



Item No. 37(C-5)

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA No. 1747/2015

Reserved on :11.05.2026
Pronounced on: 18.09.2026

Hon'ble Dr. Chhabilendra Roul, Member (A)
Hon'ble Mr. Rajveer Singh Verma, Member (J)

1. Mr. O P Singh Kushwah
Superintending Engineer
National Water Development Agency
S/o late Mr. Dayal Singh Kushwah
R/o B-2, Sector 19, Noida (UP)
age 57 years 2
2. Mr. K P Gupta
Superintending Engineer National Water Development
Agency
S/o Mr. J P Gupta
R/o 271 Pocket 8-5, Sector 8 Rohini,
New Delhi - 85
age 53 years
3. Mr.Muzaffar Ahmad,
Superintending Engineer,
National Water Development Agency,
S/o late Mr.Zafar Ahmed,
R/o Quarter No. B-3, WALMI Campus,
Phulwari Sharif, Patna (Bihar),
aged about 53 years;
4. Mr.Fahim Ashraf,
Superintending Engineer,
National Water Development Agency,
S/o late Mr.Mohd.Nasiruddin,
R/o H.No. 9-4-77/A/102, 3rd Floor, Flat No. 301, Al-
Hasnath Colony,
Tolichowki, Hyderabad – 500008, aged about 57 years;
5. Mr. S.C. Awasthi,
Superintending Engineer,
National Water Development Agency,



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S/o late Mr. Shiv CharanAwasthi, R/o G/4, Galaxy
Apartment,
Vikaspuri, New Delhi,
aged about 51 years;

6. Mr. D.K. Sharma,
Superintending Engineer,
National Water Development Agency,
S/o Mr.BhagwanDutta Sharma,
R/o Bungalow No. 3, Daman Ganga Colony,
Tithal Road, Vasad (Gujarat),
aged about 51 years.

.....Applicants

(By Advocate :Mr. Kamlesh Kumar Mishra with Ms. Mansi)

VERSUS

1. Union of India
Through the Secretary Ministry of Water Resources
Shram Shakti Bhawan, New Delhi
2. The Director General
National Water Development Agency
(Ministry of Water Resources)
18-20 Community Centre Saket, New Delhi..

.... Respondents

(By Advocate :Mr. B.L. Wanchoo with Mr. S.J. Khashu
and Mr. G.D. Chawla, Mr. Rahul Dwivedi with Director
(Admin) NWDA)



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(ORDER)

Hon'ble Mr. Rajveer Singh Verma, Member (J) :

This matter has come up on revival. Earlier, the present OA was dismissed vide order dated 30.03.2017 with liberty to the applicants to seek revival after disposal of the proceedings pending before the Hon'ble Supreme Court. Subsequently, after dismissal of Civil Appeal No.4852/2015 and connected matter by the Hon'ble Supreme Court on 06.11.2024, the applicants filed the MA No. 211/2025 seeking revival of the Original Application, which was allowed by this Tribunal vide order dated 12.03.2025 and accordingly the Original Application stood restored for adjudication on merits. The detailed facts of the present matter have already been narrated in the order dated 30.03.2017, therefore, the same are not repeated for the sake of brevity.

2. The applicants, who were working as Superintending Engineers in the National Water Development Agency (NWDA), an autonomous body functioning under the administrative control of the Ministry of Water Resources, Government of India at the time of filing of the OA, initially joined NWDA as Assistant Engineers during the years 1985-1986. Prior to implementation of the



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recommendations of the 5th Central Pay Commission, parity in pay scales was maintained between the engineering cadre of NWDA and the Central Water Commission (CWC), both functioning under the same Ministry. According to the applicants, the duties, responsibilities, technical hierarchy and nature of work in NWDA are substantially similar to those in CWC and therefore the applicants are entitled to the same scale of pay as is being drawn by their counterparts in CWC. The applicants filed OAs in earlier rounds of litigation being OA No.1588/2009 and OA No.3902/2010, however, their grievance had not been redressed. Being aggrieved the present OA was filed in the year 2015 seeking the following relief(s) :-

“8. Relief sought:

(a) To call for the records of the case and, after their perusal, declare that the respondents are legally bound to grant the pay scale of Rs.14300-18300 and other increased amount to the applicants as is being paid to their counterparts working in Central Water Commission and other autonomous Bodies under Ministry of Water Resources.

