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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2244/2001
MA No.2035/2001

New Delhi this the 1st day of January, 2002.

HON'BLE MR. M.P. SINGH, MEMBER (ADMNV)
HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL.)

1. P.Krishna Kumar
2. Krishna R.K.
3. A.K. Budhiraja
4. N.K. Sharma
5. Dheer Singh
6. R.K. Goswami
7. Anand Singh Bisht
8. Pratibha Mathur
9. Bal Kishan
10. Puran Chand
11. Kashmiri Lal
12. J.K. Gupta
13. Veena Chhatwal
14. Neelam Verma
15. Usha Rajput
16. H.S. Kainth
17. Dan Banudhar Ghadai
18. Bhuri Singh
19. Bhushan Grover
20. J.D. Gupta
21. Jagbir Singh
22. Sultan Singh
23. Mehar Singh
24. Ratan Kumar
25. P.K. Gadi
26. M.C. Chaturvedi
27. B.P. Setia
28. Tika Ram
29. B.S. Rawat
30. Anil Taneja
31. Paramjit Kaur

-Applicants

(By Advocate Shri L.R. Khatana)

-Versus-

1. Union of India through the
Secretary to the Govt. of India,
Department of Secondary &
Higher Education,
Ministry of Human Resource Development,
Shastri Bhawan, New Delhi.
2. Kendriya Vidyalaya Sangathan,
through Joint Commission (Admn.)
18, Mehrauli Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi.
3. Kendriya Vidyalaya Teachers Association,
through Sh. A.S. Majumdar,
General Secretary, Kendriya Vidyalaya,
Rangpuri, Mahipal Pur, New Delhi.
4. Kendriya Vidyalaya Non-Teaching Staff Association,
through Sh. S.S. Dahiya, General Secretary,

Kendriya Vidyalaya, Sector VIII, Rohini,
New Delhi.

5. Rashtriya Kendriya Vidyalaya Adhyapak Sangh,
through its President,
Kendriya Vidyalaya Staff Quarter No.1,
KVS No.1, Sadar Bazar, Delhi Cantt.
6. Kendriya Vidyalaya Sangathan Staff Association,
through its President,
Kendriya Vidyalaya Sangathan, 18, Institutional Area,
Shaheed Jeet Singh Marg, New Delhi.

-Respondents

(By Advocate Shri S. Rajappa)

O R D E R

By Mr. Shanker Raju, Member (J):

The applicants who have been working as Assistants and Audit Assistants have assailed the decision of the respondents approved by the Board of Governors (BOG) in its 69th meeting held on 1.3.2001, whereby the recruitment rules for various posts have been amended and in the process different cadres of posts carrying different scales of pay and different duties and responsibilities have been merged and common seniority has been provided. The applicants have assailed OMs dated 5.7.2001 and 18.7.2001 wherein the posts of Assistants and Audit Assistants have been merged with the posts of Head Clerks in the pay scale of Rs.4500-7000 and the applicants in pursuance have been subjected to transfer. They have sought for quashing the impugned orders. By way of an ad-interim order passed on 30.8.2001 the operation of the impugned orders has been stayed. As a result, transfer orders have also been kept in abeyance.

2. The relevant brief facts of the case to understand the controversy are that the applicants have been working as Assistants and Audit Assistants and getting the pay scale of Rs.5500-9000 as per the judgment of the

Hon'ble Single Bench of the High Court. The KVS functional structure consists of Apex Governing Body, i.e., Board of Governors, KVS Headquarters, i.e., Commissioner and the Regional Offices are headed by Assistant Commissioners. The KVS Headquarters and Regional Offices comprise the administrative structure of the KVS. There are separate cadres for administrative/hon-teaching employees, i.e., for the Headquarters and the Regional Offices and the Kendriya Vidyalayas respectively. The Kendriya Vidyalaya Non-teaching staff Association (KEVINSTA for short) had been, from time to time, raising the issue of a common cadre and common seniority of the KVS Headquarters/Regional Offices and the Kendriya Vidyalayas employees and in order to achieve the said demand the KEVINSTA had filed a writ petition in the High Court of Delhi for issuance of a writ of mandamus to maintain one common seniority list cadrewise on an All India basis and make all appointments and promotions on the basis of the said seniority list irrespective of the fact whether a vacancy is to be filled in any of the Kendriya Vidyalayas or at Headquarter or at any of the Regional Offices of the Sangathan and treating the non-teaching staff posted at KVS Headquarters or Regional Offices by one set of rules and further grant of appropriate benefits. The said Writ Petition is still pending consideration which has been re-iterated by the respondents in CP-119/2000 in OA-160/2000 before the Bangalore Bench and In OA-411/99 before the Calcutta Bench. In fact the issue regarding common cadre and common seniority of non-teaching staff of KVS was raised in the JCM on 8.5.92 and a decision has been taken to await the decision of the High Court. The same matter figured in the 9th meeting of JCM held on 29.1.99 and it was decided that

