



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.534 of 2018.

Judgment Reserved on : 28.12.2022.

Date of decision: 09.01.2023.

Himachal Pradesh High Court, Non-Gazetted
Employees/Official Employees AssociationPetitioner.

Versus

State of Himachal Pradesh and othersRespondents.

Coram

The Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge.

The Hon'ble Mr. Justice Sandeep Sharma, Judge.

*Whether approved for reporting?*¹ Yes

For the Petitioner : Mr. Sanjeev Bhushan, Senior
Advocate with Mr. Piar Chand and
Mr. Sohail Khan, Advocates.

For the Respondents : Mr. Anup Rattan, Advocate
General with Mr. Vinod Thakur,
Additional Advocate General
and Mr. Rajat Chauhan, Law
Officer, for respondent Nos.1 and
2.

Mr. J.L. Bhardwaj, Senior
Advocate with Ms. Dhanvanti,
Advocate, for respondent No.3.

Tarlok Singh Chauhan, Judge

The instant petition has been filed for grant of the
following substantive reliefs:-

¹*Whether the reporters of the local papers may be allowed to see the Judgment?Yes*

“i) That an appropriate writ, order or direction may very kindly be issued to respondent No.1 and 2 to issue the necessary notification bringing parity in the pay scales of employees of this High Court registry with their counterparts in Punjab and Haryana High Court, by further directing the respondent No.1 and 2 to grant 20% hike in the pay scales (grade pay) of the employees of the registry of High Court of Himachal Pradesh w.e.f. 01.01.2006, with all consequential benefits of pay, arrears etc., in the interest of law and justice and communication dated 19.12.2017 (Annexure P-18) may very kindly be quashed and set aside.

1(a). That the decision as taken in the meeting held on 24th July, 2019 which is Annexure P-19 to the Writ Petition may also very kindly be quashed and set aside, in the interest of law and justice.”

2. A single Bench of the Punjab and Haryana High Court in its decision rendered in **CWP No. 15833 of 2009** titled as ***Hari Mohan Dixit and others vs. Punjab and Haryana High Court, Chandigarh and others***, decided on 10.02.2011 directed the Union of India to consider the recommendations made by three Judges' Committee which had been accorded approval by Hon'ble the Chief Justice of the Punjab and Haryana High Court and take an appropriate decision in accordance with law and especially keeping in view the guiding principles reiterated in ***Union of India vs. S.B. Vohra & Ors. (2004) 2 SCC 150***. It was pursuant to these directions that the Government of India eventually granted 20% hike

in the pay scales (Grade Pay). The Government of India vide memorandum dated 27.02.2012 granted hike of 20% in the existing pay including Grade Pay to the employees specified in the memorandum and serving in Punjab and Haryana High Court with effect from 01.01.2006.

3. One of the Welfare Associations of the Himachal Pradesh High Court accordingly made a representation dated 11.04.2012 claiming therein the same and similar benefits on the basis of the ***Hari Mohan Dixit's case*** (supra).

4. On receipt of such representation, the matter was directed to be placed before a Committee consisting of three Hon'ble Judges, who after taking into consideration the entirety of facts and circumstances submitted a report that it was the prerogative of Hon'ble the Chief Justice to independently consider the matter and to make recommendations for grant of benefits to the employees of this High Court. The Hon'ble Chief Justice thereafter made the note "recommended" "Address the govt." on 28.04.2012.

5. Accordingly, the Registrar General of this Court sent a communication to the Government requesting the Government to take up the matter with the Finance Department and issue the necessary notification bringing parity in the pay scales of the

employees of this Court Registry with their counter-parts with the Punjab and Haryana High Court.

6. After the receipt of such communication, the Office of the Principal Secretary (Home) called upon the High Court to supply legible copy of the letter dated 27.02.2012 vide which 20% hike had been granted to the employees of the Punjab and Haryana High Court with effect from 01.01.2006. The same was duly supplied by this High Court and in addition thereto, another communication was sent by the High Court to the Principal Secretary (Home) requesting him to expedite the matter vide reminder dated 29.08.2012.

7. It is only then that for the first time the Department of Home vide communication dated 05.11.2012 sought a comprehensive proposal along with details of financial implications. The query of the Department of Home vide communication dated 05.11.2012 with regard to financial implications was duly attended to by the High Court by sending a communication dated 15/17th December, 2012. However, the Department of Home again sent a communication dated 21.08.2013 raising therein certain other queries. These queries were duly attended to vide communication dated 24/26th December, 2013.

8. The Department of Home then sent a communication dated 05.04.2014 to the Registrar General of this Court wherein a reference was made to Rule 6 of the Himachal Pradesh Officers and Members of the Staff (Recruitment, Condition of Service, Conduct and Appeal), Rules, 2003 and a question was raised as to how without carrying out an amendment in the Rules, the hike of 20% could be granted to the employees of this High Court. In response thereto, the Registrar General addressed a communication to the Chief Secretary of the State of Himachal Pradesh pointing out in detail the entire issue. This was followed by a letter from the Registrar General wherein a detailed background of the case was given and it had been pointed out that the State of Himachal Pradesh right from its inception on attaining the statehood in 1971 had been following the State of Punjab insofar as the pay scales, allowances and other amenities are concerned as the State Government had not constituted its own Pay Commission so far. The nomenclature of posts in High Court of Himachal Pradesh is also the same as in the High Court of Punjab and Haryana. Even the nature of duties and responsibilities of the employees of both the High Courts are undisputedly the same and identical and that the working of the High Court is altogether different from the Departments and Offices of the Government.

