

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO 293 OF 2014**

DISTRICT : MUMBAI

1. Kamgar Karyalaya Rajpatrit Adhikari)
Sanghatana, [M.S], Mumbai.)
Having office at C/o: Office of)
Labour Commissioner, Mumbai.)
Kamgar Bhavan, C-20, E-Block,)
Bandra-Kurla Complex, Bandra [E],)
Mumbai 400 051, through President)
of the said Sanghatana by name)
Shri A.D Kakatkar.)
Add for service of notice:)
Shri A.V Bandiwadekar, advocate,)
Having office at 9, "Ram Kripa",)
Lt Dilip Gupte Marg, Mahim,)
Mumbai 400 016.)...**Applicant**

Versus

1. The State of Maharashtra)
Through Principal Secretary,)
Finance Department, having office)
at Mantralaya, Mumbai 400 032.)
2. The Principal Secretary, [Services],)
General Administration Department,)

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Cum President, Pay Anomaly)
Removal Committee, having office at)
Mantralaya, Mumbai 400 032.)
3. The State of Maharashtra,)
Through Principal Secretary,)
[Labour], Industries, Energy and)
Labour Department, having office)
at Mantralaya, Mumbai 400 032.)...**Respondents**

Shri A.V Bandiwadekar, learned advocate for the Applicants.

Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

Shri R.B. Malik (Member) (J)

DATE : 02.08.2016

PER : Shri Rajiv Agarwal (Vice-Chairman)

ORDER

1. Heard Shri A.V Bandiwadekar, learned advocate for the Applicant and Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

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2. This Original Application has been filed by the Association of Gazetted Officers working in the Labour Department of Maharashtra, seeking higher pay scale for the post of Assistant Commissioner of Labour, identical with the pay scale granted to the Assistant Commissioner of Labour, working in the Central Government.

3. Learned Counsel for the Applicant stated that the Applicant is an Association of Gazetted Officers of Labour Department. The Association is registered under the Societies Registration Act and it is also recognized by the General Administration Department of the State Government. Learned Counsel for the Applicant argued that the State Government has taken a policy decision in December, 1977, not to appoint its own Pay Commission regarding emoluments paid to its employees, which are reviewed every ten years. It was decided to adopt the recommendations of Central Pay Commission and grant pay scale recommended by Central Pay Commission to the equivalent or similar posts in Government. For this purpose, Pay Revision / Equivalence Committee is appointed whenever report of a Central Pay Commission is received. Learned Counsel for the Applicant stated that State Pay Revision Committee was appointed in 2008 (which was headed by Shri P.M.A Hakim, known as Hakim Committee) in the wake of 6th Pay Central Pay Commission recommendations. This Committee was given information about the pay structures of Gazetted



Officers working in the Labour Department for the posts like Additional Commissioner, Deputy Commissioner and Assistant Commissioner and Government Labour Officer. It was requested that these posts in the State Government should be given Pay Band and Grade Pay, which is given to the posts carrying same / similar designations in the Central Government. Learned Counsel for the Applicants argued that the qualifications duties etc. for the posts in Central and State Government are similar. They are implementing the same laws and there is no legal or valid reason to differentiate between the Assistant Commissioner of Labour (A.C) in the State Government and the Central Government. Learned Counsel for the Applicant stated that Commissioner of Labour, Maharashtra State had made repeated recommendations to grant pay scale applicable to Assistant Commissioner in the Central Government to Assistant Commissioner in the State Government. Learned Counsel for the Applicants stated that Pay Anomaly Committee, headed by Shri P.K Bakshi, in its report dated 15.5.2012, has stated that the post of Assistant Commissioner in the State Government was not held equivalent to the post of Assistant Commissioner in the Central Government by the Pay Equivalence Committee headed by Justice N.B. Naik regarding 4th Pay Commission. This Committee (Naik Committee) had not held any post in State Labour Commissionerate as equivalent to the posts in the

Central Labour Commissionerate. However, for all the other posts, viz. Government Labour Officer, Class-II, Deputy Commissioner of Labour and Additional Commissioner of Labour were given scales applicable to the corresponding posts in Central Government. Learned Counsel for the Applicants submitted that the following chart in support of his contention:-

