



2024:DHC:9611-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 7169/2018 & CM APPL. 27334/2018**

UNION OF INDIAPetitioner
Through: Mr. Rakesh Kumar, CGSC with
Mr. Sunil, Adv.

versus

SMT. KANWALJIT DEOL AND ANR.Respondents
Through: Mr. S.N. Kaul Adv.

+ **W.P.(C) 8466/2019 & CM APPL. 34918/2019**

UNION OF INDIAPetitioner
Through: Mr. Nidhi Raman, CGSC with
Mr. Zubin Singh, Adv.

versus

VIMLA MEHRARespondent
Through:

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

JUDGMENT (ORAL)

% **10.12.2024**

C.HARI SHANKAR, J.

W.P.(C) 7169/2018

Facts, and the challenge before the Central Administrative Tribunal¹

¹ "the Tribunal" hereinafter



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1. The respondent is an officer of the Indian Police Service² of 1977, belonging to the AGMUT³ cadre. Consequent on the approval of the Appointments Committee of the Cabinet⁴, the respondent, along with 36 other 1977 batch IPS officers were empanelled “to hold Director General of Police⁵/equivalent level post in the Centre”, on 30 December 2010. In the said panel, the respondent figured at S. No. 5, whereas P.K. Mehta, also a 1977 batch IPS officer, figured at S. No. 31.

2. Following empanelment, orders of promotion of the empanelled officers came to be issued. *Vide* order dated 19 May 2011, P.K. Mehta was promoted as DG of the Railway Protection Force⁶, in the apex pay scale of ₹ 80,000/-. As against this, the respondent, who, as already noted, was at S. No. 5 in the panel for promotion to the post of Director General of Police or equivalent level post was posted on deputation as DG (Investigation) in the National Human Rights Commission⁷ in the scale of ₹75,500-80,000/-.

3. The respondent assumed charge of the post of DG (Investigation) in NHRC on 7 December 2012. *Vide* order dated 13 December 2012, addressed to the Ministry of Home Affairs⁸, the

² IPS

³ Arunachal Pradesh, Goa, Mizoram and Union Territories

⁴ “ACC”, hereinafter

⁵ “DGP” hereinafter

⁶ “RPF” hereinafter

⁷ “NHRC”, hereinafter

⁸ “MHA”, hereinafter



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NHRC intimated that the deputation of the respondent would continue till the date of her superannuation on 31 October 2014.

4. The NHRC wrote to the MHA on 16 April 2014, for grant, to the respondent of the apex scale of ₹ 80,000/-. The MHA, however, *vide* response dated 6 May 2014, rejected the request, observing that the pay scale of DG (Investigation) was ₹ 75,500-80,000/-, whereas the pay scale of DG of the RPF was the apex scale of ₹ 80,000/-. The communication advised that the proposal to upgrade the scale of DG (Investigation) in the NHRC to ₹ 80,000/- could be placed before the 7th Central Pay Commission⁹. The respondent represented to the MHA, protesting against the grant, to her, of a lower scale of ₹ 75,500-80,000/- (HAG + Scale), even while P.K. Mehta, who was much lower than her in the panel dated 30 December 2010, had been appointed as DG of the RPF in the scale of ₹ 80,000/-.

5. The MHA did not condescend to reply to the respondent who, therefore, approached the Tribunal by way of OA 3171/2015¹⁰, in which the order under challenge has come to be passed.

6. The respondent claimed, before the Tribunal, the apex scale of ₹ 80,000/- w.e.f. 7 December 2012, when she joined the NHRC as DG (Investigation). She relied on earlier decisions passed by the Tribunal

⁹ “7th CPC”, hereinafter

¹⁰ **Kanwaljit Deol v UOI**



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itself in OA 823/2012¹¹ and OA 1722/2012¹². The respondent also sought re-fixation of her pension on the basis of the said apex pay scale of ₹80,000/-, as she had retired from the post of DG (Investigation) on 31 October 2014.

7. The NHRC, in its counter affidavit filed before the Tribunal, supported the case of the respondent and submitted that it had, in fact, sent a detailed proposal to the MHA, seeking upgradation of the post of DG (Investigation) to ₹ 80,000/-.