(b) To set aside the impugned letter bearing reference no.F.No.16.9.2009-Estt. IV/1850 dated 29.10.2014 and the other letter No.10/9/2011-Admn.-8283 dated 1.12.2014 the whereby Respondents denied to grant pay scale of Rs.14300-18300 to the applicants as the same are illegal, unreasonable and outcome of conspiracy between the respondent No.1 & Respondent No.2



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to deprive the applicants of their entitlements for the equal and similar pay scale as is being given to their counterparts in other organizations of the Respondents.

(c) To direct the respondents to grant the pay scale of Rs.14300- 18300 to the applicants after completion of 13 years of Group A service as applicable to their counterparts Superintending Engineers of Central Water Commission with effect from the date of their respective promotion to the post of the Superintending Engineers with all consequential benefits such as payment of arrears, pay fixation etc.

(d) to allow the OA with exemplary costs

(e) to pas any other and further orders as deemed fit and proper in the facts and circumstances of the case.”

3. On 05.02.2026, the following observations were recorded by the Tribunal :-

“Learned counsel for the applicants, on the basis of the arguments recorded in the order dated 30.03.2017, submits that the present case stood revived and, consequently, the relief claimed by the applicants also stood revived. It is contended that the relief as recorded in the said order dated 30.03.2017 continues to hold the field even as on date. Learned counsel further submits that the averments made and arguments advanced on behalf of the applicants at the time of passing of the order dated 30.03.2017 may be treated as the arguments advanced on behalf of the applicants in the present proceedings.”

4. Learned counsel for the applicants referred to the order dated 30.03.2017 passed in the present OA and drew



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attention to paragraphs 2.6, 6, 11, and 12 thereof. The same are extracted herein below:-

“2.6 After the implementation of 5th CPC recommendations w.e.f. 01.01.1996, the Ministry of Finance issued Annexure R-3 letter dated 02.12.1997 on the subject of ‘Pay revision of employees of Quasi –Government Organizations, Autonomous Organizations, Statutory Bodies, etc., set up by and funded / controlled by the Central Government’ wherein it was, inter alia, advised that “there is no objection to Autonomous Organizations etc. adopting the Central Civil Services (Revised Pay) Rules, 1997. It may, however, be clarified that the revised scales of pay as incorporated in Part A of the First Schedule to the Rules ibid alone may be adopted”.

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*6. Mr. K K Jha, learned counsel for applicants, besides reiterating the averments made in the O.A., submitted that all through the SEs of NWDA have been enjoying parity with their counterparts in CWC and that both CWC and NWDA come under the administrative control of the same Ministry, i.e., respondent No.1. It was further submitted that in the case of Ministerial staff in NWDA, this Tribunal, vide order dated 23.09.2008 in T.A. No.21/2008 titled S.S. Ingleshwar & another v. National Water Development Agency & another, had directed the respondents for reconsideration of the claim of the applicants for parity in pay scale at par with CWC, with all consequences in law. Thereafter, the respondents filed three Writ Petitions (W.P. (C) Nos.427, 321 & 432 of 2009) against the said order of the Tribunal in T.A. No.21/2008. The Hon’ble High Court, vide order dated 20.05.2009, upheld the decision of the Tribunal in T.A. No.21/2008. It was further submitted that **Mr. S S Ingaleshwar and another** had approached the High Court of Delhi in W.P. (C) No.8740/2014 by relying upon the judgment of the High Court in **T M Sampath v. The Director General, National Water Development Agency & others** (W.P. (C) No.8052/2009) decided on 03.05.2012, whereby*



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the pay parity claimed by **T M Sampath** was declined by the Tribunal in T.A. No.163/2007, but the Division Bench of the High Court of Delhi relying on several judgments of Hon'ble Supreme Court allowed the said writ petition with observation that what was sought was not "equal pay for equal work" but "pay parity". On the basis of the judgment in **T.M. Sampath**, the Hon'ble High Court allowed the W.P. (C) No.8740/2014 and directed the Union of India & another to grant pay parity of pay scales sought by the petitioners and also ordered for payment of arrears. Concluding the arguments, the learned counsel submitted that the claim of pay parity of the Ministerial staff in NWDA has been upheld by the Hon'ble High Court. The applicants are also praying for pay parity and as such, the reliefs claimed in the O.A. may be allowed.

