

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 1248 OF 1993

Date of Decision : 17-2-99

M. K. Francis & 33 Others, Petitioners.

Smt. N. Bhagwat, Advocate for the
Petitioners.

VERSUS

Union Of India & Others, Respondents.

Shri M. I. Sethna alongwith
Shri V. D. Vadhavkar, Advocate for the
Respondents.

CORAM :

HON'BLE SHRI JUSTICE R. G. VAIDYANATHA,
VICE-CHAIRMAN.

HON'BLE SHRI D. S. BAWEJA, MEMBER (A).

- (i) To be referred to the Reporter or not ? ✓
(ii) Whether it needs to be circulated to other
Benches of the Tribunal ?

D. S. Baweja
(D. S. BAWEJA)
MEMBER (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 1248 OF 1993

Dated the 17th day of FEBRUARY, 1999.

CORAM : HON'BLE SHRI JUSTICE R. G. VAIDYANATHA,
VICE-CHAIRMAN.

HON'BLE SHRI D. S. BAWEJA, MEMBER (A).

1. M. K. Francis.
2. K.V.S. Varier.
3. N. Gopalkrishnan.
4. T. Sreedharan.
5. Smt. V. Ravendranath.
6. P. Govindan Kutty.
7. Smt. Ramani G. Kutty.
8. Smt. C. P. Arora.
9. A. Karunakaran.
10. K. N. N. Pillai.
11. Kuruvilla George.
12. A. Radhakrishnan.
13. Smt. R. K. Nair.
14. K. Prema.
15. N. C. Nair.
16. N. K. Leelananan.
17. M. D. D. Nair.
18. P. N. Krishnamoorthy.
19. Smt. K. Mallika.
20. Shri A. K. Mukherji.
21. M. B. Bhandari.
22. Smt. S. S. Rao.

23. P. S. Venkiteswaran. ¶
 24. K. Madhavan Nair. ¶
 25. C. Balachandran. ¶
 26. M.G.B. Panicker. ¶
 27. M. Subramanian. ¶
 28. Smt. B. Saraswathy. ¶
 29. P. K. A. Nair. ¶
 30. T. Krishnan Kutty. ¶
 31. K. S. Sivaramakrishnan. ¶
 32. P. S. Mokashi. ¶
 33. P. R. Kasturirangan. ¶
 34. Mrs. S. Manohar. ¶
- (By Advocate Smt. N. Bhagwat) ¶

... Applicants

VERSUS

1. The Chairman,
Atomic Energy Commission,
Government of India,
Anushakti Bhavan,
C.S.M. Marg,
Bombay - 400 039.
2. The Secretary,
Department of Atomic Energy,
Government of India,
Anushakti Bhavan,
C.S.M. Marg,
Bombay - 400 039.
3. Director,
Bhabha Atomic Research Centre,
Trombay, Bombay - 400 085.
4. Controller,
Bhabha Atomic Research Centre,
Trombay, Bombay - 400 085.
5. Union Of India.

(By Advocate Shri M.I. Sethna
alongwith Shri V. D. Vadhavkar)

.. Respondents.

O R D E R

{ PER.: SHRI D. S. BAWEJA, MEMBER (A) }

This application has been filed jointly by 34 applicants working as Senior Personal Assistants in Bhabha Atomic Research Centre, Mumbai. The Fourth Pay Commission had recommended two scales for the Senior Stenographers, one scale being of Rs. 2000-3200 for Senior Personal Assistants attached to Senior Administrative ^{Grade} Officers and equivalent offices & officers, non-Secretariat/Organisations and the other scale of Rs. 2000-3500 for the Senior Personal Assistants designated as Private Secretaries ⁱⁿ Secretariat. The scale of Rs. 2000-3200 was implemented in Bhabha Atomic Research Centre (B.A.R.C.) as per order dated 13.10.1987. The scale of Rs. 2000-3500 was granted to the stenographers in the Department of Atomic Energy as per order dated 01.08.1988 and at the same time changing the designation to Private Secretary. The applicants submit that they came to know of non-implementation of the order dated 01.08.1988 for the Senior Personal Assistants (Sr. P.A.) working in B.A.R.C. although a copy of this letter was endorsed to B.A.R.C. only in 1991. The applicants immediately made a representation for allowing the scale of Rs. 2000-3500 to them also with change in designation as Private Secretary and continued to follow the matter thereafter. Their representations were finally replied by the respondents as per letter dated 03.03.1993 rejecting the claim of the applicants with regard to parity in the pay scales. Feeling aggrieved by the same, the present O.A. has been filed on 15.11.1993 seeking the following reliefs :

