IN THE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA

CWP No: 451 of 2019 alongwith CWP Nos. 2531 of 2019, 2532 of 2019, 2533 of 2019.
Reserved on: 17.07.2025
Decided on: 25.03.2026.

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1. CWP No. 451 of 2019

State of Himachal Pradesh & others

...Petitioners

Versus

Himachal Pradesh State Co-operative Department Non-Gazetted Employees Association

....Respondent

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2. CWP No. 2531 of 2019

State of Himachal Pradesh & others

...Petitioners

Versus

Jagdish Kumar & others

...Respondents

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3. CWP No. 2532 of 2019

State of Himachal Pradesh & others.

...Petitioners

Versus

Hardayal Singh Thakur & others

...Respondent

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4. CWP No. 2533 of 2019

State of Himachal Pradesh & others

...Petitioners

Versus

Gulzar Singh Parmar & others

...Respondent

Coram:
Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice
Hon'ble Mr. Justice Ranjan Sharma, Judge
[1]*Whether approved for reporting? Yes.*

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[1] *Whether reporters of Local Papers may be allowed to see the judgment?*

For the petitioner-State:	Mr. Anup Rattan, Advocate General with Mr. Rakesh Dhaulta, Additional Advocate General, Ms. Swati Kraik, Deputy Advocate General and Mr. Shalabh Thakur, Assistant Advocate General in all the petitions.
For the Respondents: Employees	Mr. Surinder Saklani, Advocate, for respondent in CWP 451 of 2019.
	Ms. Shreya Chauhan, Advocate for respondents No. 1, 3, 5, 7 to 9, 12, 20, 23 to 25, 27, 28, 30, 32, 34, 36, 37, 39 to 45, 47 to 59, 61, 65, 66, 71, 74, 76 to 89, 91, 93, 94, 96, 99, 104, 107 and 109 in CWP No. 2531 of 2019.
	Ms. Shreya Chauhan, Advocate, for respondents No. 1, 3, 5 to 8, 10, 12 to 16, 18 to 20, 22, 23, 25 to 27, 30, 32 to 37, 39, 40, 45, 48 to 52, 54, 56 to 58, 61, 62 and 65 in CWP No. 2532 of 2019.
	Mr. Surinder Saklani, Advocate, for respondents No. 28, 38, 41, 44 and 46 in CWP No. 2532 of 2019.
	Ms. Shreya Chauhan, Advocate, for respondents in CWP No. 2533 of 2019.

Ranjan Sharma, Judge

The State of Himachal Pradesh, being the petitioner, has come up before this Court praying for the issuance of writ of certiorari, by quashing the common order dated 13.04.2018 **[Annexure P-1],** passed by the Himachal Pradesh State Administrative Tribunal ***(referred to as the "Tribunal"*** *herein),* in

Transferred Application(s), ***TA No. 2526 of 2015***, titled as Himachal Pradesh Cooperative Department Non-Gazetted Employees Association versus State of Himachal Pradesh and others *and* in ***TA No. 1530 of 2015***, titled as Jagdish Kumar *and* others versus State of Himachal Pradesh and others *and* in ***TA No. 1813 of 2015,*** titled as Hardyal Singh Thakur and others versus State of Himachal Pradesh and others; directing the Petitioner(s)-State of Himachal Pradesh to grant pay scale of Rs 1800-3200 to the Respondents-Employees as Inspector Cooperative Societies w.e.f. 01.01.1986 with all consequential benefits within three months ***and*** the orders dated 09.08.2018 passed by Learned Tribunal in ***OA No. 4726 of 2018,*** titled as Gulzar Singh Parmar and others versus State of Himachal Pradesh and others, by directing the petitioners-State of Himachal Pradesh to consider the case of the Respondents-Original Applications for granting them the pay scale of Rs 1800-3200 w.e.f 01.01.1986 in view of the orders passed by Learned Tribunal in the case of ***Jagdish Kumar*** (supra), subject to verification,

in case, the Original Applicants-Employees therein were similarly situated and the aforesaid order has attained finality.

2. Since the factual matrix as well as the issue involved in aforesaid writ petitions is similar therefore, with the consent of Learned Counsel(s) all these matters are taken up for adjudication together.

3. For appreciating the controversy herein, initial facts are taken from CWP No 2531 of 2019, originating from TA No 1530 of 2015, in the case ***Jagdish Kumar*** *(supra)* [referred to as ***Lead Case-I***] and the facts in continuation are taken from CWP No 451 of 2019, originating from TA No 2526 of 2015, in ***HP State Co-operative Department Non-Gazetted Employees Association*** and others *(supra)* [referred to as ***Lead Case-II***].

FACTUAL MATRIX IN CASE OF JAGDISH KUMAR -LEAD CASE-I:

4. Jagdish Kumar and others, being the Respondents Employees-Original Applicants in ***Lead Case-I,*** had filed an Original Application i.e. *O.A (D)*

No. 437 of 2007 before Learned Tribunal and due to its abolition, the aforesaid Original Application stood transferred to this Court and after its re-establishment, the same stood re-transferred to the Tribunal as *TA No 1530 of 2015*, titled as Jagdish Kumar versus State of Himachal Pradesh, seeking the following reliefs:

(i). That the office order dated 30.08.2007, AnnexureA-7, vide which the representation dated 07.07.2007, Annexure A-6 has been rejected, may kindly be quashed and set-aside in the interest of justice.

(ii). That the respondents may kindly be directed to remove the anomaly in the pay scale of Inspector/Inspector Audit as has been done in the State of Punjab.

(iii). That the respondents may kindly be directed to release to the applicants the pay scale of Rs.1800-3200 in place of Rs.1650-2950 w.e.f. 01.1.1986 or from any subsequent date from which they are entitled for the same with all consequential benefits.

(iv). That the respondent may also be directed to re-fix the pay of the applicants after removing the anomaly in the pay scale and release the arrear with interest @ 15% per annum.

(v). That as all the applicants have been retired on superannuation, the respondents may kindly be directed to re-fix their pension and the arrear of the same may kindly be released with interest @ 15% per annum.

4(i). Respondents Employees-Original Applicants-had set up a case before the erstwhile Tribunal that some of them were initially *appointed as Sub-Inspector* {later redesignated as Inspector Gr-II} *and some were appointed as Clerks* between the period from 1957 to 1972. They were *promoted as Auditors* during the year 1979 in the Cooperation Department of the Petitioner(s)-State and were given pay scale of Rs 570-1080 w.e.f. 01.01.1978. While working as Auditors, State Authorities issued a Notification on 16.03.1983 *[Annexure A-1 in TA file],* redesignating Auditors as Inspector [Audit] w.e.f. 16.03.1983 and after redesignation, they were given the revised pay scale of Rs 570-1080, which was revised to Rs 1640-2925 w.e.f. 01.01.1986 by the Petitioner-State.

4(ii). It is further averred that on the other hand, in the State of Punjab, though the categories

of Junior Auditors, Assistants and the Accountant(s) who were working in other departments were given a lower pay scale than the category of Inspectors but on the recommendations of Third Punjab Pay Commission, the categories of Junior Auditors, Assistants and Accountants were given a higher revised pay scale of Rs 1800-3200 w.e.f. 01.01.1986. Feeling aggrieved, the category of Inspector [Audit] in the State of Punjab filed a **CWP No. 14174 of 1995, Harbhajan Singh Bajwa and others vs State of Punjab and others,** praying for removing the anomaly and for giving revised pay scale as given to the category of Junior Auditors, Assistants and Accountants in other departments in Punjab. It is averred that the writ petition in the case of ***Harbhajan Singh Bajwa*** (supra) was decided by the Hon'ble Punjab and Haryana High Court on 26.02.2003 *[Annexure A-4 in TA file]*, by directing the State of Punjab to grant the parity to Inspector [Audit] with that of Junior Auditors, Assistants, Accountants in the State of Punjab w.e.f. 01.01.1986 i.e. Rs 1800-3200. It is averred that after passing

of judgement in case of ***Harbhajan Singh Bajwa*** (supra), the Respondent-Employee-Original Applicant No 1, Jagdish Kumar, submitted a representation to the Petitioner no 1, on 07.07.2007 *[Annexure A-6 in TA file]*, requesting to grant the same pay scale of Rs 1800-3200 w.e.f. 01.01.1986 as was granted to the Inspectors [Audit] in the State of Punjab in terms of the judgement passed in the case of ***Harbhajan Singh Bajwa*** (supra), but the claim of the Respondent Employees-Original Applicants was rejected by the Petitioner(s)-State of Himachal Pradesh on 30.08.2007 *[Annexure A-7 in TA file]* on the ground that the judgement in the case of ***Harbhajan Singh Bajwa*** *(supra)* was not binding on the Petitioner(s)-State *and* the qualification and other conditions of service of the posts of Inspector [Audit] in the State of Himachal Pradesh are quite different from the posts of Inspector (Audit) in State of Punjab and therefore, they cannot be equated.

In the above backdrop, the Respondent Employee-Original Applicant No 1, Jagdish Kumar being the representationist and others, have assailed

the rejection order dated 30.08.2007 ***[Annexure A-7],*** with the prayer to quash the rejection order and for granting them the pay scale of Rs 1800-3200 w.e.f. 01.01.1986 on analogy on which such pay scale has been granted to their counterparts in the State of Punjab with all consequential benefits.

FACTUAL MATRIX IN HIMACHAL PRADESH STATE COOPERATIVE DEPARTMENT NON-GAZETTED EMPLOYEES ASSOCIATION- LEAD CASE-II :

5. As a sequel to the factual matrix in Lead Case-I (supra), the facts in-continuation taken from Lead Case-II are detailed herein.

5(i). The Association of Respondent Employees had initially filed CWP No 5863 of 2012 and on establishment of Tribunal, this matter was transferred to the Tribunal, as TA No 2526 of 2015, with the original relief to the following effect:-

> (i). That a writ of mandamus may very kindly be issued by directing the respondents to grant the pay scale of Rs.1800-3200 w.e.f. 1.1.1986 in a time bound manner to the aggrieved members of the petitioners association i.e. Inspector Cooperative Societies, on the analogy of Punjab, with all consequential benefits by removing the

anomaly of pay scale of Inspector/ Inspector Audit Cooperative Societies, as has been done in the State of Punjab.

(ii). That pay of the petitioners i.e. Inspector Cooperative Societies may very kindly be ordered to be re-fixed after removing the anomaly in the pay scale alongwith all consequential benefits.

5(ii). During the pendency of CWP No 5863 of 2012, later converted as TA No 2526 of 2015, the Respondent Employees, amended the petition, in the following terms:

(i)a. That a writ of certiorari may very kindly be issued and office order dated 4.8.2012 [annexure P-19] whereby representation of the petitioner association has been rejected, may be quashed and set-aside.

(i). That a writ of mandamus may very kindly be issued by directing the respondents to grant the pay scale of Rs.1800-3200 w.e.f. 1.1.1986 in a time bound manner to the aggrieved members of the petitioners association i.e. Inspector Cooperative Societies on the analogy of Punjab with all consequential benefits by removing the anomaly of pay scale of Inspector/ Inspector Audit Cooperative Societies, as has been done in the State of Punjab.

(ii). That pay of the Petitioners i.e. Inspector Cooperative Societies may very kindly be ordered to be re-fixed after removing the anomaly in the pay scale along with all consequential benefits.

5(iii). The Respondents Employees had set up additional facts that the judgement passed by the Learned Single Judge in the case of ***Harbhajan Singh Bajwa*** (supra) was assailed by the State of Punjab before the Division Bench in LPA No 376 of 2003 and same was dismissed on 17.10.2008 and after the dismissal of LPA the State of Punjab issued a Notification on 09.06.2010 [Annexure P-5 in TA file], implementing the judgment by granting the pay scale of Rs 1800-3200 w.e.f. 1.1.1986 to Inspectors at par with Junior Auditors, Assistants and Accountants in State of Punjab. It is averred that after issuance of implementation orders by the State of Punjab on 09.06.2010, the Association of the Respondent-Employees submitted representation to the Petitioner-State on 18.10.2010 [Annexure P-5 in TA file] for giving them the pay scale of Rs 1800-3200 w.e.f. 01.01.1986 as was given to their

counterpart-Inspectors in the State of Punjab. It is further averred that even the Petitioner No 3-Registrar Cooperative Societies requested the Principal Secretary [Cooperation] on 19.10.2010 [Annexure P-7 in TA file] for giving the pay scale of Rs 1800-3200 w.e.f. 1.1.1986 to Inspectors of Cooperation Department in the State of Himachal Pradesh as granted to the Inspectors in the State of Punjab. It is submitted that even the Petitioner No 2-Registrar Cooperative Societies had sent recommendation to Principal Secretary on 29.11.2011 [Annexure P-13] and on 28.04.2012 [Annexure P-16 in TA file] for giving the pay scale of Rs 1800-3200 to Inspector [General/Audit] in the State of Himachal Pradesh on the analogy on which this pay scales was given in the State of Punjab with the prayer to give revised pay scales thereof *but* the claim of the Respondents-Employees herein, was rejected by the State Government-petitioners herein, on 04.08.2012 [Annexure P-19 in TA file], on the ground, that the conditions of service of employees of the State of Himachal Pradesh are governed by the State

Rules notified under the provisio Article 309 of the Constitution of India *and* the judgement passed by the Honble High Court of Punjab and Haryana in the case of Harbhajan Singh Bajwa is not ipso-facto applicable to the employees of the State of Himachal Pradesh *and* based on the mandate of the Honble Supreme Court in the case of **State of Himachal Pradesh versus P.D. Attri and others (1999) 3 SCC 217,** the Finance department did not concur with the proposal on the ground that even if the category of Inspector [Audit] in the State of Punjab have been given the higher pay scale of Rs 1800-3200 then also, the said pay scale cannot be ipso-facto made applicable for Inspector [Audit]/Inspector [General] in the State of Himachal Pradesh in view of the fact that the Petitioner(s)-State of Himachal Pradesh is neither bound to follow the pay scales applicable in the State of Punjab nor every change brought by the State of Punjab for its employees is applicable in the State of Himachal Pradesh.