4th Pay Commission

State		Centre 4 th Pay Commission	
Post	Scale	Post	Scale
Government Labour Officer, Class-II	2000-3500	Labour Enforcement Officer, Class-II	2000-3500
Assistant Commissioner of Labour	2200-3700	Assistant Commissioner of Labour	2200-3700
Dy. Commissioner of Labour	3000-4500	Dy. Commissioner of Labour	3000-4500
Addl. Commissioner of Labour	3700-5000	Dy. Chief Labour Commissioner	3700-5000

Learned Counsel for the Applicant argued that Naik Committee, in the context of 4th Pay Commission has not found any of the above posts equivalent, but recommended Pay Scale of Rs. 2200-4000 for Assistant Commissioner in State, which was not accepted by the Government. There could not have been any justification for such discrimination. This injustice has continued in 5th & 6th Pay Commission also. Bakshi Committee (Pay



Anomaly Committee - 6th Pay Commission) has blindly followed the decision of Naik Committee regarding non-equivalence of posts, but had ignored the fact that the Committee had recommended granting of identical pay scales to all posts as available to the posts in the Central Government.

4. Learned Counsel for the Applicant argued that the Recruitment Rules, manner of recruitment, nature of duties and responsibility of the posts, educational and other eligibility qualifications for the post of Assistant Commissioner in the State Government and the Central Government are more or less identical. Learned Counsel for the Applicant stated that the Central Labour Service (Group 'A') Rules, 2007 and the Maharashtra Gazetted Posts in the Labour Department (Recruitment) Rules, 1981 have identical / similar qualifications requirements. In fact, the State rules are more stringent regarding educational qualification and also require experience unlike the Central rules. Learned Counsel for the Applicant argued that six duties are common between the Assistant Commissioner at Central & State Level, while the State Officers are required to perform four additional duties which are more onerous and rigorous. It is unfortunate that the Respondents have not considered recommendations of the State Commissioner of Labour. The Respondents have not given any cogent reasons for not granting pay scale applicable to Assistant

Commissioner in Central Government to their counterparts in the State Government.

5. Learned Presenting Officer (P.O) argued on behalf of the Respondents that the Applicant Association is demanding pay structure equivalent to the post of Assistant Commissioner in the Central Government for the Assistant Commissioner in the State Government. Learned Presenting Officer argued that no doubt both the posts are called Assistant Commissioner of Labour, but there the similarity ends. The work assigned to the Assistant Commissioner in Centre and State and duties and responsibilities are different. This issue was examined by Naik Committee (4th Pay Commission) and it was held that posts in Central Chief Commissionerate of Labour and State Labour Commissionerate had no equivalence. The same view was taken by various Committees after 5th and 6th Pay Commission recommendations were adopted for Maharashtra Government employees. Hakim Committee / 6th Pay Commission (Pay Equivalence Committee) had examined the issue of equivalence of posts in Central and State Government in detail and the Committee did not find the post of Assistant Commissioner in State Government equivalent to the post of Assistant Commissioner in the Central Government. The report was received on 20.12.2008. The issue was once again examined by the Pay Anomaly Committee (Bakshi Committee), which



submitted report in 2012. This Committee also rejected the claim of the Applicants that the post of Assistant Commissioner in the State Government is equivalent to the post of Assistant Commissioner in the Central Government.

6. Learned Presenting Officer stated that the nature of duties of both the posts in question cannot be considered as equivalent. In any case, the information relied upon by the Applicants to claim that nature of duties of Assistant Commissioner in State Government is more onerous and stringent is not based on any authentic documents. When the posts are not equivalent, there is no question of holding duties & responsibilities as equivalent. Learned Presenting Officer argued that the demand of the Applicants have been examined by various Committees at different points of time and has not been found to have any substance. Hon'ble Supreme Court has held that the job of pay fixation is of the expert bodies like Pay Commission / Expert Committees and there is little scope of intervention by this Tribunal.

