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

\+ W.P.(C) 11862/2006

ANAND KISHOR & ORS. ..... Petitioners

Through: Mr. S.C. Kaushik and Mr. C.S. Panda, Advocates.

versus

UOI & ORS. ..... Respondents

Through: Mr. Ruchir Mishra and Mr. Mukesh Kumar, Advocates with Mr. Ravi Verma, Under Secretary (V&L), CBDT.

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MS. JUSTICE DEEPA SHARMA

O R D E R

% **21.08.2017**

C.M. No. 31188/2016 (by the petitioner No.1)

1. The present application has been filed by the petitioners for expeditious disposal of the writ petition, pending since the year 2006, in view of subsequent favourable developments.

2. The petitioners herein pray that the impugned judgment dated 26.5.2006, passed by the Central Administrative Tribunal (in short '**CAT**') be set aside and the respondents be directed to give them the same pay scale as has been given to their counterparts and as a consequence thereto, release the arrears payable to them.

3. Very briefly, the facts of the present case are that the 10 petitioners herein were working on the post of Assistant Director (OL), Income Tax Department, attached to the Ministry of Finance, Union of India and had claimed parity in the pay scale with their counterparts working in the Central Secretariat Official Language Service (in short '**CSOLS**'). By the impugned

judgment dated 26.5.2006, the CAT had dismissed the claim of the petitioners by observing that the there was not only a difference in their mode of recruitment, even the quality and nature of work that was being performed by the petitioners was different, vis-à-vis the work being performed by their counterparts working in CSOLS. Aggrieved by the said decision, the present petition has been filed.

4. Learned counsel for the petitioners submits that much water has flown under the bridge during the pendency of the present petition inasmuch as by a common judgment dated 25.7.2013, the Supreme Court has decided three connected appeals, where a similar issue was raised by the Union of India. In one of the appeals, being Civil Appeal No. 1119/2013, the respondent employees therein who were working as Junior Hindi Translators in the office of Commissioner of Central Excise-I, Kolkata had claimed parity of pay with Junior Translators, who were working in the CSOLS. Holding that there was no functional distinction as far as the said translators were concerned, the Supreme Court had dismissed the appeal filed by the Union of India.

5. Following the aforesaid judgment, in the case of Rajendra Singh Khatwal vs. Union of India & Anr. (Original Application No. 211/00124/2015), decided by CAT, Mumbai Bench on 29.7.2015, an application filed by the petitioner therein, working as an Assistant Director (OL), the Income Tax Department had granted him the pay scale of Rs.7,500-12,000/-, which had already been granted to other similarly placed employees. Complying with the said judgment passed by the CAT, Mumbai Bench, the office of the Principal Chief Commissioner, Income Tax, Nagpur had revised the order dated 10.6.2016 [Annexure D (colly)] thereby re-

fixing the pay scale of Mr. R.S. Khatwal with effect from 1.1.1996. This was followed by another order dated 30.7.2015 (Annexure-E) issued by the office of Principal Chief Commissioner, Income Tax Department, New Delhi granting the same benefit to similarly placed persons as the petitioners herein and holding that they are entitled to the pay scale at par with translators working in the CSOLS.

6. It is in this background that the petitioners have filed the present application stating *inter alia* that they are also entitled to the same relief as granted to the petitioners in the captioned case.

7. Pursuant to our dated 10.7.2017, Mr. Ravi Verma, Under Secretary, (V&L), CBDT appears along with the counsel. Learned counsel for the respondent No.1/UOI concedes that a belated reply has been filed to the present application only on 18.8.2017. The same is not on record. He however does not dispute the factual averments made by the petitioners in the present application and states on instructions that appropriate orders may be passed by the Court in respect of the petitioners herein who are similarly placed as the appellant in the case of Dhananjay Singh (supra).

8. On enquiring, learned counsel for the respondents states on instructions that the Department of Expenditure, Ministry of Finance has already implemented the orders passed by the CAT and other High Courts by granting parity in pay scale to Assistant Director (OL) at par with the counterpart translators in the CSOLS. In support of the said submission, he refers to the order dated 29.7.2015 issued by the Under Secretary, Department of Expenditure, Ministry of Finance, a copy whereof is handed over and taken on record. The petitioners have also placed on record, an office order dated 03.08.2015 issued by the Additional Director General,

CBDT showing that various orders of the CAT and the Supreme Court have been duly implemented.

9. In view of the subsequent developments and decisions cited by the counsel for the petitioners which are not disputed by the respondents, the impugned judgment dated 26.5.2006 passed by the CAT in O.A. 914/2005, is quashed and set aside and it is directed that the petitioners shall be entitled to parity in pay scale with their counterparts working in the CSOLS, with effect from 1.1.1996, as has been granted to other similarly placed employees in terms of the orders dated 30.7.2015 and 03.08.2015. Necessary steps in this regard shall be taken within three months from today and the arrears due to the petitioners shall be released contemporaneously, failing which, the same shall carry simple interest payable @ 9% p.a. at the end of three months.

10. The petition stands disposed on the above terms along with pending application with no order as to costs.

HIMA KOHLI, J

DEEPA SHARMA, J

AUGUST 21, 2017
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