In the above backdrop, the Association

of Respondent Employees have prayed for quashing the rejection order dated 04.08.2012 ***[Annexure P-19],*** with the prayer for granting them the pay scale of Rs 1800-3200 w.e.f. 01.01.1986 and the benefit of subsequent revised pay scales on the analogy on which these pay scale have been granted to their counterparts in the State of Punjab with all consequential benefits.

STAND OF STATE AUTHORITIES BEFORE TRIBUNAL CASE OF JAGDISH KUMAR, IN TA No 1530 OF 2015- IN LEAD CASE-I :

6. **In Lead Case-I,** the Petitioner(s)-State had opposed the claim of the Respondents-Employees on the ground that the judgement passed in the case of ***Harbhajan Singh Bajwa*** [Annexure A-4 in TA file] was not applicable and had not attained finality. It was averred that the structure-nomenclature of Cooperation-Department in the State of Punjab is entirely different vis-à-vis the nomenclature-structure of Cooperation-Department in the Petitioner(s)-State. It was specifically averred that in the State of Punjab Cooperation Department is controlled by two heads of department i.e. Registrar, Cooperative

Societies for the general side and Chief Auditor for the Audit side. It is averred that in the State of Punjab the administrative control is governed by two separate entities and both entities have separate service rules for respective posts. It is averred that the duties and responsibilities of both the categories -employees on the general side and audit side were entirely different. On the other hand, in the State of Himachal Pradesh, the Cooperation Department was manned by the Registrar, Cooperative Societies and the structure of Cooperation Department, the service conditions, qualifications, promotional avenues, duties and responsibilities in the State of Himachal Pradesh regarding the post of Inspectors [Audit]/ Inspector [General] were entirely different vis-à-vis structure-nomenclature in the State of Punjab and even the equation-parity between of Inspector in the State of Punjab vis-à-vis the State of Himachal Pradesh was denied. In these circumstances, it was prayed that the rejection order dated 30.08.2007 [Annexure A-7] may be upheld and the petition may be dismissed.

STAND OF THE STATE AUTHORITIES BEFORE TRIBUNAL IN HP COOPERATIVE NON GAZATTED EMPLOYEES ASSOCIATION-TA No 2526 OF 2015 -IN LEAD CASE-II :

7. **In Lead Case-II,** the Petitioner-State had filed the Reply-Affidavit by reiterating the stand taken in reply-affidavit filed in Lead Case-I in the case of Jagdish Kumar [supra]. The reply-affidavit indicates that the rejection order dated 04.08.2012 [Annexure P-19] was passed by the State Authorities after examining the matter in entirety in view of the Service Rules including the Revised Pay Rules as applicable to the Respondents Employees. It is further averred that as per the mandate of 7th Schedule and Entry No 41 in List-II, the State of Himachal Pradesh is fully competent to regulate the conditions of service for its employees *and* in terms of judgement of the Hon'ble Supreme Court in the case of ***P D Attri*** (supra)**,** the Respondents -Employees have no right to claim the pay scales granted to counterparts by other States or State of Punjab, when, the issue regarding admissibility of particular pay scale is to be tested by the State Authorities after taking into account the

nomenclature, structure of department, service conditions, requirements, qualifications, promotional avenues, duties, job-profile, responsibilities, financial payability and other factors. It is further averred that unless and until the Petitioners-State adopts and applies the pay scales notified by the other States including the State of Punjab till then, an employee has no right to seek enforcement of pay scales given by another State. In this backdrop, the claim was opposed, with the prayer that rejection order dated 04.08.2012 ***[Annexure P-19],*** may be upheld and the petition may kindly be dismissed.

REBUTTAL BY WAY OF REJOINDER(S) AFFIDAVIT BY RESPONDENTS- EMPLOYEES:

8. In both the Lead Cases, the Respondents -Employees have filed respective rejoinders, reiterating their stand that once State of Punjab has granted the pay scales of Rs 1800-3200 w.e.f. 01.01.1986 therefore, same pay scale should have been adopted and granted to the Respondent-Employees.

IMPUGNED ORDER DATED 13.04.2018 PASSED BY LEARNED TRIBUNAL:

9. Transferred Applications i.e. TA No. 1530

of 2015, titled as Jagdish Kumar versus State of Himachal Pradesh and TA No. 1813 of 2015, titled as Hardyal Singh Thakur versus State of Himachal Pradesh and TA No 2526 of 2015, titled as HP State Cooperative Department Non-Gazetted Employees Association versus State of Himachal Pradesh and others} were allowed by Learned Tribunal *and* the rejection order dated 30.08.2007 [Annexure A-7] was quashed and set-aside *and* the State Authorities-Petitioners herein, were directed to grant the pay scale of Rs 1800-3200 to the Respondent Employees -Original Applicants herein, w.e.f. 1.1.1986 with all consequential benefits, in the following terms:

> 10. The Third Pay Commission in Punjab recommended the pay scale of Rs 1500 -2640 for the post of Inspector Audit Grade-I Cooperative. The government revised the pay scales of all categories of employees with effect from January 1, 1986 and the Inspectors Audit Grade-I were placed in the pay scale of Rs 1640-2925 without any selection grade **whereas** the Assistants/Accounts in other departments were given the pay scale of Rs 1800-3200. The Junior Auditors, in the Finance Department were put in the pay scale of Rs

1500-2640 and after 5 years, the pay scale given was Rs 1800-3200. A table to bring out the tentative pay scales, as existed on January 1, 1968, January 1, 1978 and January 1, 1986 per recommendations of the 1st, IInd and IIIrd **Punjab Pay Commission, is reproduced** as under:-

Sr. No.	Pay Scales allowed with effect from		
	1.1.1968	1.1.1978	1.1.1996
1	**Inspector Audit Grade-I**		
	200-400	570-1080	1640-2925
	350-500	700-1200	Without any S.G.
	S.G. Posts	S.G. Posts	
2	**Assistants/Accountants in other Departments**		
	160-400	570-1080	1800-3200
3	**Junior Auditors of Finance Department:**		
	160-400	570-1080	1500-2640 [Rs.1800-3200 after 5 years service]

11. The post of Inspector Audit was a higher post than that of Junior Auditor and the pay scale of Inspector Audit was brought at par with Junior Auditor. The post of Inspector Audit is filled up by promotion from amongst Junior Auditors. The post was higher and the applicants were entitled to higher pay scale.

12. The ***Punjab Government took the decision*** to give this further revised pay

scale to its Inspectors Audit on the basis of decision of the Hon'ble High Court of Punjab and Haryana and the applicants are entitled to higher scale on Punjab pattern.

16. The State Government while adopting and implementing the **pay scale of Punjab pattern** should ensure reasonableness. The State Government being principal employer should ensure that the pay scales are fixed on the basis of duties discharged by the employees. The post of Inspector was a higher post and that of Auditor was a lower post. The decision of the Government to grant lower pay scale to the Inspectors Audit and Auditors is patently irrational. The decision not to grant pay scale of Rs.1800-3200 to the applicants had created anomaly.

17. Consequently, the transferred applications are allowed, memo dated 30th August, 2007, Annexure A-7, is quashed and the respondents are directed to grant of pay scale of Rs 1800-3200 to the applicants with effect from 01.01.1986 with all consequential benefits within three months from the date of production of certified copy of this order.

IMPUGNED ORDER DATED 09.08.2012 PASSED BY LEARNED TRIBUNAL:

10. Likewise, the OA No. 4226 of 2018, Gulzar

Singh Parmar and others versus State of Himachal Pradesh and others was decided by the Tribunal on 09.08.2018, with the directions that the State Authorities shall verify the facts and upon finding the applicant to be similarly placed then to extend benefit of orders dated 13.04.2018 passed by the Tribunal in the case of Jagdish Kumar, in case, the order had attained finality/ implemented along with all consequential benefits.

CHALLENGE TO THE IMPUGNED ORDERS DATED 13.04.2018 AND 09.08.2018 PASSED BY LEARNED TRIBUNAL :

11. Impugned common orders dated 13.04.2018 passed by the Learned State Administrative Tribunal in TA No 2536 of 2015 was assailed by the State Authorities in CWP No 451 of 2019 *and* the order passed in TA No 1530 of 2015 was assailed by the State Authorities in CWP No 2531 of 2019 and the order passed in TA No 1813 of 2015 was assailed by the State Authorities in CWP No 2532 of 2019 and the Impugned Order dated 13.04.2018, passed by Learned Tribunal was stayed by this Court on 24.09.2019. Likewise, the Impugned Order

dated 09.08.2018, passed in OA No 4226 of 2018 has also been assailed by the State Authorities in CWP No 2533 of 2019.

ADDITIONAL AFFIDAVIT(S) FILED BY STATE AUTHORITIES IN CWP No 2531 OF 2019, IN CASE OF JAGDISH KUMAR- LEAD CASE-I :

12. During the pendency of CWP No 2531 of 2019, in the case of Jagdish Kumar **[Lead Case-I]** this Court passed an order on 13.07.2023, in the following terms:-

> Learned Counsel for ***both the parties*** shall place on record material to show that Sub Inspector/Sub Inspector (Audit) in the State of Himachal Pradesh has been drawing more pay than Inspector (Audit) in the Co-operative Department of Himachal Pradesh.

In compliance of orders passed by this Court on 13.07.2023, the State Authorities filed additional affidavit dated 21.09.2023 and operative part thereof reads as under:-

> 2. That it is pertinent to submit here that ***prior to 1996,*** Sub-Inspector of the department of Cooperation having pay scale of Rs 1350-2400 was a feeder category post for the promotion of Inspector/Inspector [Audit] in the

> pay scale of Rs. 1640-2925. However, in the year 1992, the State of Punjab merged the cadre of sub-Inspector Cooperative Societies with the cadre of Inspector Cooperative Societies and thereafter on the demand of the Inspectors' Association, the State of H.P. ***Vide its notification dated 01.06.1996***, copy of which is annexed herewith and marked as Annexure A-1 and its typed copy as A-1/T, also ***merged the cadre of Sub-Inspector with the Inspector Cooperative Societies.*** After merger, there is only one cadre of Inspector/Inspector [Audit] in the State of H.P. and Punjab. It is also submitted that the ***Sub-Inspectors*** of the Cooperative Department being the ***feeder category for the promotion to the post of Inspector***/Inspector [Audit] ***were never getting higher pay scales than the Inspector***/ Inspector [Audit] of the department of the deponent.

In addition, the additional affidavit states in Para 3 that the Sub Inspectors of cooperation department were in the pay scale of Rs 1350-2400 and the Sub Inspectors were a feeder category for the promotional post of Inspector (Audit) in the pay scale of Rs 1640-2925. It is averred that in

1992, State of Punjab issued a notification merging category of Sub Inspectors with that of Inspectors (Audit) and based on the demand of the Inspectors Association, the State of Himachal Pradesh issued a Notification on 01.06.1996, ***(Annexure A-1)*** merging the Sub Inspectors with that Inspector Cooperative Societies. The Additional Affidavit further stated that after merger on 01.09.1996, there existed only one cadre of Inspector/Inspectors (Audit) in the State of Himachal Pradesh. The Additional Affidavit states that Sub-Inspectors in Himachal Pradesh were in feeder category for promotion to posts of Inspectors /Inspector (Audit) and Sub-Inspectors were never getting higher pay scales than that of Inspectors /Inspector (Audit) in the State of Himachal Pradesh. The Additional Affidavit reveals the revised pay sales granted to Inspectors of Cooperative department and the revised pay scales given to the Auditors and Assistants/Accountants working in other departments in the State. The Additional Affidavit indicates that as per the Himachal Pradesh Revised Pay issued on 31.03.1980 ***(Annexure A-2),*** Sub-Inspectors were

given the revised pay scale of Rs 450-800 *whereas* the Auditors and Inspectors (Gen) were given the revised pay scale of Rs 570-1080 w.e.f. 01.01.1978. It is averred that the State Government issued a Notification on 16.03.1983, {Annexure P-2, in TA No 2526 of 2015}, designating the category of the Auditors as Inspector (Audit). It is averred that State Authorities issued another notification on 09.05.1991 ***(Annexure A-3/T)*** whereby, pay scale of Auditors /Inspectors (Audit) and the Inspector (Gen side) was revised from Rs 570-1080 to Rs 1640-2925 w.e.f. 01.01.1986. The Additional Affidavit further stated that the State Govt issued a Notification 01.06.1996 ***(Annexure A-1),*** merging the two cadres of Sub-Inspectors (redesignated as Inspectors Gr-II} with the cadre of Inspector (General and Audit) w.e.f. 01.07.1995 and by giving them a unified/common revised pay scale of Rs 1650-2925. It was averred after merger on 01.01.1996 w.e.f. 01.07.1995, the Sub-Inspectors (renamed as Inspector Gr-II) were to rank as junior to Inspector (Gen/Audit) and their pay was to be fixed in terms of Instruction No 1

below FR 22. The Additional Affidavit reveals that in terms of Himachal Pradesh Revised Pay Rules issued on 20.01.1998 ***(Annexure A-4),*** pay scale of Inspectors was revised from Rs 1650-2925 to Rs 5480-8925 w.e.f. 01.01.1996 and this pay scale was further revised as per Himachal Pradesh Revised Pay Rules issued on 26.08.2009 ***(Annexure A-5***) to Rs 10300-34800+3600 GP w.e.f 01.01.2006 and revised scale thereafter. Additional affidavit further indicated that on the other hand, the category of the Junior Auditor in Local Audit department (different from cooperation department) in terms of the Himachal Pradesh Revised Pay Rules issued in September 1991 ***(Annexure A-8)*** and the categories of Assistants and Accountants in other departments of State of Himachal Pradesh (redesignated as Senior Assistants) were given revised pay scale of Rs 1800-3200 as per the Himachal Pradesh Revised Pay Rules issued on 23.07.1990 ***(Annexure A-10).***

13. Based on the factual matrix and the pleadings in Lead Cases, the *following question arises* for determination:-

(i). Whether the State of Himachal Pradesh is bound to adopt and grant the same pay scales to the Respondent-Employees which are granted by another State including the State of Punjab ?