before taking a decision the matter will first be taken in the JCM. A four member committee headed by the Commissioner, KVS has been constituted to examine the proposal for consideration of common cadre and it has recommended merger of posts of Auditor and Audit Assistant only but has not recommended the merger of non-teaching staff of headquarters regional office. The issue regarding common seniority was taken by the 66th meeting of BOG on 16.9.99 and it was decided that the matter be referred to the Government for examination which was approved by the Chairman, KVS. The Board in its 67th meeting on 7.12.99 ratified the earlier decision. In the 69th meeting of BOG held on 1.3.2001 to give effect to the decision taken in the 67th meeting the revised rules have been placed before the BOG for approval. Thereafter as an abundant precaution a small group of Board of members was set up and it was to submit the report to the Chairman KVS. The suggestions made by the small group appointed by the BOG was placed before the Chairman for approval and ultimately the Chairman on 15.5.2000 approved the suggestions and KVS (Appointment, Promotion and Seniority) Rules, 1971 have been revised and circulated on 5.7.2000 as a policy decision to streamline the structure of promotion etc. on the basis of availability of financial resources, administrative needs, efficiency decided to provide equal promotion opportunity to all its employees in the School Regional offices and headquarters and also transferability of KVS staff/officers from schools to regional offices/headquarters and vice versa and in this process certain posts have been abolished and substituted by new posts. In this process the BOG has decided to abolish cadre of Audit Assistant and Head Clerks and have been

re-designated by creating the posts of Assistant Superintendent. The pay scale attached to the post was Rs.4500-7000 from the date of issue of the office memorandum. As regards the pay of existing Assistants and Audit are concerned, as in view of the decision of the Single Judge of the High Court against which a LPA is filed the pay has been protected of such Assistants and they are still continuing in the pay scale of Rs.5500-9000 pending decision in the LPA. As a result of OM rules have been suitably amended and the applicants have been subjected to transfer in public interest by an order dated 17.8.2001 which has now been stayed by an order dated 30.8.2001.

3. The contention of the learned counsel for the applicants is that by merger of the posts of Assistants/Audit Assistants of the headquarters/regional offices and the Head Clerks of the School cadre in the posts of Assistant Superintendent in the pay scale from Rs.5500-9000 to 4500-7000 amounts to reduction in rank which is tantamount to penalty under CCS (CCA) Rules, 1965 and without affording an opportunity to the applicants there has been a violation of principles of natural justice and the action is contrary to Article 311 of the Constitution of India. The other contention is that in pursuance of the Fourth Central Pay Commission's recommendations the pay scale of Assistants of Central Secretariat has been revised to Rs.1640-2900 but the same has not been extended to the applicants. On challenge in CWP-4414/94 by judgment dated 16.7.97 the High Court has allowed the petition and the pay scales have been revised to Rs.1640-2900, i.e., corresponding scale of Rs.5500-9000 due to Fifth Central Pay Commission. LPA No.271/98 filed

by the respondents against the aforesaid decision is pending before the Division Bench of the High Court. In this manner reduction of pay scale of the applicants to Rs.4500-7000 by two stages cannot be done even by way of penalty. The applicants have further assailed the amendment approved by the BOG in its 69th meeting on the basis that the decision taken in the 67th meeting of the BOG held on 7.12.99 is contrary to the decision in 69th meeting and the approval of the BOG has been taken by misleading them. According to the applicants in pursuance of the decision of 56th meeting of BOG the final report of the committee was not prepared as is evident from the letter written by the Minister of Human Resource Development in pursuance to Unstarred Question No.3553 dated 14.8.2001 that no new committee has been constituted. The approval regarding amendment in recruitment rules has been obtained from BOG without discussion in the JCM first which is binding. As the CWP 783/92 is pending before the High Court of Delhi regarding merger and common cadre and seniority the respondents should have awaited the decision of the High Court and could have proceeded thereafter. It is further stated that CWP where the demand for common cadre had been made and the reply filed therein by the respondents clearly indicates that the duties and responsibilities of the posts of Assistants/Audit Assistants at headquarters and regional offices are different from those of Head Clerks in the Schools. In this backdrop it is stated that the respondents have taken a contrary view and the same is not consistent. It is stated that the constitution of small group by the BOG which has given its findings has gone beyond the scope of 67th and 69th meetings and as the matter has not been