9. It is pointed out that the background of the hike given in the pay scales is that the pay scales of the Clerks working in the Subordinate Courts were enhanced in every State including the State of Punjab and Haryana by adopting the recommendations of the Shetty Pay Commission, as a result whereof, an anomaly arose between the pay of the Clerks of the Subordinate Courts and the High Courts. In simple words, the Clerks working in the Subordinate Courts started to draw more pay than their counterparts in the High Court.

10. It was thereafter that the Clerks of the Punjab and Haryana High Court made a representation to Hon'ble the Chief Justice of the said High Court requesting to remove the anomaly by bringing parity in the pay scales of the Clerks of the High Court with those of the Subordinate Courts. It was then that Hon'ble the Chief Justice of the said High Court constituted a three Judges' Committee to examine the matter, who, in turn, recommended that the demand of the Clerks of the High Court was justified and that their pay deserved to be brought at par with the Clerks of the Subordinate Courts.

11. It was also recommended that the pay scales of other categories of the employees of the High Court is also deserved to be hiked by 20% of the existing pay with effect from 01.01.2006 so

that no more anomalies arise in the pay structures of the employees. The recommendations of the Committee were duly accepted by Hon'ble the Chief Justice and the same were made to the Union of India for acceptance and for issuing necessary memorandum in this behalf.

12. It is only when the recommendations were not acted upon that the Association of the employees of the Punjab and Haryana High Court filed the aforesaid writ petition which was allowed and the Union of India finally issued a notification/memorandum whereby an additional pay at the rate of 20% of the pay drawn (i.e. pay in the Pay Band+ Grade Pay) was granted to the categories mentioned therein. In addition to that, an additional pay of 10% of pay drawn (i.e. pay in the Pay Band + Grade Pay) was also granted in terms of the letter issued by the Ministry of Law and Justice dated 15.10.2012 to the categories from the level of Secretary up to the level of Registrar. Further, in terms of the letter dated 18.07.2012, 20% additional pay was also given to the following left out categories:

Sr.No.	Name of the Post	Corresponding Pay Band (in Rs.)	Grade Pay (in Rs.)
1.	Superintendent Gr.II	10300-34800	5000
2.	Reader	10300-34800	5000
3.	Private Secretaries	10300-34800	5000

13. It was further pointed out that the issue with regard to 20% hike in pay was taken up by this High Court with the Ministry of Law and Justice, Government of India, New Delhi, in the year 2014 and in response thereto, the said Ministry vide letter dated 06.03.2014 advised the Registry that in view of the provision of Article 229(2) of the Constitution of India, any proposal for revision of pay scales of the High Court needs to be processed by the State Government of Himachal Pradesh. Lastly, it was pointed that the duties, responsibilities and work of the Judiciary throughout the Country are more arduous and somewhat similar in nature. The quantum of work undertaken by the Officers/Officials concerned as well as the extent of work ethos like efficiency, promptitude and probity etc. required from them is of the highest order.

14. It was bearing in mind these aspects that the Shetty Pay Commission had recommended different pay scales to the Judicial Officers and staff of the Subordinate Courts than that of the State Government.

15. It is averred that the State Authorities despite the matter having been discussed at the highest level still kept on lingering the matter on one pretext or the other and ultimately vide communication dated 19.12.2017 (Annexure P-18) rejected the proposal submitted by the High Court mainly on the ground that the

employees of the High Court had already been granted enhanced pay scales (Pay-Band and Grade Pay) with effect from 01.10.2012 at par with the pay scales of other State Government employees which is higher and equal to the pay scales granted to the six categories on the recommendations of Shetty Pay Commission.

16. It is also pointed out that the granting of special increment to certain categories of employees of Subordinate Courts with effect from 01.04.2003 could not be construed as an anomaly particularly in the pay scales. Special increment has been granted as a measure personal to an employee and his pay scale has not been changed. In addition to that, it was pointed out that special increment to the Subordinate Court employees has been granted on the recommendations of the Shetty Pay Commission which is applicable to the Subordinate Court employees in the State.

17. As regards parity, it was claimed that normally the State of Himachal Pradesh takes into account the recommendations of the Punjab Pay Commission pay scales in respect of its employees, but the same are implemented with suitable modifications as the Government of Himachal Pradesh has its own staffing pattern of service and R&P Rules, method of recruitment, prescribed educational qualification, geographical/traditional conditions, natural, administrative implications and financial

resources. While allowing any financial benefit, creation of posts or revision of pay scales, the State Government gathers various informations on that particular issue from various State Governments/other Institutions and it is only thereafter that a decision is taken.