(ii). Whether the grant of higher pay scale to Inspectors working in Cooperation department in State of Punjab by resorting to relative assessment of pay scales granted to Auditors, Assistants and Accountants in other departments in the State of Punjab could be made the basis for inferring anomaly in case of Respondent-Employees in the State of Himachal Pradesh ?

14. Heard, Mr. Anup Rattan, Advocate General with Mr. Rakesh Dhaulta, Additional Advocate General, Ms. Swati Draik, Deputy Advocate General and Mr. Shalabh Thakur, Assistant Advocate General for the petitioner-State of Himachal Pradesh and Ms. Shreya Chauhan and Mr. Surinder Saklani, Advocates, for Respondents-Employees and have also gone through the records.

CHALLENGE TO IMPUGNED ORDERS DATED 13.04.2018 AND 09.08.2018 PASSED LEARNED BY TRIBUNAL:

15. Petitioner-State of Himachal Pradesh has

assailed the Impugned Order passed by Tribunal, on the ground, *firstly,* the Impugned Order directing the Petitioner-State to grant the revised pay scales to the Respondent Employees which were granted to Inspectors in the State of Punjab is erroneous in law; and *secondly,* the Impugned Order granting pay scales in view of "mere similarity in designation of Inspectors" but by "ignoring other relevant factors" amongst employees governed by different set of rules, who belonged to different cadres in different States was perverse; and *thirdly*, Impugned Order inferring parity or equation in pay scale as given in the State of Punjab, in absence of any material on record to establish equation-parity and without there being any express conferment of parity-equation vitiates the Impugned order; and *fourthly,* Impugned Order passed by Learned Tribunal amounts to rewriting the Revised Pay Norms dehors the State Recruitment and Promotion Rules as well as the State Revised Pay Rules notified in case of Inspectors (Audit and General) in State of Himachal Pradesh; and *lastly,* the claim of the Respondent

Employees without laying a challenge to the State Recruitment and Promotion Rules as well as the State Revised Pay Rules was impermissible.

ANALYSIS OF CONTENTIONS OF LEARNED ADVOCATE GENERAL:

16. *First contention* of Learned Advocate General is that the Impugned Order(s) passed by Learned Tribunal directing the Petitioner(s)-State to grant the revised pay scales to the Respondent Employees which were granted to the Inspectors in the State of Punjab *is erroneous in law*, as the Petitioner-State is not bound to adopt or follow the pay scales notified by another State or by the State of Punjab.

MANDATE OF LAW- ONE STATE IS NOT BOUND TO FOLLOW PAY SCALES PRESCRIBED BY ANOTHER STATE :

16(i). While adjudicating a similar issue as to whether the State of Himachal Pradesh is bound to grant pay scales which have been granted to employees by the State of Punjab was negated with the findings that there is no constitutional or legal provision nor any law commands that the State of Himachal Pradesh shall follow the pay scales which exist in the State of Punjab. The Rules and

Regulations which are applicable to the employees of the State of Punjab or other State are neither ipso facto binding nor can a mandate be issued by directing the State of Himachal Pradesh to follow the Punjab Pay Rules and Regulations automatically unless, the Punjab Pay Rules are expressly adopted by the State of Himachal Pradesh, which has not been done in the instant case. Deprecating such a claim, the Hon'ble Supreme Court has held in **State of Himachal Pradesh versus P D Attri and others, (1999) 3 SCC 217,** in the following terms:-

> 5. The case of the **respondents is not based on any Constitutional or any other legal provisions when they claim parity with the posts similarly designated in the Punjab & Haryana High Court and their pay-scales from the same date. They do not allege any violation of any Constitutional provision or any other provision of law.** They say it is so because of "accepted policy and common practice" which according to them are undisputed. We do not think we can import such vague principles while interpreting the provisions of law. India is a union of States. **Each State has its own individualistic way of governance under the Constitution. One State is**

not bound to follow the rules and regulations applicable to the employees of the other State or if it had adopted the same rules and regulations, it is not bound to follow every change brought in the rules and regulations in the other State. The ***question then arises before us is if the State of Himachal Pradesh has to follow every change brought in the States of Punjab & Haryana*** in regard to the rules and regulations applicable to the employees in the States of Punjab & Haryana. **The answer has to be in negative.** No argument is needed for that as anyone having basic knowledge of the Constitution would not argue otherwise. True, the State as per "policy and practice" had been adopting the same pay-scales for the employees of the High Court as sanctioned from time to time for the employees of the Punjab & Haryana High Court and it may even now follow to grant pay-scales **but is certainly not bound to follow. No law commands it to do so.**

6. The State of Punjab was reorganised into States of Punjab, Haryana and Himachal Pradesh, to begin with, was a Union Territory and was given the status of full statehood in 1970. Since employees of the composite States of Punjab were taken in various Departments

of the State of Himachal Pradesh in order to safeguard the seniority, pay-scales etc., the State of Himachal Pradesh followed the Punjab pattern of pay-scales. After attaining the status of full statehood, High Court of Himachal Pradesh formulated its own rules and regulations for its employees. It adopted the pattern of Punjab & Haryana High Court rules of their employees. When Punjab & Haryana High Court gave effect to certain portion of its Rules from 25.9.1985 by notification dated 23.1.1986 as a result of which redesignation of the posts of Senior Translators and Junior Translators were equated to the posts in Punjab Civil Secretariat, the Himachal Pradesh High Court similar effect was given to in its rules for its employees. When the Punjab & Haryana High Court gave effect to those rules from 23.1.1975, the State Government did not agree to the recommendations of the Chief Justice of the Himachal Pradesh High Court to follow the same suit. It is true that till now, Himachal Pradesh High Court has been following the rules applicable to the employees of the Punjab & Haryana High Court and it may go on following those rules as may be amended by the Punjab & Haryana High Court from time to time, **but certainly it is not bound to so follow. No law commands the State Government to follow the**

> **rules applicable to the employees of the Punjab & Haryana High Court to the employees of the Himachal Pradesh High Court.** That being the position, it is not necessary for us to examine different qualifications for appointment to the posts of Senior Translators and Junior Translators that may exist between Punjab & Haryana High Court and the Himachal Pradesh High Court and also as to the mode of their recruitment /placement in the service. Moreover, any change in the pay-scales following Punjab & Haryana High Court can set in motion chain reaction for other employees which may give rise to multiplicity of litigation among "various categories of employees. Rules of each High Court have to be examined independently. There cannot be any such law that Himachal Pradesh High Court has to suo motu follow the same rules as applicable to the employees working in the Punjab & Haryana High Court.

16(i-a). While adjudicating a similar proposition, the Hon'ble Supreme Court in the case of **Secretary, Mahatma Gandhi Mission and another versus Bhartiya Kamgar Sena and others, (2017) 4 SCC 449,** has outlined that there is no authority to compel the States to adopt the pay structures

which are applicable in Government of India, in the following terms:

> 60. The Sixth Pay Commission appointed by the Government of India is only a body entrusted with the job of making an assessment of the need to revise the pay structure of the employees of the Government of India and to suggest appropriate measures for revision of the pay structure. The recommendations of the pay commission are not binding on the Government of India, much less any other body. They are only meant for administrative guidance of the Government of India. ***The Government of India may accept or reject the recommendations either fully or partly,*** though it has never happened that the recommendations of the pay commission are completely rejected by the Government so far.
>
> 61. ***Once the Government of India accepted*** the recommendations of the pay commission and issued orders signifying its acceptance, it became the decision of the Government of India. *That decision of the Government of India created a right in favour of its employees* to receive pay in terms of the recommendations of the Sixth Pay Commission and the Government of India is obliged to pay.

> 62. The fact that the Government of India accepted the recommendations of the Sixth Pay Commission (for that matter any pay commission) ***does not either oblige the States to follow the pattern of the revised pay structure adopted by the Government of India*** or create any right in favour of the employees of the State or other bodies falling within the legislative authority of the State. **The Government of India has no authority either under the Constitution or under any law to compel the States or their instrumentalities to adopt the pay structure applicable to the employees of the Government of India.**

16(i-b). While examining the issue as to whether communications issued by the Central Government governing conditions of service, including pay etc were binding on the State of Uttarakhand with respect to State Universities, the Hon'ble Supreme Court in the case of **State of Uttarakhand versus Sudhir Budakoti and others, (2022) 13 SCC 256,** has mandated that the State of Uttarakhand was not bound by any direction issued by the Central Government, *unless such a direction was decided to be accepted and adopted by the State concerned*,

in following terms:

> 20. We have recorded the facts in the preceding paragraphs. *Law has become quite settled that the Appellant is not bound by any direction issued by the Central Government* **which would at worst be mandatory to the Central Universities and the Central Government Colleges receiving funds. *Thus, any such decision would obviously be directory to State Government Colleges and Universities, being in the nature of a mere recommendation.***
>
> 21. The aforesaid position has been clarified by the decision of this Court in Kalyani Mathivanan v. K.V. Jeyaraj, (2015) 6 SCC 363:
>
> > "62.2. The UGC Regulations being passed by both the Houses of Parliament, though a subordinate legislation has binding effect on the universities to which it applies.
> >
> > 62.3. The UGC Regulations, 2010 are mandatory to teachers and other academic staff in all the Central universities and colleges thereunder and the institutions deemed to be universities whose maintenance expenditure is met by UGC.
> >
> > 62.4. The UGC Regulations, 2010 are directory for the universities, colleges and other higher educational institutions under the purview of the State legislation as the *matter has been left to the State Government*

> *to adopt and implement the Scheme.* Thus, the UGC Regulations, 2010 are partly mandatory and is partly directory."

22. The High Court of Uttarakhand in our opinion has completely misconstrued the facts. ***The Appellant nowhere has made a decision to accept and adopt the circular of the Central Government pertaining to the Registrars working in the Universities coming under its purview. In the absence of any legal right with the corresponding duty, such a relief can never be asked for,*** **particularly when there are clear and specific rules provided for the pay scale of Registrars by the Appellant itself.** The decision of the Appellant qua the Lecturers who form a distinct group as against the Respondent No. 1 who holds a higher position in the administration has been lost sight of. Merely because Respondent No. 1 was made to fill the gap by temporarily taking up the job of a Lecturer, he would never become one and so also a Lecturer, who might undertake the job of a Registrar. This is nothing but an administrative convenience borne out of a contingency. When the classification is distinct and clear having adequate rationale with due relation to the objective, there is no reason to hold otherwise by treating a Registrar at par with the

> Lecturers. One is meant for administration and the other teaching. The High Court has also not considered the financial implications as any decision would not rest with Respondent No 1 alone, but the entirety of the administrative staff.

MANDATE OF THIS COURT THAT STATE OF HIMACHAL PRADESH IS NOT BOUND TO FOLLOW PUNJAB PAY SCALES MANDATORILY:

16(i-c). While examining the claim of a Sub-Fire Officer in the State of Himachal Pradesh, who was claiming parity in pay scale with his counterpart in the State of Punjab, the claim was negated by this Court in **CWP No 8425 of 2010** in **Balvinder Singh Mahal versus State of Himachal Pradesh and others dated 16.10.2014,** after relying on the principles enunciated by the Hon'ble Supreme Court in case of ***P. D. Attri*** (supra), in the following terms:

> 7. In view of the exposition of law in P.D. Attri's case (supra), it has to be seen as to **whether the petitioner has been able to establish violation of any constitutional or any other legal provision when he has laid claim based upon parity with the posts with similarly situate persons in the State of Punjab and claiming pay scales granted in the said State.**

> 12. Tested on the touchstone of the aforenoted broad guidelines and taking into account the exposition of law in Tilak Raj's case (supra), **it can conveniently be concluded that the petitioner has failed to establish on record his entitlement to the pay scale as being paid to his counterparts in Punjab and the petitioner is not otherwise entitled to claim the same merely on the basis of Punjab pattern in view of judgment** in ***P.D. Attri's case*** (supra).