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referred to in these meetings how the proposal has been made. It is further stated that even in policy matters judicial review is permissible if the action has not been based on the circumstances and is either arbitrary or unreasonable and is violative of Articles 14 and 16 of the Constitution of India. The learned counsel for the applicants has placed reliance on the following decisions:

(i) Basinum Chemical v. Companay Law Board, 1966 Supp. SCR 311.

(ii) State of Punjab v. Ram Lubhaya Bagga, 1998 (4) SCC 117.

(iii) State of Maharashtra v. C.A. Kulkarni, 1982 (1) SCR 665

(iv) S.P. Shiv Prasad Peepal v. State, 1998 (3) SLJ 108

(v) St. Stephen College v. University of Delhi, AIR 1990 SC 1277.

4. In this backdrop it is stated that as the BOG decision is not referred to the Government and no approval is taken and the Chairman has not been apprised of non-approval of the Government the decision of the Board and in the 70th meeting the non-referral to the Union of India should be an agenda in the meeting. The respondents

cannot be done without option to remain in the cadre. According to the learned counsel if the decision of having Rs.5500-9000 pay scale depends upon higher duties is given effect to, to have one cadre, then reference in the 67th meeting was contrary. According to him in the 67th meeting held on 7.12.99 Board has approved only merger of common cadre of non-teaching staff but not the Assistants. The BOG referred the matter to the Government for examination and decision whereas the approval has been given by the KVS. Further the small group has no mandate to comment upon the 67th meeting and its recommendation is a nullity. It is also stated that the association to which the applicants belong has not been consulted and their views have not been taken. This has also not apprised to the BOG. Different cadres exist in the school and headquarters and regional offices as a separate cadre for the last 35 years. There is no public interest involved in the merger of the cadre and abolition of the posts. It is also stated that before the amendment has been effected no committee of experts was appointed which shows non-application of mind. By the merger of posts of Audit Assistants with that of Head Clerks in the Schools unequal have been made equals by reducing the pay scale which is not permissible. By way of prospective amendment through OM dated 18.7.2001 the vested rights of the applicants have been adversely affected. There has not been a re-structuring or streamlining but under the guise the whims and fancies of certain officials have been satisfied with malafide intentions. As the pay scale of Assistants and Audit Assistants has been at par with Assistants in Central Secretariat the pay scale has been allowed by the High Court now by way of the impugned OM bringing down the pay

scale to Rs.4500-7000 whereas the applicants have been working in the pay scale of Rs.5500-9000 is an arbitrary decision. Though the initial stand was that the responsibilities and duties of headquarters staff and regional offices are different then how suddenly the duties have become identical. The decision of BOG in 69th meeting has been taken in continuation with the earlier meetings 66th and 67th respectively. The sub group has formulated something beyond the scope of the meetings of the BOGC. The process and method of exercise of power is capricious and unreasonable. No circumstances have been stated as to what occasioned the respondents to take such a decision.

5. On the other hand, strongly rebutting the contentions of the applicants the learned counsel for the respondents Shri S. Rajappa has filed MA-2025/2001 for vacation of the interim order passed by this court on 30.8.2001 staying the operation of the impugned order. According to him as a policy decision and as per Rule 22 of the KVS Rules the BOG are competent to frame terms and conditions of service. The Chairman is empowered to exercise powers delegated to him by the Board or Sangathan. As per the Education Code Appendix III provides for Appointment, Promotion, Seniority etc. Rules, 1971, which has been amended in the 69th meeting of the BOG under Rule 22 ibid. The purpose for revising the rules is to bring the qualification and other eligibility conditions for various teaching and non-teaching posts and to give effect to the proposal for common cadre and seniority in respect of certain non-teaching posts demanded by service associations and to consolidate at one place all the recruitment rules for the sake of administrative