7. The main contention of the Applicant is that the State has taken a policy decision in 1977, not to appoint any Pay Commission of its own, but to make applicable to the comparable categories of employees of the State Government, the recommendations of the

Central Pay Commission. This is stated in the Introduction (chapter-1) of the report of the Equivalence Committee for Revision of Pay Scale, Maharashtra State (Naik Committee). It reads:-

“In December 1977, the Government of Maharashtra took a decision that in future no separate Pay Commission would be appointed by the State Government to revise the pay scales of the State Government employees and others. Whenever the Central Government appointed a Pay Commission, the decision of the Central Government on the Commission's recommendations in regard to pay scales would be made applicable to the comparable categories of employees of the State Government. The pay fixation formula would also be the same in the Centre.”

The Applicant claims that the post of Assistant Commissioner of Labour (A.C) in the State Government is comparable or equivalent to the post of Assistant Commissioner in the Central Government. However, there is no dispute about the fact that the Naik Committee, did not find posts in the Commissioner of Labour, Maharashtra, as equivalent to the posts in the office of the Chief Commissioner of Labour in Government of India. The Applicant has clearly admitted

this fact in paragraph 6.12 of the Original Application as follows:-

“On going through the report of the said Committee, it is revealed that none of the Gazetted post in State Labour Commissionerate was held equivalent to that of Central Labour Commissionerate. However, the comparable posts except the said post were offered similar pay scales.”

The claim of the Applicant is that though Naik Committee did not find equivalence of various posts, it recommended Pay Scales for various posts, which were applicable to posts to similar posts in the Central Government. The Government accepted the recommendations of the Naik Committee except for the post of Assistant Commissioner. The issue was again examined in the context of 5th Pay Commission, and apparently, the pay scale to Assistant Commissioner in the State Government was fixed lower than the pay scale given to Assistant Commissioner in Central Government. In the Sixth Pay Commission, State Pay Revision Committee, headed by Shri P.M.A Hakim, submitted report on 20.12.2008. In para 3.4.2 of the report, the Committee has indicated as to how the equivalence of posts was considered, viz:

“ ३.४.२ केंद्र शासनाकडील संवर्ग पदांबरोबर सापेक्षता देण्याबाबत नमूद करण्यात येते की, हे तत्व सर्वसाधारणपणे मान्य असले तरी ब-याचशा प्रकरणी हे तत्व लागू करण्यात

अडचणी आहेत. अनेक संवर्ग पदांबाबत अशी सापेक्षता शैक्षणिक अर्हता व अनुभव, कर्तव्ये व जबाबदारीतील समानता, कामाचा व्याप व राज्य आणि केंद्र शासनाकडील संबंधित कामांच्या प्राथम्यातील फरक या सर्व बाबी लक्षात घेऊन ठरविण्यात आली नाही. सापेक्षता ठरविताना दुर्लक्षित झालेला दुसरा महत्वाचा मुद्दा म्हणजे केंद्र शासनाकडील समतुल्य पदाची वेतनश्रेणी राज्य शासनाकडील पदास देताना त्या पदाची राज्य शासनाकडील इतर पदांबरोबर प्रत्यक्ष व अप्रत्यक्षपणे असलेली सापेक्षता भंग होऊ शकेल हा आहे. एखाद्या पदास केंद्र शासनाने ज्या कारणांसाठी उच्च वेतनश्रेणी मंजूर केली ती कारणे राज्य शासनाकडील पदांच्या कर्तव्ये व जबाबदारीच्या प्राथम्याशी सुसंगत ठरतीलच असे नाही हा मुद्दादेखील या ठिकाणी दुर्लक्षित करून चालणार नाही. राज्य शासनाकडील पदांची केंद्र शासनाकडील पदांशी सापेक्षता ठरविताना येणा-या वरील सर्व मर्यादांचा विचार करून काही संवर्ग पदांबाबत केंद्र शासनाकडील पदांशी जवळपास समतुल्यता राखण्यासाठी समितीने सुधारित वेतन संरचनेत काही बदल करण्याची शिफारस केली आहे”.