16(i-d). While dealing with the claim of Senior Lecturer in Department of Ayurveda for higher grade pay by seeking parity with counter parts in the State of Punjab, was negated by another Division Bench of this Court in **CWP No 2710 of 2018,** titled as **State of Himachal Pradesh and others versus Dr. Suman Sharma, decided on 22.09.2020,** in the following terms:

> 4(i). ……Therefore, Grade Pay of Rs 6600/- cannot be released to the respondent merely on the ground that Punjab Government grants this grade pay to its Senior Lecturer/Assistant Professor / Reader. **Punjab pattern of pay scales will not be ipso facto binding upon the petitioner-State.**

16(i-e). While dealing with the claim of Senior Laboratory Technicians in State of Himachal Pradesh, who were claiming parity in pay scale with the Laboratory Technicians in the health department in the State of Punjab, this Court has held in **CWPOA No. 673 of 2019, R.P. Sood and others versus State of Himachal Pradesh and others,** that the State of Himachal is not bound to follow pay scales granted by the Rules or Regulations or Notifications issued in the State of Punjab *and* even if in the past, the State of Himachal had followed the Punjab Pay Scales, then also, the State of Himachal is not bound to follow every change automatically, unless and until the State of Himachal issues its own orders adopting the same and every State has its own legal entity, having own individualistic way of governance *and* no law commands and mandates the State of Himachal to automatically follow the pay scales of another State, including the State of Punjab, in the following terms:

17. Under **Entry No. 41 of Schedule 7**

of the Constitution of India, State Government has exclusive jurisdiction on State Public Services. **The pay scales and service conditions prescribed under Article 309 are alone applicable in the State. Thus, pay scales of Punjab cannot be applied until the State Government issues its own orders.**

18. Main argument/submission raised on behalf of the petitioners that the **State of Himachal Pradesh is bound to follow pay pattern fixed by Punjab, already stands negated/rejected by Hon'ble Apex Court in the celebrated case titled State of Himachal Pradesh v. P.D. Attri,** (1999) 3 SCC 317, wherein it has been categorically held that the **State is not bound to follow the rules and regulations applicable to the employees of other State and even if it has been following the same, it is not bound to follow every change made by the other State.**

20. In view of the exposition of law in P.D. Attri supra, it is to be seen as to **whether the petitioners have been able to establish violation of constitutional or other legal provisions** when they lay their claim based upon parity qua a post or similarly situate post in Punjab or pay scale granted in the other State.

27. Division Bench of this Court in a bunch

of cases had an occasion to deal with the question, which has fallen for determination in the cases at hand. Vide order dated 22.9.2020, Division Bench of this Court in case titled State of Himachal Pradesh & others v. Dr. Suman Sharma, CWP No. 2710 of 2018 and other connected matters, decided on 22.9.2020, while placing reliance upon various judgments rendered by Hon'ble Apex Court, has held that the **State of Himachal Pradesh is not bound to follow the Rules and Regulations as applicable to the employees of Punjab or other States, even if it has adopted some rules and regulations, it is not bound to follow every change brought in such rules and regulations in other State.**

29. However, having carefully perused the minutes of meeting, Annexure R-4, dated 16.4.2013, this court finds no force in the submissions made by learned senior counsel for the petitioners, because, if the minutes of meeting of the Expert Committee are read in their entirety, they clearly reveal that the State of Himachal Pradesh nowhere granted benefit of pay revision to the category of petitioners with effect from 1.5.2013 on the basis of judgment rendered by High Court of Punjab and Haryana, rather, it after having taken note of detailed note presented to it, observed that

though always there has been parity in the pay scales given to the Senior Laboratory Technician in Health and Family Welfare Department with that of Senior Laboratory Technician in Punjab, prior to judgment passed by High Court of Punjab and Haryana <u>but State of Himachal Pradesh is not bound to follow Punjab pay scales revised/granted from back dates, on the basis of judgment passed by High Court of Punjab and Haryana.</u> Expert Committee has specifically recorded in its finding that the parity/pay scales granted to Senior Laboratory Technician cannot be accepted in its totality and there is no cadre of Chief Laboratory Technician in the Health Department in Punjab.

35. Since **the State of Himachal Pradesh is not bound to follow each and every change brought in the rules and regulations in other States, its action inasmuch as granting grade pay of Rs 4800/- is a measure personnel to them with effect from 1.5.2013, cannot be said to be bad in law**.

39. In view of the various judgments taken note herein above, the **State of Himachal Pradesh is not bound to follow every change brought about in the rules and regulations of the State of Punjab, as such,** <u>petitioners cannot seek a direction</u>

> from this Court to extend the benefit of revision of pay scales, which otherwise has been granted by the respondents with effect from 1.5.2013, from back date i.e. 1.1.1978.

16(i-f). Negating the plea of Veterinary and Animal Sciences Teachers' Association, who were serving as Assistant Professor in Agricultural University and were claiming benefit of two advance increments as granted to the faculty in Agricultural University in the State of Punjab, the Division Bench of this Court in CWP No. 3344 of 2020, titled as **State of Himachal Pradesh through Principal Secretary [Agriculture] versus Veterinary & Animal Sciences Teachers' Association and another,** decided on 02.04.2024, held as under:

> 4(iv). …**Merely because Agricultural Universities in the State of Punjab have released two advance increments to its faculty possessing M.V. Sc. degree would not mean that respondent State is obligated to do the same.** *What happens in the State of Punjab in respect of release of pay-scales/incentives is not to be automatically implemented by the State of Himachal Pradesh.* The respondents State has to examine the

matter of release of pay-scale /incentives in view of its own staffing pattern, Recruitment & Promotion Rules, method of recruitment, educational qualifications, geographical/ traditional /territorial conditions and financial resources etc. The Government of H**imachal Pradesh is not legally bound to follow the Punjab pay-scale pattern**.

In this petition, we are not even concerned with release of revised pay-scale, but the admissibility of two non-compounded advance increments as incentive to the members of respondent No. 1 association in lieu of their M.V. Sc. Degree. As noticed earlier, neither there is any material on record to suggest that the *State or respondent No. 2 are bound to release the increments that are released by the ICAR* nor any submission on this point was advanced by learned Senior Counsel for respondent No1 **Respondent No 1's stand alone ground of State of Himachal Pradesh /respondent No 2 University being mandatorily bound to follow the State of Punjab pattern of pay-scales/ incentives, is untenable.**

16(i-g). Plea of Workshop Instructors, who were promoted as Foreman Instructors in pay scale of Rs 10300-34800 with GP 4600 w.e.f 01.08.2016 in

Technical Education Department in the State of Himachal Pradesh for giving pay scale of Rs 15600 -39100 with GP 5400 as given to the counterparts in the State of Punjab, was turned down by this Court, in **CWPOA No 6543 of 2019,** titled as **Attar Singh and others versus State of Himachal Pradesh,** decided on 20.05.2022, in the following terms:-

> 5. Petitioners are **claiming pay scale of 15600- 39100+ 5400 Grade Pay for themselves as Foreman Instructors on the basis of same scale being drawn by their counter parts in State of Punjab.** It is no more res integra that the Government of Himachal Pradesh is not bound to follow the pay scales granted by the State of Punjab to its employees. In State of Himachal vs. **P.D. Attri** and others, (1999)3 SCC 217, the Hon'ble Apex Court ...."
>
> 13. Following the aforesaid mandate, the Division Bench of this Court in State of Himachal Pradesh and Others vs. **Dr. Suman Sharma**, 2020 (4) Shim. LC 2031 ...."
>
> 15. Thus, the qualification for the post of Foreman Instructor in Punjab, in the case of direct recruitment is possession

> of First Class Bachelor Degree or Master degree and by way of promotion, experience of 10 years as regular Workshop Instructor is required. Petitioners neither hold the qualification as required for the post of Foreman Instructor through direct recruitment in State of Punjab nor have the requisite experience of 10 years before their promotion. Further, **even the essential qualification prescribed for the post of Workshop Instructors in the State of Himachal Pradesh and State of Punjab are not identical**.

16(i-h). While negating the claim of Technicians (Junior Technicians, Technician Gr-II and Technician Gr-I working in the Irrigation and Public Health Department-now JSV Department, in the State of Himachal Pradesh for the re-revised pay scale with higher initial start as granted to Technician's in the State of Punjab from 01.10.2012} the Division Bench of this Court in CWP No 372 of 2017, titled as **State of Himachal Pradesh and others versus Narinder Singh and others,** decided on 24.06.2025, has reiterated that the State of Himachal Pradesh is neither bound to adopt nor to follow the pay scales prescribed by another State, including the

State of Punjab for its employees. There is no law which commands the State of Himachal Pradesh either to adopt or to follow the pay scales granted by the State of Punjab for its employees. By virtue of Entry No 41, in State List, under the Seventh Schedule, the State of Himachal Pradesh is competent to regulate conditions of service, including grant of pay scales and the revised pay scales for its employees. Even if, in the past, the State of Himachal Pradesh had adopted and followed the pay scales of another State (Punjab State) then also, the State of Himachal Pradesh is not bound to follow every change or amendment which is carried out or is brought by another State. Unless and until the State of Himachal Pradesh by way of a conscious policy decision expressly adopts pay scales granted to its employees by another State, including State of Punjab, till then, an employee has neither any vested right nor any legally enforceable claim for same pay scales which were granted by the State of Punjab to its employees. Even within the same employer, an anomaly cannot be inferred by mere

similarity in designation. The onus to establish parity or equation lies on person claiming such benefits and in the absence of any cogent and convincing material {based on the State Service Rules and the State Revised Pay Rules}, such a plea cannot be accepted on the mere plea that the persons with same designation have been granted a particular pay scale in another State, including the State of Punjab.

Based on the principles outlined by the Hon'ble Supreme Court in the cases of **P. D. Attri, Secretary, Mahatma Gandhi Mission and Sudhir Budakoti (supra)** and the judgements passed by this Court, in **Balvinder Singh Mahal, Dr. Suman Sharma, R.P. Sood, Veterinary & Animal Sciences Teachers Assn, Attar Singh** and in case of **Narinder Singh (supra),** this Court holds that the Impugned Order dated 13.04.2018 [Annexure P-1] passed by Learned State Administrative Tribunal directing the Petitioner-State Authorities to grant the pay scale of Rs 1800-3200 to the Respondents-Employees at par with their counterparts in State of Punjab w.e.f.

01.01.1986 *is erroneous in law,* ***for the reason,*** *Firstly, as per* Entry No 41 in State List under Seventh Schedule of the Constitution of India, the State Government has exclusive jurisdiction over the State Public Services; and *secondly,* every State, including the State of Himachal Pradesh is separate legal entity, having its own independent and individualistic way of governance, including mode and manner of prescribing the conditions of service including pay scales and revised pay scales for the employees of state public services; and *thirdly,* there is neither any constitutional mandate nor any law which commands the State of Himachal Pradesh to adopt or follow the pay scales which exist or have been prescribed for its employees by the State of Punjab ; and *fourthly,* even the Rules, Regulations, Norms notified by another State or the State of Punjab for its employees are not ipso-facto binding on employees in the State of Himachal Pradesh; and *fifthly,* neither any Court nor any Tribunal can mandate the Petitioner-State of Himachal Pradesh to adopt, follow and apply

the conditions of service, including the pay scales or revised pay scales prescribed by virtue of the rules, regulations, notifications issued by another State or the State of Punjab for its employees ; and *sixthly,* the Impugned Order passed by the Tribunal cannot sustain, when, the Petitioner-State, by way of a policy decision has not "expressly adopted" either the Service Rules of the Revised Pay Rules or regulations or notifications prescribing conditions of service including admissibility of pay scale or revised pay scales given to Inspector in the State of Punjab; and *seventhly,* even if, in the past, the Petitioner-State of Himachal Pradesh had expressly adopted, followed and applied the rules, regulations, instructions or norms governing pay scales or revised pay scales, then also, the Respondent-Employees do not any fundamental or legal right to seek its enforcement for all times to come, in perpetuity ; and *eighthly, e*ven in case of an express adoption in the past, the intent of the order of adoption has to be tested/examined in facts of each case, as to whether such adoption

is perpetual adoption or is event-centric adoption; and *ninthly,* in present batch of cases, nothing has been placed on record by Respondent Employees to assert and establish that the Petitioner-State had "consciously and expressly adopted" the pay scales or revised pay scales as given by the State of Punjab to the Inspectors (Audit/General); and *tenthly,* a perusal of the Additional Affidavit dated 21.09.2023 filed by the Petitioner-State reveals that by virtue of its legislative competency, the State of Himachal Pradesh had notified the State Service Rules {recruitment and Promotion Rules} and the State Revised Pay Rules i.e. the Himachal Pradesh Revised Pay Rules for its employees, including the Sub Inspectors (redesignated as Inspector Gr-II) by revising the pay scale of Sub-Inspectors/Inspector Grade-II) to Rs 450-800 *whereas* the category of Auditors and category of Inspectors (Gen) were given revised pay of Rs 570-1080 w.e.f. 01.01.1978 as per the State Revised Pay Rules on 31.03.1980 ***(Annexure A-2).*** The State Government issued a Notification on 16.03.1983, {Annexure P-2, in TA No

2526 of 2015}, redesignating Auditors as Inspectors (Audit). After redesignation of Auditors as Inspector (Audit), the State Government notified the Revised Pay Rules on 09.05.1991 ***(Annexure A-3/T),*** revising the pay scale of the Auditors/Inspector (Audit) and the category of Inspector (General side) from Rs 570-1080 to Rs 1640-2925 w.e.f. 01.01.1986. The State Govt issued a Notification on 01.06.1996 ***(Annexure A-1),*** merging cadres of Sub-Inspectors (redesignated as Inspectors Gr-II} with the cadre of Inspector (General and Audit) w.e.f. 01.07.1995 and by giving them a unified revised pay scale of Rs 1650-2925. The Petitioner State notified the Revised Pay Rules on 20.01.1998 ***(Annexure A-4),*** revising the pay scale of the Inspectors from Rs 1650-2925 to Rs 5480-8925 w.e.f. 01.01.1996, which was further revised on 26.08.2009 ***(Annexure A-5***) to Rs 10300-34800+3600 GP w.e.f 01.01.2006 and the revised scale notified thereafter.

