

**Central Administrative Tribunal
Principal Bench**



OA No.03/2015
MA No.3611/2019

Order reserved on : 12.02.2020
Order pronounced on: 21.10.2020

Hon'ble Mrs. Justice Vijay Lakshmi, Member (J)
Hon'ble Mr. Pradeep Kumar, Member (A)

1. B.K.Bhatnagar
Aged 55 years
S/o Late D.S.Bhatnagar,
C-157, Gali No.5,
New Usmanpur,
Delhi-110053
Superintendent (Technical), OLW
2. Ramesh Kumar Gautam
Aged 64 years,
S/o late Sh. N.S.Sharma
A-6/219, Paschim Vihar,
New Delhi-110063
Ex-Superintendent (Technical), OLW
3. Brijendra Johri
Aged 61 years,
S/o Late Y.P.Johri,
32, AIIMS Apartment,
Mayur Vihar-Phase-1 Ext.
Delhi-110096
Ex-Superintendent (Technical), OLW

... Applicants

(By Advocate: Mr. Rajesh Kumar with Ms. Sakshi Gaur)

VERSUS

1. Union of India
Through its Secretary,
Ministry of Law and Justice,
Nirman Bhawan, New Delhi-110001.
2. Secretary,
Department of Expenditure,
Ministry of Finance



North Block,
New Delhi-110001.

... Respondents

(By Advocate: Sh. Rajesh Katyal)

ORDER

By Hon'ble Mr. Pradeep Kumar, Member (A)

Applicant had been working as Superintendent (Technical) in Official Language Wing (OLW) in Legislative Department of Ministry of Law and Justice. Applicant No.1 is still working, while applicants No.2 & 3 have retired. There are some other posts namely Superintendent (Translation) Hindi Branch, Superintendent (Legal) and Superintendent (Printing) which are also in Operation in Ministry of Law and Justice.

2. Applicants claim historical parity with Superintendent (Translation) on the basis of Recruitment Rules (RRs), qualification and pay and both being feeder posts to next promotional post of Assistant Legislative Counsel.

Both these posts were carrying same pay scale earlier and were granted PB-2 + GP Rs.4600 in 6th CPC and pay fixation order was issued on 10/11.09.2008.

3. The 6th CPC had also made certain recommendations in para 7.10.68 in relation to Central Secretariat Official Language Service (CSOLS). Since 6th CPC had recommended merger of three scales Rs.5000-8000, 5500-9000 and 6500-



10500 and replacement by a common pay scale PB-2 + GP Rs.4200, it was noted by 6th CPC that with this merger, the feeder post of Jr. Hindi Translator and the promotional post of Sr. Hindi Translator would fall in the identical scale. Further, the 5th CPC pay scale of Rs.8000-13500 also did not exist for CSOLS. Accordingly, a different pay structure with certain upgradation was recommended. This is as under:

	5 th CPC	Upgraded to	6 th CPC
Jr. Hindi Translator	5500-9000	6500-10500	PB-2 + GP Rs.4200
Sr. Hindi Translator	6500-10500	7450-11500	PB-2 + GP Rs.4600
Assistant Director (OL)	7500-12000	8000-13500	PB-3 + GP Rs.5400

4. Therefore, after implementation of 6th CPC, the post of Sr. Hindi Translator, which was the feeder post for Superintendent (Translation) in Ministry of Law and Justice, came to be placed in PB-2 + GP Rs.4600. Since Superintendent (Translation) was also placed in same scale, an anomalous situation arose where feeder and promotional post came to lie in the same scale. Simultaneously, in keeping with the 6th CPC recommendations (para 3 above), it was taken that Superintendent (Translation) was a similarly designated post outside the CSOLS cadre.

Therefore, a proposal was made to place Superintendent (Translation) in the pay scale of Assistant Director (OL) i.e. PB-3 + GP Rs.5400. This was approved. The relevant notification was issued by Department of Expenditure,



Ministry of Finance on 31.03.2011 and by Ministry of Law and Justice on 13.04.2011.

5. While the proposal for Superintendent (Translation) was still under process (para 4 supra). Applicant No.2, who was working as Superintendent (Technical), made a representation on 22.10.2009 for parity with Superintendent (Translation) on the ground of historical parity, comparability, similar nature of work and since both these posts are feeder to the next promotional post of Assistant Legislative Counsel and thereafter to other higher posts.

A similar representation was already made by applicant No.3 on 12.10.2012.

6. This was examined by Ministry of Law and Justice and found to have merit. Accordingly, a note was made on 21.11.2012 and was agreed by integrated Finance Wing on 03.12.2012. It was sent to Department of Expenditure, Ministry of Finance. After several rounds of to and fro movement, the clarification sought were provided. Following was clarified by Ministry of Law and Justice on 07.08.2013.

“4. There is historical parity between the pay scales of Superintendent (Technical) and the Superintendent (Translation) in the official languages wing and both these posts are forming the common feeding cadre for the post of Assistant Legislative Counsel (Hindi) and thereby for the higher posts in the hierarchy in the Official Languages so it is necessary to upgrade the GP for the post of Superintendent (Tech.) from Rs.4600 to Rs.5400 as per instructions of 6th pay commissions report for official languages departments. The case of upgradation of Pay Band & Grade Pay of Superintendent (Technical) lost sight during the course



of action when the case of upgradation of Pay Band & Grade Pay of Superintendent (Translation) was processed by this Ministry owing to certain administrative circumstances otherwise this post also ought to have been included along with the posts of Superintendent (Translation). The said administrative lapse is now being proposed to be set right to meet the end of justice so that the Superintendent (Technical) [only 01 post] should be placed at par with the Superintendent (Translations) which two posts jointly form the feeder cadre for the promotional post of Assistant Legislative Counsel.