convenience and to stream line the quota for promotion, direct recruitment etc. In this process certain posts were merged and new posts were created. While amending the rules the pay scale of the applicants has not been reduced. In pursuance of the decision of the High Court of Single Bench the applicants have been placed in the pay scale of Rs.5500-9000. The recruitment rules have not altered the pay scale of the applicants. The existing Assistants and Audit Assistants have been protected. In case the LPA is decided against the respondents the pay scale of the applicants will be accordingly regulated and in case it is allowed the Assistants/Aduit Assistants existing on the date of the notification will be allowed to draw the pay scale which they were drawing earlier and as such they have not been put to any financial loss. The issue of common cadre and common seniority has been in issue since 1992 keeping in view the exigencies of service and relevant factors common cadre of staff irrespective of their working in the school, regional office or headquarters regarding their pay scale has been felt necessary. By placing reliance on a decision in Burn Standard Company Limited v. Dinbandhu Mazumdar, JT 1995 (4) SC 23 it is contended that interim injunction in service may amount to irreparable injury as to damage cannot be repaired if the claim is ultimately found to be unacceptable. The applicants have approached the Tribunal without waiting for the outcome of their representation.

6. On merits it is contended that though the KVS is an autonomous body it is dependent on Government for allocation of budgetary grants etc. and the Minister of Human Resource Development is the Chairman of KVS and

Additional Secretary is the Vice-Chairman of the Sangathan. Several other representatives are drawn from the Govt. and nominated on the BOG of the KVS. The decision to issue memorandum has been taken by the BOG which is a competent authority. The amendment to the rules has been given effect to by the OM dated 18.7.2001 where the pay scale of any of the employees has not been altered to their detriment or disadvantage. The memorandum is to run prospectively and to regulate appointment and promotion made after 5.7.2001. As regards the applicants are concerned and their cadre they would be continued to be placed in the pay scale as allowed to them by the High Court and this is subject to the final decision in the LPA. In the meeting of the BOG held on 7.12.99 there has been approval of common cadre and seniority in respect of non-teaching posts which further requires revision of recruitment rules. The associations have been asked to give comments/suggestions. But the associations like RKVAS (J) and KVSSA to which the applicants belong have not submitted the suggestions despite opportunity. The proposal to amend the rules of 1971 ibid have been placed before the BOG of KVS in its 69th meeting which was approved as a policy decision and such a policy decision cannot be questioned by judicial scrutiny as has been laid down by the Apex Court in State of Andhra Pradesh v. V.C. Subbarayudu & Ors., 1983 (3) SLJ 5, State of Punjab v. Ram Lubhaya Bagga, 1998 (3) SLJ 35, Indian Railways Service of Mechanical Engineers Association v. Indian Railways Traffic Service Association, 1994 (26) ATC 352 and S.P. Shiv Prasad Pipal v. Union of India & Ors., 1998 (3) SLJ 108. As regards the JCM approval is concerned, it is stated that the same is not mandatory. The JCM is only a

consultative machinery where the recognized associations are consulted. The decision taken therein are not the decision of the KVS. Any thing agreed by the Management in JCM has to be approved by the competent authority and the decision of the JCM is not an administrative decision. In this backdrop it is stated that the decision of JCM in its meetings held on 8.5.92 and 21.9.99 cannot preclude the KVS from taking any decision in the matter. As the proposal involved had conflicting interest of different staff associations it was felt that no purpose would be served by discussing it with all of them together in the JCM. The comments were also invited from all the associations but despite opportunity only two associations responded, which did not include the association of the applicants. It cannot therefore be said that no opportunity was given to the staff to give their views in the matter. As regards the report of the four member committee is concerned, as per the BOG decision dated 5.9.93 although there is no mention that it is a draft report but as the Commissioner has not signed it the report has not been accepted as a final document. So far as the Committee is concerned, it was not a decision making committee but was formulated to examine the issue and submit recommendation to BOG as such the report of this Committee will not preclude the BOG to take a further decision despite the fact that the report was not final. Apart from it, there is no mention that it is a draft report but as the Commissioner has not signed it the report has not been accepted as a final document.

7. It is also stated that in the 56th meeting it has been on the agenda that the duty of non-teaching staff, including Head Clerks, UDCs and LDCs are identical to

counter-parts in Regional offices as such separate seniority in the school cadre and headquarters/regional offices is against the fundamental rules. In this backdrop it is stated that the approval given by the BOG and OM issued later on as a consequence making amendment/revision in the rules is legally sustainable and cannot be interfered with by this Court.