- (i) To quash and set aside the order dated 03.03.1993 through which the demand of the applicants for allowing the scale of Rs. 2000-3500 and redesignation as Private Secretary has been rejected.
- (ii) To direct the respondents to grant parity in pay scale and ^{run to} designation ~~of~~ Sr. Personal Assistants in B.A.R.C. with that of the Sr. Personal Assistants in the Department of Atomic Energy.
- (iii) To redesignate ^{them} ~~as~~ Private Secretary with back wages from 01.08.1988 i.e. the date from which the Department of Atomic Energy has granted increase in salary and scale to Senior Personal Assistants after re-designation.

2. The applicants have based their claim of relief on the following grounds :-

- (i) B.A.R.C. is an attached office of Department of Atomic Energy and therefore, the Senior Personal Assistants working in B.A.R.C. are entitled to the same pay scale as allowed in Department of Atomic Energy.
- (ii) Sr. P.As. in B.A.R.C. are recruited through the same mode and ^{source with} the same qualifications and are having workload and responsibilities comparable to that of Private Secretaries in the Department of Atomic Energy and, therefore, entitled for the same pay scale

and designation on the principle of
'equal pay for equal work'.

3. The respondents submit that the reasons for not allowing parity in pay scale to the applicants with that of the Department of Atomic Energy has been made clear in the letter dated 03.03.1993. The respondents contend that the principle of 'equal pay for equal work' does not apply, as the pay scales have been allowed to the Sr. Personal Assistants in B.A.R.C. and to the Sr. Personal Assistants in D.A.E. as per the recommendations of the Fourth Pay Commission. As per the recommendations of the Fourth Pay Commission, the scale of Rs. 2000-3500 was recommended for the Secretariat Staff and not for the non-secretariat offices and organisations. The respondents have also submitted that the issue of parity after the recommendations of the Fourth Pay Commission was taken up in the National Council of J.C.M. and the matter was later referred to the Board of Arbitration, who finally rejected the demand of parity in the pay scales of Stenographers in the Constituent Units and the Secretariat. The respondents^{have} contested the claim of the applicants that B.A.R.C. is part of the Secretariat of Department of Atomic Energy^(D.A.E.). The respondents contended that B.A.R.C. is a Unit of D.A.E. and not part of Department of Atomic Energy Secretariat.

4. The applicants have filed rejoinder reply to the written statement wherein the averments of the respondents in the written statement have been contested and the grounds taken in the Original Application has been re-affirmed. As regards the

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rejection of the demand by the Board of Arbitration, the applicants have contended that the same is not applicable to the case of applicants, as they belong to Group 'B' Service and therefore, not covered by the forum of National Council of J.C.M.

5. Heard the arguments of Mrs. N. Bhagwat, the Learned Counsel for the applicant and Shri M.I. Sethna alongwith Shri V.D. Vadhavkar, the Learned Counsel for the respondents. The material brought on record has been carefully perused.

6. The first plea made by the applicants for seeking the reliefs with regard to scale and designation is, that B.A.R.C. is an Autonomous Research Scientific Institution and is functioning as attached office of Department of Atomic Energy (D.A.E.) and, therefore, the recommendations of the Fourth Pay Commission for the Secretariat Staff are applicable to them also. The respondents, however, have strongly contested this contention. The respondents submit that B.A.R.C. is not an Autonomous Scientific Institution but is only a constituent unit under the Control of Department of Atomic Energy. The respondents further submit that B.A.R.C. is a non-secretariat organisation and in respect of all administrative matters, it is treated at par with all the similar constituent units of D.A.E. such as Indira Gandhi Centre for Atomic Research and Centre for Advanced Technology, etc. The respondents have also avered that stenographers in B.A.R.C. have been allowed the scales recommended by the Second and Third Pay Commission treating as non-secretariat unit.