5. In addition, the feeder grade of Superintendent (Translation) i.e. Senior Translator is to be filled on direct recruitment basis and the essential qualification for the said post is Degree in Law from a recognized University, (for which 6th CPC has recommended PB-2 plus GP 4600/- while the method of recruitment for the post of Assistant (Technical) i.e. the feeder grade of Superintendent (Technical) is by deputation/absorption and there is no necessity for Degree in Law from a recognized University at the time of filling the post by the method of deputation/absorption. Only at the time of filling the post on direct recruitment basis, the need of Degree in Law is essential. Hence, there will be no occasion for demand of higher pay scale from Assistant (Technical)'s side.”

(Emphasis Supplied)

6.1 This was, however, not agreed by Ministry of Finance and decision was conveyed on 24.03.2014.

6.2 In turn following was advised by Ministry of Law and Justice to applicant No.3 on 09.04.2014:

“With reference to the representation made by Shri Brijendra Johri, Superintendent (Technical)(retired) in O.L.Wing of the Legislative Department for upgradation of the Grade Pay of the post of Superintendent (Technical) in O.L.Wing of this Department from Rs.4600/- in PB-2 to Rs.5400/- in PB-3, it is stated that representation has been examined by this Department in consultation with the Department of Expenditure and it is regretted that it has not been found feasible accede to his request.

2. Ministry of Finance (Department of Expenditure) re-examined the proposal of upgradation of the Grade Pay of the post of Superintendent (Technical) in O.L.Wing of this Department from Rs.4600/- in PB-2 to Rs.5400/- in PB-3 at par with the Superintendent (Translation) in the O.L.Wing of the Legislative Department and staged that



the qualifications prescribed for the post of Superintendent (Translation) ordain experience of translation into Hindi of statute, statutory rules and orders etc. **There is no such requirement of translation in case of the RRs of the post of Superintendent (Technical).** Since the pay scale of the post of Superintendent (Translation) was revised at par with AD of Official Language in service mainly because in consideration of translation related job, the same does not hold good in the present case. D/o Expenditure also stated that they did not agree to similar revision in case of the post of Superintendent (Legal) and Superintendent (Printing) and any contrary view in this case would lead to repercussion in those two cases.

3. Accordingly, the representation stand finally disposed of vide the D/o Expenditure's U.O. No.24(1)/E.III,B/2013 dated 24/03/2014.”

(Emphasis Supplied)

7. Applicant No.1, who is working as Superintendent (Technical), also made a representation on 07.05.2014, bringing out as under:

“xxx xxx xxx

While examining the matter the Department of Expenditure sought some clarifications, these points were clarified by the Legislative Department and given the following facts –

(1) The post of Superintendent (Translation) was granted higher GP on the basis of the equation with Central Official Languages Services. The Superintendent (Tech.) and Superintendent (Translation) both are existing in the one feeding cadre formed for the post of Assistant Legislative Counsel [Hierarchy Chart – Annexure I] in the Official languages Wing, Ministry of Law and justice. As per recruitment rules the nature of duty of Superintendent (Tech) is also connected with the translation and publication of Hindi and Diglot versions of central Acts, Constitution of India, manual of Election Laws etc. [Annexure-III]

(2) The essential qualifications for Posts of Superintendent (Tech.) and Superintendent (Translation) is LLB or degree En Law or equivalent for the direct recruitment. [Annexure-j] and – (RRs of both posts enclosed)].

(3) Pay scales for the post of Superintendent (Tech.) and Superintendent (Translations) are clearly mentioned in the

statement enclosed, which shows the historic parity of both posts from 1979. [Annexure-I]

(4) The pay scales of the feeder posts of the respective posts of Superintendent (Translation) and Superintendent (Tech.) from 1.1.1973 to 1.1.2006 it has been clearly mentioned in RRs of the both posts, at the entry levels. [Annexure-II].

(5) It is requested again that in the Official Languages Wing there are some other posts are existing in GP of Rs.4600/- but these posts are not entrusted with Hindi translation etc. and also not connected with specialized Hindi educational qualifications in the RRs concerned.

(6) Five posts of Superintendent (Translation) and one post of Superintendent (Tech.) forming the feeding cadre of Assistant Legislative Counsel in Official Languages Wing, out of these six posts five posts of Superintendent (Translation) are already existing in the GP of Rs.5400/- but the single post of Superintendent (Tech.) was left due to lost sight.

And it is requested again, that if the proposal will be accepted it will not raise much financial implications or burden because in the GP of Rs.5400/- this single post of Superintendent (Tech.) was left due to over sighting.

Sir, with due regards it is again stated that without considering the basic facts of the case the above mentioned case has been rejected by the Department of Expenditure, Ministry of Finance, it will be highly appreciated if you will give your kind permission for the reconsideration of the matter sympathetically and on the genuine reasons by the Ministry of Finance.

Therefore, Sir, it will be highly appreciated if you will give your kind permission for reconsideration of the matter for increasing the Grade Pay attached to the post of Superintendent (Tech.), from Rs.4600 to Rs.5400/-, which was left due to over sighting.”

This was denied vide Ministry of Law and Justice OM dated 12.06.2014, wherein following was advised:

“With reference to the representation made by Shri B.K.Bhatnagar, Superintendent (Technical) in O.L.Wing of the Legislative Department for upgradation of the Grade Pay of the post of Superintendent (Technical) in O.L.Wing of this Department from Rs.4600/- (in PB-2 to Rs.5400/- in PB-3, it is stated that earlier proposal for upgradation of pay has already been examined and rejected by D/o Expenditure vide U.O. No. 24(1)/E.IILB/2013 dated





24.03/2014. Hence, there seems no need to refer the representation again without any new factual position.”