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11. Admittedly, the engineering cadre of NWDA had been having pay parity with their counterparts in CWC before the 5th CPC recommendations coming into implementation w.e.f. 01.01.1996. The respondents, acting on 15 O.A.No.1747/2015 Annexure R-3 O.M. dated 02.12.1997 of Ministry of Finance, have adopted the revised pay scales as incorporated in Part A of the First Schedule to the CCS (Revised Pay) Rules, 1997 for the employees of NWDA. This action has led to the present lis. The SEs of CWC have been granted the pay scale of `14300-18300, whereas the SEs of NWDA are accorded a lower pay scale of `12000-16500. The recommendation of the Governing Body meeting chaired by its Chairman, who is also the Secretary to Ministry of Water Resources, has not been acceptable to the DoPT and consequently vide impugned Annexure A-1 order dated 29.10.2014, the proposal has been rejected. No doubt, the Hon'ble High Court of Delhi, in the context of Ministerial staff in NWDA, in two separate orders dated, i.e., 20.05.2009 in W.P. (C) Nos.427, 321 & 432 of 2009 and dated 19.05.2015 in W.P. (C) No.8740/2014, have considered the request of pay parity for the Ministerial staff of NWDA, meaning thereby the adoption of pay scales prescribed in



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Part A of the Schedule ibid. However, the order dated 19.05.2015 of the High Court has been stayed by the Hon'ble Apex Court on 12.12.2014 in SLP No.7365/2015.

12. We are conscious of the fact that the NWDA, albeit may not be drawing salary for the staff directly from the consolidated fund of India, but then the fact remains that it's a fully funded society of Govt. of India. In the real sense, there is no difference between paying the salary directly from the consolidated fund of India and paying salary through a budgetary support of the Government. Ultimately, the financial burden in either situation is on the Government itself. The stand of DoPT that the SEs of CWC belong to an Organized Group 'A' Service, whereas those of NWDA do not belong to such a Service, is astonishing. Prima facie, the case of the applicants for pay parity with their counterparts in CWC appears to be reasonable. The Hon'ble High Court of Delhi has also taken similar view in the context of Ministerial staff of NWDA. Since the order of the High Court dated 12.12.2014 passed in W.P. (C) No.8740/2014 has already been stayed by the Apex Court vide order dated 19.05.2015 in SLP No.7365/2015, it would be prudent to await the final outcome of the said SLP. It is quite likely that the Apex Court, in its final judgment in the ibid SLP, involving the case of Ministerial staff of the NWDA seeking pay parity, would lay down certain ratio/guidelines, which could be adopted in the case of Engineers also. We have also considered two judgments of the Hon'ble Supreme Court referred to by the learned counsel for respondents. However, we are of the view that those judgments cannot be applied completely in the instant case on account of differential facts."

5. Learned counsel for the applicants submitted that the applicants and their counterparts in CWC had historically enjoyed complete parity in pay scales till implementation of the 5th CPC. It was argued that both



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NWDA and CWC function under the administrative control of the same Ministry and discharge similar, technical and engineering functions and, therefore, denial of parity is arbitrary and discriminatory. It was further submitted that the duties, responsibilities, qualifications and technical hierarchy in NWDA are substantially similar to those prevailing in CWC and therefore the applicants are entitled to grant of the scale of Rs.14300-18300/- after completion of the requisite qualifying service. Learned counsel emphasized that the Governing Body of NWDA itself, in its 56th meeting held on 08.04.2011, had recommended grant of the higher scale corresponding to Rs.14300-18300/- to Superintending Engineers and Directors and, therefore, the respondents cannot now deny the said benefit.