8. We have carefully considered the rival contentions of the parties and perused the material on record. In our considered view in absence of any arbitrariness, malafide and violation of any fundamental rights of the applicants by decision of the BOG to issue common cadre and seniority of the non-teaching staff of the KVS headquarters/regional offices by way of a policy decision cannot be interfered with by this Court. Admittedly the pay scales of the applicants are not changed by the said merger and common seniority as per the OM dated 18.7.2001. The applicants are still placed in the pay scale of Rs.5500-9000 pending decision of the High Court in the LPA. The contention of the learned counsel for the respondents that though the affidavit filed in the CWP before the High Court as well as in CCP a stand has been taken that the recruitment rules of Head Clerks and the functions performed by the administrative staff posted in the headquarters regional offices are quite different from the functions performed by the staff in various Vidhyalays and being two different streams any challenge to separate seniority cannot be sustained. We agree with the contention of the learned counsel for the respondents that the respondents are not precluded from changing their stand subsequently and to effect change in the administrative

exigencies. If the argument of the learned counsel for the applicants is accepted then there would be a status quo with regard to the working in the organisation and the management would not be able to modify their structure or policy even if it is outdated or erroneous. The issue regarding common cadre was in vogue since 1992 and having regard to the availability of financial resources, administrative needs and with a view to provide equal promotional opportunity to all its employees in non-teaching staff in schools and regional offices and headquarters and also to mobilise the transferability of the staff the system was stream lines and restructured in the cadre of non-teaching which ultimately resulted in abolition of the cadre of Assistants/Audit Assistants and Head Clerks and creation of new posts of Assistant Superintendent. This has not adversely affected the applicants who are Assistants and Audit Assistants, as their pay scale has been protected in view of the decision of the High Court in LPA ibid, which is still pending. It was in this conspectus that non-teaching employees at headquarters and regional offices had better understanding of the school by working their so to be in a better position to assist the officers in headquarters in framing policy which would have a direct bearing on the smooth functioning of the KVS.

9. As regards the contention of the learned counsel for the applicants that the matter has not been taken up in the JCM first, as agreed to despite taking a decision to await the decision of the court is concerned, we find from the record that in the JCM held on 8.5.92 as well as on 29.1.99 it has been decided that in other agenda

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and items which are not acceptable to the staff side and adversely affected the service conditions of the employees the same would be taken up in the JCM first. In our considered view in order to give effect to the decision taken in the meeting of BOG on 7.12.99 the comments have been invited from all recognized associations. It is not mandatory to have the approval of the JCM before decision as the same is only a consultative machinery. The decisions taken are not the decisions of the KVS. Any thing agreed to by the Management in JCM is further to be approved by the competent authority as such the decision of the JCM is neither binding nor can it be taken as an administrative decision. Despite decision by the JCM KVS is not precluded from taking an independent decision as the proposals involved had conflicting interest of different staff associations. Separate discussions have been held and despite sending letters to the Associations to which the applicants belong they have not responded to. As such sufficient opportunity has been accorded to the staff to give their own version. In this view of the matter the contention of the learned counsel for the applicants that the matter should have been placed before the JCM and the Commissioner and the decision taken is illegal, cannot be countenanced. In fact the staff associations have been duly consulted. In the 69th meeting of the BOG it is only recorded that it is preferable to discuss it in JCM. There is no legal infirmity in the procedure adopted by the respondents. Apart from it, a change can be introduced in the policy and the functions of the organisation, keeping in view the nature of work in the offices. This has necessitated amendment in the rules. In this view of the matter mere non-consultation and putting the matter first

before the JCM has not prejudiced the rights of the applicants and being non solitary provisions mere non-compliance would not vitiate the decision of the respondents.

10. Another contention of the learned counsel for the applicants is that in the 67th meeting held on 7.12.99 the draft report which has not attained finality has been ratified and relied upon to effect amendments in the rules. The resort of the applicants to recommendation NO.22 of the committee and the letter written by the Minister of HRD wherein the report has been referred to as not a final report is concerned and further it is contended that the report was not treated as a final report as it has not been signed by the Commissioner and the same should not have been circulated is concerned, we find that the report has not been accepted as final before the then Commissioner has not signed it, but there is no indication in the report that it is a draft report. Be that as it may, the Committee was not a decision making Committee, it was only constituted to examine the issue and submit recommendations to the BOG. If the BOG is satisfied even on the basis of unsigned report they are free to make a decision. IN the 66th meeting held on 16.9.99 it has been proposed that the posts of Head Clerk in KVS and the Assistants in regional offices should be made inter-changeable and transferable which was approved and placed before the 67th meeting of the BOG on 17.12.99 for confirmation. While ratifying the decision of the Chairman, KVS has authorised the Commissioner to make suitable amendments in the recruitment rules to give effect to the decision but while making amendments it was found that the two posts at the lower