8. *The MHA, in its counter affidavit, filed before the Tribunal, acknowledged and admitted that the names in the panel dated 30 December 2010 of the MHA were listed in order of seniority. It was also admitted, specifically, that P.K. Mehta was junior to the respondent.*

9. The fact that R.N. Ravi, a 1976 batch IPS officer and O.P.S. Malik, a 1975 batch IPS officer, had challenged the grant of the apex scale of ₹ 80,000/- to P.K. Mehta by way of OA 823/2012 and OA 1722/2012, both of which have been allowed by the Tribunal, was also acknowledged. It was further admitted that the judgments of the Tribunal in the cases of **R.N. Ravi** and **O.P.S. Malik** were challenged before this Court by way of WP (C) 4658/2012 and WP (C) 4660/2012, both of which were dismissed by this Court by judgment

¹¹ **R.N. Ravi v UOI**, decided on 10 May 2012

¹² **O.P.S. Malik v UOI**, decided on 29 May 2012



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dated 25 February 2013.

10. At the time of filing the counter affidavit by the MHA before the Tribunal, however, the judgment dated 25 February 2013 of this Court in the cases of **R.N. Ravi** and **O.P.S. Malik** already stood challenged before the Supreme Court by way of Civil Appeal 4648/2014, which was pending as on that date.

11. The respondent filed a rejoinder before the Tribunal, in which it was pointed out that the Supreme Court had not stayed the judgment dated 25 February 2013 passed by this Court in WP (C) 4658/2012 and WP (C) 4660/2012. It was further submitted that Shafi Alam, a 1977 batch IPS officer, whose name figured at S No 16 of the panel dated 30 December 2010, had also approached the Tribunal for grant of apex scale of ₹ 80,000/- by way of OA 1946/2013. The Tribunal had allowed the said OA subject, however, to the outcome of the Civil Appeal 4648/2014 pending before the Supreme Court.

The impugned judgement

12. Noting that

- (i) the respondent was admittedly senior to P.K. Mehta,
- (ii) R.K. Ravi and O.P.S. Malik, who were also senior to P.K. Mehta, had approached the Tribunal seeking grant, to them of the apex scale of ₹ 80,000/-, and had succeeded,



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(iii) the said decisions of the Tribunal had been affirmed by this Court,

(iv) though the decision of this Court had been challenged before the Supreme Court, the operation of the judgement of this Court had not been stayed, and

(v) in the case of Shafi Alam, the plea of the petitioner that the scale of pay was post-specific, and not dependent on the seniority position in the panel of officers, was specifically rejected,

the Tribunal, holding that there was no justification to treat the respondent differently from R.K. Ravi and O.P.S. Malik, has allowed the respondent's OA. The petitioner has been directed to grant, to the respondent, the apex scale of ₹ 80,000/- per month with effect from 19 May 2011, when P.K. Mehta was granted the said scale. Additionally, the retiral benefits of the respondent have also been directed to be worked out on the basis of the said apex scale, with arrears to be paid to the respondent with effect from 19 May 2011 till the date of her superannuation, i.e. 31 October 2014. The directions have been made subject to the outcome of the Civil Appeal 4648/2014.

13. Aggrieved thereby, the Union of India has approached this Court under Article 226 of the Constitution of India.

Submissions of the petitioner



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14. We have heard Mr. Rakesh Kumar, learned CGSC for the Union of India at length.

15. Mr. Rakesh Kumar submits that there are two fundamental errors in the judgment of the Tribunal. In the first place, the Tribunal has failed to recognise the significance of the fact that the scale of pay is not dependent on the seniority position in the panel dated 30 December 2010, but is based on the post itself, by virtue of Rule 10 of the Indian Police Service (Pay) Rules, 2007¹³, which reads thus:

“10. **Pay of officers holding posts included in Schedule II.**- A member of the Service appointed to hold a post specified in Schedule II shall, for so long as he holds that post, be entitled to draw the pay indicated for that post in the said Schedule plus Special Allowance or Central (Deputation, on Tenure) Allowance, wherever admissible:

Provided that such pay shall not at any time be less than the pay admissible under rules 5 and 6 of these rules.”

16. Schedule II to the IPS (Pay) Rules, submits Mr. Rakesh Kumar, fixed the scale of pay of DG of the RPF as the apex scale of ₹ 80,000/- whereas the scale of pay of the DG (Investigation) in the NHRC was the HAG + scale of ₹ 76,000 – 80,000/-. These posts, he submits, are equivalent, and there was, therefore, no illegality or infirmity in the appointment of P.K. Mehta as DG of the RPF and the respondent as DG (Investigation), NHRC. The appointments themselves being in order, Mr. Rakesh Kumar’s contention is that the petitioner could not

¹³ “IPS (Pay) Rules” hereinafter



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harbour any legitimate grievance at being paid the HAG + scale, as that was the scale applicable to the post of DG (Investigation), NHRC, to which the petitioner was appointed. Inasmuch as the selection and empanelment of the officers was for appointment to the post of DGP or equivalent posts, he submits that no officer had a vested right to claim appointment to the post of DGP, or to the scale of ₹ 80000/-. So long as the scale of pay granted to the officer was the appropriate scale, applicable to the post to which the officer was appointed, and so long as that post was equivalent to the post of DGP, Mr. Rakesh Kumar's contention is that no cause of action arose, for the officer to raise any grievance.