18. It has also been claimed that the Punjab and Haryana High Court is under the control of Government of India being part of UT administration and not in the State of Punjab and involvement of Rule 6, parity of granting any financial benefits to the H.P. High Court employees always remained at par with the employees of H.P. Government and not with the Punjab and Haryana High Court employees. Consequently, all the employees of the H.P. High Court are getting the same pay scales and other allowances/financial benefits as are admissible to the corresponding or comparable posts in H.P. Secretariat including Secretariat Pay/allowance and Special Pay. These extra financial benefits which also form the part of pensionary benefits are not being paid to the employees of similar categories of employees in Subordinate Offices of Government as well as Subordinate Judiciary where the service conditions/pay scales of Subordinate Judiciary employees are governed by the H.P. Subordinate Courts' Employees (Pay Allowance and other Conditions of Service) Amendment Act, 2005.

These employees are not being paid any Secretariat Pay/Allowance or Special Pay etc. The High Court employees are already getting higher pay than the Subordinate Judiciary employees due to allowing of Secretariat Pay and Special Pay. The amount of Secretariat Pay/Special Pay along with Dearness Allowance is much higher than the amount of Special Increment allowed at the rate of 3% to the Subordinate Judiciary employees by the Shetty Pay Commission.

19. Lastly, it is claimed that the Hon'ble Supreme Court in **Appeal (Civil) No.2033 of 1996** titled **State of Himachal Pradesh vs. P.D. Attri and others**, decided on 11.02.1999, had clearly held that the claim of the employees therein was not based on any constitutional or any other legal provisions whereby they could claim parity with the posts similarly designated in Punjab for grant of pay scales from the same date. It was then concluded that since there is no anomaly in the pay scales of H.P. High Court employees vis-a-vis Subordinate Courts' employees of Himachal Pradesh, their representation was rejected. As regards the matter of parity of pay scales of High Court employees, it is always with the State Government employees as laid down in Rule 6.

20. On 03.12.2018, a Coordinate Bench of this Court passed the following order:-

“One of us (Justice Chander Bhusan Barowalia, J.) has dealt with this matter in the capacity of Registrar General (In-charge), however, since only some correspondence has been made with the respondent State in this regard, therefore, neither learned Addl. Advocate General nor the petitioner have any objection, in case this Bench continues with further proceedings in this writ petition.

On hearing this matter for some time, it transpired that with the implementation of Shetty Commission report, the staff in various cadre(s) working in Subordinate Courts in the State is getting more pay and allowances as compared to the employees in corresponding cadre(s) on the establishment of the Registry of the High Court. An anomalous situation has thus arisen on account of the staff in the subordinate Courts is drawing higher salary as compared to their counterparts on the establishment of the Registry of this Court. Such an anomalous situation has also occurred in other States on implementation of the Shetty Commission report with respect to staff working in the Subordinate Courts, including adjoining States of Punjab and Haryana. The High Court of Punjab and Haryana, vide judgment dated 10.2.2011 passed in CWP No. 15833 of 2009 titled Hari Mohan Dixit & ors. Vs. Punjab and Haryana High Court, Chandigarh & ors. had directed Union of India to consider the recommendation made by Three Judges' Committee qua enhancement of the salary of the Staff working in the Registry of the High Court at par with their counter parts in the District Judiciary. In Punjab and Haryana High Court, the employees in various categories have been given the hike in their salary as is apparent from

the perusal of Annexure R-3/F (colly.) (pages 89 to 92 of the record). We have further been informed that similar relief has been granted to the employees in various categories working in other High Courts also in the country. In the High Court of Himachal Pradesh also, this matter has been considered by the Administrative Committee comprising Hon'ble Chief Justice and two senior most Judges which has recommended to pay the salary to the employees of the High Court at par their counterparts in the District Judiciary. The recommendation so made has also been approved by the Hon'ble Chief Justice and the matter taken up with the respondent-State.

Being so and also that the prayer made in the writ petition, prima-facie is genuine and bonafide, we hope and trust that the respondents instead of inviting judgment in this matter must consider the relief sought in this writ petition in the light of the material available on record. Learned Addl. Advocate General prays for and is granted four weeks' time to do the needful. List on 2.1.2019.

An authenticated copy of this order be supplied to learned Addl. Advocate General for compliance."

21. Now, advertng to the reply filed on behalf of the High Court, it has been stated that the representation dated 11.04.2012 made by the H.P. Employees Welfare Association, High Court of H.P. was referred to the Committee consisting of three Hon'ble Judges as per the orders of Hon'ble the Chief Justice. The three Hon'ble Judges' Committee considered the representation along with judgment passed by the Punjab and Haryana High Court and

thereafter it was concluded by the Hon'ble Committee that it is the prerogative of Hon'ble the Chief Justice to independently consider the matter and to make recommendations for grant of benefits to the employees of the High Court of H.P. The report of the Hon'ble Committee dated 23.04.2012 was placed before Hon'ble the Chief Justice, who, in turn, was pleased to direct the matter to be taken up with the State Government. The High Court has otherwise supported the claim of the petitioner by stating that the State of Himachal Pradesh has been following the State of Punjab in matters of pay scales and allowances to its employees from the very inception.