6. It was further argued on behalf of the applicants that the respondents themselves had earlier requested withdrawal of the pending litigation on the assurance that the matter regarding upgradation of pay scale was under active consideration before the Governing Body and therefore the subsequent rejection of the claim is arbitrary and unjustified.



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7. Learned counsel for the applicants relied upon judgments relating to ministerial staff of NWDA as well as the judgment in **T.M. Sampath** to contend that the applicants are seeking “pay parity” based upon long-standing historical parity and not merely “equal pay for equal work”. It was finally submitted that after dismissal of Civil Appeal No.4852/2015 and connected matters by the Hon’ble Supreme Court, the applicants are entitled to revival and adjudication of their claims on merits and therefore the reliefs prayed in the OA deserves to be allowed.

8. *Per contra*, learned counsel for the respondents submitted that NWDA is an autonomous society registered under the Societies Registration Act, 1860 and is distinct from the Central Water Commission, which forms part of an Organized Group ‘A’ Engineering Service under the Government of India. According to the respondents, employees of NWDA are governed by separate service conditions and the pay structure in NWDA is subject to approval of the Government of India in consultation with the Ministry of Finance and Department of Personnel & Training. Learned counsel further submitted that the Office Memorandum dated 06.06.2000 applies only to



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Organized Group 'A' Engineering Services, recruitment to which is made through the Combined Engineering Services Examination conducted by UPSC and since recruitment in NWDA is not made through such examination, the applicants cannot claim the benefit thereof. Learned counsel for the respondents further submitted that there are substantial differences in the cadre structure, promotional hierarchy and service conditions of NWDA and CWC.

9. During hearing on 05.02.2026, this Tribunal directed the respondents to place on record the initial entry conditions, method of recruitment, promotional hierarchy and comparative pay structure in NWDA and CWC. Pursuant thereto, the respondents filed an affidavit on 02.04.2026 indicating a detailed comparison chart in order to demonstrate that the cadre structure, recruitment process and service conditions in NWDA are materially different from those prevailing in CWC. However, this fact may not have much significant. On the basis of the said comparison, the respondents emphasized that technical posts in NWDA do not form part of any Organized Group 'A' Engineering Service and that recruitment is not made through the Combined Engineering Services Examination.



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Accordingly, the applicants are not entitled for any reliefs sought in the OA.

10. We have heard the learned counsel for the parties and have carefully perused the material on record, including the impugned communications dated 29.10.2014 and 01.12.2014, the recommendation made in the 56th meeting of the Governing Body of NWDA held on 08.04.2011, the comparison chart filed by the respondents by way of affidavit dated 02.04.2026, and the judgments relied upon by both sides.

11. Our Analysis

11.1 It is understood that parity in the pay scale was maintained between the engineering cadre of NWDA and CWC prior to implementation of 5th C.P.C. recommendation.

11.2 NWDA & CWC are functioning under the administrative control of M/o Water Resources. Applicants are seeking grant of the scale of Rs.14,300–18,300/- at par with the counterparts in CWC.

11.3 Officers/officials of NWDA are drawing salary from the consolidated fund of India. However, NWDA is a fully funded society of Government of India and paying salary



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through a budgetary support of the Government. Thus, ultimately the financial burden for either situation lies on the Government itself.

11.4. The Co-ordinate Bench of this Tribunal vide its order dated 03.03.2017 has dismissed the OA with a liberty to the applicants to seek leave of the Tribunal for reviving the OA, after final outcome of SLP No 7365/2015 in the Hon'ble Supreme Court. Subsequently, after dismissal of Civil Appeal No.4853/2015 and connected matters by the Hon'ble Supreme Court on 06.11.2024, the applicants filed MA 211/2025 seeking revival of the OA, which was allowed by this Tribunal vide order dated 12.03.2025. The order passed by the Hon'ble Supreme Court in Civil Appeal No 4853/2015 is as under :-

“1. Having considered the submissions made by learned counsel for the parties and looking to the peculiar facts of the case, we are not inclined to entertain the present appeals.