In view of this, the pre-revised scale of Rs. 650-1040 (Sr. P.A.) which has been merged with the scale of Rs. 775-1200 and revised ^{recommended} scale of Rs. 2000-3500 by the Fourth Pay Commission, was not existing in B.A.R.C. or any of the other constituent units of D.A.E. The respondents further state that the scale of Rs. 2000-3200 was first time introduced, on the recommendations of the Fourth Pay Commission, in B.A.R.C. for the stenographers designated as Sr. P.As. and attached to Sr. Administrative Grade Officers or equivalent ~~by~~ upgrading the required number of posts by the Government. The applicants, on the other hand, have advanced several grounds in support of their contention that B.A.R.C. is an attached office of D.A.E. The first ground is that the post of Assistant is now existing in B.A.R.C. and not existing in any other Unit in the same way, ^{as in} D.A.E. which indicates that B.A.R.C. is an attached unit of D.A.E. The second contention is based on placing strong reliance on the note dated 24.01.1964 of Dr. Homi J. Bhabha, the then Director of Atomic Energy Establishment, Trombay, (now B.A.R.C.) and letter dated 21.02.1964 of Department of Atomic Energy. The third ground is that the letter dated 01.08.1988 of Department of Atomic Energy with regard to re-designation of Sr. P.As. as Private Secretaries in the scale of Rs. 2000-3500 was endorsed to B.A.R.C. for implementation, which shows that B.A.R.C. was part of the Secretariat Office to D.A.E.

We have carefully considered the above grounds advanced by the applicants and the material brought on record in support thereof. The first contention is with regard to operation of the post of Assistants in B.A.R.C. We are of the considered opinion that this is not very material. Mere operation of the post with a designation of Assistant does not establish that B.A.R.C. is an attached unit of D.A.E. Though the respondents have not specifically contraverted the statement of the applicants but have indicated that this contention is not relevant to the dispute arising in the present O.A. The applicants have not brought out any further details except making a statement as to number of posts and whether the Assistants working in B.A.R.C. have been treated at par with that of D.A.E. in the matter of pay scales as per the recommendations of Third and Fourth Pay Commissions for Secretariat Staff. In the absence of any such submissions, this ground lacks substance for consideration.

With regard to the second ground, we have carefully gone through the note dated 22.01.1964 and the letter dated 21.02.1964 at Annexure H and I respectively. The reading of these letters reveal that these documents do not support the claim of the applicants. Infact, the note dated 22.01.1964 indicates that Atomic Energy Establishment, Trombay (now B.A.R.C.) is not an attached office of D.A.E. The same is clarified in the letter dated 21.02.1964 of Department of Atomic Energy.

The third contention based on the letter dated 01.08.1988 is also not convincing. On going through this letter, we find that this letter, though has been endorsed to B.A.R.C. but it does not indicate in the endorsement that similar action is to be taken by B.A.R.C. The respondents have clarified that this letter was endorsed to B.A.R.C. with an intention to make aware of the change in designation, in the Secretariat Office as well as that of the Sr. ^{Secretaries} Personal of the Director of B.A.R.C. We are of the view that mere endorsement of this letter does not signify that B.A.R.C. is an attached unit of D.A.E. On careful consideration of the averments made by the either party and on perusal of the documents brought on record, we find that the applicants are not clear with regard to status of B.A.R.C. At different places in the O.A. as well as in the rejoinder reply, the applicants have taken a contradictory stand. Though the applicants claim benefit of the scale as applicable to Secretariat office by stating that B.A.R.C. is attached to D.A.E., but the averments made are to highlight that B.A.R.C. is an Autonomous Scientific Institute and not attached to D.A.E. Based on the observations made above, we are not persuaded by the contention of the applicants that B.A.R.C. is an attached unit of D.A.E. and inclined to accept the contention of the respondents.

7. The second and the main ground of the applicants in seeking the reliefs in this O.A. is that the applicants are entitled for the same scale of pay and designation as allowed to the stenographers in the

Department of Atomic Energy on the doctrine of 'equal pay for equal work'. The applicants have submitted that the stenographers in B.A.R.C. and D.A.E. are selected through a common recruitment process for appointment and possess the same qualification. They are attached to Senior Scientists and Engineers whose pay scales are equivalent or higher than the pay scales of the officers to whom the Personal Secretaries are attached in the Department of Atomic Energy. The applicants strongly contended that they have not only ^{to} handle the responsibilities and jobs identical to that of Personal Secretaries in the Department of Atomic Energy but infact, their job is more complex in nature, as typing of scientific and technical documents and taking dictation for the same, is far more difficult. It is also their contention that their job is more arduous than the routine administrative notings involved in the Department of Atomic Energy. Advancing these arguments, the applicants contend that there is a fallacy in holding that the work in D.A.E. for stenographers involves higher responsibilities in terms of stenographic assistance than that in B.A.R.C. and, therefore, the higher scale or pay should be granted. The respondents however have contested the claim of the applicants and submitted that the stenographic assistance to Sr. Officers in D.A.E. Secretariat entails higher workload and responsibilities as compared with the stenographic assistance to Scientists and Technologists in Units and this has been recognized by the successive Pay Commissions in their recommendations of different pay scales for Secretariat and Non-Secretariat offices.