In facts of present batch of cases, the Respondent-Employees, being Inspectors were granted the pay scales and the revised pay scales in terms

of the State Revised Pay Rules notified under the proviso to Article 309 of the Constitution of India. By virtue of the State Service Rules and the State Revised Pay Rules, the Respondent-Employees, being Inspectors were granted the revised pay scale of Rs 1640-2925 w.e.f 01.01.1986 {which after merger on 01.06.1996 was revised to Rs 1650-2925 w.e.f. 01.07.1995} and these Revised Pay Rules occupied the field from 01.01.1986. The Impugned Order dated 13.04.2018 {Annexure P-1} passed by the Learned Tribunal mandating the *Petitioner-State of Himachal Pradesh to grant the pay scales of Rs 1800-3200 w.e.f. 01.01.1986 on Punjab pattern* in derogation of State Revised Pay Rules notified by the State of Himachal Pradesh coupled with the fact that the State Revised Pay Rules which occupied the field at relevant time have not been assailed by the Respondent Employees; *and* nothing has been placed on record by the Respondent-Employees to establish that the State of Himachal Pradesh was mandatorily bound to adopt or follow the Revised Pay Rules or norms which were notified by another State or

by the State of Punjab. Moreover, in terms of the mandate of Law declared by the Honble Supreme Court and by this Court, once no law commands the State of Himachal Pradesh to adopt and to follow the pay scales prescribed/given by the State of Punjab therefore, the Impugned Order passed by Learned Tribunal, for granting the pay scale on Punjab pattern, being erroneous in law, cannot pass the test of judicial scrutiny and accordingly, the Impugned Order is quashed and set-aside.

17. *Second contention* of the Learned Advocate General is that the Impugned Order granting pay scales in view of "mere similarity in nomenclature or designation" (of Inspectors}, by "ignoring other relevant factors" that employees governed by different set of rules, belonging to different cadres in different States was perverse and is erroneous.

Above contention of the Learned Advocate General has force, for the reason, *firstly,* similarity in pay scale cannot be inferred "merely on the basis of similarity in designation"; and *secondly,* in order to infer parity-equation, between both set

of employees are needed to have been appointed by the same authority and the eligibility including qualifications, classification of posts, the mode of recruitment, criteria of selection, nature of work, job, duties, functions, responsibilities and other conditions of service in terms of service rules are identical in all respects; and *thirdly,* the Impugned Order directing the State of Himachal Pradesh to grant pay scale of Rs 1800-3200 w.e.f. 01.01.1986 on Punjab Pattern *cannot be made applicable* in the Petitioner-State of Himachal Pradesh, when, in the State of Punjab, the Inspectors had claimed pay scale of Rs 1800-3200, {which was a selection grade} as given to the categories of Auditors in other departments and as given to Assistants / Accountants in the State of Punjab ; and *fourthly,* in the State of Himachal Pradesh, by virtue of the Himachal Pradesh Revised Pay Rules notified on 23.07.1990 ***(Annexure A-10),*** the Assistants and Accountants working in other departments of the State of Himachal Pradesh (redesignated as Senior Assistants) were already given the revised pay scale

of Rs 1800-3200 w.e.f. 01.01.1986 ; and *fifthly,* in the State of Himachal Pradesh, though the Junior Auditors working in other departments, including Local Audit of Finance department were granted the pay scale of Rs 1500-2640 with selection grade of Rs 1800-3200 after 5 years of service on or after 01.01.1986 as per the Himachal Pradesh Revised Pay Rules notified on 12.09.1991 (***Annexure A-8)*** and once nothing has been placed on record to establish wholesome and wholesale identity between Junior Auditors in the Local Audit in Finance Department vis-à-vis Respondent Employees, being Inspectors in Cooperation Department in the State of Himachal Pradesh, based on eligibility (including qualifications), mode of selection-recruitment, factum of having been appointed by same or different authority, nature of work, job profile, duties, functions, value of work, difference in skills and responsibilities, reliability, dexterity and the conditions of service including the promotional avenues etc. therefore, the Impugned Order directing the State of Himachal Pradesh to grant pay scale of Rs 1800-3200, which in-fact was

a selection grade granted to the Junior Auditors cannot be ipso facto granted to Respondent-Employees herein; and *sixthly,* merely because the selection grade of Rs 1800-3200 w.e.f. 01.01.1986 has been granted to the Junior Auditors in State of Punjab and/or in the State of Himachal Pradesh cannot form the basis for granting this scale to Respondents -Employees, who were Inspectors in the Cooperation Department of the Petitioner-State; and *seventhly,* the issue as to whether the Respondent-Employees, being Inspectors were to be granted the selection grade or not w.e.f. 01.01.1986 fell within the domain of the expert body or the pay commission or the State and the same cannot be automatically claimed as of right unless the state-employer by a policy decision decides to grant the selection grade to the Respondent-Employees; and *seventhly,* even the Respondents-Employees have not placed on record any statutory rule or norm etc. which creates an enforceable legal right for granting the selection grade of Rs 1800-3200 w.e.f. 01.01.1986 to all employees, including the Inspectors irrespective of

any other preconditions as of right; and *eighthly,* nothing has been placed on record by Respondent Employees to establish that the selection grade was admissible for the post of Inspectors in Cooperation Department after 01.01.1986; *and ninthly,* once the *subject post* (Inspectors in Cooperation department) and the reference post (Junior Auditors in Local Audit department under Finance Department) are different entities, constituting different cadres, under different establishments, having dissimilar eligibility conditions including qualifications and have dissimilar powers, job profile, duties, responsibilities, promotional avenues etc. and both were governed by different set of rules therefore, mere similarity in nomenclature or designation cannot be the sole determinative test for inferring parity-equation; and *tenthly,* in the present batch of cases, once the Petitioner State had notified the State Revised Pay Rules on 09.05.1991 (Annexure A-3, with additional affidavit filed in case of Jagdish Kumar) discontinuing the selection grade for Inspectors-Respondents-Employees but the Respondent Employees have slept over their

rights as well as remedies and had acquiesced to discontinuance or non-grant of selection grade from 1991 till their respective retirements coupled with the fact only Respondent no 1, woke up from the slumber after 16 years and submitted representation on 07.07.2007 and ***acquiescence disentitles the Respondent-Employees for any relief*** ; and *lastly,* in totality of circumstances, the Impugned Order dated 13.04.2018 {**Annexure P-1**} mandating the State of Himachal Pradesh-petitioners to grant the pay scale on Punjab pattern, cannot pass the test of judicial scrutiny, in view of the mandate of law discussed herein, and thus the Impugned Order is interdicted and set-aside.

EQUATION BETWEEN TWO DIFFERENT CADRES OR EMPLOYEES GOVERNED BY DIFFERENT SET OF RULES OR DIFFERENT ENTITIES IS IMPERMISSIBLE:

17(i). While outlining the broad parameters for invoking "equal pay for equal work", the Honble Supreme Court has held in **State of Punjab versus Jagjit Singh, (2017) 1 SCC 148,** that "onus of proof" of parity between the subject post and reference post is of the person, who claims it by establishing

that "unequal pay scales is based on no classification or irrational classification" *and further mandated that in case,* the subject post and reference post are in different establishments, having different management having different control under different entities *and* if both these post are in different geographical locations *and* merely because at any earlier point of time, the subject post and reference post were placed in the same pay scale cannot be a ground to accept the plea of equal pay for equal work and mere nomenclature cannot be determinative of parity. Claim for parity or equal pay for equal work" is neither attracted nor can it be accorded, in case of "dissimilar powers, duties, responsibilities and even absence of proof of equal sensitivity, qualitatively responsibility, reliability and confidentiality, volume of work, the mode of recruitment and pay scales can be different if hierarchy and promotional avenues of the subject post and reference post is different.

17(i-a). Even if parity existed in the past, then the same cannot made the basis for same pay scales ignoring the difference in method of recruitment and

qualifications and the fact that the posts were in different organizations, has been answered by the Honble Three Judges of the Supreme Court in the case of **Delhi Transport Corporation Security Staff Union (Regd) versus Delhi Transport Corporation (2018) 16 SCC 619,** by mandating that the doctrine of "equal pay for equal work" should not be misunderstood and misapplied, by freely revising and enhancing pay scales across the board and Tribunals shall exercise restraint, in absence of any material to hold that pay scale were consciously kept at par keeping in mind aspects with regard to qualifications nature of duties etc. Merely because the pay scales may have been remained the same cannot lead to conclusion of a conscious parity.

17(i-b). Claim of incumbents for same pay scales alleging discrimination or arbitrariness was turned down in an eventuality where two set of persons belonged to different cadres and were governed by two set of rules by the Hon'ble Supreme Court in **Hirandra Kumar versus High Court of Judicature at Allahabad and another (2020) 17 SCC 401,** in

the following terms:

> 29. For the same reason, **no case of discrimination or arbitrariness can be made out on the basis of a facial comparison** of the Higher Judicial Service Rules, with the Rules governing Nyayik Sewa. **Both sets of rules cater to different cadres. A case of discrimination cannot be made out on the basis of a comparison of two sets of rules which govern different cadres.**

17(i-c). Claim for same pay scales, where the two groups are not equal and both do not belong to a homogenous group or class of persons and were not similarly placed, was turned down by the Hon'ble Supreme Court in case of **Sudhir Budakoti (supra)** in the following terms:

> 17. The question as to whether a classification is reasonable or not is to be answered on the touchstone of a reasonable, common man's approach, keeping in mind the avowed object behind it. If the right to equality is to be termed as a genus, a right to non-discrimination becomes a specie. **When two identified groups are not equal, certainly they cannot be treated as a homogeneous group. A reasonable classification thus certainly would not injure the equality enshrined**

under Article 14 when there exists an intelligible differentia between two groups having a rational relation to the object. Therefore, an interference would only be called for on the court being convinced that the classification causes inequality among similarly placed persons. *The role of the court being restrictive, generally, the task is best left to the concerned authorities.* When a classification is made on the recommendation made by a body of experts constituted for the purpose, courts will have to be more wary of entering into the said arena *as its interference would amount to substituting its views, a process which is best avoided.*

18. **As long as the classification does not smack of inherent arbitrariness and conforms to justice and fair play, there may not be any reason to interfere with it. It is the wisdom of the other wings which is required to be respected except when a classification is bordering on arbitrariness, artificial difference and itself being discriminatory.** A decision made sans the aforesaid situation cannot be tested with either a suspicious or a microscopic eye. Good-faith and intention are to be presumed unless the contrary exists. One has to keep in mind that the role of the court is on the illegality involved

as against the governance.

17(i-d). Plea for parity-equation between persons belonging to different cadres and in different States [which in present batch of cases relates to Himachal Pradesh vis-à-vis Punjab] was negated/repelled by the Hon'ble Supreme Court, in the case of **State of Madhya Pradesh through Principal Secretary and others versus Seema Sharma**, (2023) 14 SCC 376, in the following terms:

> 18. In Ramesh Chandra Bajpai (supra), this Court further held that it was well-settled that the doctrine of equal pay for equal work could only be invoked when the employees were similarly circumstanced in every way. Mere similarity of designation or similarity or quantum of work was not determinative of equality in the matter of pay scales. **The Court had to consider all the relevant factors such as the mode of recruitment, qualifications for the post, the nature of work, the value of work, responsibilities involved and various other factors.**
>
> **23. The fixation of scales of pay is a matter of policy, with which the Courts can only interfere in exceptional cases where there is discrimination between two sets of employees appointed**

> **by the same authority, in the same manner, where the eligibility criteria is the same and the duties are identical in every aspect.**

Based on the principle of law as mandated by the Hon'ble Supreme Court in the cases of **Jagjit Singh, DTC Security Staff Union, Hirandra Kumar, Sudhir Budakoti and Seema Sharma [supra]** and for reasons stated {as discussed in Para 17 above}, the Impugned order directing the State of Himachal Pradesh to grant pay scale of Rs 1800-3200 w.e.f. 01.01.1986 to the Respondents-Employees on the Punjab pattern cannot sustain, when, the Respondent Employees herein, belonged to different Services under different States, who are governed by distinctive Service Rules with variance in eligibility, qualifications, mode of recruitment and when, both are governed by distinctive State Service Rules and State Revised Pay Rules and Respondent Employees do not belong to one homogenous group of employees within the same State. In these circumstances, the Impugned Order dated 13.04.2018 passed by the Learned Tribunal inferring equation-parity in favour

of Respondents-Employees on mere *ipse-dixit* cannot sustain and therefore, Impugned Order is interdicted and accordingly set-aside.

18. *Third contention* of Learned Advocate General is that Impugned Order dated 13.04.2018, inferring parity-equation to the Respondents-Employees with the employees in the State of Punjab in absence of any material to establish parity-equation and also in the absence of any express equation-parity having been granted by the Petitioner-State of Himachal Pradesh for giving pay scale/selection grade of Rs 1800-3200 w.e.f. 01.01.1986 {as Inspectors}, is erroneous in law.

Above contention of the Learned Advocate General has force, *for the reason,* that the fixation of pay and grant of selection grade or time scales and extent of revision, date(s) of its implementation *and* the issue regarding determination of equation or parity has to be tested by taking into account various parameters i.e. the mode of recruitment, eligibility and qualification(s), nature of work, value of work, responsibilities, duties in the backdrop

of social, revenue and economic conditions besides exigencies and diverse situation within the exclusive domain of an employer. Right to parity-equation can accrue in case an employer takes a conscious decision to equate two or more posts and in the absence of any conscious decision having been taken by the State of Himachal Pradesh, no legally enforceable right accrues to Respondent Employees for parity-equation, either with the counterparts in the State of Punjab or with the category of junior Auditors or Assistants/Accountants in the State of Punjab and also within the Petitioner-State, which is absent, in the present batch of cases.

ANOMALY IN PAY CANNOT BE INFERRED IN ABSENCE OF EXPRESS EQUATION OF POSTS: VITIATES IMPUGNED ORDER AND DISENTITLES EMPLOYEES FOR RELIEF:

18(i). Perusal of the paper book indicates that there is no material on record to prove and establish that the petitioner-State of Himachal Pradesh had taken any conscious decision to equate Inspectors [Audit]/Inspector [General] with corresponding category of employees in the State of Punjab. An anomaly in pay arises only if the State Authorities by

way of conscious decision equates two or more posts {notwithstanding their different nomenclature or distinct qualifications or dissimilarity}. In absence of any conscious express equation, no anomaly is inferable and employees have neither any vested nor indefeasible right to claim parity.

