject to their functional requirement'. It is this functional requirement, which assumes importance.

13. On bestowing our anxious and careful consideration to the rival contentions raised by both side, we are of the considered view that there is not only difference in the mode of recruitment, but even the quality of work performed and the nature of work assigned in subordinate offices vis-à-vis CSOLS vary and differ considerably. It is not easy to apply the principle of 'equal pay for equal work' in each and every case. There are inherent difficulties in comparison and evaluating different persons in different or even in the same organization. In the facts & circumstances of the present case, we are of the considered view that there is nothing on record to show that the duties and functions of two categories of employment are at par, and, thus, parity in pay-scales is not permissible. Similarly we find no justification in the contention that there has been violation of Article 14 of the Constitution of India as question of violation of such principle would apply only if the persons are similarly placed. It is well settled that equality clause contained in Article 14 will have no application where the persons are not similarly

situated or when there is a valid classification based on a reasonable differentia.

13. From the reading of the two judgments in Ram Noraya (supra) and Anand Kishore (supra), it is quite apparent that the issues involved therein were different. That being so, it was not a case of conflict of opinion. Be that as it may, it appears to us that the facts of the case in hand are exactly the same as in Anand Kishore (supra), and further that on such facts, the Tribunal after discussing the entire issue arrived at a correct conclusion. Before we may part with this aspect of the case, we would like to mention that the Division Bench in Anand Kishore (supra), besides relying upon various judgments of the Hon'ble Supreme Court while dismissing the OA, made a pertinent reference to a Larger Bench decision of this Tribunal in OA No. 1901/1999 and connected matters decided on 15.3.2001 in M. v. R. Rao and Ors. v. Union of India and Ors. consisting of five Judges [Chairman, VC(A), VC(J), Member (A), Member (J)]. One of the Members constituting the Larger Bench was Shri v. K. Majotra, at that time Member (A). Also, one of the Members on the Bench was Shri Shanker Raju, Member (J). It may be recalled at this stage that this matter has come before the Full Bench on account of difference of opinion between Shri Shanker Raju, Member (J) and Smt. Chitra Chopra, Member (A). In fact, Shri Shanker Raju, Member (J) in his dissenting note opined that the impugned order rejecting the representation of the applicants would not sustain for the solitary reason that the same did not contain reasons, and that the reasons given in the pleadings in the counter reply could not cure an order which was inherently defective. He expressed no opinion on the merits of the controversy in issue. It is interesting to note that the OA giving rise to decision by the Larger Bench of five Judges was filed by Stenographers Grade-I and Assistants working in subordinate and attached offices of the Government of India. Reference made for adjudication by the Larger Bench was as follows: Whether Stenographers and Assistants of subordinate and attached offices of government of India are entitled to the pay scale of Rs. 1640-2900 applicable to Stenographers and Assistants working in Central Secretariat Service.

The Larger Bench after referring to all the contentions and the entire law on the subject as available on that day, dismissed the OA. If perhaps, the decision of the Larger Bench had been taken into consideration by the Division Bench dealing

with this case, there would have been no necessity at all to refer the matter to the Full Bench.

The Larger Bench of the Tribunal has already determined the controversy in issue. It is not the case of the parties, and in particular, the applicants, that the judgment of the Larger Bench was either subject matter of challenge in a higher judicial forum or the law laid down therein has been varied or set at naught by any such forum.

14. In view of our discussion made above, we answer questions (ii), (iv) and (vi) as fully detailed above. We do not deem it to be a fit case for answering the other questions in view of our observations made above, as also that the matter already stands clinched by the decision of a Larger Bench of this Tribunal.

15. The upshot of our discussion made above would result into dismissal of this Application. So ordered. Parties shall, however, bear their own costs.

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