*   **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+   **WP(C) 2286/2015**

Reserved on : 02nd March, 2016
%   **Date of Decision: 2nd June, 2016**

B.T. MANGLANI **...Petitioner**
Through : Mr.P.S. Bindra, Advocate

Versus

DELHI DEVELOPMENT AUTHORITY & ANR. ...Respondents
Through : Ms.Sriparna Chatterjee, Advocate

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE NAJMI WAZIRI

SANJIV KHANNA, J.

1. This is the second round of litigation. B.T. Manglani, the petitioner had earlier succeeded when, vide the order dated 3rd September, 2009 the OA No.173/2009 filed by him was allowed by the Tribunal with the direction that he was entitled to the benefit of revised pension in the grade of Rs.14,300 - 18,300/- with effect from 01.01.1996. This order and direction was set aside in Writ Petition (Civil) No.3274/2010 decided on 30th March, 2011 with an order of remit. This judgment of the High Court refers and quotes from the decision

of the Supreme Court in ***K.S. Krishnaswami etc. Vs. Union of India*** (2007) 2 SCC (L&S) 491. We shall be referring to this judgment in detail subsequently.

2. The impugned order and final judgment dated 9th May, 2012 dismisses OA.No.173/2009. The second order under challenge dated 27th November, 2013 dismisses the Review Application No.235/2012 filed by the petitioner.

3. The petitioner was appointed as Junior Engineer in the Delhi Development Authority ('DDA'for short) in the year 1961. He was promoted as the Executive Engineer, a Group A Service post in November, 1979, and as the Superintending Engineer in November, 1993 in the pay scale of Rs 3700-5000. He retired from the same post on superannuation from service on 30.09.1995 after having completed about fifteen and a half years of service at a Group A post.

4. The Fifth Central Pay Commission recommendations were made applicable to the DDA with effect from 1st January, 1996. The pay scale of Rs.3700-5000 of the petitioner at the time of retirement was replaced with the pay scale of Rs.12,000 – 16,500.

5. On 30th September, 1997, the Government of India notified their policy pertaining to fixation of pension of Central Government Employees who had retired prior to 1st January, 1996 i.e. prior to implementation of the recommendations of the Fifth Central Pay Commission. The relevant portion of the said policy provides as under:

> "Accepted with modification that 40% of the basic pension shall be added while consolidating the pension as on 1-1-1976 but the consolidated pension as on 1-1-1996 shall not be raised to 50% of the minimum pay in the revised scale of pay introduced w.e.f. 1-1-1996 of the post last held by the pensioner."

6. On 17th December, 1998, the Department of Pension and Pensioners' Welfare, Ministry of Personnel, Public Grievance and Pensions, Government of India issued an Office Memorandum regarding implementation of the decision taken by the Government relating to retirement benefits. The relevant portion thereof reads as under:

> "The undersigned is directed to say that in wake of a large number of representations received by the Government from the Pensioners' Association as well as individuals, the Government has reconsidered its decision on the recommendations of the Vth Central Pay Commission regarding revision of pension / family pension as contained in Paras 137.14 and 134.30 of the report. <u>The President is now pleased to decide that w.e.f. 1.1.1996 pension of all pensioners irrespective of their date of retirement shall not be less than 50% of the minimum pay in the</u>

revised scale of pay introduced w.e.f. 1.1.1996 of the post last held by the pensioner. However, the existing provisions in the rules governing qualifying service and minimum pension shall continue to be operative. Similarly w.e.f. 1.1.1996 family pension shall not be less than 30% of the minimum pay in the revised scale introduced w.e.f. 1.1.1996 of the post last held by the pensioner / deceased Government servant….."

(*Emphasis Supplied)*

7. Subsequently, on 11th May, 2001, Department of Pension and Pensioners' Welfare, Ministry of Personnel, Public Grievance and Pensions, Government of India issued another office memorandum, relevant portion of which reads:

> "In the course of implementation of the above order, clarifications have been sought by the Ministries / Departments of the 'post last held' by the pensioner at the time of his/ her superannuation. The second sentence of OM dated 17-12-1998 i.e. "pension of all pensioner irrespective of their date of retirement shall not be less than 50% of the minimum pay in the revised scale of pay w.e.f. 1-1-1996 of the post last held by the pensioner', shall mean that pension of all pensioners irrespective of their date of retirement shall not be less than 50% of the minimum of the corresponding scale as on 1-1-1996 of the scale of pay held by the pensioner at the time of superannuation / retirement."