8. The applicants have relied upon the order of the Principal Bench in O.A. No. 144-A of 1993 dated 19.01.1996 \parallel V. R. Panchal & Others Versus Union Of India & Others \parallel . On going through this order, it is noted that this case concerns the parity of pay scales demanded by the various Units of the Ministries in respect of Assistants and Stenographers Group ^{'C'} and Grade-II. In the present case, we are concerned with the pay scale parity in respect of Sr. P.As. and Private Secretaries who are attached to the Sr. Administrative Grade Officers or equivalent. In view of this, the ratio of this order is not directly applicable to the present O.A. in view of the fact that the work-load and responsibilities and the level of confidential work involved in the jobs will not be the same as in respect of Group 'C'/Grade-II Stenographers when compared with that of Sr. P.As. and Private Secretaries. Therefore, the findings with regard to the comparison of the work load and responsibilities, as recorded in this order for the Secretariat Offices and the attached Units will not directly imply that the same comparison will hold good for the higher scale posts which is under challenge in this O.A. Further, it is noted that in this order, reliance has been placed on the judgements of the Hon'ble Supreme Court in the case of -

- (i) Randhir Singh V/s. Union Of India & Others \parallel AIR 1982 SC 877 \parallel ,
- (ii) Mewa Ram Kanojia V/s. All India Institute of Medical Sciences & Others \parallel ATJ 1989 (1) 654 \parallel and

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(iii) State of U.P. & Others V/s.
J. P. Chaurasia & Others [1989 SC
(L&S) 71].

Based on what is held in these judgements, the Bench has gone into the evaluation of the duties performed by the Assistants and Stenographers Group 'C' /Grade-II in the Secretariat Offices and non-secretariat offices by holding that there is an unjust treatment meted to the staff in Non-secretariat offices. As discussed subsequently, the view held by the Hon'ble Supreme Court in the case of Randhir Singh has undergone change in the subsequent judgements of the Hon'ble Supreme Court, where the issue of 'equal pay for equal work' and parity in the pay scales with reference to the recommendations of the Pay Commission has been gone into. It is further noted that the specific issue of parity in the pay scales of the stenographers in the Secretariat and Non-secretariat offices had been gone into by the Hon'ble Supreme Court in the case of Federation of All India Customs and Central Excise Stenographers (Recognized) and Others V/s. Union Of India & Others [1988 SCC (L&S) 673]. From the order of the Tribunal under reference, it is observed that this judgement of the Hon'ble Supreme Court has been perhaps not brought to the notice of the Tribunal. In view of this, we are of the opinion that the ratio of the order of the Tribunal dated 19.01.1996 cannot be directly applied to the present case, keeping in view what is held by the Hon'ble Supreme Court in the judgement of Federation of All India Customs & Central Excise Stenographers, and other judgements which have been referred to subsequently.

9. The issue of parity in pay scales and evaluation of the jobs for the same purpose and the scales allowed to different categories of staff recommendations based on the Pay Commission, has been the subject of several judgements of the Hon'ble Supreme Court. The Hon'ble Supreme Court has laid down that the Court or Tribunal should be cautious in judicial interference with regard to the pay scales recommended by the Pay Commissions and other expert bodies and the judicial interference may be warranted only when there is any malafide and hostile or invidious discrimination. In this connection, some of the judgements are cited as under :-

- (1) Union of India & Anr. V/s. P. V. Hariharan & Anr. ¶ 1997 (1) SC SLJ 598 ¶.
- (2) Shiba Kumar Dutta & Others V/s. Union Of India & Ors. ¶ 1997 (1) SC SLJ 463 ¶.
- (3) State Fishery Officers' Association, W.B. and Another V/s. State of W.B. and Another ¶ 1997 SCC (L&S) 1003 ¶.
- (4) State of Haryana & Others V/s. Jasmer Singh & Others ¶ 1997 SCC (L&S) 210 ¶.