It is, therefore, clear, that the Hakim Committee examined the issue of equivalence of various posts in the State Government with the posts in Central Government afresh. However, the Committee admittedly did not accept the claim of the Applicant that the post of Assistant Commissioner at State level was equivalent to the post of Assistant Commissioner at Central level. The issue was once again examined by yet another Committee, viz., Pay Anomaly Committee, headed by Shri K.P. Bakshi, which submitted its report in 2012. The issue was examined in considerable detail and in para 2.3.2 of the Report, the Committee has observed as follows:-

“२.३ केंद्र शासनाकडील समकक्ष संवर्गाप्रमाणे वेतनसंरचना मंजूर करण्याबाबत-

२.३.१ दि.१ एप्रिल, १९७६ पासून राज्य शासकीय व इतर कर्मचा-यांना सुधारित वेतनश्रेणी देण्याबाबत शिफारस करण्यासाठी निवृत्त न्यायमूर्ती श्री. आर.आर. भोळे यांच्या अध्यक्षतेखाली वेतन आयोगाची नियुक्ती करण्यात आली होती. भोळे वेतन आयोगाच्या शिफारशीवर निर्णय घेताना (१९७७ मध्ये) राज्य शासनाने असाही निर्णय घेतला की, “राज्य शासकीय व इतर कर्मचा-यांच्या वेतनश्रेण्या सुधारण्याकरीता स्वतंत्र आयोग नियुक्त न करता केंद्र शासन जेव्हा जेव्हा केंद्रीय कर्मचा-यांकरीता वेतन आयोग नियुक्त करील त्या वेतन आयोगाच्या शिफारशीवरील केंद्र शासनाचे वेतनश्रेणीविषयक निर्णय राज्य शासकीय कर्मचा-यांच्या तुलनीय प्रवर्गांना लागू करण्यात येतील. यासाठी वेतननिश्चितीचे सूत्रदेखील केंद्र शासनाप्रमाणे असेल.”

२.३.२ उपरोक्त निर्णयाच्या अनुषंगाने वेतन समानीकरण समितीने केंद्र शासनाकडील पदांशी समकक्ष ठरविलेल्या राज्य शासनाकडील पदांना केंद्र शासनाप्रमाणे जशीच्या - तशी सुधारित वेतनसंरचना लागू करण्याचे प्रस्ताव समितीस प्राप्त झाले आहेत. यासंदर्भात निर्णय घेताना पुढील मुद्द्यांचा विचार करणे अपरिहार्य आहे असे समितीस वाटते:-

अ) केंद्र शासनाकडे काही संवर्गांना उच्च वेतनश्रेणी/वेतनसंरचना विहित करताना तेथील पदसंरचना/पदोन्नती तसेच त्या संवर्गांचे सेवेतील स्थान/महत्त्व इ. बाबी विचारात घेतल्या जातात. केंद्र शासनाकडे काही प्रसंगी संवर्गांची श्रेणीवाढ करताना संवर्गांचे सुसूत्रीकरण करणेदेखील अभिप्रेत असल्याचे दिसून येते. या सर्व बाबी राज्य शासनाकडील संवर्गांच्याबाबतीत लागू ठरतीलच असे नाही.

ब) केंद्र शासकीय कर्मचा-यांचे कार्यक्षेत्र व्यापक असून त्यांची भारतात कोठेही नेमणूक/बदली होऊ शकते. राज्य शासकीय कर्मचा-यांचे भौगोलिक क्षेत्र केंद्र शासनाच्या कर्मचा-यांच्या तुलनेत मर्यादित आहे.

क) केंद्र शासकीय कर्मचा-यांना त्यांची स्वतःची भाषा, संस्कृती यापेक्षा वेगळी भाषा, संस्कृती असलेल्या वातावरणात तसेच स्थानिक परिस्थितीशी जुळवून घेऊन नियुक्तीच्या ठिकाणी कार्यरत रहावे लागते. राज्य हा घटक विचारात घेतल्यास साधारणतः समान भाषिक व सांस्कृतिक वातावरण असते. त्यामुळे राज्यातील व्यक्तींना राज्याच्या सेवेत काम करताना केंद्र शासकीय कर्मचा-यांप्रमाणे भाषिक/सांस्कृतिक अडचणी येत नाहीत. ही बाब विचारात घेता केंद्र शासकीय कर्मचा-यांना राज्य शासकीय कर्मचा-यांच्या तुलनेने कठीण परिस्थितीत काम करावे लागते.