(Emphasis Supplied)

8. The reason why we have referred to the aforesaid memorandums relating to pensions is that the Fifth Pay Commission in the

recommendations with regard to the pay scale of the Superintending Engineers in paragraph 50.45 had recommended as under:

> "Pay Scale for Superintending Engineers
>
> 50.45 We would, however, like to make an exception only in case of Superintending Engineers. It is a fact that the Second CPC had already established aparity between Superintending Engineers and Conservators of Forests by granting them both the scale of Rs.1300-1800. This parity was cemented further by the Third CPC which observed that "For the post of Conservator of Forests we grade the Central Class I Engineering Service viz. Rs.1800-2000." For the selection grade of Conservator of Forest, the same Commission stated that "a selection grade of Rs.2000-2250 should be introduced for the Conservator of Forests, on the same principle as recommended for the Selection Grade in the Central Class I Engineering Service." Between the Third and Fourth CPCs, there was an upgradation of the first grade of CFs to Rs.1800-2000. Subsequently, the Fourth CPC merged the scales of Rs.1800-2000 and the Selection Grade of Rs.2000-2250 and gave CFs the single functional scale of Rs.4500-5700. The same treatment in spirit was unfortunately not accorded to the SEs who were given a JAG of Rs.3700-5000 and an NFSG of Rs.4500-5700. Taking into account the significant role of engineering services in the nation-building process and the fact that the promotion prospects in engineering cadres are rather bleak, we recommended that the NFSG of Rs.4500-5700 should be converted into a single functional scale for Superintending Engineers and the scale of Rs.3700-5000 should instead be the non-functional JAG for Ex.-Engineers. However, in order to avoid too fast a rate of promotion in certain cadres to this grade, it is further recommended that promotions to the scale of Rs.4500-5700 would be permitted only on completion of 13 years of service in Group 'A'. Although the above recommendations are being made in the context of CPWD

engineers, it is clarified that this dispensation will be available to all Engineering cadres in the Government."

9. On 1st February, 1999, the Commissioner (Personnel), DDA issued an office memorandum regarding revision of pay scales for the post of Superintending Engineer, DDA, the relevant portion of which reads:

> "Recommendations of the 5th Pay Commission, as approved by the Government of India were implemented in DDA on 'as is where is basis' w.e.f. 1.1.96, as per Authority's Resolution No.166/97.
>
> 2. As per recommendations of 5th Pay Commission and as approved by the Government of India, Suptd. Engineers are granted higher pay scale of `14, 300/- 18, 300/- after completion of 13 years service in Group 'A'.
>
> 3. All the DDOs of SEs, may, therefore, fix the pay of SEs in the revised pay scale of Rs14, 300 – 18, 300/- after they have completed 13 years of service in Group 'A'. This will be effective from 1.1.96." *(Emphasis Supplied)"*

10. On the question of grant of higher pay scale of Rs.14300 – 18300 on completion of 13 years of service in Group A in terms of the recommendation of the Fifth Pay Commission with effect from 1st January, 1996 and its applicability, on 6th June, 2000 the Department of Personnel and Training, Ministry of Personnel, Public Grievance and Pensions, Government of India had issued another office memorandum, the relevant portion of which reads as under:

"**Subject: - Recommendations of the Fifth Central Pay Commission on scales of pay of posts of Superintending Engineers and Executive Engineers and equivalent in the Organized Group 'A' Engineering Services.**

….

2. Implementations of the FCPC recommendations will necessitate the restructuring of Group 'A' cadres in the Central Engineering Service, the Central Electric and Mechanical Engineering Service and other organized Group 'A' Engineering Services, recruitment in which is made through the Combined Engineering Services Examination. The related recruitment/service rules will also need to be appropriately amended. In terms of the provisions contained in the preamble to Part 'B' of the First Schedule to the Central Civil Services (Revised Pay) Rules 1997, in cases where cadre restructuring, re-distribution of posts, etc. are pre-requisites for the grant of pay-scales recommended by the FCPC for certain posts, it will be necessary for the Ministry/Department concerned to not only accept these pre-conditions but also to implement them before the recommended pay-scales are applied to these posts. It is, therefore, implicit that such scales will necessarily have only prospective effect and only the normal replacement scales will be applicable to the posts concerned until the pre-requisites are fulfilled.