These judgements are briefly reviewed as under :-

In the judgement of State of Harvana & Others, the Hon'ble Supreme Court in para 5, 6 and 7 has reviewed the various earlier judgements, particularly, in the case of Randhir Singh V/s. Union Of India, Mewa Ram Kanojia V/s. All India Institute of Medical Sciences & Others, which have been relied upon by the Principal Bench in its order dated 19.01.1996 alongwith other judgements and have concluded in para 8 as under :

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"It is, therefore, clear that the quality of work performed by different sets of persons holding different jobs will have to be evaluated. There may be differences in educational or technical qualifications which may have a bearing on the skills which the holders bring to their job although the designation of the job may be the same. There may also be other considerations which have relevance to efficiency in service which may justify differences in pay scales on the basis of criteria such as experience and seniority, or a need to prevent stagnation in the cadre, so that good performance can be elicited from persons who have reached the top of the pay scale. There may be various other similar considerations which may have a bearing on efficient performance in a job. This Court has repeatedly observed that evaluation of such jobs for the purposes of pay scale must be left to expert bodies and, unless there are any mala fides, its evaluation should be accepted."

The judgement in the case of Shiba Kumar Dutta & Others, the challenge was with regard to the fixing of pay scales of the Fitters. The appellants were drawing higher pay scale than the fitters. But instead of elevating their cadre and fixing them in higher pay scale as per the recommendations of the Third Pay Commission, they had been brought down in the category as Fitter after removing the two nomenclatures. Subsequent to the Third Pay Commission, this issue had also been examined by the Expert Classification Committee and Anomalies Removal Committee. The Hon'ble Supreme Court rejected the appeal by observing - "nomenclature and fitment is one of executive policy of the Government. Unless

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the action is arbitrary or there is invidious discrimination between persons similarly situated, doing same type of work, as is pointed out, it would be difficult for the Courts to go into the question of equation of posts or fitment into particular scale of pay. They must be left to be decided by the Expert Committee and Government. The Courts cannot go into them and evaluate the job criteria and scales of pay prescribed for each category. Under those circumstances, the Tribunal is justified in refusing to go into the question."

In the case of State Fishery Officers' Association, W.B. & Another, the Hon'ble Supreme Court has held that no direction can be given to Government to grant monetary benefits contrary to its policy which falls within the realm of executive policy decision.

In the case of Union Of India & Others V/s. P.V. Hariharan, the matter relates to the recommendations of the Fourth Pay Commission, where by setting aside the order of the Tribunal in appeal, the Hon'ble Supreme Court in para (5) has struck a note of caution with regard to interfering with the pay scales recommended by the Pay Commissions and accepted by the Government on the doctrine of 'Equal Pay for Equal Work'. The extract of para 5 is reproduced here to highlight the observations made by the Hon'ble Supreme Court with regard to the scope of judicial interference in the matter of pay scales, which may be warranted if

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a clear case of hostile discrimination is made out.

"Before parting with this appeal, we feel impelled to make a few observations. Over the past few weeks, we have come across several matters decided by Administrative Tribunals on the question of pay scales. We have noticed that quite often the Tribunals are interfering with pay scales without proper reasons and without being conscious of the fact that fixation of pay is not their function. It is the function of the Government which normally acts on the recommendations of a Pay Commission. Change of pay scale of a category has a cascading effect. Several other categories similarly situated, as well as those situated above and below, put forward their claims on the basis of such change. The Tribunal should realise that interfering with the prescribed pay scales is a serious matter. The Pay Commission, which goes into the problem at great depth and happens to have a full picture before it, is the proper authority to decide upon this issue. Very often, the doctrine of "equal pay for equal work" is also being misunderstood and mis-applied, freely revising and enhancing the pay scales across the board. We hope and trust that the Tribunals will exercise due restraint in the matter. Unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales."

Similar observations, as brought out in the judgements above, have been reiterated in two recent judgements of the Hon'ble Supreme Court^{namely} (i) State of U.P. V/s. Ministerial Karamchhari Sangh [1998 SCC (L&S) 287] and (ii) Associate Banks Officers' Association V/s. State Bank Of India & Others [1998 SCC (L&S) 293] (10)