2. The Civil Appeals are accordingly dismissed.”

11.5 After dismissal of the Civil Appeal No 4853/2015 by the Hon'ble Supreme Court, the order dated 12.12.2014 passed by the Hon'ble High Court of Delhi in W.P.(C) 8740/2014 has acquired its finality.



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The order dated 12.12.2014 passed by the Hon'ble High Court of Delhi is reproduced below :-

“Issue notice. Mr.Arun Bhardwaj accepts notice. With the consent of parties, the matter has been heard finally at this stage. The petitioners sought parity of pay with the employees/officials in the Central Water Commission (CWC); they are working in the National Water Development Agency (NWDA), which is a Central Government agency. Their application, O.A. No.4051/2010 was rejected by the Central Administrative Tribunal (CAT).

The petitioners, employed as Head Clerks/Superintendents in NWDA sought directions for grant of pay scale of `5000-8000/- to the Head Clerks and `5500-9000/- to the Superintendents with effect from 01.01.1996. The petitioners relied upon the recommendations and resolutions of the NWDA; through its Director General dated 22.06.1999, to the effect that identical pay scales granted to similarly placed employees in the CWC be given to them. The Central Government, however, did not take any action. Other similarly placed employee Sh.T.M.Sampath claimed identical pay parity, which was declined by the CAT in T.A.No.163/2007. The Division Bench in Sri T.M. Sampath v. The Director General, National Water Development Agency and Ors. (W.P.(C) 8052/2009, decided on 03.05.2012), set aside the CAT's order holding that what was sought was not 'equal pay for equal work' but 'pay parity'. On that occasion, the Division Bench relied upon several previous decisions of the Supreme Court, where similar relief of pay parity had been granted. The Court observed as follows:

“8.....These decisions deal with the concept of 'equal pay for equal work' and the scope of intervention by the Courts in such matter. However, the petitioner before this Court is not demanding pay parity, on the principles of 'equal pay for equal work.' He is only seeking a pay



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scale, which the respondent has already adopted in respect of their employees, by allowing them those pay scales which are available to CWC employees holding identical position. None of these judgments, therefore, helps the respondents, since in the case before us, the pay scales of CWC were validly adopted by NWDA and therefore the petitioner is entitled in law to the pay scales which have been granted to his counterparts in CWC. Since the counterparts of the petitioner would be those Stenographers who, prior to implementation of recommendations of 4th Central Pay Commission, were placed in the pay scale of Rs.425-800, he also is entitled to be placed in the pay scale of Rs.1640-2900 from the date this pay scale was made available to the Stenographer Grade 'C' in CWC.

For the reasons stated hereinabove, the impugned order dated 25.3.2008 is set aside and the order dated 20.10.2005 issued by the respondents denying pay scale of Rs.1640-2900 to the petitioner is hereby quashed. The respondents shall work out and pay the arrears in terms of this order to the petitioner within four weeks from today."

This decision was cited before the CAT which did not, however, follow it on the ground that the appeal for special leave was pending, since the Supreme Court had granted leave under Article 136 of the Constitution. It was also stated by the CAT that the said decision was no authority; the resolutions/recommendations of the NWDA would not result in automatic parity, since there were difference in the two cadres.

The distinctions which the CAT sought to draw by reference to specific recruitment rules and structure of the organisation in para 6.2 of the impugned order, in the opinion of this Court, were specious and hyper-technical. The real issue was whether, given the recommendations of the NWDA- which was also the Central Government's agency to carry out its objectives in the water resources segment, there was any semblance of a real distinction. Having carefully considered the matter, this Court is of the opinion that the



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distinction sought to be drawn, and the subsequent development, i.e. pendency of the appeal before the Supreme Court ought not to have been a ground for distinguishing the judgment in Sampath (supra).

For the above reasons, the impugned order cannot be sustained; it is accordingly set aside. The respondents are hereby directed to grant parity of pay scales sought by the petitioners in their application. They shall work out the arrears in terms of the order from the date the petitioners filed the earlier proceedings after the rejection of their request for parity on 11.12.2003, i.e. 04.04.2004. The said arrears and other differential pay and allowance shall be disbursed to the petitioners within eight weeks from today.