18(i-a). While dealing with a similar fact-situation the Hon'ble Supreme Court in the case of **State of Uttar Pradesh and Another *Versus* Virendra Bahadur Katheria and Others, 2024 SCC OnLine 1712,** has mandated that parity cannot be claimed as an indefeasible and enforceable right except, where, the competent authority has taken a conscious decision to equate two posts notwithstanding their different nomenclature or their distinct qualifications. *In the absence of any express equation between the two posts, right of equality under Article 14 of the Constitution cannot be said to have been infringed.* Even the job relating to the creation, merger, de-merger or amalgamation of cadres within a service is the prerogative of the State, which is founded on a policy decision, and such decision

is not subject to judicial review unless it is found to be brazenly offending Article 14 and 16 of the Constitution of India, in the following terms:

> **53.** It needs no emphasis that prescription of pay scale for a post entails Policy decision based upon the recommendations of an expert body like Pay Commission. All that the State is obligated to ensure is that the pay structure of a promotional or higher post is not lower than the feeder cadre. Similarly, ***pay parity cannot be claimed as an indefeasible enforceable*** **right save and except where the Competent Authority has taken a conscious decision to equate two posts** notwithstanding their different nomenclature or distinct qualifications. Incidental grant of same pay scale to two or more posts, **without any express equation amongst such posts, cannot be termed as an anomaly in a pay scale** of a nature which can be said to have infringed the right to equality under Article 16 of our Constitution.
>
> **54.** Equally well settled is that **the creation, merger, de-merger or amalgamation of cadres within a service to bring efficacy or in the administrative exigencies, is the State's prerogative.** The Court in exercise of its power of judicial review would sparingly interfere in such a policy decision, unless it is found to

> have brazenly offended Articles 14 and 16 of the Constitution.

While examining the facts of the instant batch of cases in the light of facts of law in the case of **Virendra Bahadur Katheria [supra],** this Court has no hesitation to hold that the State of Himachal Pradesh has not taken any express conscious decision to equate the post of Auditors redesignated as Inspectors [Audit/Gen] existing in State of Himachal Pradesh with posts of Inspectors in the State of Punjab or to equate them with the posts of Junior Auditors in other Departments or with the posts of Assistants /Accountants in the State of Punjab and/or even within the State {being dissimilar posts and cadres, who are governed by different Service Rules with dissimilar service conditions}. I*n the absence of any conscious express equation, an anomaly in pay cannot be inferred, as has been erroneously inferred in the Impugned Order* In these circumstances, Impugned Order dated 13.04.2018 {Annexure P-1} inferring anomaly in pay of Respondent Employees (as Inspectors) by equating

and granting parity with the Inspectors (Gen/Audit) in the State of Punjab but without there being any conscious express equation, being wholly erroneous in law, cannot pass the test of judicial scrutiny and therefore, the Impugned Order [Annexure P-1] passed by Learned Tribunal is quashed and set-aside.

PLEA FOR EQUATION TO BE ESTABLISHED BY PLACING MATERIAL ON RECORD BY PERSON CLAIMING PARITY OR EQUATION:

18(ii). Negating the claim for parity on principle of equal pay for equal work, when, no material was placed before the Court, regarding the nature of duties of other categories, by the Hon'ble Supreme Court in **State of Haryana and another versus Tilak Raj and others, (2003) 6 SCC 123,** in the following terms:

> 11. A scale of pay is attached to a definite post and in case of a daily wager, he holds no posts. The respondent workers cannot be held to hold any posts to claim even any comparison with the regular and permanent staff for any or all purposes including a claim for equal pay and allowances. **To claim a relief on the basis of equality, it is for the claimants to substantiate a clear cut basis of equivalence and a resultant**

> **hostile discrimination** before becoming eligible to claim rights on a par with the other group vis- à-vis an alleged discrimination. **No material was placed before the High Court as to the nature of the duties of either categories and it is not possible to hold that the principle of "equal pay for equal work" is an abstract one.**

18(ii-a). While negating the claim for parity and equation where the person had failed to plead, prove and establish by cogent and convincing material that all things were equal between two posts in terms of eligibility, mode of selection, nature and quality of work, duties, reliability, confidentiality dexterity, functional need and responsibilities, then, in the absence of any such material on record, the claim for parity and equation was negated, by the Hon'ble Supreme Court in **Steel Authority of India Limited and others versus Dibyendu Bhattacharya, (2011) 11 SCC 122,** in the following terms:-

> 30. In view of the above, the ***law on the issue*** can be summarized to the effect that parity of pay can be claimed by invoking the provisions of Articles

14 and 39(d) of the Constitution of India by establishing that the eligibility, mode of selection /recruitment, nature and quality of work and duties and effort, reliability, confidentiality, dexterity, functional need and responsibilities and status of both the posts are identical. The functions may be the same but the skills and responsibilities may be really and substantially different. The other post may not require any higher qualification, seniority or other like factors. Granting parity in pay scales depends upon the comparative evaluation of job and equation of posts**. The person claiming parity, must plead necessary averments and prove that all things are equal between the concerned posts. Such a complex issue cannot be adjudicated by evaluating the affidavits filed by the parties.**

31. ***The onus to establish the discrimination by the employer lies on the person claiming the parity of pay.*** **The expert committee has to decide such issues, as the fixation of pay scales etc. falls within the exclusive domain of the executive.** So long as the value judgment of those who are responsible for administration i.e. service conditions etc., is found to be bonafide, reasonable, and on intelligible criteria which has a rational nexus of objective of differentiation,

> such differentiation will not amount to discrimination. It is not prohibited in law to have two grades of posts in the same cadre. Thus, the nomenclature of a post may not be the sole determinative factor. The courts in exercise of their limited power of judicial review can only examine whether the decision of the State authorities is rational and just or prejudicial to a particular set of employees. **The court has to keep in mind that a mere difference in service conditions does not amount to discrimination. Unless there is complete and wholesale/ wholesome identity between the two posts they should not be treated as equivalent and the Court should avoid applying the principle of equal pay for equal work.**

18(ii-b). Likewise, in **Civil Appeal No. 9124 of 2014, State of Himachal Pradesh and another versus Tilak Raj,** decided on 01.09.2014, the claim for parity and equation was disallowed, when, the employees were working in different cadres/different departments and nothing existed on record, qua the exactness and similarity of work and other parameters, by reversing the findings recorded by High Court, in the following terms:

22. It is also clear that disputed question of facts were involved in the petitions because according to the respondents, who were petitioners before the High Court, nature of work done by them was similar to that of the work of other Laboratory Attendants or Laboratory Assistants. **Without looking at the nature of work done by persons working in different cadres in different departments one cannot jump to a conclusion that all these persons were doing similar type of work simply because in a civil suit, one particular person had succeeded after adducing evidence. There is nothing on record to show that the High Court had examined the nature of work done by the respondents** and other persons who were getting higher pay scale. The High Court had also not considered the fact that qualifications required for appointment to both the posts were different. **In our opinion, the High Court should not have entertained all these petitions where disputed questions of fact were required to be examined. *Without examining relevant evidence regarding exact nature of work, working conditions and other relevant factors, it is not possible to come to a conclusion with regard to similarity in the nature of work done by persons belonging to different cadres***

> **and normally such exercise should not be carried out by the High Court under its writ jurisdiction. It is *settled law that the work of fixing pay scale is left to an expert body like Pay Commission or other similar body,* as held by this Court in several cases,** including the case of S.C. Chandra v. State of Jharkhand (2007) 8 SCC 279. Moreover, qualifications, experience, etc are also required to be examined before fixing pay scales. Such an exercise was not carried out in this case by the High Court.

18(ii-c). Similar principle of law that a party who claims parity must plead and proved similarity and parity by placing material on record, has been outlined by the Hon'ble Supreme Court in **Punjab State Electricity Board and another versus Thana Singh and others, (2019) 4 SCC 113,** in the following terms:

> 19. **The person claiming parity must produce material before the court to prove that the nature of duties and functions are similar and that they are entitled to parity of pay scales.** After referring to number of judgments and observing that **it is the duty of an employee seeking parity of pay to prove and**

establish that he had been discriminated against, this Court, in SAIL, held as under:-

> 22. It is the duty of an employee seeking parity of pay under Article 39(d) of the Constitution of India to prove and establish that he had been discriminated against, as the question of parity has to be decided on consideration of various facts and statutory rules, etc. The doctrine of "equal pay for equal work" as enshrined under Article 39(d) of the Constitution read with Article 14 thereof, cannot be applied in a vacuum. The constitutional scheme postulates equal pay for equal work for those who are equally placed in all respects. *The court must consider the factors like the source and mode of recruitment / appointment, the qualifications, the nature of work, the value thereof, responsibilities, reliability, experience, confidentiality, functional need, etc. In other words, the equality clause can be invoked in the matter of pay scales only when there is wholesome/ wholesale identity between the holders of two posts. The burden of establishing right and parity in employment is only on the person claiming such right.* (Vide U.P. State Sugar Corpn. Ltd. and Another v. Sant Raj Singh and Others (2006) 9 SCC 82, Union of India and Another v. Mahajabeen Akhtar (2008) 1 SCC 368, Union of India v. Dineshan K.K (2008) 1 SCC 586, Union of India and Others v. Hiranmoy Sen and Others (2008) 1 SCC 630, Official Liquidator v. Dayanand and Others (2008) 10 SCC 1, U.P. SEB and Another v. Aziz Ahmad (2009) 2 SCC 606 and State of M.P. and Others v. Ramesh Chandra Bajpai (2009) 13 SCC 635)".

20. **Burden of establishing parity in pay scale and employment is on the person**

claiming such right. There were neither pleadings nor any material produced by the respondents to prove that the nature of work performed by the Sub Fire Officers is similar with that of the Head Clerks and the Internal Auditors to claim parity of pay scale. As pointed out earlier, the burden lies upon the party who claims parity of pay scale to prove similarity in duties and responsibilities. In the writ petition, respondents have only claimed parity of pay scale with those of the employees working under the Punjab Government which was not accepted by the learned Single Judge. **Determination of parity or disparity in duties and responsibilities is a complex issue and the same should be left to the expert body.** When the expert body considered revision of pay for various posts, it did not revise the pay scale of Sub Fire Officers. When the expert body has taken such a view, **it is not for the courts to substitute its views and interfere with the same and take a different view.**

26. **The respondents have not produced any material to show that there is any similarity/identity between the posts of Sub Fire Officers and the Head Clerks, Head Clerk-cum-Divisional Accountants and Internal Auditors in terms of the nature of duties,**

> **responsibilities, qualifications and mode of recruitment etc. to apply the principle of parity of pay scale.** The learned Single Judge did not keep in view that the nature of duties and responsibilities performed by the Sub Fire Officers are different and parity cannot be claimed merely on the ground that they are categorized in one group. The judgment of the learned Single Judge and the impugned judgment of the Division Bench cannot be sustained and are liable to be set aside.

18(ii-d). While dealing with the prerequisites, for claiming equation or parity or equal pay for equal work, the Honble Supreme Court has outlined in **Punjab State Power Corporation Limited vs Rajesh Kumar Jindal and others, (2019) 3 SCC 547,** in the following terms:-

> 14. Ordinarily, the courts will not enter upon the task of job evaluation which is generally left to expert bodies like the Pay Commission etc. The aggrieved employees claiming parity must establish that they are unjustly treated by arbitrary action or discriminated. In Kshetriya Kisan Gramin Bank v. D.B. Sharma and Others (2001) 1 SCC 353, this Court held as under:-

> 7. The next question that arises for consideration is, as to what extent the High Court would be justified in exercise of its extraordinary jurisdiction under Article 226 to interfere with the findings of an expert body like the Equation Committee. In State of U.P. and Others v. J.P. Chaurasia and Others (1989) 1 SCC 121, **this Court unequivocally held that in the matter of equation of posts or equation of pay, the same should be left to the Executive Government, who can get it determined by expert bodies like the Pay Commission, and such expert body would be the best judge to evaluate the nature of duties and responsibilities of the posts** and when such determination by a commission or committee is made, the court should normally accept it and should not try to tinker with such equivalence unless it is shown that it was made with extraneous consideration…."

18(ii-e). Equation or parity in pay scale including the extent of revision has been approved to be an offshoot of the State Policy, lying within the exclusive domain of an employer as per the mandate of the Hon'ble Supreme Court in **Maharashtra State Financial Corporation Ex-Employees Association and others versus State of Maharashtra and others (2023) 11 SCC 186,** in the followisng terms:

> 27. That on **whether, and what should be the extent of pay revision, are**

> **undoubtedly matters falling within the domain of executive policy making.** At the same time, a larger public interest is involved, impelling revision of pay of public officials and employees. Sound public policy considerations appear to have weighed with the Union and state governments, and other public employers, which have carried out pay revision exercises, periodically (usually once a decade, for the past 50 years or so). The rationale for such periodic pay revisions is to ensure that the salaries and emoluments that public employees enjoy, should keep pace with the increased cost of living and the general inflationary trends, and ensure it does not adversely impact employees. Pay revisions also subserve other objectives, such as enthusing a renewed sense of commitment and loyalty towards public employment. Another important public interest consideration, is that such revisions are meant to deter public servants from the lure of gratification; of supplementing their income by accepting money or other inducements for discharging their functions.