ड) वरील कारणांमुळे केंद्र शासनाच्या काही संवर्गातील कर्मचा-यांसोबत त्यांच्या नेमणूकीच्या ठिकाणी त्यांचे कुटुंबीय ब-याच प्रसंगी राहू शकत नाहीत. यामुळे त्यांना

कुटुंबाची व्यवस्था अन्यत्र करावी लागते. परिणामी दूरवरून कुटुंबाची देखभाल करणे कर्मप्राप्त ठरते. या बाबी जिकीरीच्या तसेच खर्चिकदेखील आहेत. राज्य शासकीय कर्मचा-यांच्याबाबतीत अशी परिस्थिती अपवादानेच उद्भवते.

इ) केंद्र शासकीय कर्मचारी त्यांच्या राज्याव्यतिरिक्त इतर राज्यांमध्ये नियुक्तीवर असताना त्यांच्या पाल्यांच्या शैक्षणिक निवडीस मर्यादा येतात. त्यामुळे प्रसंगी पाल्यांना मातृभाषेतील शिक्षणासारख्या सुविधेपासून वंचित रहावे लागते.

ई) राज्य शासकीय सेवेतील पदांसाठी राज्यस्तरावर स्पर्धा परीक्षा होतात. केंद्र शासनाकडील बहुतांश सेवेत अखिल भारतीय स्तरावर स्पर्धा परिक्षांद्वारे नेमणूक होत असल्याने परीक्षेकरीता तुलनेने स्पर्धा मोठ्या प्रमाणावर असते.

फ) केंद्र शासनाचे आणि राज्य शासनाचे उत्पन्नांचे स्रोत भिन्न आहेत. तसेच राज्य शासनाच्या साधनसंपत्तीच्या तुलनेत केंद्र शासनाची साधनसंपत्ती मोठ्या प्रमाणात आहे. त्यामुळे वेतन व भत्त्यांच्या खर्चाच्या संदर्भात राज्य शासनावर मर्यादा येतात. या कारणास्तव केंद्र आणि राज्य शासनाच्या कर्मचा-यांच्या वेतनात काही अंशी तफावत येणे स्वाभाविक आहे.


ग) केंद्र शासनाकडील पदांशी समकक्ष ठरविलेल्या राज्य शासनाकडील पदांना शासनाच्या प्रचलित धारेणानुसार चौथ्या व पाचव्या वेतन आयोगात केंद्र शासनाकडील पदांप्रमाणे वेतनश्रेण्या मंजूर करण्यात आल्या आहेत. त्यामुळे अशा संवर्गांच्या वेतनमानाचा स्तर इतर संवर्गांच्या तुलनेत चांगल्या प्रकारे उंचावला गेला आहे आणि त्या असुधारित वेतनश्रेण्यांशी समकक्ष अशी सुधारित वेतनसंरचना सहाव्या वेतन आयोगात मंजूर केली आहे.

उपरोक्त सर्व कारणांमुळे प्राप्त परिस्थितीत केंद्र शासनाच्या आणि राज्य शासनाच्या कर्मचा-यांच्या वेतनाची तुलना करणे सयुक्त वाटत नाही. यास्तव सहाव्या वेतन आयोगामध्ये केंद्र शासनाने पुन्हा काही संवर्गांना मंजूर केलेल्या समकक्षतेपेक्षा उच्च वेतनसंरचनेबाबत आग्रही भूमिका घेणे उचित होणार नाही असे समितीस वाटते.”

The Applicant has stated that the decision of Hakim/Bakshi Committee was arbitrary, irrational, unjust etc. The Applicant has appended a chart (Exhibit 'N' pages 110-112 of the Paper Book). This chart has compared the Recruitment Rules, with reference to