8. Feeling aggrieved at this denial, applicants have preferred this OA. Following reliefs are prayed.

“To upgrade the pay scale of the Superintendent (Technical) corresponding to grade pay of Rs.5400/- as in case of the Superintendent (Translation) i.e. with effect from 01.01.2006.”

They sought some other reliefs also.

The applicants also preferred MA No.3611/2019 seeking to amend the relief clause by also seeking to set aside the decision taken by Ministry of Finance vide their OM dated 24.03.2014 (Para 6.1 supra).

9. Applicants have relied upon the RRs since 1979 and brought out equivalence in respect of qualifications, eligibility and experience needed for the post of Superintendent (Translation) and Superintendent (Technical) as under:

Year	Superintendent (Tech.) No. of posts – 1	Superintendent (Trans.) No. of posts - 5
1979	<u>For Direct Recruit</u> Rs.840-1200 (i) Degree in Law of a recognized University or equivalent. (ii) Should have been a member of the State Judicial Service for a period of not less than 3 years or should have held a superior legal post in the legal Department of a State Government for a period of not less than 3 years or	<u>For Direct Recruit</u> Rs.840-1200 (i) Degree in Law of a recognized University or equivalent. (ii) Should have been a member of the State Judicial Service for a period of not less than 3 years or should have held a supervisory post in the legal Department of a State Government for a period of not less than 3 years or



	<p>be a Central Government who has had experience in legal affairs in a supervisory post for not less than 3 years or</p> <p>should have had experience in the statutory drafting under Central or State Government for a period of not less than 3 years or</p> <p>should have had experience of translation into an Indian language of statutory rules and orders in the Central or State Government in a Group 'B' (Non-Gazetted) post or equivalent for not less than 5 years or</p> <p>should have been a legal practitioner or a teacher of law for not less than 3 years.</p> <p>(iii) Adequate proficiency in one of the language specified in the Eighth Schedule to the Constitution.</p> <p>Posts are to be filled by promotion failing which by direct recruitment</p> <p><u>For Promotion:</u></p> <p>Assistant (Technical) in the official language wing, Legislative Department with 10 years service in the Grade rendered after appointment thereto.</p>	<p>should be a Central Government Servant who has had experience in legal affairs in a supervisory post for not less than 3 years or</p> <p>should have experience in the statutory drafting in the Central or State Government for not less than 3 years or</p> <p>should have had experience of translation into Hindi of statutes, statutory rules and orders in the Central or State Government in a Group 'B' (Non-Gazetted) or equivalent post for not less than 5 years or</p> <p>should have been a legal practitioner or a teacher of law for not less than 3 years.</p> <p>(iii) Adequate proficiency in Hindi.</p> <p>Posts are to be filled by promotion failing which by direct recruitment</p> <p><u>For Promotion:</u></p> <p>Translators in the Hindi Branch of the Official Languages Wing, Legislative Department with 5 years service in the grade rendered after appointment thereto on a regular basis.</p>
1988	<p>Rs.2375-3500</p> <p><u>For Direct Recruit:</u></p> <p>(i) Degree in Law of a recognized University or equivalent.</p>	<p>Rs.2375-3500</p> <p><u>For Direct Recruit:</u></p> <p>(i) Degree in Law of a recognized University or equivalent.</p>



<p>(ii) Should have been a member of the State Judicial Service for a period of not less than 3 years or should have held a superior legal post in the legal Department of a State Government for a period of not less than 3 years or</p> <p>be a Central Government who has had experience in legal affairs in a supervisory post for not less than 3 years or</p> <p>should have had experience in the statutory drafting under Central or State Government for a period of not less than 3 years or</p> <p>should have had experience of translation into an Indian language of statutory rules and orders in the Central or State Government in a Group 'B' (Non-Gazetted) post or equivalent for not less than 5 years or</p> <p>should have been a legal practitioner or a teacher of law for not less than 3 years.</p> <p>(iii) Modified as under: Passed High School or any examination higher than High School through Hindi medium or had offered Hindi as a subject in Higher Secondary or Intermediate of any other Higher Examination.</p> <p>Posts are to be filled by promotion failing which by direct recruitment.</p> <p><u>For Promotion:</u> Assistant (Technical) in the official language wing, Legislative Department with 10 years service in the Grade rendered after</p>	<p>(ii) Should have been a member of the State Judicial Service for a period of not less than 3 years or should have held a supervisory post in the legal Department of a State Government for a period of not less than 3 years or</p> <p>should be a Central Government Servant who has had experience in legal affairs in a supervisory post for not less than 3 years or</p> <p>should have experience in the statutory drafting in the Central or State Government for not less than 3 years or</p> <p>should have had experience of translation into Hindi of statutes, statutory rules and orders in the Central or State Government in a Group 'B' (Non-Gazetted) or equivalent post for not less than 5 years or</p> <p>should have been a legal practitioner or a teacher of law for not less than 3 years.</p> <p>(iii) Modified as under: Passed High School or any examination higher than High School through Hindi medium or had offered Hindi as a subject in Higher Secondary or Intermediate of any other Higher Examination.</p> <p>Posts are to be filled by promotion failing which by direct recruitment.</p> <p><u>For Promotion:</u> Assistant (Technical) in the official language wing, Legislative Department with 10 years service in the Grade rendered after</p>
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	appointment thereto.	appointment thereto.
2003	<p><u>Direct Recruitment:</u></p> <p>No more Applicable</p> <p><u>By Deputation/Promotion:</u></p> <p>1. Officers of the Central/ State Government-</p> <p>(a) (i) holding analogous posts on regular basis in the Parent Cadre/ Department; or</p> <p>(ii) with two years' service in the grade rendered after appointment thereto on regular basis in the scale of pay of Rs.6500-10500 or equivalent in the Parent Cadre/Department; or</p> <p>(iii) with five years' service in the grade rendered after appointment thereto on regular basis in the scale of pay of Rs.5500-9000 or equivalent in the Parent Cadre/Department; or</p> <p>(iv) with eight years' service in the grade rendered after appointment thereto on regular basis in the scale of pay of Rs.5000-8000 or equivalent in the Parent Cadre/Department; and</p> <p>(b) possessing the following educational qualifications and experience:</p> <p>(i) Bachelor's degree in Law (LLB) from a recognised University or equivalent;</p> <p>(ii) should have been a member of State Judicial Service for a period of three years,</p> <p>Or</p>	<p><u>Direct Recruitment:</u></p> <p>Essential:</p> <p>A (i) Bachelor's degree in Law (LLB) from a recognized university or equivalent.</p> <p>(ii) should be a member or State Judicial Service for a period of three years,</p> <p>Or</p> <p>Should have held a post in the legal department of a State Government for three years,</p> <p>Or</p> <p>Should be a qualified legal practitioner who has practiced as such for three years</p> <p>Or</p> <p>Should be a teacher of law for three years in a recognised institution.</p> <p>Or</p> <p>Should have three years' experience of translation into Hindi of statutes, statutory rules and orders in Central/State Government,</p> <p>Or</p> <p>Should have three years' experience of drafting of statutes in the Central/ State Government:</p> <p>(iii) passed Secondary School Examination or equivalent or any higher Examination from a recognized board/</p>