Reference to the material on record in instant petition, indicates that Respondents-Original Applicants-Employees have not placed any cogent and convincing material on record to establish the

factum of parity and equation *vis-à-vis* counterpart category of employees in the State of Punjab. *In absence of any material on record to establish conscious express equation or parity having been accorded by the State of Himachal Pradesh* with the Inspector in the State of Punjab or with the Junior Auditors in other departments or Assistants/Accountants in the State of Punjab or within the Petitioner-State, *no anomaly in pay could be inferred.* For asserting anomaly and for claiming equation, the Respondent Employees were bound to plead and prove that *two posts were conferred equation by a Statute or Statutory Rule or the conscious express equation* granted by the State has been violated. Nothing has been placed on record to establish conferment of equation and its infraction by Petitioner-State of Himachal Pradesh. In these circumstances, the Impugned Order inferring anomaly, without there being any conferment of equation either by the Statute or by a Statutory Rules or a conscious express decision taken by the Petitioner-State reveals perversity, being contrary

to the principles mandated by the Hon'ble Supreme Court as discussed hereinabove and the Impugned order cannot sustain and is interfered with.

LIMITS OF JUDICIAL REVIEW IN MATTERS RELATING TO DETERMINATION OF PAY SCALES, EQUATION OF POSTS AND SALARIES:

19. *Fourth contention* of the Learned Advocate General is that Learned Tribunal could not pass the Impugned Order so as to substituting its views and rewrite the State Service Rules {R & P Rules} and State Revised Pay Rules for the post of Inspectors in cooperation department of the Petitioner State.

The above contention has substance, *for the reason,* that while dealing with the scope of judicial review in matters relating to "classification of posts, determination of pay scales, equation of posts and salaries", the Honble Supreme Court has mandated in case of **Union of India vs Indian Navy Civilian Design Officers Association, (2023) 19 SCC 482,** that these functions lie within the exclusive domain of an employer, which may be got examined by the expert body i.e. the pay commission or departmental expert body [as the case may

be}. Power of judicial review cannot be invoked by Courts so as to substitute its own wisdom vis-à-vis the evaluation to be undertaken by the expert body, who has to examine the classification of post, determination of pay structure, equation of posts and salaries prescribed by the expert body which is accepted by the executive, the State. While exercising judicial review, the Courts should be slow in showing indulgence in matters having financial implication. Unless and until a gross case of infraction of a Statute or any Statutory Rules or violation of any conscious express decision taken by a State (granting equation or parity) or a case of grave error revealing arbitrariness or unfairness had crept in while fixing the pay for a post and that too on the basis of cogent, convincing and conclusive material on record, Courts should be slow in showing indulgence. Moreover, an employee who asserts a claim for parity or equation or equal pay for equal work is bound to assert and establish a claim on the basis of material on record. In the absence of material on record, the

Court cannot infer equation-parity and grant same pay scales as granted to counterparts in another State or in the State of Punjab.

19(i). Even the directions contained in Impugned Order ***amounts to violating the core principle of separation of power*** for the reason that every State has been vested with primary responsibility of policy formulation. The discretion vested in the State to frame a policy including the mode, manner and time and stage of issuance lies within the exclusive domain of the State. ***No person has any vested right to compel the State to formulate a policy*** at its asking, and that too in a specific manner. Courts cannot encroach upon the field marked by the Constitution for the Legislature or Executive. Courts can only examine the legality or validity of legislation or the governmental action. ***No person or an employee has any vested right to seek revision of pay scales or fixation of pay granted by another State Government for its employees***. There is no Constitutional mandate that rules, norms or decisions taken for governing the

conditions of service of the employees in one State will ipso-facto apply to the employees of another State. Even if, one State had expressly adopted the rules, norms or decision taken by another State in the past *and/or* on a particular occasion *and/ or* with reference to an issue in specific fact-situation and therefore, even in any such eventuality, ***an employee does not have any enforceable and vested right to claim benefit of such adoption in perpetuality.*** Moreover, the prescription of pay scales is ***based on its policy decision taken after considering various parameters*** including its staffing pattern, Recruitment and Promotion Rules, method of recruitment, educational qualifications, geographical, traditional and territorial conditions, administrative needs and requirements, the financial resources, including financial implications and other ancillary factors etc. coupled with the fact that ***no law commands the State of Himachal Pradesh to ipso-facto follow Punjab*** pattern of pay scales and ***once there is no express adoption of the Punjab pay scales*** and even there is **"no conscious**

express equation-parity" of posts of Inspectors in Himachal with employees in the State of Punjab and therefore, once above foundational parameters are not satisfied in instant case, therefore, Impugned Order is vitiated.

COURTS-TRIBUNALS CAN NEITHER REWRITE RECASTE OR REFRAME RULES CONTRARY TO EXISTING STATE RULES:

19(i-a). Prescribing conditions of service, including grant of pay scales or revised or revised pay scales for its employees is ***based on a policy decision to be taken after considering various parameters*** including staffing pattern, recruitment and promotion Rules, method of recruitment, educational qualifications, geographical, traditional, territorial conditions and administrative requirement and need for constituting and reconstituting its services/cadres, which includes merger of cadres, de-merger, equation of posts, inflation, financial implications and financial resources and other ancillary factors. Aforesaid task is assigned to experts by constituting a pay commission or any like expert body. On receipt of recommendations from expert body, the State Government after due

deliberation accepts recommendations either wholly or in part. Upon acceptance of recommendations by the Government, the State Authorities formally notifies the acceptance in the form of Pay Rules. After issuance of these Rules, that a right accrues to an employee for getting benefit of pay as per notified revised pay or rerevised pay rules and norms. In this backdrop, once the Petitioners-State of Himachal Pradesh had notified the HP Civil Services (Category/Post wise Revised Pay) Rules on 31.03.1980 [Annexure A-2] and on 09.05.1991 [Annexure A-3], revised the pay scale of Auditors redesigned as Inspector, from Rs.570-1080 to Rs 1640-2925 w.e.f. 01.01.1986 and the State Service Rules and State Revised Pay Rules occupied the field therefore, unless these Rules were questioned and declared ultra-vires, till then, the presumption of constitutionality is attached to these Rules, in terms of the mandate of the Honble Supreme Court in the cases of **Dr Jaya Thakur vs Union of India, (2023) 10 SCC 276 [Para 73],** and **Allahabad University vs Geetanjali Tiwari, 2024 SCC Online**

3776 [Para 27}. Moreover, there is no law which commands the State of Himachal Pradesh to ipso-facto follow the rules or norms notified for its employees by the State of Punjab or another State. The State of Himachal Pradesh is not legally bound to follow pay scales notified by the State of Punjab automatically. Even any change carried out by the State of Punjab or by another State cannot be sought to be enforced by an employee. Notwithstanding the above, a State may in its wisdom, decide to follow and apply the rules or norms governing the conditions of service, including pay or revised pay notified by another State or the State of Punjab. Even equation or parity cannot be claimed as of right, unless such equation accrues from **"a Statute or a Statutory Rule or a *conscious express equation and it adoption by the State***.

The directions contained in the Impugned order entitling the Respondents-Employees who are employees of the Petitioner State by granting them the pay scales as existing in the State of Punjab by acting contrary to and dehors the State Revised

Pay Rules so as to ***rewrite, recast and reframe the State Rules by mandating to follow the Punjab pattern or to grant benefits on the basis of rules existing in State of Punjab is certainly beyond the power and authority vested in the Tribunal-Courts,*** in view of the principles mandated by the Honble Supreme Court in the case of ***Dr Ashwini Kumar vs Union of India, (2020) 13 SCC 585*** {Para 13}. *The Impugned Order* ***violates the core principle of separation of power*** by encroaching upon the field of policy making and the power to frame Rules under proviso to Article 309 of the Constitution of India. Courts can only examine the legality or validity of legislation or the governmental action. ***No person or an employee has any vested right to seek the revision of pay or fixation of pay as granted by another State.***

Based on the above discussion and the principles of law outlined by the Hon'ble Supreme Court in cases of **Dibyendu Bhattacharya, Tilak Raj, Thana Singh, Dr Jaya Thakur, Geetanjali**

Tiwari, Indian Navy Civilian Design Officers Assn and **Ashwini Kumar** [supra], the Impugned Order directing the Petitioner-State of Himachal Pradesh to grant the pay scale on Punjab pattern as given by the State of Punjab, by giving a complete go bye and by acting in derogation of and dehors the State Revised Pay Rules i.e. HPCS Revised Pay Rules of 09.05.1991 [Annexure A-3 in the file of Jagdish Kumar] and subsequent Revised Pay Rules, cannot sustain.

DIFFERENT PAY NORMS PERMISSIBLE BETWEEN TWO SEPARATE ENTITIES:

19(ii). While adjudicating the claim for parity of employees of a Board, autonomous statutory body *vis-à-vis* the employees of the State of Gujarat the claim was negated that the Board employees cannot claim parity with the State Government employees as Board is an independent entity and it might have its own financial capacity and therefore its employees cannot claim parity with the employees of the State Government. Even if the in principle, within the same State, the claim for parity between State

Board *vis-à-vis* the State Government employees was negated by the Hon'ble Supreme Court in **Rajesh Pravinchandra Rajyaguru versus Gujarat Water Supply and Sewerage Board and others, (2021) 19 SCC 128,** in the following terms:

> 18. Being daily rated employees of the Respondent–Board, they cannot claim as of right similar treatment as Government employees. **The Respondent-Board is an independent entity and it might have its own financial capacity and therefore its employees cannot claim parity with the employees of the State Government.**
>
> 19. **The State Government and the autonomous Board/bodies cannot be put at par.** The Board has to depend upon their own financial resources. In the recent decision in the case of Punjab State Cooperative Milk Producers Federation Limited and Another (Supra) it is observed in paragraph 32 as under:
>
> > "32. The Central or State Government is empowered to levy taxes to meet out the expenses of the State. It is always a conscious decision of the Government as to how much taxes have to be levied so as to not cause excessive burden on the citizens. But the Boards and Corporations have to depend on either their own resources or seek grant from the Central/ State Government, as the case may be,

> for their expenditures. Therefore, the grant of benefits of higher pay scale to the Central/State Government employees stand on different footing than grant of pay scale by an instrumentality of the State."
>
> Therefore, the daily rated employees of the Board cannot as a matter of right claim the parity of pay scales with the Government employees.

In the backdrop of the mandate of law in the case of **Rajesh Pravinchandra Rajyaguru,** two distinct and separate entities within a state cannot *ipso-facto claim equation-parity* unless the decision is adopted. In the instant case, there is nothing on record that the petitioner-State Authorities had adopted the revised pay scales prescribed by the State of Punjab and in the absence of any express adoption, the Impugned order (Annexure P-1), inferring parity or equation in favour of Respondents -Employees, being without authority of law is turned down.

FAILURE TO ASSAIL STATE REVISED PAY RULES OF 1991 DISENTITLES RESPONDENT-EMPLOYEES FOR ANY RELIEF:

20. *Last contention* of the Learned Advocate

General is that the Respondents-Original Applicants-Employees were governed by the State Revised Pay Rules dated 09.05.1991 [Annexure A-3], revising the pay scale of Auditors redesigned as Inspector, from Rs.570-1080 to Rs 1640-2925 w.e.f. 01.01.1986 and once these Rules have not been questioned/ assailed therefore, the Learned Tribunal had erred in granting the pay scales to Respondnets-Employees on the Punjab pattern, as was granted to Inspectors in the State of Punjab.

20(i). Not laying a challenge to the extant rules disentitles a person for relief, by the Honble Supreme Court in **Madhya Pradesh Public Service Commission versus Manish Bakawale and others, (2021) 18 SCC 61,** in the following terms:

> 20. In the present facts and circumstances, the Rule concerned provides for a definite process, which was also depicted in the advertisement calling for applications. **The Rule is not under challenge. The candidate concerned had applied without demur and also furnished a declaration with regard to correctness of details provided. He cannot thereafter turn around to seek alteration of the position**

to the detriment of others.

In present batch of cases, the Respondents -Employees have not laid any challenge to the State Revised Pay Rules dated 09.05.1991 [Annexure A-3 in file of Jagdish Kumar file] notified by the State of Himachal Pradesh, giving pay scale of Rs. 1640-2925 to Inspectors w.e.f. 01.01.1986. In absence of any challenge to the Rules, the only legal drawable conclusion is that Himachal Pradesh Civil Services Revised Pay Rules dated 09.05.1991 holds the field and are valid. Thus, the directions issued by the Tribunal in the Impugned Order dated 13.04.2018, directing to grant the pay scales to the Respondent Employees, which were granted by the State of Punjab amounts to giving a complete go-bye and by acting dehors the State Rules notified under the proviso to Article 309 of the Constitution of India so as to render the State Revised Pay Rules as redundant or otiose is impermissible. *Moreover, the findings recorded by the Tribunal in Paras 11 and 16 of Impugned Order* that the post of Inspector was a higher post vis-à-vis post of Junior Auditor

in other departments {in State of Punjab as detailed in para 10 of the Impugned Order} cannot be of any assistance to the Respondents Employees, *for the reason,* the aforesaid two posts were in different states and were in different cadres and were governed by different State Rules. *Even the findings recorded in Para 16 of Impugned Order* that the post of Inspector was higher post than that of Auditors is misplaced, when, the Auditors were redesignated as Inspectors on 16.03.1983 and by virtue of the State Revised Pay Rules dated 09.05.1991 both were placed in the same pay scale of Rs 1640-2925 w.e.f. 01.01.1986 and therefore, the findings recorded in Impugned Order being contrary to the notified conscious State decision and the State Revised Pay Rules, cannot sustain and the same is quashed and set-aside.