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educational qualifications and experience for the post of Assistant Commissioner in the State Government and Central Government. It is claimed that for Assistant Commissioner in State, higher educational qualification and experience is required. This is based on the Recruitment Rules for the posts, viz. the Central Labour Service (Group 'A') Rules, 2007 and the Maharashtra Gazetted Posts in the Labour Department (Recruitment) Rules, 1981. On perusal of Central Rules, it is seen that the persons working in Central Labour Service (Group 'A') are posted as Assistant Labour Commissioner in Junior Time Scale and are promoted to Senior Time Scale (Regional Labour Commissioner or Deputy Labour Welfare Commissioner), Junior Administrative Grade (Deputy Chief Labour Commissioner) and Senior Administrative Grade (Chief Labour Commissioner). It is clear that it is a organized Central Service like the Indian Revenue Service/Indian Economic Service etc. Obviously, for entry level like any other Central Service, minimum educational requirement is a degree of a recognized University and Diploma in Social Work etc. All senior posts are to be filled by promotion only. Recruitment Rules of State Government for the post of Assistant Commissioner, provide for appointment as Assistant Commissioner by promotion and nomination in equal proportion. The posts in an organized Central service are to be treated at totally different footing from the posts in State Government. Coming back to the chart



at Exhibit 'N', the Applicant has given main duties and responsibilities of the post of Assistant Commissioner in Central Government and State Government. It is not clear, as to how these duties have been culled out. Various Acts, which are implemented / administered by Assistant Commissioner in Central and State Government have been mentioned. There is no way to be sure that this chart truly and correctly reflects the duties and responsibilities assigned to an Assistant Labour Commissioner in the Central Government and the State Government. In fact, this chart has practically no evidentiary value.

8. The Applicant has not been able to prove that the nature of duties and responsibility of the Assistant Commissioner in the State are more onerous and stringent as compared to the Assistant Commissioners in the Centre. Source of recruitment for these posts are also entirely different. Central Officers are part of organized Central Service, unlike the State Labour Officers. They cannot be treated as equivalent posts.

9. Let us examine the case laws relied upon by the Applicant and the Respondents.

The Applicant has relied upon the following judgments, viz;

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(a) S.I ROOPLAL & ANR Vs. Lt. GOVERNOR THROUGH CHIEF SECRETARY, DELHI & OTHERS : AIR 2000 S.C 594.

In this case, it was held that post of Sub Inspector in Border Security Force was equivalent to the post of Sub-Inspector in Delhi Police. Four criteria for determining equivalence viz. (i) nature and duties of a post, (ii) the responsibilities and powers exercised by the officer, (iii) the minimum qualification (iv) salary for the posts was held necessary by Hon'ble Supreme Court. In this case, two posts of Sub-Inspectors were held non-equivalent only on the ground of unequal pay scales by a Bench of the Central Administrative Tribunal, taking a stand different from the decision given earlier by a coordinate Bench of the same Tribunal. Hon'ble Supreme Court has frowned upon this judicial indiscipline. The issue in the case was that posts were held unequal only on the ground of unequal pay. In the present case, the issues are quite different. Various Pay Committees have not found any equivalence between the post of Assistant Commissioner of Central and State Government. We have also not found the claim of the Applicant in this regard as correct. Another factor which is relevant is that both the Sub-Inspectors in B.S.F and Delhi Police are Central Government employees and a Committee had found the post as equal except that for the fact that the pay scales for two posts were different. This case is clearly distinguishable.

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(b) K. Jagannathan & Others Vs. Girija Vaidyanathan & Another 2013 (2) SCC (L & S) 728.

Hon'ble Supreme Court has relied on the principle of equal pay for equal work. In the present case, the Applicant has not been able to substantiate the claim that the work being discharged by Assistant Commissioner of Central and State Government are equal. The case is clearly distinguishable.

(c) **Union of India & Others Vs. Rajesh Kumar Gond : (2015) 1 SCC (L & S) 447.**

Hon'ble Supreme Court has held that Hindi Translators working in various Central Government Ministries were entitled to the same pay. There was no material placed before the Central Administrative Tribunal to show that job of Hindi Translator in Commerce Ministry was different from that in the Central Secretariat. In this case, all Hindi Translators were working in the Central Government. A Hindi Translators working in Commerce Ministry was held eligible to get higher pay scale made applicable to Hindi Translators working in Central Secretariat and that was upheld by Hon'ble Supreme Court. In the present case, the Applicant is seeking pay parity for State Employees with that of Central Government employees. The case is clearly distinguishable.