3. Issues of relevance to the implementation of the FCPC recommendations and their operationalisation, the criteria to be adopted for the distribution of posts in the scales of pay recommended by the FCPC, etc have been under Government's consideration for quite some time now. After careful consideration of all relevant

aspects, the President is now pleased to decide as follows:-

(a) The ‘functional’ grade of Rs.14300-18300 shall be applicable to the posts of Superintending Engineers and equivalent that are variously designated and included in the organized Group ‘A’ Engineering Services, recruitment to which is made through the Combined Engineering Services Examination. Placement of personnel in this ‘functional’ grade, will, however be subject to actual availability of vacancies in the grade. This shall be permitted only on completion of at least thirteen years of regular service in Group ‘A’ and the prescribed regular service of four years in the scale of pay of Rs.12000-16500, which will henceforth be the ‘non-functional’ second grade for Executive Engineers and equivalent.

….

(e) Placement of officers in the ‘functional’ grade of Rs.14300-18300 shall be done through the process of ‘Selection by Merit’ subject to actual availability of vacancies in the grade…

….

4. Only a higher eligibility criterion of thirteen years of regular Group ‘A’ service has now been prescribed for appointment to the posts of Superintending Engineer and equivalent in the ‘functional’ scale of pay of Rs.14300-18300. Placement in the higher scale of pay, does not, however, involve assumption of higher responsibilities in the case of regular incumbents of the post in the pay-scale of Rs.12000-16500 (pre-revised: Rs.3700-5000). Appointments to this scale of pay will consequently be governed by the instructions contained in paragraph 2.2 of this

> Department's O.M. No.22011/10/84-Estt(D) dated February 4, 1992. In other words, in the case of regular incumbents of these posts (Superintending Engineer), who had completed the prescribed qualifying service of thirteen years on or before January 1, 1996, they may be placed in the scale of Rs.14300-18300 from that date. In the case of other regular incumbents of these posts, who fulfill the qualifying service on a later date, they should be appointed to the scale of Rs.14300-18300 only from the date on which they complete thirteen years of regular service in Group 'A'. Their placement in the scale will be further subject to the condition that they had been promoted functionally to the posts of Superintending Engineer and equivalent against vacancies and after observing prescribed selection procedures.
>
> …."

(Emphasis Supplied)

11. On 20th December, 2000, the Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, Government of India issued yet another office memorandum, *inter alia,* providing clarifications on the implementation of revised pay-scales applicable to the posts of Superintendent Engineers. The relevant portion thereof reads:

> "….
>
> The undersigned is directed to invite reference to the Department of Personnel and

Training Office Memorandum (O.M.) No.22/1/2000-CRD dated June 6, 2000 on the aforesaid subject which prescribed detailed norms for grant of the revised pay scales of Rs.12,000-16,500 (non-functional) and Rs.14,300-18,300 (functional) in the Executive Engineer and Superintending Engineer (and equivalent in both the grades) respectively in the organized Group 'A' Engineering Services. Subsequent to the issue of the aforesaid instructions, various references/representations have been received in this Department pleading for reconsideration of certain conditions as stipulated in the instructions under reference. The issues/points raised in the aforementioned references/representations have been carefully examined in consultation with the Department of Expenditure <u>and it has been decided</u> to issue the following clarifications/modifications in regard to various provisions (paragraphs quoted below) of the aforementioned DoP&T O.M. dated June 6, 2000.

…….

(ii) <u>The conditions stipulated in Paragraph 3 will be prospective in nature, and will, as such, be effective from the date of notification of the revised Service/Recruitment Rules</u>. Sub-paragraph 3(a), 3(b) and 3(c) of the said O.M., in the modified form, will now read as follows:-

<u>Sub-para 3(a):</u>

<u>The functional grade of Rs.14300-18300 will be applicable to the posts of Superintending Engineers and equivalent Executive Engineers and equivalent may be eligible to be considered for promotion to the grade of Superintending Engineer and equivalent only on completion of nine years of regular service in the grade of Executive Engineer</u>

and equivalent, including regular service, if any rendered in the non-functional second grade for the Executive Engineer and equivalent in the pay-scale of Rs.12000-16500. Placement of personnel in the functional grade of Rs.14300-18300 will however, be subject to actual availability of vacancies in the grade.

