

**Central Administrative Tribunal, Lucknow Bench, Lucknow**

**Original Application No. 515/2005**

This the <sup>30<sup>th</sup></sup> day of March , 2009

**Hon'ble Mr. M. Kanthaiah, Membe (J)**  
**Hon'ble Dr. A. K. Mishra, Member (A)**

1. Ravindra Singh,  
Aged about 42 years,  
Son of Late Sri Thakur Singh  
Rawat , resident of 141/3, Outram Line,  
Sadar Cantonment, Lucknow-2262002 (presently  
Working as Senior Translator, Headquarters  
Central Command, Lucknow-226002).
2. Naeem Ahmad,  
Aged about 47 years,  
Son of Shri Ameer Ahmad,  
Resident of C/o Shri Jamal Ahmad,  
Subhani Kheda, Telibagh,  
Lucknow-226002(presently working as Senior Translator,  
Headquarters Central Command, Lucknow-226002).
3. M.A. Siddiqui,  
Aged about 39 years,  
Son of Shri C.B. Siddiqui,  
Resident of 140/4, Outram Line,  
Sadar, Cantonment Lucknow-226002  
(Presently working as Senior Translator,  
Headquarters Central Command, Lucknow-226002).
4. Dinendra Singh,  
Aged about 37 years,  
Son Shri Gaj Ram Singh,  
Resident of 139/1, Outram Line,  
Sadar, Cantonment Lucknow-226002  
(Presently working as Senior Translator,  
Headquarters Central Command, Lucknow-226002).
5. S. P. Dobriyal,  
Aged about 55 years,  
Son of late Sri Om Prakash  
Dobriyal, resident of 146/1, Outram Line,  
Sadar, Cantonment Lucknow-226002  
(Presently working as Assistant Director (Official  
Language), Headquarters Central Command, Lucknow-226002).

Applicants.

By Advocate Sri R.C. Singh.

Versus

1. Union of India,  
Through the Secretary,  
Ministry of Defence, New Delhi.
2. Union of India,  
Through the Secretary,  
Ministry of Home Affairs  
(Department of Official Languages),  
New Delhi.



3. Army Headquarters, General Staff Branch (MT-17), D.H.Q.P.O., New Delhi.
4. Headquarters Central Command, General Staff (Education) Branch, Lucknow-226002, through the Brigadier (Education).
5. Headquarters Central Command, Administration Branch, Lucknow 226002, through the Brigadier Administration.
6. Principal Controller of Defence Accounts (Central Command), Lucknow-226002.

Respondents.

By Advocate Sri S.P. Singh.

Order

**By Hon'ble Dr. A. K. Mishra, Member (A)**

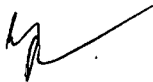
The applicants have challenged the validity of the order communicated in the letter dated 29.09.2005, issued by the Army Headquarters, General Staff Branch (MT-17) through which applicants have been denied the upgraded pay scales granted to them earlier in parity with the Senior Translators and Assistant Directors (Official Language) working in Armed Forces Headquarters.

2. The brief facts of the case are as follows:-

The applicants No. 1 to 4 are working as Senior Translators at Central Command Headquarters, and applicant No. 5 is working as Assistant Director (Official Language) at the Central Command Headquarters, Lucknow.

3. The IVth Pay Commission had recommended the pay scale of 1640-2900 for Senior Translators of Central Secretariat Official Language Services (CSOLS) and the pay scale of Rs. 1600-2600 for Senior Translators working in subordinate offices w.e.f. 1.1.1986.

4. One V.K. Sharma along with 9 others, working as senior translators in sub-ordinate offices, filed O.A. 1310 of 1989 before the Principal Bench of this Tribunal claiming parity of pay scale with their counterparts of CSOLS and the O.A. was allowed with a direction for grant of higher pay scale of Rs. 1640-2900 to the applicants. Subsequently, Smt. Suman Lata Bhatia and 17 others, who were working as Senior Translators in Western Air Command



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Headquarters filed O.A. 928/94 before the Principal Bench claiming parity of pay scale with their counter-parts of CSOLS. In the same year, Sri Gulab Singh and three others, who have were working as Senior Translators at Central Command Headquarters, filed O.A. No. 262/94 before this Bench of the Tribunal for grant of the higher pay scale. All these applications were allowed in favor of the applicants. The pay scales were subsequently revised to Rs. 5500-9000 for Senior Translators and 5000-8000 for Junior Translators on the basis of the recommendations of the 5<sup>th</sup> Pay Central Pay Commission. The Post of Assistant Director(Official Language) carried the revised payscale of Rs. 6500-10500.