22. It is also claimed that the nature of duties and responsibilities of the employees of the Punjab and Haryana High Court and those of this High Court are same and identical. Even the nomenclature of posts existing in both the High Courts is also same and similar. It has also been stated that pursuant to the judgment dated 10.02.2011 delivered in ***Hari Mohan Dixit's case*** (supra), the Government of India vide memorandum dated 27.02.2012 has granted hike of 20% in the existing pay including grade pay to the employees specified and serving in Punjab and Haryana High Court with effect from 01.01.2006 and the matter in

respect of left out categories was under consideration with the Union of India and States of Punjab and Haryana.

23. It has been further averred that the State Government was also apprised of the mandate of the Hon'ble Supreme Court of India in **S.B. Vohra's case** (supra) wherein the Hon'ble Supreme Court *inter alia* has held that the independence of the High Court is an essential feature for the working of the democratic form of Government in the Country and, therefore, an absolute control has been vested in the High Court over its staff which should be free from interference from the Government subject, of course, to the limitations as imposed under Article 229 of the Constitution of India. Rest of the averments regarding sending of the comprehensive proposal along with details of the financial implications involved in the case has not been denied. In addition thereto, it has been submitted that the High Court had also sent a letter to the Registrar General of the Punjab and Haryana High Court requesting him to supply copy of the order regarding sanction of 20% and 10% hike along with latest copy of the pay scales and grade pay of the employees of the Punjab and Haryana High Court.

24. The matter was also taken up by the High Court with the Secretary to the Government of India vide letter dated 24/26th December, 2013 requesting for intervention by the Ministry of Law

and Justice to bring parity in the pay scales and allowances vis-a-vis their counter-parts serving in the High Court of Punjab and Haryana. However, the Deputy Secretary to the Government of India addressed a letter dated 06.03.2014 and stated that any proposal for revision in the pay scales of the employees of the High Court of Himachal Pradesh needs to be processed by the State Government of Himachal Pradesh.

25. The Secretary (Home) vide letter dated 05.04.2014 informed the High Court that the matter had been taken up with the Finance Department which had observed that an additional increment granted to the employees of the Subordinate Courts with effect from 01.01.2012 does not constitute an anomaly in the pay scales of employees of Himachal Pradesh High Court. However, thereafter a detailed information was sought by the Secretary (Home) on the following points:

- “(i) It may be informed if there is any anomaly in the pay scales of employees of H.P. High Court vis-a-vis the Subordinate Courts in Himachal Pradesh?
- (ii) Whether there is any anomaly in the pay scales of employees of H.P. High Court with the equivalent posts in the State Government?
- (iii) Details of categories in which anomaly exist vis-a-vis the similar category of employees in the State Government.”

26. In response, the High Court invited the attention of the Chief Secretary to the Government of Himachal Pradesh vide D.O. Note dated 02.06.2014 regarding the long pending demand of grant of 20% and 10% hike and also informed that the information sought vide communication dated 05.04.2014 was uncalled for as the same had been supplied earlier. However, despite this, respondent No.1 issued a reminder in the matter for supply of the information, though the same was already available with it. However, the High Court again sent the required information vide letter dated 06/10.09.2014.

27. It is further averred that the matter regarding the grant of an additional pay was also discussed in the meeting of Hon'ble the Chief Minister and Hon'ble the Chief Justice held on 30.10.2014 and it was resolved that the matter would be examined by the State in consultation with the Registry of the High Court. Thereafter, the High Court sent a letter dated 18/20.12.2014 requesting the Chief Secretary to the Government of Himachal Pradesh to take steps to examine the matter in consultation with the Registry of this High Court. This was followed by another letter dated 15/17.10.2015 wherein it was mentioned that the Hon'ble Chief Justice had already made recommendations which in terms of the judgment of the Hon'ble Supreme Court in ***P.D. Attri's case***

(supra) were not only required to be considered but due weightage also required to be given by the Government.

28. As per further averments, it has been stated that the High Court had been repeatedly taking up the matter with the State Government, but to no avail. It was ultimately during the meeting of the concerned Secretaries of the State Government and the Registrars of this High Court held on 12.05.2017, it was resolved that a meeting of the representatives of the High Court and State Government be held on 16.05.2017 to examine the issue regarding 20% hike in the pay scales of the employees of the High Court. Accordingly, the meeting was held on 16.05.2017, but the representation made by the High Court was turned down by the State Government.

29. Now as regards the State Government, it has been sued through its Secretary (Home) and Secretary (Finance) and a joint reply has been filed by them wherein a number of preliminary submissions have been made and the same and similar grounds, as were raised in the rejection order dated 19.12.2017 (Annexure P-18) have been raised.

30. On merits, it has been averred that 20% hike as allowed by the Punjab and Haryana High Court is not a part of any pay scale and, therefore, it needed a thorough examination at the

State Government level which has been done and it is thereafter it was found that this extra financial benefit of 20% hike in the salaries has no basis for allowing it to the H.P. High Court employees. It is again reiterated that the Punjab and Haryana High Court is under the control of Government of India being part of UT Administration and not in the State of Punjab. In view of the existing rules, no case for parity for granting any financial benefit to the H.P. High Court employees with those of the employees of the Punjab and Haryana High Court does not arise as there has been always a parity amongst the employees of the H.P. High Court with the employees of the H.P. Government/Secretariat and not with the employees of the Punjab and Haryana High Court.