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Learned Presenting Officer has cited the following judgments:-

(a) **State of Haryana & another Vs. Haryana Civil Secretariat Personal Staff Association : 2002 Suppl (1) SCR 118.** Hon'ble Supreme Court has observed that:-

“It is to be kept in mind that the claim of equal pay for equal work is not a fundamental right vested in any employee though it is a constitutional goal to be achieved by the Government. Fixation of pay and determination of parity in duties and responsibilities is a complex matter which is for the executive to discharge. While taking a decision in the matter several relevant factors, some of which have been mooted by this Court in the decided case, are to be considered keeping in view the prevailing financial position and capacity of the State Government to bear the additional liability of a revised scale of pay. It is also to be kept in mind that the priority given to different types of posts under the prevailing policies of the State Government is also a relevant factor for consideration by the State Government. In the context of complex nature of issues involved, the far reaching consequences of a decision in the matter and its impact on the administration of the State

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Government courts have taken the view ordinarily courts should not try to delve deep into administrative decisions pertaining to pay fixation and pay parity. That is not to say that the matter is not justiciable or that the courts cannot entertain any proceeding against such administrative decision taken by the government. The courts should approach such matters with restraint and interfere only when they are satisfied that the decision of the government is patently irrational unjust and prejudicial to a section of employees and the government while taking the decision has ignored factors which are material and relevant for a decision in the matter. Even in a case where the court holds the order passed by the government to be unsustainable then ordinarily a direction should be given to the State Government or the authority taking the decision to reconsider the matter and pass a proper order. The court should avoid giving a declaration granting a particular scale of pay and compelling the government to implement the same.”

Hon'ble Supreme Court has held that courts should not interfere in pay fixation matters unless the decision of the Government is patently irrational, unjust and prejudicial to a section of employees, and if the Government has ignored material and relevant factors.



Such is not the case here. This judgment is squarely applicable in the facts of the present case.

(b) **Union of India Vs. Arun Jyoti Kundu & Others in Civil Appeal No. 2468-2469 of 2005**, dated 27.8.2007.

Hon'ble Supreme Court has held that:-

“As this Court has clarified in the decision averted to, it is for the Government to act on the report of the Pay Commission, either to accept or not to accept its recommendations.”

It is held by the Hon'ble Supreme Court that the Government has full authority not to accept the recommendations of the Pay Commission.

(c) **O.A no 180 of 2007 and 606/2008 decided on 5.9.2014.**

This Tribunal held on the basis of the judgment of Hon'ble Supreme Court in **UNION OF INDIA Vs. MAKHAN CHANDRA ROY : 1997 AIR SCW 2391 and HARYANA CIVIL SECRETARIAT PERSONAL STAFF ASSOCIATION's** case (supra), that the task of fixation of pay scale, parity in pay scale etc. is best left to expert bodies like Pay Commission/Pay Equivalence Committee.

10. To conclude, we find that the Applicant has not placed any material on record to show that the duties and responsibilities of the posts of Assistant Commissioner in the Central and State Government are identical or Assistant Commissioner in the State Government are discharging more onerous duties as compared to the Assistant Commissioner in the Centre. The post in Central Government is filled by members of Organized Central Service, whose mode of recruitment, training etc. are completely different from those in the State service. The issue of equivalence has been examined by various Committees, viz. Naik Committee, Hakim Committee, Bakshi Committee etc. The basis on which the claim of equivalence was examined has been elaborated by these Committees in their report. We do not find any deficiency or shortcoming in the report of these Committees on this issue. It is true that Naik Committee's recommendations regarding pay scale for the post of Assistant Commissioner were not accepted by the State Government. However, State Government has full authority to do so. Hon'ble Supreme Court has held accordingly in Kundu's case (supra). It cannot be said that the decision of State Government is patently irrational or unjust or prejudicial to a section of employees.

11. We do not find any reason to interfere in this matter, while exercising powers of judicial review. There

is no substance in this Original Application and it is dismissed with no order as to costs.

Sd/-

(R.B. Malik)
Member (J)

Sd/-

(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai

Date : 02.08.2016

Dictation taken by : A.K. Nair.