17. Apropos Civil Appeal 4648/2014¹⁴, Mr. Rakesh Kumar points out that the Supreme Court disposed of the said appeal by the following order, passed on 4 December 2019:

“ORDER

On hearing learned counsel for the parties, it cannot be disputed that (i) the Next Below Rule which is the basis of the impugned judgment has been applied in certain other cases (ii) as also that the reply filed by the appellants in O.A. before the Central Administrative Tribunal was opined as inadequate by the High Court. It is however sought to be contended before us by learned counsel for the appellants that what has been done is contrary to the Rules.

We are of the view that in the given facts of the case as mentioned aforesaid, the impugned order does not call for any interference and thus the appeal is accordingly dismissed leaving the question of law open.”

¹⁴ **UOI v R N Ravi** decided on 4 December 2019



Analysis

18. Having heard Mr. Rakesh Kumar, learned Counsel for the petitioner and Mr. SN Kaul, learned Counsel for the respondent, we proceed to address the issues which arise for consideration.

19. Mr. Rakesh Kumar does not seek to distinguish the case of R.N. Ravi or O.P.S. Malik, from the present case, on facts. R.N. Ravi and O.P.S. Malik were also IPS officers who were senior to P.K. Mehta. There is no dispute about the fact that the respondent was also senior to P.K. Mehta, as it is a conceded case of the petitioner, even before the Tribunal, that the officers have been arranged in the list of empanelled officers dated 30 December 2010 in order of seniority. The grievance of R.N. Ravi, O.P.S. Malik and the petitioner was *vis-à-vis* P.K. Mehta was, therefore, identical; i.e. that, as they were senior to P.K. Mehta, they could not be placed in a scale lower than the scale of pay granted to P.K. Mehta.

20. R.N. Ravi and O.P.S. Malik approached the Tribunal with this grievance, by way of OA 823/2012 and OA 1722/2012, respectively. They succeeded before the Tribunal. The judgment of the Tribunal in R.N. Ravi and O.P.S. Malik were challenged by the UOI, before this Court, by way of WP (C) 4658/2012 and WP (C) 4660/2012, respectively. Both the writ petitions were dismissed by this Court,



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vide judgment dated 25 February 2013.

21. The said judgment dated 25 February 2013 was carried by the Union of India in appeal to the Supreme Court. The appeals were also dismissed by the Supreme Court, leaving the question of law open.

22. On the precedential value of the judgment of the High Court, when the Civil Appeal preferred thereagainst is dismissed by the Supreme Court leaving the question of law open, this Court had an occasion to observe recently in *SSC v Darpan Sharma*¹⁵ as under:

“17. On the implication of a question of law being left open by the Supreme Court, while dismissing an appeal or a Special Leave Petition, a Division Bench of the High Court of Gujarat in *Collector v. Liquidator Petrofills Cooperative. Ltd.*¹⁶, ruled thus:

‘27. When the Supreme Court records that the question of law is kept open, *undoubtedly it is meant to be reconsidered in future by the Supreme Court only. The question of law, as correctly contended by Shri P. Chidambaram, is not kept open for the High Court.* This is precisely what was held and observed by the Division Bench of this Court in an unreported decision in Tax Appeal No. 380/2013 dated 9/12/2013. We are in full agreement with the view expressed therein. It was a case where an issue of unabsorbed depreciation under section 32(2) of the Income Tax Act, 1961, was raised by the Revenue before the High Court. An identical issue was already decided by the High Court in case of *General Motors India (P) Ltd. v. Deputy Commissioner of Income Tax*¹⁷ by allowing the appeal of the assessee and setting aside the order of the Commissioner. The judgment of the High Court was carried in appeal before the Supreme Court. The Supreme Court dismissed the SLP making it clear that