5. Pursuant to the judgments passed on 18.9.97 in O.A. 928/94 and on 14.1.2002 in O.A. 262/94, the Government of India agreed to implement the directions made in these judgments and the applicants No. 1 to 4 got the pay scale of Rs. 5500-9000 w.e.f. 1.1.96 and applicant No. 5 got the pay scale of Rs. 6500-10500 from the same date. Subsequently, the Ministry of Home affairs(Department of Official Language) which is the nodal department of these cadres, extended a higher pay scale of Rs. 6500-10500 to the Senior Translators and 7500-12500 to the Assistant Director of CSOLS notionally w.e.f. 1.1.96 but actually w.e.f. 11.2.2003. Keeping in view the judicial pronouncements on the subject, the applicants were also granted the benefit of the upgraded pay scales on actual basis w.e.f. 11.2.2003. But this benefit was not extended to their counterparts working in some other commands. These employees agitated the matter before the Govt. for giving them parity and the matter was examined by the Ministry of Defence at government level. It is alleged that the impugned orders have been issued on the basis of advice received from the Ministry of Defence that the upgraded payscales were meant only for the employees who are members of CSOLS and could not be extended to the employees working in subordinate offices. This has given rise to an apprehension in the minds of the applicant that the pay scales will be reduced. Hence this application.

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6. The applicants have challenged the impugned order of the Army Headquarters on the following grounds:

That the Educational qualification, the nature of job of the applicants as well as their counterparts working in Central Secretariat/Army Headquarters are the same. The various coordinate benches including the Principal Bench have earlier held that the nature of work of the Translators/Assistant director (Official Language) is the same and on directions received from various benches of this Tribunal, Government in the Ministries of Defence, Finance and Commerce have granted pay parity to the applicants of those cases. Further, sanction of President of India was conveyed for implementation of the judgment and order dated 14.1.2002 of this Tribunal passed in O.A. NO. 262/94 vide letter dated 6.3.2003. The 5<sup>th</sup> Pay Commission has also recommended that there should be one pay scale for the Hindi Translators both working at Central Secretariat and elsewhere. Accordingly, revised pay scales for all Junior Translators and Senior Translators /Assistant Director (Official Language) were granted w.e.f. 1.1.96. But subsequently the pay scales were further upgraded for the members of CSOLS to Rs. 6500-10500/- and Rs. 7500-12000/- respectively for senior translators and Assistant Directors notionally w.e.f. 1.1.96 and actually from 11.2.2003 vide order of Ministry of Home Affairs dated 2.4.2004. The Ministry of Defence vide its order dated 2.9.2004 has extended the up graded payscales to the members of Armed Forces Head Quarters Official Language Service(AFHQOLS). Strictly speaking, Army Headquarters is also a subordinate office and there could be no discrimination between the employees working in Army Headquarters in the official language wing and those working in Command Headquarters. The Govt. of India, Ministry of Home Affairs(Department of Official Language) has already suggested in their O.M. dated 7.4.2005 for constitution of one common cadre which has not yet been implemented. Through the impugned action of the respondents arbitrary discrimination is being introduced among the same class of employees and such action would be violative of Articles 14,16 and 39 (d) of the Constitution of India.



7. The respondents have submitted that the conditions of service and the nature of work of those working in Central Secretariat/Armed Forces Headquarters/Inter -Service Organizations are different from those working in other subordinate offices. Qualitatively the members of the CSOLS performed a higher level of duty and the matter has been considered by the Full Bench of this Tribunal in its judgment dated 20<sup>th</sup> February, 2008. The Full Bench has covered the full gamut of issues involved and given their findings in clear terms. While coming to a conclusion in the matter, they have referred to Five Member Bench of this Tribunal which pronounced its judgment on 15.3.2001 in the case of M.B. Rai Vs. Union of India and Others which examined the question of disparity in pay scales of Stenographers and Assistants of subordinate/ attached offices of Government of India vis-à-vis Stenographers and Assistants working in the Central Secretariat. The Full Bench also made a reference to Anand Kishore & Others Vs. Union of India & Others decided by this Tribunal on 26.5.2006 in which an O.A., similar to the present one, was dismissed as bereft of merits after discussion of case law on the subject. In the latest decision of the Full Bench pronounced on 22.2.2008 it was held that the quality of work of Hindi Translators working in the Central Secretariat was different from the work discharged by their counterparts in sub-ordinate/ attached offices. Those working in the Secretariat have to deal with the parliamentary questions, cabinet papers, gazette notifications and other important policy documents where strict secrecy and better quality of work have to be maintained. According to the Full Bench, even though a person may do the same work, the quality of work may differ. It is not always a comparison of physical activity. Application of principle of equal pay for equal work requires consideration of various aspects of a given job. It has held that extension of the principle of pay parity would depend upon the nature of work done. It cannot be judged by mere volume of work; there may be qualitative difference as regards reliability and responsibility. Even the source of recruitment is one such factor, which has to be considered while making comparison. It was held that recruitment to the Central Secretariat is made on all India basis which is not the case for translators recruited for subordinate offices. It also examined the

