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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P. (C) No.5976 of 2001

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Reserved on: 13th October, 2011
Pronounced on: 30th November, 2011

GOVT. OF NCT OF DELHI

through

SECRETARY (PLANNING) & ORS. . . . PETITIONERS

Through: Mr. Sanjeev Sahay, Advocate.

VERSUS

M.M. CHANDRA & ORS. . . . RESPONDENTS

Through: Mr. R.K. Saini with Mr.
Vikram Saini, Advocates.

CORAM :-

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

A.K. SIKRI, ACTING CHIEF JUSTICE

1. Briefly stated the facts of the case are that the petitioners were working as Assistant Programmers/Data Processing Supervisors in the scale of ₹1640-60-2600-EB 75-2900 (pre revised). The aforesaid scale had been revised by the Pay Commission with effect from 1st January, 1996 to the scale of ₹5500-175-9000/-. The respondents in the year, 2000 filed an Original Application titled *M.M. Chandra Vs. Union of India/Principal Secretary (Planning), Govt. of NCT of Delhi* bearing OA No.1887/2000 before the Central Administrative

Tribunal (Principal Bench) (hereinafter referred to as 'the Tribunal'), where it was contended that the Ministry of Finance, Government of India has issued Office Memorandum No.7(1)/1C/86(44) on 11.9.1989 rationalizing the pay scales of Electronic Data Processing posts. Under this rationalization, the Data Processing Assistant Grade 'A' was to get a scale of ₹1600-2660/- (pre revised) and the Data Processing Assistant Grade 'B' was to get the scale of ₹2000-3200/- (pre revised). Similarly, the Programmer was to get a pay scale of ₹2375-3500 and Sr. Programmer was to get the scale of ₹3000-4500/-.

2. The aforesaid OA of the respondents has been allowed by the Tribunal on the ground that the Central Government has approved the revision of pay scale of Assistant Programmers and Data Processing Supervisors as claimed by the respondents in the said OA. It is a short order based entirely on the aforesaid ground, viz., the Government of India had approved the pay scales. The order reads as under:

“Applicants herein are Assistant Programmers and Data Processing Supervisor. They claim refixation of pay in the revised scale of Rs.2000-3200 (Pre revised) with effect from 11.9.1989 or the date of their joining whichever is later. Shri Vijay Pandita, the learned advocate appearing on behalf of the respondents, has placed on record a communication of 5.3.2001 addressed by the Government of India, Ministry of Home Affairs to the Secretary (Planning), Government of NCT of Delhi whereby the Central Government has approved the revision of pay scales of Assistant Programmer and Data Processing Supervisor as claimed in the present OA.

This is in addition to the approval similarly granted on 16.12.1999 at Annexure A1 to the OA which approval was on certain conditions. Later approval of 5.3.2001, in our view, nothing now survives in the present OA. Respondents will grant the revised pay scales as claimed by the applicants in terms of the aforesaid approval of 5.3.2001 expeditiously and within a period of three months from the date of service of this order.

2. Present OA is disposed of in the aforesaid terms. No costs.”

3. It is clear from the above that according to the Tribunal, when the Central Government has itself given approval for grant of revised pay scale of ₹2000-3200/- to Assistant Programmer and Data Processing Supervisor with effect from 11.9.1989, there was no reason that the Delhi Government is not to extend that benefit. Letter dated 05.3.2001 of the Government of India reads as under:

“I am directed to refer to Government of NCT of Delhi’s letter No.10(17)/95/DES/Plg/8519 dated the 6th November, 2000 on the above captioned subject and to convey the approval of the Central Government to revising the pay scales of Assistant programmer and Data Processing Supervisor under the Government of NCT of Delhi as under:-

	Designation of the post	Existing pay scales Rs.	Revised pay scales Rs.
I	Asst. Programmer	1640-2000 (Before V. CPC)	2000-3200 (w.e.f. 11.9.89)

		5500-9000 (after V. CPC)	6500-10500 (w.e.f. 11.9.89)
I I	Data Processing Supervisor	1640-2000 (Before V. CPC)	2000-3200 (w.e.f. 11.9.89)
		5500-9000 (after V.CPC)	6500-10500 (w.e.f. 1.1.96)

2. The expenditure involved will be met out of the budget of the Government of NCT of Delhi.

3. In terms of O.M. No.7(1)/1C/86(44) dated 11.9.1989 the recruitment rules may be simultaneously amended in the light of the model recruitment rules framed by Department of personnel and training. Accordingly, designation, scales of pay, method of recruitment, direct inclusion etc. may be made as per the model recruitment rules to ensure uniformity in future. An action taken report in this regard may be furnished to this Ministry at earliest.