CONTENTIONS OF RESPONDENT EMPLOYEES AND ANALYSIS:

21. Learned Counsels appearing for Respondent Employees, Mr Surinder Saklani and Ms Shreya Chauhan have supported the Impugned Order passed

by Learned Tribunal. During hearing, three additional contentions have been made, *firstly,* once Registrar Cooperative Societies has sent a communication to Principal Secretary [Cooperation] on 19.10.2010 and on 28.04.2012 [Annexure P-7 and Annexure P-16 in TA file of Employees Association] for giving pay scale of Rs 1800-3200 to the Respondent-Employees as was given by the State of Punjab then, the denial of said pay scale was illegal ; and *secondly*, Petitioner-State of Himachal Pradesh cannot deviate from the Punjab Pattern of Pay scales, as was given to Inspectors in Punjab in the case of Harbhajan Singh Bajwa (supra).

21(i). So far as the *first contention* is concerned, this Court is of the considered view that ***mere internal communications or recommendations or even the file noting's cannot be relied upon as the basis to claim a right,*** unless the same ripens into a decision, which is duly notified inaccordance with law, in view of the mandate of the Honble Supreme Court in the cases of **KSB Ali versus State of Andhra Pradesh, (2018) 11 SCC 277,** which was

reiterated in the case of **Mahadeo versus Smt Sovan Devi & Ors** (CA No 5876 of 2022 i.e. 2022 Live Law (SC) 730 and reinforced in case of **Municipal Committee versus Jai Narayan & Co (2023) 14 SCC 766**. In these circumstances, the contention of Learned Counsel(s) for the respondent Employees does not hold good and the same is turned down.

21(ii). So far as *second contention* is concerned, the same cannot be of any assistance, *for the reason*, that no law commands the State of Himachal Pradesh to follow the pay scales granted to its employees by the State of Punjab. Even if the Petitioner State had followed Punjab pattern of scales, in the past, then also, the Petitioner State is not bound to follow the same for future also. The judgement rendered by Honble Punjab and Haryana High Court in the case of **Harbhajan Singh Bajwa** (supra) cannot ipso-facto be applied to the Respondent employees in the State of Himachal Pradesh, when, the alleged parity-equation accorded in the aforesaid judgement to the Inspectors in Punjab with the Junior Auditors and Assistants/ Accountants in Punjab cannot be

ipso facto extended/applied in the State of Himachal Pradesh, unless and until the Respondent-Employees herein, establish such a right either under a Statute or any Statutory Rules or by an conscious express equation of posts by adoption, duly notified by the State inaccordance with law. Absence of these pre-requisites disentitles the Respondent-Employees for any relief. Moreover, the higher pay scale of Rs 1800-3200 w.e.f. 01.01.1986 granted to Inspectors in the State of Punjab (above normal scale of Rs 1640-2925 as applicable w.e.f. 01.01.1986) was in-fact a selection grade, which cannot be granted automatically, *for the reason,* that the issue as to whether the selection grade was to be given or discontinued for Inspectors in the State of Himachal Pradesh was a policy decision. Nothing has been placed on record by the Respondent Employees to establish admissibility of this benefit to them, as the matter regarding creation of cadres, abolition of cadres, merger of cadres, amalgamation of cadres and prescription of pay scales, including selection grade or time scales lies within the domain

of employer in terms of the mandate of the Honble Supreme Court in the case of **Union of India versus Pushpa Rani (2008) 9 SCC 242** and in case of **Dhole Govind Sahebrao and Ors versus Union of India, (2015) 6 SCC 727,** nothing has been placed on record to establish the infraction of any statutory right or legal right regarding the admissibility of selection grade or pay scale of Rs 1800-3200, when, the State Revised Pay Rules dated 09.05.1991 [Annexure A-3 in Lead Case of Jagdish Kumar] did not provide for grant of any such pay scale to the Respondent-Employees herein, in the fact-situation, of present batch of cases.

21(iii). So far as *third contention*, is concerned, by placing reliance on the judgment of the Honble Supreme Court, in case of **Haryana Minor Irrigation Tubewells Corporation versus G S Uppal (2008) 7 SCC 375** is concerned, the same was distinguishable on facts, wherein, after rectification of anomaly, the rectified pay scale was granted to deputationists but was denied by Corporation to its own employees was held to be discriminatory.

CONCLUSION:

22. In view of discussion and based on the material on record and principles of law as referred to above and in facts of instant case, the **questions formulated are answered,** as under:

In reference to the **Question no (i) in Para 13,** as to whether State of Himachal Pradesh is bound to adopt and grant the same pay scales to the Respondent-Employees which are granted by another State including the State of Punjab **is answered in the negative,** *for the reason,* that the Petitioner-State of Himachal Pradesh had notified the State Service Rules and the Himachal Pradesh Civil Services [Revised Pay] Rules on 09.05.1991 [Annexure A-3] giving revised pay scale of Rs. 1640-2925 w.e.f. 01.01.1986 to the Auditors {after having been designated as Inspectors on 16.03.1983} then, Respondent-Employees in the State of Himachal Pradesh have no vested right to seek benefit of revised pay scales as was granted to its employees by the State of Punjab. The State of Himachal Pradesh cannot be compelled to follow the conditions of

service, including pay scales prescribed by another State, including the State of Punjab. *There is no law (Constitutional mandate or Statute or Statuary Rule) which commands the Petitioner-State of Himachal Pradesh to follow or to adopt the pay scales or other conditions of service notified by the State of Punjab by issuing the Punjab Pay Revision Rules or Regulations or Norms.* Even if there is no legal obligation on the State of Himachal Pradesh to follow the Punjab Pay Rules or norms yet, the State of Himachal Pradesh may, in its wisdom, as a policy matter, may decide to follow the Punjab Pay Rules and norms by way of an "express adoption". An adoption cannot be an adoption in perpetuity. In the past, in case the State of Himachal had expressly adopted the conditions of service as prescribed by another State or the State of Punjab therefore, the State of Himachal Pradesh is not bound to follow, all or any of the changes carried out by another State or the State of Punjab automatically. ***Unless and until the changed norms or the new norms notified by another State or the State of Punjab***

are expressly adopted and thereafter notified inaccordance with law so as to fructify as a decision, till then, such changed or new or altered rules or norms are not ipso-facto binding on the State of Himachal Pradesh. Once the State Revised Pay Rules of 09.05.1991 [Annexure A-3 in Lead Case of Jagdish Kumar] occupied the field and the Respondents-Original Applicants-Employees have not laid a challenge to State Revised Pay Rules then, Respondent Employees cannot have any enforceable right for a pay scale or selection grade, dehors the State Service Rules or State Revised Pay Rules. Further, issue as to whether the pay of employees is to be revised or not and whether such revision has to be with selection grade or not then, the mode, manner, extent of revision and date of its applicability is dependent upon a policy decision to be taken by the State Authorities. For this purpose, State may in its wisdom, may take a call regarding revision of pay (including admissibility of selection grade) by an expert body, {named as Pay Commission or any other departmental body of experts), who

examines pros and cons, on the basis of various parameters like staffing pattern, the Recruitment and Promotion Rules, the method of recruitment, educational qualifications, geographical /traditional/ territorial conditions, administrative needs, financial resources, inflation, financial implications, issue of examining equation of posts, need for structuring, restructuring {including merger and bifurcation of existing cadres or services} etc and then to furnish a report to the State Government. Such a report, is subject to examination and approval by the State Government, who may, by way of a policy decision, in its wisdom, decide to accept the report wholly or in part as it is or with modifications. It is after acceptance of the report and issuance of formal notification regarding the revised pay rules and norms, a right and entitlement accrues to an employee for receiving the revised pay as per said Rules or norms which hold the field. *In case, no Pay Commission exists,* then also, the State Authorities in its wisdom, can decide by way of policy decision, for giving the revised pay scales

(with or without selection grade) for its employees. "Presumption of constitutionality" is attached to the "Statutory Rules" notified under provisio to Article 309 of the Constitution of India. An employee has a right to assail Statutory Rules, alleging violation of any fundamental rights or any legal rights. The ***Courts or Tribunal can neither rewrite or recast or reframe or add anything to existing statutory rules*** so as to pass an order in violation of or infraction of or contrary to the State Service Rules or State Revised Pay Rules of 1991 so as to render Statutory Rules inoperative, redundant or nugatory, by encroaching upon the domain of executive and the rule making power of the executive under the provisio to Article 309 of the Constitution of India. Even, the Impugned Order inferring anomaly between employees of two different States (Himachal vis-à-vis Punjab) who are borne in two different cadres, have different entities under different establishments, and having dissimilar eligibility conditions including the variance in qualifications and have dissimilar powers, job-profile, duties, responsibilities, promotional avenues

etc. and governed by different Service Rules and different State Revised Pay Rules issued by respective States; and there is no Constitutional or Statutory mandate nor any conscious express decision exists mandating the petitioner-State of Himachal Pradesh to follow or adopt the revised pay scales (including selection grade or other incentives) notified by the State of Punjab or another State, therefore, the Impugned Order mandating the Petitioner-State for granting the revised pay scales on Punjab pattern, mere on the basis of similarity in nomenclature or designation, but without there being any express equation of posts; is wholly unwarranted and without authority of law.

In reference to the **Question no (ii) in Para 13,** as to whether grant of higher pay scale to Inspectors working in Cooperation department in State of Punjab by resorting to relative assessment of pay scales granted to Auditors, Assistants and Accountants in other departments in the State of Punjab could be made the basis for inferring anomaly in case of the Respondent-Employees in the State

of Himachal Pradesh, ***is answered in the negative,*** *for the reason*, that the issue as to whether two posts need to be equated is to be determined in any of the three eventualities, as to whether any Constitutional Equation and Statutory Equation exists conferring equation and in case no such equation exists then, it is for the State to take a conscious express decision for equating two or more posts, by way of a policy decision and then to notify the same inaccordance with law. Non fulfilment of any of the three eventualities, as discussed above, disentitles an employee for claiming equation or parity. Anomaly in pay can only be inferred, if two posts are conferred or granted "equation-parity" by the Government. Absence of equation negates the inference of anomaly in pay. Mere similarity in pay, in the past, cannot be the basis for claiming or maintaining same scales and that too when, two posts are in different cadres, in different States and their conditions of service are governed by separate Service Rules and separate Revised Pay Rules. Moreover, onus to establish "equation-parity"

lies on the employee, as per the mandate of the Honble Supreme Court in the cases of **Jagjit Singh, Dibyendu Bhattacharya, Tilak Raj, Thana Singh and Indian Navy Civilian Design Officers Assn,** (supra). Power of judicial review cannot be invoked by the Courts so as to substitute its own wisdom vis-à-vis the classification of post, determination of pay structure, equation-parity of posts if any and salaries prescribed by the expert body or executive -State. While exercising judicial review, the Courts should be slow in showing indulgence in matters having financial implication, unless a gross case of arbitrariness or unfairness is established by the aggrieved party, by asserting a claim, on the basis of cogent, convincing and conclusive material on record and unless and until, cogent material is placed on record to establish that grave error had crept in while fixing the pay for a post, which is missing, in the present batch of cases, then, Learned Tribunal should have been cautious and should have refrained from showing indulgence. The Impugned Order dated 13.04.2018 {Annexure P-1}

passed by Tribunal amounts to rendering the State Service Rules and the State Revised Pay Rules dated 09.05.1991 otiose and nugatory *and the Order in question,* amounts to re-writing or reframing or ***recasting the existing statutory rules by*** encroaching upon the domain of the executive, by overstepping its power and authority, which cannot be permitted to sustain, being perverse. Grant of pay scale to the Inspectors in the State of Punjab by comparing them with the Junior Auditors in other departments and Assistants/Accountants cannot form basis for granting the same pay scale to the Inspectors in the State of Himachal Pradesh when, "Petitioner State had not "expressly equated" the post of Junior Auditors working in Local Audit department of the Finance department or in other departments and the posts of Assistants/Accountants with the posts of Inspectors in the Petitioner State" and even the absence of material on record to establish also negates the claim of the Respondent Employees, herein, in view of the discussion made hereinabove. Accordingly, the Impugned Order cannot

sustain and the same is accordingly quashed and set-aside.

23. Based on the material on record and the above discussion, and in facts of these cases, this Court has no hesitation to hold that the Learned Tribunal erred in passing the Impugned Order by overstepping its powers, jurisdiction and sphere of functions *{Lakshman-rekha}* as demarcated by the Constitution of India. In these circumstances, the Impugned Order dated 13.04.2018 ***{Annexure P-1,*** in CWP No 451 of 2019, 2531 of 2019 and 2532 of 2019} and Impugned Order dated 09.08.2018 ***{Annexure P-1,*** in CWP No 2533 of 2019} passed by Learned State Administrative Tribunal cannot pass the test of judicial scrutiny and the same is interdicted. Accordingly, the Impugned Order(s) are quashed and set-aside.

24. No other point was argued/raised by any of the parties.

DIRECTIONS:

25. In view of the above discussion and *for reasons recorded* hereinabove, all the writ petitions

filed by Petitioner(s)-State Authorities, ***are allowed,*** *in the following terms:*

(i). The Impugned Order dated 13.04.2018 ***{Annexure P-1}*** and the Order dated 09.08.2018 ***{Annexure P-1}*** passed by Learned State Administrative Tribunal in respective writ petitions are ***quashed and set-aside;***

(ii). Impugned Order mandating Petitioner-State of Himachal Pradesh to grant the pay scale of Rs 1800-3200 to the Respondents-Employees as Inspector w.e.f. 1.1.1986, as granted by the State of Punjab ***cannot sustain***, being dehors the HPCS Revised Pay Rules dated 09.05.1991 {Annexure A-3 in Lead Case of Jagdish Kumar} and subsequent Revised Pay Rules ;

(iii). Transferred Applications and the Original Applications filed by the Respondent Employees shall stand dismissed;

(iv). Parties to bear respective costs;

In aforesaid terms, all writ petitions and all pending miscellaneous application(s) if any shall accordingly, stand disposed of.

(G.S. Sandhawalia)
Chief Justice

(Ranjan Sharma)
Judge

March 25, 2026
(TM)