	<p>Should have held a post in the legal department of State Government for three years,</p> <p>Or</p> <p>Should be a Central Government Servant who has had experience in legal affairs for three years,</p> <p>Or</p> <p>Should be a qualified legal practitioner who has practiced as such for three years,</p> <p>Or</p> <p>Should be a teacher of law for three years in a recognized institution,</p> <p>Or</p> <p>Should have three years' experience of translation into the Hindi of statutes, statutory rules and orders in Central/State Governments,</p> <p>Or</p> <p>Should have three years' experience of drafting of statutes in Central/State Government;</p> <p>(iii) passed Secondary School Examination or equivalent or any higher examination from a recognized board/University or equivalent through Hindi medium or had offered Hindi as a subject in Secondary School Examination or equivalent or any higher examination from a recognized board/university or equivalent.</p>	<p>University or equivalent through Hindi medium or had offered Hindi as a subject in Secondary School Examination or equivalent or any higher examination from a recognised board/university or equivalent.</p> <p><u>Promotion:</u></p> <p>Senior Translator (Hindi Branch) of Official Languages Wing, Legislative Department, with five years' regular service in the grade.</p> <p><u>Deputation:</u></p> <p>Officers of the Central/State Government –</p> <p>(a) (i) holding analogous posts on regular basis in the Parent Cadre/Department; or</p> <p>(ii) with two years' service in the grade rendered after appointment thereto on regular basis in the scale of pay of Rs.6500-10500 or equivalent in the Parent Cadre/Department;</p> <p>(iii) with five years' service in the grade rendered after appointment thereto on regular basis in the scale of pay of Rs.5500-9000 or equivalent in the parent Cadre/Department ; and</p> <p>(b) possessing the educational qualifications and experience prescribed for direct recruits under column 8.</p>
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	<p>2. The departmental Assistant (Technical) in the Official Languages Wing, Legislative Department with eight years' regular service in the grade shall also be considered alongwith outsiders and in case he is selected for appointment to the post, the same shall be deemed to have been filled by promotion.</p>	
2005	<p>Rs.7450-11500</p> <p><u>For Direct Recruitment</u></p> <p>Not applicable</p> <p><u>For Promotion/Deputation:</u></p> <p>1. Officers of the Central/ State Government -</p> <p>(a) (i) holding analogous posts on regular basis in the Parent Cadre/ Department; or</p> <p>(ii) with two years' service in the grade rendered after appointment thereto on regular basis in the scale of pay of Rs.6500-10500 or equivalent in the Parent Cadre/Department; or</p> <p>(iii) with five years' service in the grade rendered after appointment thereto on regular basis in the scale of pay of Rs.5500-9000 or equivalent in the Parent Cadre/Department; or</p> <p>(iv) with eight years service in the grade rendered after appointment thereto on regular basis in the scale of pay of Rs.5000-8000 or equivalent in the Parent Cadre/Department; and</p> <p>(b) possessing the</p>	<p>Rs.7450-11500</p> <p><u>For Direct Recruitment</u></p> <p>(i) Bachelor's degree in Law (LLB) from a recognized University or equivalent.</p> <p>(ii) Should be a member or State Judicial Service for a period of three years, or</p> <p>Should have held a post in the legal department of a State Government for three years, or</p> <p>Should be a Central Government servant who has had experience in legal affairs for three years, Or,</p> <p>Should be a teacher of law for three years in recognized institution, Or,</p> <p>Should have three years experience of translation into Hindi of statutes, statutory rules and orders in Central/State Government or</p> <p>Should have three years experience of drafting of statutes in the Central/State Government.</p>