…..

(iii) The conditions stipulated in Para 4 will apply in relation to the regular incumbents of the posts of the Superintending Engineer and equivalent. In its modified form (paragraph 4) would now read as follows:-

4. Only a higher eligibility criterion as at sub-para 3(a) has now been prescribed for appointment to the posts of Superintending Engineer and equivalent in the 'functional' scale of pay of Rs.14300-18300. Placement in the higher scale of pay, does not, however, involve assumption of higher responsibilities in the case of regular incumbents of the post in the pay-scale of Rs.12000-16500 (pre-revised: Rs.3700-5000). Appointments to this scale of pay will consequently be governed by the instructions contained in paragraph 2.2 of this Department's O.M. No.22011/10/84-Estt(D) dated February 4, 1992. In other words, in the case of regular incumbents of these posts (Superintending Engineer), who had completed the prescribed qualifying service as at sub-para 3(a) above on or before January 1, 1996 they may be placed in the scale of Rs.14300-18300 from that date (January 1, 1996). In the case of other regular incumbents of these posts, who fulfill the qualifying service on a later date, they should be appointed to the scale of Rs.14300-18300 only from the date on which they complete the prescribed qualifying service as at

> sub-para 3(a). Their placement in the scale will be further subject to the condition that they had been promoted functionally to the posts of Superintending Engineer and equivalent against vacancies and after observing prescribed selection procedures….."
>
> *(Emphasis Supplied)*

12. The contention of the petitioner in a nutshell is that he had completed more than 13 years of service in a group 'A' post, to which he was promoted in November, 1979 and remained till he demitted office on 30th December, 1995 and thus would be entitled to pension equal to 50% of minimum pay in the newly introduced pay scale of Rs.14,300/- to 18,300/-, and not in the replacement pay scale of Rs.12,000/- to 16,500/-. Reliance is specifically placed on the memorandum dated 30th September, 1997 read with memorandum dated 17th December, 1998, issued by the Department of Pension and Pensioner Welfare, Ministry of Personnel, Public Grievance and Pensions, Government of India. It is highlighted that with effect from 1st December, 1999, the Commissioner (Personnel), DDA had also implemented the Fifth Pay Commission recommendations and had granted higher pay scale of Rs.14300 – 18300 to the Superintending Engineers after they had completed 13 years' service in group 'A'.

The aforesaid position was accepted vide Memorandum dated 17th December, 1998 and the same could not have been withdrawn retrospectively by the Memorandum dated 11th May, 2001. This Memorandum cannot override and nullify the earlier Memorandum dated 17th December, 1998 and is not retrospective.

13. An identical argument was accepted by the Delhi High Court in ***S.C. Parasher v Union of India*** 109 (2004) DLT 86, a case filed by a retired Deputy Director General from the All India Radio, who at the time of retirement was in pay scale of Rs.2000 – 2250, which as per the recommendations of the Fifth Central Pay Commission was revised to Rs.18,400 – 22400, corresponding to the earlier pay scale of Rs.2250 – 2500. The High Court had held that the Memorandum dated 11th May, 2001 was not by way of clarification but by way of amendment to the Memorandum dated 17th December, 1998 and the Government could not have retrospectively amended the Memorandum in the guise of a clarification. Following this decision, retired employees who were earlier holding the post of Superintending Engineer had filed a writ petition before the Madras High Court, claiming that their pension be fixed in the minimum scale of pay of

Rs.14300 – 18300 prescribed for the post of Superintendent Engineer with 13 years of service. However, these petitions were dismissed by the Madras High Court taking an opposite view, holding that the Memorandum dated 11th May, 2001 was in the nature of clarification to the earlier memorandum dated 17th December, 1998. In other words, the Memorandum dated 11th May, 2001 would be applicable and was valid.