The decision and disbursement made in this case shall be subject to the final orders in Civil Appeal arising out of SLP(C) 25388/2012 (wherein leave was granted on 28.09.2012).

The writ petition is allowed in the above terms.”

12. The short question that falls for consideration is whether the applicants, who were working as Superintending Engineers in the National Water Development Agency, are entitled to the pay scale of Rs.14300-18300 at par with the Superintending Engineers of the Central Water Commission, and whether the rejection of their claim by the impugned communications is legally sustainable.

13. At the very outset, it is necessary to appreciate the true nature of the claim set up by the applicants. The



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applicants are not seeking equation of two unconnected posts on the principle of "equal pay for equal work", which would have cast upon them the burden of establishing identity of duties, responsibilities and mode of recruitment, as held by the Hon'ble Supreme Court in ***State of Punjab v. Jagjit Singh***, (2017) 1 SCC 148. What the applicants assert is the restoration of a pre-existing parity in pay scales between the engineering cadre of NWDA and that of CWC, which admittedly subsisted uninterrupted until the implementation of the recommendations of the 5th Central Pay Commission. The distinction between "equal pay for equal work" and "pay parity" is well recognized, and has been applied by the Hon'ble High Court of Delhi in the context of this very organization while dealing with the case of its Ministerial staff. The claim of the applicants is, therefore, required to be examined on the anvil of parity, and not on the higher threshold of equal pay for equal work.

14. It is not in dispute that prior to 01.01.1996 the Superintending Engineers of NWDA and their counterparts in CWC were drawing identical pay scales. It is equally borne out from the record that the disturbance in this parity is directly relatable to the adoption by NWDA



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of the revised scales incorporated in Part 'A' of the First Schedule to the CCS (Revised Pay) Rules, 1997, in terms of the Ministry of Finance letter dated 02.12.1997, whereupon the Superintending Engineers of CWC came to be placed in the scale of Rs.14300-18300, while those of NWDA continued in the lower scale of Rs.12000-16500. The parity claimed by the applicants is thus not a benefit newly conceived, but one which was historically enjoyed and thereafter lost on account of an administrative measure, and not by reason of any conscious re-evaluation of the two cadres.

15. The principal objection of the respondents is that NWDA is an autonomous society registered under the Societies Registration Act, 1860, distinct from CWC, which forms part of an Organized Group 'A' Engineering Service, and that the employees of NWDA are governed by their own service conditions. We are of the considered view that the autonomous character of NWDA does not, in the facts of the present case, conclude the issue against the applicants. NWDA is a fully funded body of the Government of India, functioning under the administrative control of the very Ministry that controls CWC. In real terms, there is no material difference between salaries met



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directly out of the Consolidated Fund of India and those met through budgetary support extended by the Government, for the financial burden in either event ultimately falls upon the Government. The decision of the Hon'ble Supreme Court in ***T.M. Sampath v. Secretary, Ministry of Water Resources***, (2015), which held that the Office Memorandum dated 01.05.1987 relating to the pension option was not applicable to NWDA, turned upon the existence of NWDA's own CPF Rules, 1982, which occupied the field on that subject. That decision does not govern a case such as the present, where no independent norm displaces the historically recognised parity, and where the employer's own Governing Body has itself recommended restoration of that parity.

16. In this context, the recommendation made by the Governing Body of NWDA in its 56th meeting held on 08.04.2011 assumes considerable significance. The Governing Body, which was chaired by the Secretary to the Ministry of Water Resources, resolved that officers who had completed regular Class-I service and were holding the post of Superintending Engineer or Director be granted the revised scale corresponding to the pre-revised scale of Rs.14300-18300, and the said recommendation was



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forwarded to the Ministry on 17.09.2014 for approval. The claim of the applicants, therefore, carries the considered endorsement of the competent body entrusted with their service conditions. The rejection of that recommendation by the impugned communication dated 29.10.2014 proceeds solely on the ground that the Superintending Engineers of CWC belong to an Organized Group 'A' Service, whereas those of NWDA do not. On the basis of material placed before us, we find this to be an inadequate answer to a claim founded upon admitted historical parity and supported by the recommendation of the employer's own Governing Body.