	<p>following educational qualifications and experience:</p> <p>(i) Bachelor's degree in Law (LLB) from a recognized University or equivalent;</p> <p>(ii) should have been a member of State Judicial Service for a period of three years Or should have held a post in the legal department of State Government for three years,</p> <p>should be a Central Government servant who has had experience in legal affairs for three years, or</p> <p>Should be a Central Government Servant who has had experience in legal affairs for three years, or</p> <p>Should be a qualified legal practitioner who has practiced as such for three years, or</p> <p>Should be a teacher of law for three years in a recognized institution, or</p> <p>Should have three years' experience of translation into the Hindi of statutes, statutory rules and orders in Central/State Governments,</p> <p>Should have three years' experience of drafting of statutes in Central/State Government;</p> <p>(iii) Passed Secondary School Examination or equivalent or any higher than High School through examination from a</p>	<p>(iii) Passed Secondary School or equivalent or any examination higher Examination from a recognized board/ University or equivalent through Hindi medium or had offered Hindi as a subject in Secondary School or any higher examination from a recognized board/university or equivalent.</p> <p><u>For Promotion:</u></p> <p>Senior Translator (Hindi Branch) of Official Languages Wing, Legislative Department, with five years regular service in the grade.</p>
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	<p>recognized board/ University or equivalent through Hindi medium or had offered Hindi as a subject in Secondary School examination or equivalent or any higher examination from a recognized board/ university or equivalent.</p> <p>2. The departmental Assistant (Technical) in the Official Languages Wing, Legislative Department with eight years' regular service in the grade shall also be considered alongwith outsiders and in case he is selected for appointment to the post, the same shall be deemed to have been filled by promotion.</p>	
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(Emphasis Supplied)

Based upon above, the applicants plead that essential qualification for both is Degree in Law and experience in Translation.

10. Applicants have also relied upon the natures of duties assigned to Superintendent (Translation) and Superintendent (Technical) and pleaded that these are almost similar.



Subject	Superintendent (Technical)	Superintendent (Translation)
In relation to Translation	<p>(1) Updating of Central Acts, including the Constitution of India, Manual of Election Laws, etc., in Hindi versions and in English text too, by incorporating the amendments passed by the parliament.</p> <p>(2) To assist the officers while drafting Hindi translation of various Bills to be introduced in the parliament and to provide them various references and other legislative assistance in Hindi and in English too.</p> <p>(3) To prepare manuscripts of Central Acts I India code in diglot editions, the Constitution of India and Manual of Election Laws etc. in Hindi Language.</p> <p>(4) To translate the legal history of the Central Acts in the diglot editions of various Central Acts. India Code. The Constitution of India, Manual of Election laws etc. published by the Official Languages Wing and vetting thereof.</p>	To translate the Bills to be introduced in the Parliament, Rules, regulations and other legislative documents and vetting thereof.
In relation of supervision in respect of Translation	To supervise the Correction Section in updation work of central Acts in Hindi and English too; and to supply the Hindi versions of all Central Acts to the concerned ministries department State Governments on demand or on requirement, as the case may be.	Supervision of the concerned sections entrusted with translation work and liaison work with other administrative ministries and departments.



(Emphasis Supplied)

Applicants plead that the responsibilities and duties assigned are also similar.

11. MA No.04/2015 was filed for joining together. This was allowed vide order dated 30.09.2019.

12. The applicants plead that the work content, duties, RRs for Superintendent (Technical) and Superintendent (Translation) are practically same. There was historical parity also in the pay scale granted to them till 6th CPC. However, later on Superintendent (Translation) were granted higher pay scale being analogous to CSOLS (para 3 supra). Somehow Ministry of Law and Justice forgot to process the proposal for Superintendent (Technical) alongwith Superintendent (Translation) and they processed it later. But it was not agreed by Department of Expenditure, Ministry of Finance (para 6.1 supra). However, keeping in view the principle of 'equal pay for equal work', historical parity and equivalence of duties and responsibilities and same avenue of promotion, they need to be brought at par with Superintendent (Translation).

In this regard, they drew attention to the decision of Hon'ble Supreme Court in **Union of India and others vs. Rajesh Kumar Gond etc.**, (2014) 13 SCC 588 wherein the Hon'ble Supreme Court quoted the observations of



Chinnappa Reddy, J. in para 8 of the judgment in **Randhir Singh vs. Union of India**, (1982) 1 SCC 618 which read as follows:

“8. It is true that the principle of 'equal pay for equal work' is not expressly declared by our Constitution to be a fundamental right. But it certainly is a Constitutional goal. Art. 39(d) of the Constitution proclaims 'equal pay for equal work for both men and women' as a Directive Principle of State Policy. 'Equal pay for equal work for both men and women' means equal pay for equal work for everyone and as between the sexes. Directive principles, as has been pointed out in some of the judgments of this Court have to be read into the fundamental rights as a matter of interpretation. Art. 14 of the Constitution enjoins the state not to deny any person equality before the law or the equal protection of the laws and Art. 16 declares that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. These equality clauses of the Constitution must mean something to everyone. To the vast majority of the people the equality clauses of the Constitution would mean nothing if they are unconcerned with the work they do and the pay they get. To them the equality clauses will have some substance if equal work means equal pay. “

13. Per contra, respondents No.1 & 2 opposed the OA.

Following specific averment was made in counter reply:

“2. That before Sixty Pay Commission there has been parity in the pay scales for the posts of Superintendent (Technical)(Hindi Branch) and Superintendent (Translation)(Hindi Branch) in Official Languages Wing of the Legislative Department. Further both these posts are feeder posts for promotion to the post of Assistant Legislative Counsel in the Official Languages Wing of Legislative Department provided the incumbents in these posts are possessing a Degree in Law (LLB) from a recognized University. It is stated that Educational Qualifications for direct recruitment for these posts are similar except that for the post of Superintendent (Translation) “Two years experience of translation into Hindi of statutes, statutory rules and orders in Central/State Government” has been kept as desirable qualification.”