¹⁵ 2024 SCC OnLine Del 8280

¹⁶ MANU/GJ/1291/2015

¹⁷ (2013) 354 ITR 244 (Guj)



the question of law is kept open. When a similar question came up before the High Court in the Tax Appeal, the Revenue argued that when the Supreme Court has left the question of law open, it would be open for the High Court to reconsider the issue regardless of the judgment of another Division Bench in case of ***General Motors Pvt. Ltd. v. Deputy Commissioner of Income Tax***¹⁸. It was in this background, Division Bench made the following observations:

“10. Now so far as the submission made by learned counsel appearing on behalf of the revenue that though against the decision of the Division Bench of this Court in the case of ***General Motors India (P) Ltd. v. Deputy Commissioner of Income Tax (supra)***, as such, Special Leave to Appeal was preferred before the Honble Supreme Court and the same came to be dismissed by the Honble Supreme Court on the ground of delay and kept the question of law open, this Court may consider the question of law raised on merits is concerned, the same cannot be accepted. It is required to be noted that as such, consideration of the question raised with respect to set off of unabsorbed depreciation on merits, there is a direct decision of the Division Bench of this Court in the case of ***General Motors India (P) Ltd. v. Deputy Commissioner of Income Tax (supra)***. Against the said decision, the Special Leave to Appeal was preferred and the same came to be dismissed on the ground of delay and the Honble Supreme Court kept the question of law open. Therefore, it cannot be said that the said question of law is kept open by the Honble Supreme Court to consider subsequently by this Court Coordinate Bench. It can be said that the said question of law is kept open by the Honble Supreme Court to consider subsequently in other cases by the Honble Supreme Court. So far as this Court is concerned, the decision of the Division Bench of this Court in the case of ***General Motors India (P) Ltd. v. Deputy Commissioner of Income Tax (supra)*** is binding unless a contrary view is taken and the matter is

¹⁸ MANU/GJ/0909/2012



referred to the Larger Bench. In view of the decision of the Division Bench of this Court in the case of ***General Motors India (P) Ltd. v. Deputy Commissioner of Income Tax (supra)*** which has been relied upon by the learned ITAT while passing the impugned judgment and order, as such, no question of law much less any substantial question of law arises now.”

28. We are in full agreement with the view so expressed and in our understanding brings about a correct legal position. *When a question of law is kept open by the Supreme Court not entertaining a SLP against the judgment of the High Court, in fact, what is done is neither to confirm nor to dilute the ratio of the judgment under challenge. That however, does not mean that the High Court in a future case is allowed to take a fresh view ignoring the law of precedence. It only means that the Supreme Court refused to bind itself or put its seal on the ratio propounded by the High Court in the judgment under challenge. Therefore, when an identical question comes up before the same High Court and is presented for consideration before a Bench of coordinate strength, by virtue of principles of law of precedence, the Bench would be bound by the ratio of the earlier judgment of the High Court, unless persuaded to refer it to a larger Bench.* This is precisely what has been recorded by the Division Bench in the said case and this is why the Bench was of the opinion that it had either to follow the ratio in case of General Motors or make a reference to the larger Bench. This per-se however, would not mean that the review consideration is shut out, if the review is otherwise maintainable. Normally, in almost all the cases, the same Bench would be reconsidering the matter on the grounds raised in the review petition. If in the process, it is found that the proposition of law laid down suffers from some error apparent on face of the record, review certainly would be available. In other words, if a decision has become final, it would continue to bind the Bench of coordinate strength of the same High Court in future though in SLP the Supreme Court it might have been observed that the question of law is kept open. But when a review petition comes before the same Bench, it is the judgment in review which is being criticised. It would have the same limitations as in any other case of review where



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SLP may not have been filed. Nothing more nothing less. In other words, the expression “question of law is kept open” does not put any additional fetters on the High Court exercising review powers.”

23. Thus, the decisions in *R.N. Ravi* and *O.P.S. Malik*, as rendered by the Division Bench of this Court, on 25 February 2013 remained binding precedents, especially as leave was granted in the SLPs preferred against the said decision and they, therefore, metamorphosed into Civil Appeals before they were dismissed by the Supreme Court on 4 December 2019.

24. Inasmuch as there is no dispute about the fact that the cases of *R.N. Ravi* and *O.P.S. Malik* were identical to the case of the respondent, there is no legitimate reason for us to interfere with the impugned judgment of the Tribunal, which has merely accorded parity to the respondent vis-à-vis *R.N. Ravi* and *O.P.S. Malik*.