14. This decision of the Madras High Court was challenged before the Supreme Court and upheld vide decision dated 23rd November, 2006 in the case of ***K.S. Krishnaswami (Supra)***. The said decision also decides the appeals preferred by the Union of India against the judgment and orders of the Delhi High Court passed in the year 2005 in separate writ petitions, apparently relying upon the decision in the case of ***S.C. Parasher (Supra)***. The Supreme Court allowed the appeals of the Union of India and as noticed above upheld the decision of the Madras High Court and dismissed the appeals filed by the retired pensioners, observing as under:

> 14. The clarification brought out in the O.M. dated 17.12.1998 and O.M. dated 11.5.2001 is clearly discernible. Whereas O.M. dated 17.12.1998 speaks of

the minimum pay in the revised scale of pay w.e.f. 1.1.1996 of the post last held by the pensioner, the O.M. dated 11.5.2001 clarifies it as minimum of the corresponding scale as on 1.1.1996 of the *scale of pay held by the pensioner at the time of superannuation/ retirement.* The clarification brought about in the O.M. dated 11.5.2001 is of the last post held by the pensioner as the last scale of pay held by the pensioner at the time of superannuation/ retirement.

15. It is common knowledge that the corresponding increase in any Pay Commission is of the scale of pay and not of the post.

16. The grievances raised in the two sets of appeals are the same. The basic question that arises for consideration is as to whether the Executive Instructions in the form of O.M. dated 11.5.2001 over-ride the O.M. dated 17.12.1998 and are null and void. In other words, as to whether the O.M. dated 11.5.2001 over-rides the earlier O.M. dated 17.12.1998 clarifying the Policy Resolution of the Government dated 30.9.1997.

17. The main thrust of the submissions of learned counsel for the appellants is that the O.M. dated 11.5.2001 over-rides the original O.M. dated 17.12.1998 and creates two classes of pensioners. We are unable to accept this contention. As noticed above, the recommendations of the 5th Pay Commission were accepted to the extent of Policy Resolution dated 30.9.1997. The aforesaid Policy Resolution was further clarified by issuing instructions in O.M. dated 17.12.1998, which were clarified by another Executive Instructions in O.M. dated 11.5.2001. It is well settled principle of law that recommendations of the Pay Commission are subject to the acceptance/ rejection with modifications of the appropriate Government. <u>It is also well settled principle of law that a policy decision of the Government can be reviewed/ altered/ modified by</u>

Executive Instructions. It is in these circumstances that a policy decision cannot be challenged on the ground of estoppel. In the present case, the recommendations of the 5th Pay Commission were accepted by a Policy Resolution dated 30.9.1997 that the ceiling on the amount of pension will be 50% of the highest pay in the Government. The pension of all pre 1.1.96 retires including pre-86 retires shall be consolidated as on 1.1.1996, but the consolidated pension shall not be brought on to the level of 50% of the minimum of the revised pay of the post held by the pensioner at the time of retirement. The subsequent O.M. dated 17.12.1998 clarified the Policy Resolution dated 30.9.1997 by Executive Instructions in O.M. dated 17.12.1998 and further clarified in the form of O.M. dated 11.5.2001 clarifying the contents of Policy Resolution of the Government dated 30.9.1997. They are both complementary to each other. Both clarify the Government Policy Resolution dated 30.9.1997. The appellants are not aggrieved by the Executive Instructions in O.M. 17.12.1998. In our view, therefore, the contention of the appellant that the O.M. dated 11.5.2001 over-rides the original O.M. dated 17.12.1998, thereby creates two classes of pensioners is absolutely ill-founded and untenable.

18. It is common knowledge that an increase in the pay scale in any recommendation of a pay commission is a corresponding increase in the pay scale. In our view, therefore, Executive Instructions dated 11.5.2001 have been validly made keeping in view the recommendations of the Pay Commission accepted by the Policy Resolution of the Government on 30.9.1997, clarified by Executive Instructions dated 17.12.1998. The Executive Instructions dated 11.5.2001 neither over-ride the Policy Resolution dated 30.9.1997 nor Executive Instructions dated 17.12.1998 clarifying the Policy Resolution dated 30.9.1997. The Executive Instructions dated 11.5.2001

were in the form of further clarifying the Executive Instructions dated 17.12.1998 and do not over-ride the same."