17. We have given our anxious consideration to the comparison chart filed by the respondents, which seeks to demonstrate differences in the method of recruitment, eligibility criteria and cadre structure of the two organizations across the 5th, 6th and 7th Central Pay Commissions, and in particular to the contention that the scale of Rs.14300-18300 corresponds, in the hierarchy of NWDA, to the post of Director (Technical) and not to that of Superintending Engineer, so that the applicants are seeking to compare unequal posts. We are unable to accept this contention. The equivalence of the scale of



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Rs.14300-18300 to the post of Director (Technical) within the NWDA structure is itself a consequence of the very anomaly of which the applicants complain, *inasmuch* as it was the placement of the NWDA Superintending Engineer in a scale lower than that of his CWC counterpart, upon adoption of the Part 'A' scales, that had the effect of pushing the corresponding scale one stage higher in the NWDA hierarchy. The parity claimed by the applicants is a parity of the post of Superintending Engineer of NWDA with the post of Superintending Engineer of CWC, being the relationship that historically obtained, and the same cannot be defeated by pointing to the internal re-designation of scales that the loss of parity itself brought about. The differences in the mode of recruitment, including the fact that recruitment in NWDA is not made through the Combined Engineering Services Examination, are relevant to an enquiry under the principle of "equal pay for equal work", which, for the reasons already recorded, is not the enquiry before us.

18. The authorities cited on behalf of the respondents do not carry their case any further. In ***Union of India v. P.V. Hariharan***, (1997) 10 SCC 62, the Hon'ble Supreme Court observed that fixation of pay scales is a function of



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the Government acting on the recommendations of the Pay Commission, and that Tribunals ought not to interfere with such fixation unless a clear case of hostile discrimination is made out. We are conscious of this salutary principle, and we do not propose to fix any pay scale by our own assessment. The present case, however, is not one where the Tribunal is substituting its own opinion for that of the expert body. On the contrary, it is a case where the expert body, namely the Governing Body of NWDA, has itself recommended the parity, and the recommendation has been declined on a ground which does not meet the case of historical parity. As regards ***Kunhayammed v. State of Kerala***, (2000) 6 SCC 359, the principle that the dismissal of a Special Leave Petition attracts neither the doctrine of merger nor Article 141 of the Constitution bears only upon the effect to be given to the orders of the Hon'ble Supreme Court in the connected proceedings, and does not detract from the persuasive value of the reasoning of the Hon'ble High Court of Delhi in the matters concerning the Ministerial staff of NWDA.

19. It is understood that this Tribunal while passing its order dated 30.03.2017 duly examined the merits of the case after hearing arguments of both sides and



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after careful consideration of facts and issues involved therein, arrived on the following conclusion :

“11. Admittedly, the engineering cadre of NWDA had been having pay parity with their counterparts in CWC before the 5th CPC recommendations coming into implementation w.e.f. 01.01.1996. The respondents, acting on Annexure R-3 O.M. dated 02.12.1997 of Ministry of Finance, have adopted the revised pay scales as incorporated in Part A of the First Schedule to the CCS (Revised Pay) Rules, 1997 for the employees of NWDA. This action has led to the present lis. The SEs of CWC have been granted the pay scale of `14300-18300, whereas the SEs of NWDA are accorded a lower pay scale of `12000-16500. The recommendation of the Governing Body meeting chaired by its Chairman, who is also the Secretary to Ministry of Water Resources, has not been acceptable to the DoPT and consequently vide impugned Annexure A-1 order dated 29.10.2014, the proposal has been rejected. No doubt, the Hon'ble High Court of Delhi, in the context of Ministerial staff in NWDA, in two separate orders dated, i.e., 20.05.2009 in W.P. (C) Nos.427, 321 & 432 of 2009 and dated 19.05.2015 in W.P. (C) No.8740/2014, have considered the request of pay parity for the Ministerial staff of NWDA, meaning thereby the adoption of pay scales prescribed in Part A of the Schedule *ibid*. However, the order dated 19.05.2015 of the High Court has been stayed by the Hon'ble Apex Court on 12.12.2014 in SLP No.7365/2015.