Empanelment and the principle of equivalence

25. On the principle of equivalence of posts, the Supreme Court has held thus, in *Sub-Inspector Rooplal v Lt Governor*¹⁹:

“17. In law, it is necessary that if the previous service of a transferred official is to be counted for seniority in the transferred post then the two posts should be equivalent. One of the objections raised by the respondents in this case as well as in the earlier case of *Antony Mathew* is that the post of Sub-Inspector in BSF is not

¹⁹ (2000) 1 SCC 644



equivalent to the post of Sub-Inspector (Executive) in the Delhi Police. This argument is solely based on the fact that the pay scales of the two posts are not equal. Though the original Bench of the Tribunal rejected this argument of the respondent, which was confirmed at the stage of SLP by this Court, this argument found favour with the subsequent Bench of the same Tribunal whose order is in appeal before us in these cases. Hence, we will proceed to deal with this argument now. Equivalency of two posts is not judged by the sole fact of equal pay. While determining the equation of two posts many factors other than “pay” will have to be taken into consideration, like the nature of duties, responsibilities, minimum qualification etc. It is so held by this Court as far back as in the year 1968 in the case of *Union of India v. P.K. Roy*²⁰. In the said judgment, this Court accepted the factors laid down by the Committee of Chief Secretaries which was constituted for settling the disputes regarding equation of posts arising out of the States Reorganisation Act, 1956. These four factors are: (i) the nature and duties of a post; (ii) the responsibilities and powers exercised by the officer holding a post, the extent of territorial or other charge held or responsibilities discharged; (iii) the minimum qualifications, if any, prescribed for recruitment to the post; and (iv) the salary of the post. It is seen that the salary of a post for the purpose of finding out the equivalency of posts is the last of the criteria. If the earlier three criteria mentioned above are fulfilled then the fact that the salaries of the two posts are different would not in any way make the post “not equivalent”. In the instant case, it is not the case of the respondents that the first three criteria mentioned hereinabove are in any manner different between the two posts concerned. Therefore, it should be held that the view taken by the Tribunal in the impugned order that the two posts of Sub-Inspector in BSF and Sub-Inspector (Executive) in the Delhi Police are not equivalent merely on the ground that the two posts did not carry the same pay scale, is necessarily to be rejected. We are further supported in this view of ours by another judgment of this Court in the case of *Vice-Chancellor, L.N. Mithila University v. Dayanand Jha*²¹ wherein at SCC para 8 of the judgment, this Court held:

‘Learned counsel for the respondent is therefore right in contending that equivalence of the pay scale is not the only factor in judging whether the post of Principal and that of Reader are equivalent posts. We are

²⁰ AIR 1968 SC 850

²¹ (1986) 3 SCC 7



inclined to agree with him that the real criterion to adopt is whether they could be regarded of equal status and responsibility. ... The true criterion for equivalence is the status and the nature and responsibility of the duties attached to the two posts.' ”

26. Thus, while salary alone cannot be a basis to determine equivalence of posts, it recedes into insignificance only where the first three criteria envisaged by the Supreme Court in the afore-extracted paragraph from *SI Rooplal* are the same.

27. In the present case, it cannot be said that even one of the said criteria is the same between the posts of DG of the RPF, to which P.K. Mehta was appointed, and the post of DG (Investigation) NHRC, to which the respondent was appointed. Indeed, there is not even an averment, in the counter affidavit filed before the Tribunal or in the present writ petition, that the posts of DGP and DG (Investigation) are equivalent.

28. Where posts carrying different responsibilities do not fall within the same cadre, the least criterion that has to be satisfied for them to be regarded as equivalent is equality of pay scales.

29. That apart, it is *ex facie* apparent that, once 37 officers had been empanelled in one panel, *on the basis of seniority*, for appointment to the post of DGP and equivalent, no principle of law would permit an officer who is senior and higher in the panel to be appointed to post carrying a lower pay-scale and an officer lower in the panel being



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appointed to a post carrying a higher pay-scale. We say so especially because there is no justification forthcoming, either in the counter affidavit filed by the petitioner before the Tribunal or in the present writ petition, for the decision to appoint P.K. Mehta as DG of the RPF carrying a scale of ₹ 80000/- and the petitioner as DG (Investigation), NHRC, in the HAG + scale of ₹ 75000-80000/-.

30. We repeatedly queried of Mr. Rakesh Kumar as to whether there was any reason forthcoming for such an apparent anomalous decision, and he acknowledges, with characteristic candour, that no precise basis for the said decision is forthcoming on the record.

31. All that he has to say is that the respondent and P.K. Mehta were granted the scales carried by the posts to which they were appointed.

