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was to be Rs.290-560/-. The Dandakaranya Development Authorities prescribed a separate scale of pay for Matric Trained Teacher i.e. Rs.260-430/-. By this, the respondents violated the provisions of Article 39 of the Constitution of India. Subsequent thereto, the applicant approached this Tribunal by filing Original Application No.34 of 1986 asking for fixing his pay in the scale of Rs.330 to 560/- as by then he had acquired a higher qualification i.e. he had passed the Higher Secondary Examination. During the pendency of that application, the report of the Fourth Pay Commission was published and in accordance with the recommendations of that Commission, a scale of pay of Rs.1200-2040/- was prescribed for those persons who were drawing pay in the pre-revised scale of pay of Rs.290-560/- i.e. the scale after the publication of the report of the Third Pay Commission. It is the case of the applicant that there was a further modification of the scale of pay prescribed under the recommendations of the Fourth Pay Commission and that provided that all those persons who had completed 12 years of service as Primary School Teachers were to draw a pay in the scale of Rs.1400-2600/-. In accordance there with, it is alleged by the applicant, that he made a representation which remained unattended to. The applicant has prayed for a direction to the respondents to fix his pay in the scale of Rs.1400-2600/- and to pay him ( the applicant) the differential amounts.

2. The case of the respondents is that in view of the decision of this Tribunal in the earlier application

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steps were being taken for fixing the pay of the applicant in accordance with the general scales of pay prescribed after the Third Pay Commission Report and the Fourth Pay Commission Report, but some time is necessary to obtain the decision of the Government in the matter and the applicant should not have rushed to this Tribunal. As regards the applicant's claim for fixing his pay in the scale of Rs.1400-2600/- it has been stated that this scale will not apply to the persons working as teachers outside the Union Territories area and the Dandakaranya Project/is admittedly not one of such Territory. Therefore, the applicant cannot get his pay fixed in that scale.

3. We have heard Mr. O.N.Ghosh for the applicant and Mr. Tahali Dalai for the respondents. This Tribunal in its judgment in O.A.No.34 of 1986 delivered on 29th January, 1988 dealt with the principal questions arising in this application at some length, therefore it is not necessary to re-state the said reasons in this judgment, except indicating that this Tribunal came to the conclusion that to make a difference amongst the teachers belonging to the same category and doing almost the same type of job is not permissible. Therefore, we have no hesitation in saying that the applicant would be entitled to the scales of pay prescribed for the Primary School Teachers/ Matric Trained Teachers in the revised pay scale rules, 1973 and the revised pay scale rules, 1986. As regards the applicant's contention that he is entitled to pay in the scale of Rs.1400-2600/-, we would say that on reading Annexure-A/1 it would be manifest that the scale is limited in its operation to teachers working in certain

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Union Territories and it has no general application.

4. Since the respondents have averred in their reply in counter that they have taken steps to fix the pay of the applicant in the above revised scale of pay, we would like to dispose of this application by directing that the pay of the applicant be fixed at the appropriate stages of the scales of pay or Rs.290-560 from 1.1.1973 and Rs.1200-2040/- from 1.1.1986 and the differential amounts be paid to him within three months from the date of receipt of a copy of this judgment. Success being partial, there shall be no order as to costs.

*R. S. Khanna* 16.4.90

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VICE- CHAIRMAN.



*Mr. E. S. Singh* 16.4.90

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MEMBER (JUDICIAL)