31. According to these respondents, the higher post in the Subordinate Courts is the Superintendent Grade-I and Personal Assistant to whom higher pay scales and special increment have been granted on the recommendations of the Shetty Pay Commission and, therefore, there is no question of the so-called anomaly in the pay scales of incumbents of higher posts above Superintendent Grade-I/S.O./P.S. in the H.P. High Court. It is averred that the proposal as submitted by the High Court for grant of increase in salaries is not based on any anomaly arisen between the employees of the High Court and the Subordinate Courts and

since the employees of the High Court draw salaries at par with the State Government, the question of parity also does not arise. ◊

32. Lastly, it has been reiterated that the High Court employees having equivalence with the employees of the H.P. Secretariat are already getting higher pay scales than the Subordinate Judiciary employees due to allowing of Secretariat Pay/Special Pay. The amount of Secretariat Pay/Special Pay along with Dearness Allowance is also countable for pensionary benefits (due to which they are also getting higher amount of pension as compared to their counter-parts in Subordinate Judiciary) and is much higher than the amount of special increment allowed at the rate of 3% to the Subordinate Judiciary employees by the Shetty Pay Commission.

33. It is contended by Shri Sanjeev Bhushan, Senior Advocate, assisted by Shri Piar Chand and Shri Sohail Khan, Advocates, for the petitioner that the respondent-State has been completely oblivious to the provisions contained in Article 229 of the Constitution of India under which Hon'ble the Chief Justice of the High Court has the prerogative powers to fix scales of pay of the Officers and staff of the High Court and the Government has to only allocate financial sanction thereof.

34. On the other hand, the learned Advocate General would argue that no case is made out for interference as the employees of the High Court have been placed at par with the employees of the State Government and are getting the same pay as is given to the State Government employees. The learned Advocate General would further argue that in any case difference in the pay scales being recommended by Hon'ble the Chief Justice would create an anomaly.

35. On the other hand, Shri J.L. Bhardwaj, Senior Advocate, assisted by Ms. Dhanvanti, Advocate, for the High Court would argue that the State Government was un-necessarily raising frivolous objections by sending queries which were neither warranted under the law nor were required. These objections were clearly beyond their jurisdiction as is clear from a plain reading of Article 229 of the Constitution of India. He would further argue that the State Government was required to give due deference to the recommendations made by Hon'ble the Chief Justice and approved the recommendations unless such approval has been granted as a matter of course.

36. We have heard the learned counsel for the parties and have gone through the material placed on record.

37. At the outset, it would be necessary to refer to Article 229 of the Constitution of India which reads as under:

“229. Officers and servants and the expenses of High Courts

(1) Appointments of officers and servants of a High Court shall be made by the Chief Justice of the Court or such other Judge or officer of the Court as he may direct:

Provided that the Governor of the State may by rule require that in such cases as may be specified in the rule no person not already attached to the Court shall be appointed to any office connected with the Court save after consultation with the State Public Service Commission

(2) Subject to the provisions of any law made by the Legislature of the State, the conditions of service of officers and servants of a High Court shall be such as may be prescribed by rules made by the Chief Justice of the Court or by some other Judge or officer of the Court authorised by the Chief Justice to make rules for the purpose:

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor of the State

(3) The administrative expenses of a High Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the court, shall be charged upon the Consolidated Fund of the State, and any fees or other moneys taken by the Court shall form part of that Fund.”

38. The provisions of Article 229(2) of the Constitution of India has been a subject-matter of interpretation by the Hon'ble Supreme Court in its various judgments.

39. In ***M. Gurumoorthy vs. Accountant General, Assam and Nagaland and others, (1971) 2 SCC 137***, the Hon'ble Supreme Court held that the Governors' approval must be sought because the finance has to be provided by the Government and to that extent the Government has to approve it. The Hon'ble Supreme Court further held that Hon'ble the Chief Justice has exclusive powers under Clause (1) read with Clause (2) of Article 229 of the Constitution not only in the matter of appointments but also with regard to prescribing the conditions of service of officers and servants of a High Court and further held as under:

“The unequivocal purpose and obvious intention of the framers of the Constitution in enacting [Article 229](#) is that in the matter of appointments of officers and servants of a High Court it is the Chief Justice or his nominee who is to be the supreme authority and there can be no interference by the executive except to the limited extent that is provided in the Article. This was essentially to secure and maintain the independence of the High Courts. The anxiety of the constitution makers to achieve that object is fully shown by putting the administrative expenses of a High Court including all salaries, allowances and pension payable to or in respect of officers and servants of the court at the same level as the salaries and allowances of the judges of the

High Court nor can the amount of any expenditure so charged be varied even by the legislature. Clause (1) read with clause (2) of [Article 229](#) confers exclusive power not only in the matter of appointments but also with regard to prescribing the conditions of service of officers and servants of a High Court by Rules on the Chief Justice of the Court. This is subject to any legislation by the State legislature but only in respect of conditions of service. In the matter of appointments even the legislature cannot abridge or modify the powers conferred on the Chief Justice under clause (1). The approval of the Governor, as noticed in the matter of Rules, is confined only to such rules as relate to salaries, allowances, leave or pension. All other rules in respect of conditions of service do not require his approval.”