4. This issues with the approval of the integrated finance division of Ministry of Home Affairs vide Dy. No.440/AFA(P) 2001 dated 27th February, 2001.”

4. The only stipulation, which is stated in the aforesaid orders of the Government of India is that the Recruitment Rules may simultaneously be amended in the light of the model recruitment rules of Department of Personnel and Training. However, now the petitioner is backtracking on the premise that its Recruitment Rules are different and principle of equal pay for equal work shall not be applicable. In this behalf, we may note that the Government of NCT

of Delhi/Petitioner had itself submitted proposal dated 27.7.1998 to the Ministry of Home Affairs in which it was pointed out that on the basis of exercise done by the Seshagiri Committee and accepted by the Government of India, pay scales of Data Entry Operator Grade 'A', Grade 'B' and Grade 'C' were revised by the Govt. of NCT of Delhi for Assistant Programmer/Data Processing Supervisor from ₹1640-2900 to ₹2000-3200/- vide orders dated 11.9.1989. The relevant portion of letter dated 27.7.1998 reads as under:

“On the recommendations of this Committee accepted by Govt. of India and notified vide O.M. No.11.09.1989 and 12.01.1990 by Ministry of Finance, Govt. of India, the pay scales of Data Entry Operator Grade 'A', Grade 'B' and Grade 'C' were revised in Govt. of NCT of Delhi as approved vide Ministry letter dated 23.12.1994. However, unfortunately at the time Govt. of NCT of Delhi failed to take up the case for revision of pay scales of Asst. Programmer/Data Processing Supervisor from Rs.1640-2900 to Rs.2000-3200 as recommended by IVth Pay Commission (Seshagiri Committee).

Now, since pay scales of all other grades of EDP cadre in Govt. of NCT of Delhi have been revised according to Vth Pay Commission and placed at par with similar grade EDP posts in Govt. of India, the non revision of the pay scale as per IVth Pay Commission recommendations for Asst. Programmer/Data Processing Supervisor has resulted in lower revision pay scale now made applicable as per the Vth Pay Commission recommendations.”

5. In this letter, the petitioner even stated that the claims of the respondent are distinguished, in the following words:

“Planning Department, being the cadre controlling Department for EDP post in Govt. of NCT of Delhi, have examined this entire issue taking into account the recommendations of the IVth pay commission as well as Vth pay commission, the nature of duties, educational qualifications, mode of recruitment in Govt. of NCT of Delhi and other counter parts in various Ministries and Departments of Govt. of India and came to the conclusion that their demand for revision of the pay scale in view of IVth pay commission recommendations w.e.f. 11.09.89 and subsequently the corresponding revised pay scales as recommended by Vth pay commission w.e.f. 01.01.1996 seems to be fully justified.”

6. When the matter was taken up by the Delhi Government with the Central Government and the Central Government concurred with the same, vide letter date 05.3.2001, there is no question of backtracking and stating that the respondents are not entitled to the pay scale of ₹2000-3200/- with effect from 11.9.1989. We may mention that the only dispute is for the period from 11.9.1989 to 01.1.1996, as with effect from 01.1.1996, the above pay scale has been granted by the recommendation of the Vth Pay Commission.
7. Further, a Division Bench of this Court in W.P.(C) No.2578/2007 titled *Vinod Kumar & Ors. Vs. Govt. of NCT of Delhi & Ors* (decided on 19.7.2010) has discussed the identical issue. Rather in the

said case, the benefit of pay scale was given with effect from 01.1.1986 and not from 11.9.89 and the respondents have not challenged the said order.

8. We are not interfering with the date, viz., 11.9.1989, from which the benefit is granted. For all these reasons, we do not find any merit in this writ petition, which is accordingly dismissed.

ACTING CHIEF JUSTICE

**(SIDDHARTH MRIDUL)
JUDGE**

NOVEMBER 30, 2011

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