Emphasis supplied

15. Reliance placed by the pensioners on the decision of the Supreme Court in ***D.S. Nakara Vs. Union of India*** (1983) 1 SCC 305 and other cases was rejected observing that in the relied cases the pensioners had been classified into two groups by drawing a cut-off and granting revised pensionary benefits to the employees retired on or after the cut-off date. This was held to be violative of Article 14 of the Constitution, as it was arbitrary and discriminatory in nature for it lacked intelligible differentia or a rational nexus with the object sought to be achieved. Reference was made to the decision in ***Indian Ex-Services League Vs. Union of India*** (1991) 2 SCC 104, ***K.L. Rathee Vs. Union of India*** (1997) 6 SCC 7. Thus the reliance and legalize placed on these decisions by the pensioners was rejected determinatively and conclusively. To our mind the aforesaid decision of the Supreme Court in ***K.S. Krishnaswami (Supra)*** would be applicable and is binding in the present case.

16. We have also examined the Central Civil Services (Revised Pay) Rules, 1997. Part –B of the aforesaid rules relate to the revised pay-scales for certain common categories of staff. This part stipulates that the pay mentioned in part-4 of the notification for the post mentioned in column 2 had been approved by the government, albeit the implementation was subject to the fulfillment of specific conditions. These conditions, *inter alia,* include changes of recruitment rules, restructuring of cadre and re-distribution of posts into higher grade etc. In these cases, changes to recruitment rules etc. were to be brought about. Further, it was necessary for the Ministry to decide upon such issues and agree to the changes suggested by the Pay Commission before applying these scales to these posts with effect from 1st January, 1996. It was mandatory for the Ministry or Department concerned to accept these pre-conditions and also to implement them, before the newly created or recommended scales were applied to the posts. One of the posts included in the said schedule, was the post of Superintending Engineer in the earlier scales of Rs.3700 – 5000, which was to be replaced with the pay scale of Rs.14300 – 18300. It is clear from the reading of these rules that the

pay scale of Rs.14300 – 18300 was not applicable automatically or to be treated as granted. Grant of higher pay scale rested on and was contingent upon satisfaction of the conditions and then only the new pay-scale as introduced was to be applicable and applied.

17. The petitioner has submitted that Mr. C.B. Gupta and Mr.N.K. Nanakani, who had retired as Superintending Engineer from the CPWD prior to 1st January, 1996, were granted higher pension. This aspect was specifically examined and dealt with by the Division Bench of this Court in their judgment dated 30th March, 2011 passed in Writ Petition (C)No.3274/2010 and in paragraph 18, it was observed that the tribunal had over-looked the fact that the said retirees were not employees of DDA. Further, merely because one department had wrongly adopted and erroneously granted benefit would not justify issue of mandamus against the other department to likewise act wrongly.

18. We have already noted in detail Memorandum dated 6th June, 2000 issued by the Department of Personnel and Training, Ministry of Personnel, Public Grievance and Pensions, Government of India referring to the recommendations of the Fifth Pay Commissions on

scales of pay applicable to the post of Superintending Engineer etc. This Memorandum stipulates that in cases of cadre restructuring, redistribution of posts etc., there were certain pre-requisites for grant of higher pay scales. Only on acceptance of these pre-conditions the stated benefits would apply. Necessarily the new pay scales would be prospective, for they would be applicable only when the pre-requisites were fulfilled. Normal replacement of pay-scales would be applicable to those who had retired. Functional grade of Rs.14300 - 18300 was made applicable to the post of Superintending Engineer for specifically designated post(s) that were thenceforth included in the Organized Group 'A' Engineering Service. Grant of the functional grade was subject to actual availability of a vacancy in that grade. This was in addition to the requirement that the employee should have completed at least 13 years of service in the group and 4 years in the pay scale of Rs.12,000 – 16500. While implementing the said new pay scales, it was directed that the existing or regular incumbent holding the post of Superintending Engineer who had completed the prescribed qualifying service of 13 years would be given the benefit of new scale of Rs.14300-18300 from 1st January, 1996 and other regular incumbents in the post of Superintending Engineers would be given the said pay scales only when they complete 13 years of regular service. Their placement in the new scale was subject to the condition that the said officers had been promoted functionally to the post of Superintending Engineer against the specified vacancies and after observing the prescribed selection procedure.

19. In view of the aforesaid discussion, we do not find any merit in the present writ petition, as the issue in question is covered by the decision of the Supreme Court in ***K.S. Krishnaswami (Supra)***. The petition is accordingly dismissed. There will be no order as to costs.

(SANJIV KHANNA)
JUDGE

(NAJMI WAZIRI)
JUDGE

JUNE 2nd, 2016
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