40. In ***State of Andhra Pradesh and Anr. vs. T. Gopalakrishnan Murthi and others*** (1976) 2 SCC 883, the Hon'ble Supreme Court held that grant of approval by the Government under Article 229 of the Constitution is not a formality and further held as under:

“One should expect in the fitness and in view of the spirit of Article 229 that ordinarily and generally the approval should be accorded. But surely it is wrong to say that the approval is a mere formality and in no case it is open to the Government to refuse to accord their approval.”

41. The Hon'ble Supreme Court in ***Employees Welfare Association vs. Union of India and Another*** (1989) 4 SCC 187 held that when a Rule is framed by the Chief Justice, it should

ordinarily be approved since the rule has been framed by a very high dignitary and should be looked upon with respect unless there was a good reason for not approving the reasons and the Hon'ble Supreme Court further held as under:

“So far as the Supreme Court and the High Courts are concerned, the Chief Justice of India and the Chief Justice of the concerned High Court, are empowered to frame rules subject to this that when the rules are framed by the Chief Justice of India or by the Chief Justice of the High Court relating to salaries, allowances, leave or pensions, the approval of the President of India or the Governor, as the case may, is required. It is apparent that the Chief Justice of India and the Chief Justice of the High Court have been placed at a higher level in regard to the framing of rules containing the conditions of service. It is true that the President of India cannot be compelled to grant approval to the rules framed by the Chief Justice of India relating to salaries, allowances, leave or pensions, but it is equally true that when such rules have been framed by a very high dignitary of the State, it should be looked upon with respect and unless there is very good reason not to grant approval, the approval should always be granted. If the President of India is of the view that the approval cannot be granted, he cannot straightway refuse to grant such approval, but before doing so, there must be exchange of thoughts between the President of India and the Chief Justice of India.”

42. In the ***High Court of Judicature for Rajasthan vs. Ramesh Chandra Paliwal and Another*** (1998) 3 SSC 72, the

Hon'ble Supreme Court held as under:

“Since, under the Constitution, Chief Justice has also the power to make rules regulating the conditions of service of the officers and servants of the High Court, it is obvious that he can also prescribe the scale of salary payable for a particular post. This would also include the power to revise the scale of pay. Since such a rule would involve finance, it has been provided in the Constitution that it will require the approval of the Governor which, in other words, means the State Government. This Court in [State of Andhra Pradesh & Anr. vs. T. Gopalakrishnan Murthi & Ors.](#) AIR 1976 SC 123 = 1976 (1) SCR 1008, had expressed the hope that "one should accept in the fitness of things and in view of the spirit of [Article 229](#) that the approval, ordinarily and generally, would be accorded." This was reiterated by this Court in Supreme Court [Employees Welfare Association vs. Union of India](#), AIR 1990 SC 334 = 1989 (3) SCR 488 = (1989) 4 SCC 187. We again reiterate the hope and feel that once the Chief Justice, in the interest of High Court administration, has taken a progressive step specially to ameliorate the service conditions of the officers and staff working under him, the State Government would hardly raise any objection to the sanction of creation of posts or fixation of salary payable for that post or the recommendation for revision of scale of pay if the scale of pay of the equivalent post in the Government has been revised.”

43. The Hon'ble Supreme Court in ***State of Maharashtra vs. Association of Court Stenos, P.A. P.S. and another (2002) 2 SCC 141*** further held as under:

“Under the Constitution of India, appointment of officers and servants of a High Court is required to be made by the Chief Justice of the High Court or such other Judge or officer of the Court as the Chief Justice directs. The Conditions of Service of such officers and servants of the High Court could be governed by a set of rules made by the Chief Justice of the High Court and even the salaries and allowances, leave or pension of such officers could be determined by a set of rules to be framed by the Chief Justice, but so far as it relates to salary and allowances etc., it requires approval of the Governor of the State. This is apparent from the [Article 229](#) of the Constitution. On a plain reading of [Article 229\(2\)](#), it is apparent that the Chief Justice is the sole authority for fixing the salaries etc of the employees of the High Court, subject to the rules made under the said Article. Needless to mention, rules made by the Chief Justice will be subject to the provisions of any law made by the Legislature of the State. In view of proviso to sub-[Article \(2\)](#) of [Article 229](#), any rule relating to the salaries, allowances, leave or pension of the employees of the High Court would require the approval of the Governor, before the same can be enforced. The approval of the Governor, therefore, is a condition precedent to the validity of the rules made by the Chief Justice and the so-called approval of the Governor is not on his discretion, but being advised by the Government. It would, therefore, be logical to hold that apart from any power conferred by the Rules framed under [Article 229](#), the Government cannot fix

the salary or authorise any particular pay scale of an employee of the High Court.”