32. This submission cannot, however, steer the petitioner's ship ashore. In the absence of any justification having been provided by the petitioner, before the Tribunal or before this Court, for the decision to appoint P.K. Mehta, who is at 26 places below the petitioner in seniority in the panel dated 30 December 2010, to the post of DGP carrying the pay-scale of ₹ 80,000/- and to appoint the petitioner, figuring 26 places above P.K. Mehta in seniority, in the same panel, of the post of DG (Investigation), NHRC, in the lower



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HAG+ scale, we have no option but to characterize the decision as arbitrary.

33. While there may not be any absolute proscription against a junior drawing a higher pay-scale than a senior, that is an eventuality which has to be restricted to the rarest of circumstances, and which can arise only on account of unavoidable fortuitous circumstances, such as a situation in which they reach the higher post through different modes of recruitment and, in the lower or feeder post, the junior was drawing a higher scale. Such an anomaly may occur, for example, by operation of FR-22, but, has already noted, that is an exception, and not a rule. Else, it is axiomatic that a senior officer cannot draw a pay-scale lower than the junior officer.

34. In the present case, in any event, no reasonable justification is forthcoming for appointing P K Mehta to a post carrying a scale higher than the scale carried by the post to which the respondent was appointed.

View of the NHRC and justification provided by the petitioner

35. Significantly, the view of the NHRC is in line with the view that the Tribunal has taken and with which we concur. The NHRC was also of the opinion that the respondent was entitled to the scale of ₹ 80,000/-, and not to the HAG + scale of ₹ 76,000-80,000. A specific



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recommendation was to that effect was also made by the NHRC to the MHA.

36. While rejecting the said recommendation, the only justification provided by the MHA was that the post to which the respondent was appointed carried the HAG + scale and that, therefore, the respondent could not be granted the scale of ₹ 80,000/- per month. That submission, however, really begs the issue in consideration. It is no answer to the apparent anomaly in the scales of pay being drawn by P.K. Mehta vis-à-vis the respondent to say that each was drawing the scale of the post to which she, or he, was appointed. The petitioner would have necessarily to provide a legitimate justification for appointing P. K. Mehta, 26 places lower in seniority to the respondent in the panel of 30 December 2010, to a post carrying a scale of ₹ 80,000/-, while the respondent was appointed to a post carrying a lower scale of ₹ 76,000-80,000/-. No such justification is forthcoming.

37. We, therefore, concur with the Tribunal that the said decision is *ex facie* arbitrary and unsustainable in law.

38. In that view of the matter, we find no reason to interfere with the impugned judgment of the Tribunal, which we uphold in its entirety.

39. The writ petition is accordingly dismissed in *limine*.



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40. Let the amount deposited by the petitioner with the Registry of this Court be released to the respondent.

W.P.(C) 8466/2019

41. The issue in this writ petition is identical to that in WP (C) 7169/2018. The petitioner Vimla Mehra, a 1979 batch IPS officer, was empanelled, along with Devendra Kumar Pathak and Sharad Kumar, also 1979 batch IPS officers, for appointment to the rank of DGP or equivalent, *vide* MHA OM dated 7 May 2015, post approval by the ACC. Devendra Kumar Pathak and Sharad Kumar, though junior to the petitioner in the panel, were posted as DG of the Border Security Force and DG of the National Investigation Agency respectively, both of which carried the scale of ₹ 80000/-. The petitioner, on the other hand, was posted as Special Commissioner of Police/Administration Coordinator in the Delhi Police, in the HAG + scale of ₹ 75000-80000. As was the case with Kanwaljit Deol, the petitioner in WP (C) 7169/2018, Vimla Mehra also sought the apex scale of ₹ 80000/-. She placed reliance on the decision of the Tribunal in the case of Kanwaljit Deol (from which WP (C) 75000-80000 emanated), rendered earlier.

42. The Tribunal, following its earlier decisions in the cases of R.N. Ravi, O.P.S. Malik and Kanwaljit Deol, allowed the petitioner's OA *vide* judgement dated 25 July 2018, against which decision the Union of India has approached this Court.



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43. This writ petition must also, therefore, meet the fate of WP (C) 7169/2018.

44. We, therefore, affirm the decision of the Tribunal and dismiss the writ petition.

45. Let the amount deposited by the petitioner with the Registry of this Court be released to the respondent.

46. No costs in either case.

C.HARI SHANKAR, J.

ANOOP KUMAR MENDIRATTA, J.

DECEMBER 10, 2024

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Click here to check corrigendum, if any