12. We are conscious of the fact that the NWDA, albeit may not be drawing salary for the staff directly from the consolidated fund of India, but then the fact remains that it's a fully funded society of Govt. of India. In the real sense, there is no difference between paying the salary directly from the consolidated fund of India and paying salary through a budgetary support of the Government. Ultimately, the financial burden in either situation is on the Government itself. The stand of DoPT that the SEs of CWC belong to an Organized Group 'A' Service, whereas those of NWDA do not belong to such a Service, is astonishing. *Prima facie*, the case



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of the applicants for pay parity with their counterparts in CWC appears to be reasonable. The Hon'ble High Court of Delhi has also taken similar view in the context of Ministerial staff of NWDA. Since the order of the High Court dated 12.12.2014 passed in W.P. (C) No.8740/2014 has already been stayed by the Apex Court vide order dated 19.05.2015 in SLP No.7365/2015, it would be prudent to await the final outcome of the said SLP. It is quite likely that the Apex Court, in its final judgment in the ibid SLP, involving the case of Ministerial staff of the NWDA seeking pay parity, would lay down certain ratio/guidelines, which could be adopted in the case of Engineers also. We have also considered two judgments of the Hon'ble Supreme Court referred to by the learned counsel for respondents. However, we are of the view that those judgments cannot be applied completely in the instant case on account of differential facts.

11. In the conspectus of the discussions in the foregoing paragraphs, we dismiss the O.A. and grant liberty to the applicants to seek leave of the Tribunal for reviving the O.A. after the final outcome of SLP No.7365/2015 in the Hon'ble Supreme Court. No order as to costs.

20. For the reasons aforesaid, we are of the considered opinion that the denial to the applicants of parity in pay scale with their counterparts in the Central Water Commission, being a parity which admittedly subsisted until the 5th Central Pay Commission, which the Governing Body of NWDA has itself recommended for restoration, and which the Hon'ble High Court of Delhi has recognized in the cognate case of the Ministerial staff of NWDA, is arbitrary and discriminatory, and cannot be



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sustained in law. The impugned communications, to the extent indicated, are accordingly liable to be set aside.

21. Order

21.1. In view of the foregoing discussion, the Original Application is allowed in the following terms:

(i) The impugned communications bearing F.No.16.9.2009-Estt.IV/1850 dated 29.10.2014 and No.10/9/2011-Admn-8283 dated 01.12.2014, insofar as they deny the grant of the pay scale of Rs.14300-18300 to the applicants, are quashed and set aside.

(ii) The respondents are directed to grant to the applicants the pay scale of Rs.14300-18300 (pre-revised), along with the corresponding revised scales under the 6th and 7th Central Pay Commissions, at par with the Superintending Engineers of the Central Water Commission, on completion by each applicant of the requisite qualifying service, in terms of the recommendation of the 56th meeting of the Governing Body of NWDA dated 08.04.2011.

(iii) The said benefit shall be granted notionally with effect from the date on which each applicant became entitled thereto, and the monetary benefit by way of arrears shall



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be restricted, in accordance with the principle laid down in ***Union of India v. Tarsem Singh***, (2008) 8 SCC 648, to a period of three years and two months preceding the date of institution of the Original Application, together with consequential re-fixation of pay.

(iv) The respondents shall complete the exercise of re-fixation and disburse the admissible arrears within a period of three months from the date of receipt of a certified copy of this order. In the event of failure to do so within the said period, the arrears shall carry simple interest at the rate of 6% per annum from the date of default till the date of actual payment.

21.2. There shall, however, be no order as to costs.

21.3. Pending miscellaneous applications, if any, stand disposed of accordingly.

(Rajveer Singh Verma)
Member (J)

(Dr. Chhabilendra Roul)
Member (A)

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