44. Similar view was expressed by the Hon'ble Supreme Court in the case of ***High Court Employees Welfare Association, Calcutta and others vs. State of W.B. and others*** (2004) 1 SCC 334. Further, in ***S.B. Vohra's case*** (supra), the Hon'ble Supreme Court held as under:

“Independence of the High Court is an essential feature for working of the democratic form of the Government in the country. An absolute control, therefore, have been vested in the High Court over its staff which would be free from interference from the Government subject of course to the limitations imposed by the said provision. There cannot be, however, any doubt whatsoever that while exercising such a power the Chief Justice of the High Court would only be bound by the limitation contained in Clause 2 of the [Article 229](#) of the Constitution of India and the proviso appended thereto. Approval of the President/Governor of the State is, thus, required to be obtained in relation to the Rules containing provisions as regard, salary, allowances, leave or promotion. It is trite that such approval should ordinarily be granted as a matter of course.”

45. In light of the aforesaid judgments of the Hon'ble Supreme Court, it is clear that the rules can be framed by Hon'ble the Chief Justice with regard to conditions of service of employees, officers of the High Court and the same are normally treated as final

and conclusive except with regard to salary, allowances, leave or pension which require approval of his Excellency the Governor and the reasons for requiring such approval is the involvement of the financial liability of the State.

46. Article 229 (3) of the Constitution of India contemplates that the administrative expenses of a High Court including salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, shall be charged upon a Consolidated Fund of the State and as per Article 203 of the Constitution, such administrative expenses shall not be submitted to the vote of the Legislative Assembly. Obviously, this provision was incorporated mainly to maintain the independence of the Judiciary. The Hon'ble Supreme Court while interpreting the proviso to Article 229(2) of the Constitution has held that the approval was required from his Excellency the Governor in matters relating to salaries, allowances, leave or pensions etc.

47. The Hon'ble Supreme Court further held that his Excellency the Governor cannot be compelled to grant approval, but, further held that whenever Hon'ble the Chief Justice, who is a very high dignitary of the State frames such rules, it should be looked upon with respect unless there are strong and cogent reasons for not approving. The Hon'ble Supreme Court further went

on to say that if approval cannot be granted, his Excellency the Governor could not straightway refuse to grant such approval, but before doing so, there must be an exchange of thoughts between the State Government and Hon'ble the Chief Justice of the High Court.

48. As observed by the Hon'ble Supreme Court in **S.B. Vohra's case** (supra) that the independence of the High Court is an essential feature for the working of the democratic form of the Government in the Country and that absolute control was vested in the High Court over its staff which is free from interference from the Government subject to the limitations imposed under the proviso.

49. The Hon'ble Supreme Court has categorically held that the State Government is only required to grant approval with regard to the salaries, allowances, leave or pension. The State Government, however, cannot refuse to accord approval solely on the ground that, if the pay scale is approved, it will cause financial implications. If this ground is allowed to be taken, it will give a handle to the State Government to deny approval on each and every occasion whenever the matter comes up before it with regard to the approval relating to the pay scales, salaries, allowances, leave, pension etc. and the High Court would be saddled with a begging

bowl in its hands, which was never the intention of the framers of the Constitution.

50. It is apparent that in order to maintain the independence of the judiciary, the framers of the Constitution thought it wise and expedient to make a provision as contained in Clause (3) of Article 229 of the Constitution. It is not sufficient for the State Government to refuse to grant an approval on the strength of financial constraint. In **S.B. Vohra's case** (supra), the Hon'ble Supreme Court has held that financial implications cannot be made a ground to disapprove the rules. The Hon'ble Supreme Court held as under:

"It has to be further borne in mind that it is not always helpful to raise the question of financial implications vis-a-vis the effect of grant of a particular scale of pay to the officers of the High Court on the ground that the same would have adverse effect on the other employees of the State. Scale of pay is fixed on certain norms; one of them being the quantum of work undertaken by the officers concerned as well as the extent of efficiency, integrity etc. required to be maintained by the holder of such office. This aspect of the matter has been highlighted by this Court in the case of the judicial officers in *All India Judges' Association v. Union of India* as well as the report of the Shetty Commission."

51. In **High Court Employees Welfare Association, Calcutta and Ors. vs. State of W.B. and Ors., (2004) 1 SCC 334**, (supra), the Hon'ble Supreme Court held as under:

“The Government will have to bear in mind the special nature of the work done in the High Court which the Chief Justice and his colleagues alone could really appreciate. If the Government does not desire to meet the needs of the High Court., the administration of the High Court will face severe crisis.”

52. The Hon'ble Supreme Court, in the light of the aforesaid decisions also held that before refusing to grant approval, there should be an exchange of thoughts between the Chief Justice and the State Government. In the present case, the Court finds that a Committee was constituted comprising of officers of the High Court and that of the State Government. A perusal of the minutes of this High Power Committee indicates the narrow mindset of the State Government. The only hurdle before the State Government appears that the parity granted pursuant to the resolution of the Chief Justices and the Chief Ministers in the year 1962 would be disturbed, in the event a higher pay scale is granted and that, it would also create financial problems. It is also apparent that the State Government is insisting that the pay scale of the Class IV employees should be similar to the pay scale of the Class IV employees of the State Government.