14. However, in respect of recruitment and qualification, it was brought out that:

(a) For Superintendent (Translation) mode of recruitment is by promotion failing which by deputation and failing both by direct recruitment.

Senior Translator (Hindi Branch) with five years' service, is eligible for promotion to the post of Superintendent (Translation). Mode of recruitment to Senior Translator is by way of direct recruitment only for which essential qualification is (i) LLB and (ii) Secondary School examination or higher with Hindi and English as compulsory subject and (iii) two years' experience.

(b) As against this for Superintendent (Technical) mode of recruitment is by promotion failing which by deputation. For promotion, feeder grade is Assistant (Technical) with eight years' service. Mode of recruitment for Assistant (Technical) is by absorption/deputation failing which by direct recruitment. It was specifically pleaded that promotion is the principal mode of recruitment and for holding the post of Superintendent (Technical)(Hindi Branch), Bachelor Degree in Law (LLB) or even Degree, is not an essential qualification as that is not the minimum education qualification for the persons to be considered for absorption in the post of Assistant (Technical), the feeder post for promotion to Superintendent (Technical)(Hindi Branch).



15. It was further pleaded that the duties attached to the post of Superintendent (Translation) relates to core translation work of legislative documents whereas duties attached to the post of Superintendent (Technical) mainly relates to updation of various documents by incorporating amendments thereto and providing reference material to officer engaged in the drafting/translation of legislative proposals.

16. It was pleaded that in view of the similarities in the duties attached to the post of Assistant Director (OL) and Superintendent (Translation) (Hindi Branch) relating to translation related work, proposal for upgradation of pay scale for the post of Superintendent (Translation) (Hindi Branch) at par with Assistant Director (OL), CSOLS was taken up by the Legislative Department with the Ministry of Finance, Department of Expenditure. Govt. of India duly examined the matter and approved the proposal and post of Superintendent (Translation) in Official Languages Wing of Legislative Department was placed in the Pay Band-3 of Rs.15600-39100 with Grade Pay of Rs.5400/- w.e.f. 01/01/2006 vide Order dated 13th April, 2011.

17. It was pleaded that the representation of applicants was examined by Ministry of Law and Justice in consultation with



Ministry of Finance but could not be agreed to and applicants were advised (Para 6 to 6.2 supra).

18. Further, reliance was placed on various judgments by Hon'ble Apex Court and it was pleaded that Court had observed that matters pertaining to pay is best left to the expert bodies like Pay Commission and Tribunal may not interfere in the same. In this regard, reliance was placed on following cases:

(a) Hon'ble Supreme Court in the case of **Secretary, Finance Department vs. West Bengal Registration Service Association**, reported in 1993 Supp(1) SCC 153 has been pleased to hold as follows:

“There can be, therefore, be no doubt that equation of posts and equation of salaries is a complex matter which is best left to an expert body.”

In this case Hon'ble Court held as under:

“We do not consider it necessary to traverse the case law on which reliance has been placed by counsel for the appellants as it is well-settled that equation of posts and determination of pay-scales is the primary function of the executive and not the judiciary and, therefore, ordinarily courts will not enter upon the task of job evaluation which is generally left to expert bodies like the Pay Commission, etc. But that is not to say that the Court has no jurisdiction and the aggrieved employees have no remedy if they are unjustly treated by arbitrary state action or inaction. Courts must, however, realise that job evaluation is both a difficult and time consuming task which even expert bodies having the assistance of staff with requisite expertise have found difficult to undertake sometimes on account of want of relevant data and scales for evaluating performances of different groups of employees. This would call for a constant study of the external comparisons and internal relativities on account of the changing nature of job requirements. The factors which may have to be kept in view for job evaluation may include (i) the work programme of his department (ii) the nature of



contribution expected of him (iii) the extent of his responsibility and accountability in the discharge of his diverse duties and functions (iv) the extent and nature of freedoms/limitations available or imposed on him in the discharges of his duties (v) the extent of powers vested in him (vi) the extent of his dependence on superiors for the exercise of his powers (vii) the need to co-ordinate with other departments, etc.”

(b) Hon’ble Supreme Court in the case of **State of West Bengal vs. Hari Narayan Bhowal**, reported in 1994 (4) SCC 78 has been pleaded to held as follows:

“When an expert body like pay Commssioner / Pay Revision Committee etc. has been formed, the Court on its own should not direct fixation of Scales of Pay and similar issues.”

(c) Hon’ble Supreme Court in the case of **State of Haryana vs. HESPSA**, 2002 (6) SCC 72 has been pleased to held as follows:

“Ordinarily Courts will not enter upon task of Job Evaluation which is generally left to expert bodies like pay Commission etc.”

(d) Hon’ble Supreme Court in the case of **Sohan Singh Sodhi vs. Punjab SEB**, 2007 (5) SCC 528 held that parity in pay scale cannot be claimed when educational qualification is different.

(e) Hon’ble Supreme Court in the case of **State of M.P. vs. Ramesh Chandra Bajpai**, 2009 (13) SCC 635, it has been held that mode and manner of appointment is considered a relevant factor for invocation of doctrine of Equal Pay for Equal Work. It was further held that mere similarity in designation or nature or quantum of work is not



determinative of equality in the matter of pay scales. The Court has to consider factors like source and mode of recruitment, appointment, qualifications, nature of work, value thereof, responsibilities, reliability, experience, confidentiality, functional need, etc. The equality clause can be invoked in the matter of pay scales only when there is wholesale identity between holders of two posts.