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recommendation of the 5<sup>th</sup> Pay Commission made in paragraph 70.134 in respect of pay scales for translators irrespective of their place of work and highlighted the rider put by the Pay Commission "subject to their functional requirement". It was held that the principle enunciated in the decision dated 15.3.2001 of the five Member Bench of the Tribunal has not been overturned by any superior judicial forum. Therefore, those principles have to be followed in the present application also.

The Hon'ble High Court of Calcutta examined the same issues in the W.P. No. 728/2007 and came to a diametrically opposite conclusion in their judgment dated 2.5.2008. We are giving extracts of their judgment in extenso for better appreciation of the issues involved:

"The said Dhananjay Singh and his fellow colleague ventilated their grievances before the learned Tribunal that the 5<sup>th</sup> Central Pay Commission made identical recommendations in respect of pay scales of Senior Hindi Translators and Junior Hindi Translators irrespective of their place of working i.e. either in Central Secretariat Official Language Service (Hereinafter referred to in short (CSOLS) or in subordinate offices and the Government of India vide Office Memorandum dated 28<sup>th</sup> September, 1997 has placed the Junior Hindi Translators in the revised pay scale of Rs. 5000-8000/-. It was further contended that Hindi Translators in all the Departments either in CSOLS or in Subordinate Officers are selected through an open competitive examination conducted by the SSC. It is urged that respondent No. 2, by an order dated 19<sup>th</sup> February 2003, upgraded the scale of pay of Junior Hindi Translators to Rs. 5500-9000/- with effect from 11<sup>th</sup> February, 2003. Those Hindi Translators were placed in CSOLS but the applicant Dhananjay Singh and his colleague were denied. So, they made representation. In gist, the case of discrimination was meted out although they were similarly circumstanced and placed with that of their counter-part of the CSOLS.

After hearing the learned counsel for the parties and having gone through all the aspects of the matter learned Tribunal on fact found that the applicants Dhananjay Singh and his colleague are similarly circumstanced

and doing identical duties and responsibilities like the Hindi Translators working in CSOLS.

By this application the aforesaid fact finding is challenged by the Union of India, contending the same being wrong. It is further submitted by Mr. Mukherjee having regard to the nature of duties performed by the Hindi Translators in CSOLS that the applicants cannot be treated to be at par with them as they are discharging the special type of duties. As Such, it cannot be said that the applicants Dhananjay Singh and another do belong to the same class.

Learned Counsel for Dhananjay Singh and another, Mr. Mukherjee, contends drawing out attention to their affidavit-in-opposition that at the time of appointment there has been an advertisement inviting application without making any distinction or classification of the Hindi Translators at any place in India. Pursuant to the advertisement, the appointment was made and they were given the same pay scales. Subsequently, this classification has been illegally done by the Government and benefit has been given to those Hindi Translators who are working in CSOLS. He has also drawn our attention to the relevant Manual Being Clause 10.4 wherefrom it appears that there is no classification of the duties of the Hindi Translators in places all over India.

Mr. Mukherjee has drawn our attention to certain write up at pages 76 and 77 and submits that from the above mentioned pages the nature of the duties performed by the Hindi Translators of CSOLS will appear and that all done by counter -part of Kolkata Office. We have examined these write up and we find these write up have no value and this is neither a Manual nor a Regulation and who has prepared it, is not known to us. When we find that challenge against the fact finding of the learned Tribunal is not substantiated by any evidence, we cannot upset the same on the question of similarity. Rather, on the other hand, we find there are documents and materials placed before the learned Tribunal that the nature of the duties performed by all the Hindi Translators are same and identical.

Moreover, the learned Tribunal has followed earlier judgment on the same point rendered by the Principal Bench of the Central Administrative Tribunal.