10. Now keeping in view what is held in the various judgements of the Hon'ble Supreme Court with regard to judicial interference in the matter of pay scales on the doctrine of 'equal pay for equal work', we come to the judgement of the Hon'ble Supreme Court in the case of Federation of All India Customs and Central Excise Stenographers, as referred to earlier, which is ^{to the} specific issue under dispute in the present O.A. In this case, the Stenographers Grade-I attached to the officers in the Senior Administrative Grade in Customs and Central Excise Department, sought parity in pay scale with that of stenographers attached to the Joint Secretaries and officers above that rank. The controversy raised was with reference to the pay scales recommended by the Third Pay Commission. Based on the recommendations of the Pay Commission, the pay scale of Rs. 550-900 and Rs. 650-1040 was allowed to the Stenographers in the non-ministry offices and the Ministry offices respectively. The contention of the petitioners was that, they discharge the same functions and indeed, have sometime ^{perform} more onerous duties and responsibilities than their counterparts in the Ministry and other Central Secretariat ^{Offices} and, therefore, by allowing them the lower scale, they have been discriminated. The Third Pay Commission had recommended different and lower scales of pay for the Stenographers of the non-participating attached and subordinate offices in comparison with those in the Secretariat on the consideration of difference in the duties

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involved ~~for~~ the two set of stenographers. In para(1) an extract of the report giving reasons for of the judgement, ~~the~~ the different pay scales recommended by the Pay Commission has been re-produced. After considering the claim of the Petitioners and reviewing the various ^{earlier} judgements of the Apex Court, the Hon'ble Supreme Court upheld the distinction in the pay scales laid down ~~for~~ the Secretariat and Non-Secretariat offices. The petition was, therefore, dismissed. It would be appropriate here to reproduce the conclusions of the Hon'ble Supreme Court in para 11 of the judgement as under -

"In this case, the differentiation has been sought to be justified in view of the nature and the types of the work done, that is, on intelligible basis. The same amount of physical work may entail different quality of work, some more sensitive, some requiring more tact, some less - it varies from nature and culture of employment. The problem about equal pay cannot always be translated into a mathematical formula. If it has a rational nexus with the object sought for, as reiterated before a certain amount of value judgement of the administrative authorities who are charged with fixing the pay scale has to be left with them and it cannot be interfered with by the Court unless it is demonstrated that either it is irrational or based on no basis or arrived mala fide either in law or in fact. In the light of the averments made in the facts mentioned before, it is not possible to say that the differentiation is based on no rational nexus with the object sought for to be achieved. In that view of the matter, this application must fail and it is accordingly dismissed without any order as to costs."

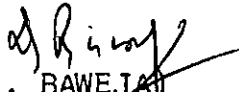
11. The controversy involved in the present O.A. is in respect of the same category of the stenographers, i.e. stenographers attached to Sr. Administrative Grade Officers and above in the Secretariat and Non-Secretariat Offices, as covered in the judgement of the Hon'ble Supreme Court, indicated in para 10 above. The only difference is, that the judgement of the Hon'ble Supreme Court relates to the recommendations of the Third Pay Commission while in the present O.A., the recommendations of the Fourth Pay Commission are under challenge. As brought out earlier, the Fourth Pay Commission has maintained the disparity in the pay scales of the Stenographers in the Secretariat and Non-Secretariat Offices, as was laid down by the Third Pay Commission. The Fourth Pay Commission has endorsed the view points expressed by the Third Pay Commission with regard to reliability, confidentiality and responsibility, which is required to be at a higher level for the Stenographers in the Secretariat Offices as compared with the Non-Secretariat offices. In view of this, the controversy in the present O.A. has to be looked at from the same consideration as applicable in respect of the judgement in para 10 above. As indicated above, the Hon'ble Supreme Court has upheld the differentiation laid down by the Third Pay Commission for the Stenographers in the Secretariat and Non-Secretariat Offices. Keeping this in view, we restrain ourselves to go into the issue of comparing the job content of the Stenographers, both in respect of quality and quantity, in the Secretariat and Non-Secretariat offices, merely based on the affidavit filed by the applicants claiming

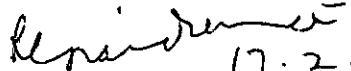
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that they are performing the same duty and therefore, entitled for the same scale of pay and designation on the principle of 'equal pay for equal work'. We, therefore, do not find any merit in the present O.A.

12. During the pendency of this O.A., the report of the Fifth Pay Commission has since come and respondents have brought out that the Sr. P.As. in the Non-Secretariat Offices and Private Secretaries in the Secretariat Offices have been since allowed the same scales of pay and the controversy raised in this O.A. stands resolved.

13. In the result of the above, we are unable to find any merit in the claim of the applicants. The O.A. is accordingly dismissed with no order as to costs.


(D. S. BAWEJA)
MEMBER (A).


17.2.99
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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