(f) In the case of **S.C.Chandra and others vs. State of Jharkahand and others**, JT 2007 (10) 4 SC 272, Hon'ble Supreme Court held as under:

“24. The principle of equal pay for equal work was propounded by this Court in certain decisions in the 1980s, e.g. Dhirendra Chamoli and another vs. State of U.P. (1986) 1 SCC 637, Surinder Singh vs. Engineer-in-Chief, C.P.W.D. (1986) 1 SCC 639, Randhir Singh vs. Union of India (1982) 1 SCC 618 etc. This was done by applying Articles 14 and 39(d) of the Constitution. Thus, in Dhirendra Chamoli's case (supra) this Court granted to the casual, daily rated employees the same pay scale as regular employees.

Xxx xxx xxx

26. Fixation of pay scale is a delicate mechanism which requires various considerations including financial capacity, responsibility, educational qualification, mode of appointment, etc. and it has a cascading effect. Hence, in subsequent decisions of this Court the principle of equal pay for equal work has been considerably watered down, and it has hardly ever been applied by this Court in recent years.

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33. It may be mentioned that granting pay scales is a purely executive function and hence the Court should not interfere with the same. It may have a cascading effect creating all kinds of problems for the Government and authorities. Hence, the Court should exercise judicial restraint and not interfere in such executive function vide Indian Drugs & Pharmaceuticals Ltd. vs. Workmen, Indian Drugs and Pharmaceuticals Ltd. (2007) 1 SCC 408.



34. There is broad separation of powers under the Constitution, and the judiciary should not ordinarily encroach into the executive or legislative domain. The theory of separation of powers, first propounded by the French philosopher Montesquieu in his book 'The Spirit of Laws' still broadly holds the field in India today. Thus, in *Asif Hameed vs. State of Jammu and Kashmir, [AIR 1989 SC 1899]* a three Judge bench of this Court observed (vide paragraphs 17 to 19) :

"17. Before advertiring to the controversy directly involved in these appeals we may have a fresh look on the inter se functioning of the three organs of democracy under our Constitution. Although the doctrine of separation of powers has not been recognized under the Constitution in its absolute rigidity but the constitution makers have meticulously defined the functions of various organs of the State. Legislature, executive and judiciary have to function within their own spheres demarcated under the Constitution. No organ can usurp the functions assigned to another. The Constitution trusts to the judgment of these organs to function and exercise their discretion by strictly following the procedure prescribed therein. The functioning of democracy depends upon the strength and independence of each of its organs. Legislature and executive, the two facets of people's will, they have all the powers including that of finance. Judiciary has no power over sword or the purse nonetheless it has power to ensure that the aforesaid two main organs of State function within the constitutional limits. It is the sentinel of democracy. Judicial review is a powerful weapon to restrain unconstitutional exercise of power by the legislature and executive. The expanding horizon of judicial review has taken in its fold the concept of social and economic justice. While exercise of powers by the legislature and executive is subject to judicial restraint, the only check on our own exercise of power is the self imposed discipline of judicial restraint.

18. Frankfurter, J. of the U.S. Supreme Court dissenting in the controversial expatriation case of *Trop v. Dulles* (1958) 356 US 86 observed as under :

"All power is, in Madison's phrase, "of an encroaching nature". Judicial powers is not immune against this human weakness. It also must be on guard against encroaching beyond its proper bounds, and not the less so since the only restraint upon it is self restraint.....

Rigorous observance of the difference between limits of power and wise exercise of power between questions of authority and questions of prudence



requires the most alert appreciation of this decisive but subtle relationship of two concepts that too easily coalesce. No less does it require a disciplined will to adhere to the difference. It is not easy to stand aloof and allow want of wisdom to prevail to disregard one's own strongly held view of what is wise in the conduct of affairs. But it is not the business of this Court to pronounce policy. It must observe a fastidious regard for limitations on its own power, and this precludes the Court's giving effect to its own notions of what is wise or politic. That self-restraint is of the essence in the observance of the judicial oath, for the Constitution has not authorized the judges to sit in judgment on the wisdom of what Congress and the Executive Branch do."

19. When a State action is challenged, the function of the court is to examine the action in accordance with law and to determine whether the legislature or the executive has acted within the powers and functions assigned under the constitution and if not, the court must strike down the action. While doing so the court must remain within its self-imposed limits. The court sits in judgment on the action of a coordinate branch of the Government. While exercising power of judicial review of administrative action, the court is not an appellate authority. The constitution does not permit the court to direct or advise the executive in matters of policy or to sermonize qua any matter which under the constitution lies within the sphere of legislature or executive, provided these authorities do not transgress their constitutional limits or statutory powers." (Emphasis supplied)

35. In our opinion fixing pay scales by Courts by applying the principle of equal pay for equal work upsets the high Constitutional principle of separation of powers between the three organs of the State. Realizing this, this Court has in recent years avoided applying the principle of equal pay for equal work, unless there is complete and wholesale identity between the two groups (and there too the matter should be sent for examination by an expert committee appointed by the Government instead of the Court itself granting higher pay).

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37. Similarly, in State of Haryana and another vs. Haryana Civil Secretariat Personal Staff Association (2002) 6 SCC 72, the principle of equal pay for equal work was considered in great detail. In paragraphs 9 & 10 of the said judgment the Supreme Court observed that equation of posts and salary is a complex matter which should be left to an expert body. The Courts must realize that the job is both a difficult and time consuming task



which even experts having the assistance of staff with requisite expertise have found it difficult to undertake. Fixation of pay and determination of parity is a complex matter which is for the executive to discharge. Granting of pay parity by the Court may result in a cascading effect and reaction which can have adverse consequences vide Union of India and others vs. Pradip Kumar Dey (2000) 8 SCC 580.”