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We do not find any logic or any basis to classify the Hindi Translators in CSOLS in order to give them a special benefit when at the time of appointment there was not such indication. Therefore, the benefit given to the Hindi Translators of CSOLS should also be given to the similarly placed persons of the same cadre in any part of the country.

Mr. Mukherjee then contends that it is a policy decision and such decision should not be interfered with or disturbed by the learned Tribunal or by the court of law. It is true that policy decision is not interfered with by the learned Tribunal or by the court of law but such a decision must be a rational one and should be immuned from the vices of discrimination; as discrimination amongst the equally placed and circumstanced person is throttled down by Article 14 of the Constitution of India. We, therefore, do not find any wrong in the judgment and conclusion of the learned Tribunal. We, thus dismiss this application, however, without any order as to costs. Consequently, we affirm the judgment and order of the learned Tribunal.”

8. The Hon'ble High Court on a discussion of the materials before them as well as before the Calcutta Bench of this Tribunal came to a conclusion that the Hindi Translators working in the attached/subordinate offices are similarly circumstanced vis-a-vis their counterparts working in the Central Secretariat. They are discharging identical duties and responsibilities and that their mode of recruitment is the same. Therefore, further classification of the Hindi Translators working in CSOLS into a separate category was illegal and open to the charge of discrimination among similarly placed and circumstanced employees.


9. The law of precedent was elucidated by the Hon'ble Supreme Court in the case reported at 1988 (Supp) SCC 472 “The decision of the supreme Court which is a court of record, constitutes a source of law as these are judicial precedents of the highest Court of the land. They are binding on all courts through out India. Similarly, the decision of every high Court being judicial precedents are binding on all Courts situated in the territory over which the High Court exercises jurisdiction. Those decisions also carry persuasive value

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before other Courts. The decision of Supreme Court and of the High Court are almost as important as statutes, rules and regulations passed by competent legislature. In the case of Major Radha Krishna Vs. Union of India (1998) 3 SCC 507 it was observed by Supreme Court that the direction issued by the High Court or supreme Court in its decision carry equal importance as that of statutes or rules and since the directions are required to be complied with, any disobedience amounts to contempt, as such the decision of the Court partakes the position of Statutory Rules." Under the circumstances, the judgment of the Hon'ble High Court of Calcutta has persuasive value for us. It has the force of statutory rule on the subject. Further, it has not been disputed that the Ministry of Law and Justice, on reference, have advised against making any appeal against the judgment of CAT Calcutta which was affirmed in the aforesaid judgment of Calcutta High Court. It is also a fact that similarly placed employees working in Army Head Quarters and some Command Head Quarters have been given the benefit in compliance to the earlier decisions of the Principal Bench and other coordinate benches of this Tribunal.


10. The Principal Bench in its judgment in O.A. 928/94, following the judgment of the Hon'ble Supreme Court in Amrit Lal Berry Vs. Collector of Central Excise, Delhi, 1975 (1) SLR 153 (SC), has held that in service matters judgments in most of the cases were judgments in rem because they affected a large number of employees and declared that the decisions of the Tribunal holding that the Junior/Senior Translator working as members of CSOLS and those working in field establishments were similarly circumstanced and therefore, judgment affecting the applicants in the case should be held to be a judgment in rem. A full Bench of this Tribunal in the case of Dr. A.K. Dwan Vs. U.O.I. (O.A. 555/2001 decided on 16.4.2004) has held that if there was no decision of the High Court holding territorial jurisdiction available, but a decision of another High Court was available, this Tribunal would be bound by the decision of that High Court.



11. In view of the undisputed fact that the Government in the Defence Ministry, Finance Ministry and Commerce Ministry have already implemented the decisions to extend the pay scales meant for the members of the CSOLS to the applicants in different original applications before the coordinate benches of this Tribunal, and in view of the endorsement of principle of equal pay for equal work made by Hon'ble Calcutta High Court after consideration of all the facts and materials placed before them as well as Calcutta Bench of this Tribunal, it would be difficult not to follow the law of precedent in this matter.

12. Under the circumstances, we would hold that the benefits given to the Hindi Translators in CSOLS should also be extended to the applicants. Accordingly, the O.A. is allowed and the respondents are directed not to interfere with the upgraded pay scales allowed to the applicants in parity with the payscales granted to the member of AFHQSL/CSOLS. No costs.

  
(Dr. A.K. Mishra)  
Member (A) 30/03/03

  
(M. Kanthaiah)  
Member (J)