level, i.e., LDCs and UDCs and one post at higher level, viz., Superintendent have been merged but the Assistants and Head Clerks have not been merged but made inter-changeable as there had been an error in the decision of the BOG and the next cadre of Assistants/Head Clerks is to be brought at the same cadre. Though the Commissioner was authorised to make amendments in the recruitment rules in order to give effect to these decisions, the Commissioner felt it necessary to take the entire issue with the BOG again to merge all the cadres and no inter-locutory posts in between are left out. This has occasioned placing of the matter before the 69th meeting of the BOG. However, as an abundant precaution a small group has been constituted by the BOG consisting of Govt. representatives to again go into the proposals and to give effect after approval by the Chairman who happened to be the Minister in HRD. There is nothing on record to show that the BOG has been misled on any issue. The decision was unequivocal and clear. The decision on 7.12.99 had not been given effect to as no memorandum was issued later on. As such the decision of BOG of 7.12.99 was not acted upon. We also find from Rule 22 of the memorandum of association of the KVS that BOG is fully competent to frame rules and lay down other conditions of service. Rule 25 of the Rules also empowers the BOG to delegate its powers to Chairman. As such the decision taken by the BOG by issuing memorandum dated 5.7.2001 and 18.7.2001 is within the competence of the respondents which cannot be found fault with. The office memorandum has not altered the pay scale of any employee of KVS to their disadvantage but has regulated appointment and promotion to be made after 5.7.2001. The pay scales of the applicants will be decided as per the

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orders of the High Courts in LPA. The Chairman having empowered has approved the amendments as suggested by the small group which, by no stretch of imagination, has gone beyond the proposals made in the 67 and 69 meetings of the BOG. The policy decision of the Government which has not adversely affected the rights of the employees, as in the present case, cannot be questioned by judicial scrutiny. Having failed to point out any legal infirmity either in the decision or in the process carried out by the respondents to bring about necessary amendments in the exigencies of service and for the betterment of the working of the organisation the same would not be interfered with in any manner whatsoever. In this view of ours we are fortified by the decision of the Apex Court in Director, Lift Irrigation Corporation Ltd. & Ors v. P.K. Mohanty, 1991 (1) SCALE 399, where the decision taken as a policy decision to amalgamate the existing cadres by reorganising into two cadres on administrative exigencies was not interfered in absence of any malafides or arbitrariness. Apart from it, in the Full Bench decision of this Court in I.S. Sain v. Union of India, Full Bench Decisions (CAT-1994-96) Vol.III 20, it has been held that encadrement and de-cadrement of a post which has to be taken by the executive taking all relevant factors into account, the Tribunal is precluded from substituting itself as the controlling authority. Further, the Apex Court in C. Rangaswamaiah & Ors. v. Karnataka Lokayukta & Ors., JT 1998 (5) SC 64 has held that administrative orders creating posts can be issued so long as they are not inconsistent with the rules. The Apex Court in Govt. of Tamil Nadu v. S.R. Muggam, 1998 (2) SCC 198 has held that no direction can be issued by the Court, as the purpose of the amendment

was for smoothing of creases in administrative functioning. Recently the High Court of Delhi while dealing with the issue of privatisation of Delhi Vidhut Board it has been observed by the Division Bench of the High Court comprising Hon'ble Mr. Justice S.B. Sinha, Chief Justice and Mr. Justice A.K. Sikri that policy decision may be changed from time to time and no mandamus can be issued regarding adoption of a policy decision.

11. In this view of the matter and having regard to the reasons recorded above as the decision has been taken by the BOG after meticulously going into the various factors and working and the decision having been taken in the interest of the organisation to amend the rules which have not at all adversely affected the rights of the applicants and their pay scales we do not find any merit in the present OA and the same is dismissed. The interim order passed on 30.8.2001 is hereby vacated. No costs.

12. However, before parting with the case we observe that as the matter regarding merger is pending before the High Court of Delhi in CWP-783/92 and in absence of any stay and directions to the respondents not to take any decision in this regard the decision of the respondents shall be subject to the final outcome of CWP-783/92.

S. Raju

(Shanker Raju)
Member (J)

'San.'



(M.P. Singh)
Member (A)