(g) some other judgments were also cited.

19. Applicants submitted additional affidavit on 16.04.2019 enclosing therein the recommendations by 6th CPC and Govt. notification dated 29.08.2008 as was directed by Tribunal on 02.04.2019.

It is seen from these recommendations and Govt. orders thereon, that following position emerges:

S1. No.	Post	5 th CPC	6 th CPC	Remarks
a.	Supdt. (Printing)	7450-11500	PB-4+GP Rs.4600	Higher scale Rs.8000-13500 was demanded but not agreed to para 7.24.3
b.	Asstt. (Printing)	6500-10500	PB-2+GP Rs.4200* *Pl. see Note below	Their demand for upgradation was not agreed to. Para 7.24.4
c.	Supdt. (Legal)	7500-12000	PB-2+GP Rs.4800	Higher scale Rs.10000-15200 was demanded but not agreed. Para 7.24.12
d.	Asstt. (Legal)	6500-10500	PB-2+GP Rs.4600	Since they have Degree in Law, they were upgraded and granted Rs.7450- 11500. Para 7.24.12
e.	<p>*Note: Subsequently all those in Rs.6500-10500 were granted the pay scale of PB2+GP Rs.4600 vide Ministry of Finance OM dated 13.11.2009.</p> <p>In regard to official language officials working in Ministry of Law & Justice Following recommendation was made in para-7.24.5:</p> <p>“Higher pay scales have been demanded for the posts of UDCs, Stenographers and Official Language officials. The Commission had made recommendations about these categories in Chapters 3.1 and 3.8. The recommendations contained therein shall also apply to the employees belonging to these categories in this Ministry.”</p>			



20. Respondents also submitted additional counter reply on 17.07.2019. It was averred that the qualifications prescribed for the post of Superintendent (Translation) ordain experience of translation into Hindi of statute, statutory rules and orders, etc. There is no such requirement of translation in case of RRs for the post of Superintendent (Technical). Since the pay scale of Superintendent (Translation) was revised at par with Assistant Director of CSOLS mainly because in consideration of translation related job, the same does not hold good in the present case. The similar revision in respect of other posts like Superintendent (Legal) and Superintendent (Printing) were also not agreed to by the Department of Expenditure.

21. Respondents pleaded that there is no merit in the OA and the same is required to be dismissed.

22. The matter has been heard at length. Shri Rajesh Kumar with Ms. Sakshi Gaur, learned counsel represented the applicants and Shri Rajesh Katyal, learned counsel represented the respondents.

23. Superintendent (Technical) and Superintendent (Translation) had historical parity in respect of pay scale,



qualification, responsibilities and further avenue of promotion to the post of Assistant Legislative Counsel. This is reflected in the note by Ministry of Law and Justice also (para 6 supra).

24. The RRs provided that essential qualification for direct recruitment for both these posts includes Degree in Law. The RRs issued in 2003 made a change where direct recruitment for Superintendent (Technical) was done away with. However, the deputationist still needed Degree in Law i.e. at par with Superintendent (Translation) (para 9 supra).

The duties assigned to both includes translation work (para 10 supra).

25. The pay scales of Superintendent (Translation) were processed to be at par with those of CSOLS as recommended by 6th CPC, and was approved (para 3 & 4 supra). Subsequently, on a representation by Superintendent (Technical), it was found that their case was somehow lost sight of by Ministry of Law and Justice. Ministry of Finance did not agree on the reasoning that Superintendent (Technical) is not doing translation work (para 6.1 & 6.2 supra).



This reasoning is actually bereft of any logic and merit in view of factual position in respect of duties and responsibilities actually assigned to Superintendent (Technical). Rejection on the basis of such factually incorrect reasoning is not acceptable.

26. Further, the avenue of promotion for both Superintendent (Technical) and Superintendent (Translation) lies to the next higher post of Assistant Legislative Counsel. The Superintendent (Technical) are likely to suffer undue disadvantage by way of inter-se seniority due to differential in pay scale, due to no fault of theirs, if their historical parity is disturbed and simply because the Ministry of Law and Justice somehow forgot to include them earlier while processing the upgradation for Superintendent (Translation) as was admitted by them in so many words (para 4 of their note reproduced in para 6 supra).

27. In view of foregoing, the Tribunal finds merit in pleas of applicants that they were having historical parity not only in pay scales but also in respect of their qualifications, duties, responsibilities and work content with those of Superintendent (Translation) and this has been disturbed and efforts to rectify the mistake have been nullified on the reasoning of factual inaccuracies. Hence, this injustice needs to be corrected.



28. In view of above, the Ministry of Finance letter dated 24.03.2014 and Ministry of Law and Justice letter dated 09.04.2014 needs to be quashed and set aside *ab-initio* and the Tribunal orders so.

29. Tribunal recalls that in State of Haryana and Another v. Haryana Civil Secretariat Personal Staff Association (2002) 6 SCC 72, the Supreme Court held as under:-

“10. 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 29 discharge. While taking a decision in the matter, several relevant factors, some of which have been noted 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.....
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.....”.

[Emphasis supplied]

30. In view of foregoing, respondents are directed to review their decision of rejection in respect of the proposal of restoring the historical parity between Superintendent



(Technical) and Superintendent (Translation) in their pay scales. They shall review the same by passing a reasoned and speaking order under advice to applicants, within a period of three months of receipt of a certified copy of this order. No order as to costs.

(Pradeep Kumar)
Member (A)

(Justice Vijay Lakshmi)
Member (J)

‘sd’