53. The Hon'ble Supreme Court in ***Supreme Court Employees' Welfare Association vs. Union of India and Another***

1993 Supp (3) SCC 727 considered the question of grant of same pay scales and benefits to the employees working in the Supreme Court at par with the employees working in the Delhi High Court and held as under:

“15. It appears before the Committee on behalf of Ministry of Finance an anomaly was pointed out which has been stated as follows:

"(A) The Punjab High court pay scale of Rs. 400-600 extended to junior Clerks of the Delhi High court, w. e. f January 1, 1978 had been fixed after absorbing the dearness allowance calculated at C. P. I. 320.

(B) Even so, the dearness allowance was given to the Junior clerks of Delhi High court at the central government rates which had been calculated over and above the basic pay fixed as on 1/01/1993 taking the then existing C. P. I. 200 as the basis,

(C) The Punjab High court pay scale of Rs. 300-430 accorded to class IV employees of the Delhi High court was again arrived at after absorbing the dearness allowance calculated at C. P. I. 320 as on 1/01/1978 and even so the dearness allowance was given to them at the central government rates which was calculated over and above the basic pay fixed on 1/01/1973 taking C. P. I. 200 as the basis.

(D) As a result their pay scales were higher than what was legitimately due to the corresponding posts in the government of India and that had resulted in double payment of dearness allowance for 120 points of C. P. I, and this had resulted in an anomaly, namely, the Class IV employees of the Delhi High court and of the Supreme court to whom similar benefits were extended pursuant to the interim order

of this court were drawing a higher salary which works out to rs 159 more as on 1/01/1978 and Rs. 308. 00 more as on 1/01/1986, compared with the salary accorded to Class IV employees in the service of the central government and their salary is even more than the pay of J. D. Cs. in central government service.

(E) The Junior Clerks of the Delhi High court and of the Supreme court to whom the pay scales of the Delhi High court were extended pursuant to the interim order of this court have been drawing a higher salary which works out to Rs. 159. 00 more than the corresponding central government employees as on 1/01/1978 and by Rs. 356. 00 as on 1/01/1986.

(F) That the confirming of similar pay scales to Junior Clerks and class IV employees on the establishment of this court by the rules to be made by the chief justice of India under Article 146 results in great disparity between the pay scales of the corresponding posts under the central government and this will constitute a ground for the central government employees to demand parity in the pay scales, i. e. pay scales accorded to the corresponding employees of the Delhi High court and the Supreme court and this will result in enormous financial liability on the central government."

16. We first remove the anomaly in the recommendation made by the committee in respect of the post of Private Secretaries to the Registrars of the Supreme court and which is the subject-matter of Interlocutory application No. 5 of 1992. The Committee in its recommendation has allowed the pay scale of Rs. 3000-4500 in respect of the posts of Section officer, Librarian, court Master and Sr. Assistant Librarian but has recommended the pay scale to Private

secretary to the Registrar at Rs. 2300-3700. A perusal of the pay scales as recommended by the Fourth pay Commission itself at Item No.11 shows that the Section Officer, librarian, Private secretary to the chief justice, Private secretary to the Judges, Private secretary to Registrar, court Master, and Sr. Assistant librarian have been given the pay scale of Rs. 2300-3700. This clearly shows that the post of Private secretary to Registrar was kept equivalent to the other posts of Section Officer, court Master etc., as already mentioned above and fixed in the same pay scale of Rs. 2300-3700. The committee of Judges have recommended the increased pay scale of Rs. 3000-4500 in case of Section Officer, Librarian, court Master and Sr. Assistant Librarian who were fixed in the pay scale of Rs. 2300-3700 by the Fourth Pay Commission. The post of Private secretary to the Registrar being also in the pay scale of Rs. 2300-3700 should be entitled to the pay scale of Rs. 3000-4500. It may also be noted that even on 1/01/1986 from which date the recommendations of the Fourth Pay Commission has been made to be effective. Private secretary to Registrar was in the same pay scale of Rs. 775-1200 as given to Section Officer, Librarian, Private secretary to the chief justice, Private secretary to the Judges, court master and Sr. Assistant Librarian. Thus in the circumstances mentioned above when all the other officers who were in the pay scale of Rs. 775- 1200 as on 1/01/1986 and fixed in the pay scale of Rs. 2300-3700 even by the Fourth Pay Commission have been recommended the pay scale of Rs. 3000-4500 by the Committee of Judges, the Private secretary to the Registrar has also become entitled to the same pay scale of Rs.3000-4500. The Interlocutory Application No. 5 of 1992 in Writ

petition (Civil) No. 801 of 1986 stands disposed of in the manner indicated above.

17. Taking the recommendations of the Committee of Judges as a base, we would now dispose of the other interim applications mentioned above. In Interlocutory Application No. 4 of 1992 filed by the Junior 3 stenographers it has been contended that the Junior Clerks of Delhi High court have been fixed in the pay scale of Rs. 1350-2200 from January 1, 1986. By an order of this court dated 18/04/1991 the Junior Clerks of this court have also been granted a similar pay scale of Rs. 1350-2200, w. e. f. 1/01/1986. It has been submitted that the post of Junior stenographer is a promotional post from Junior Clerks. In the Third Pay commission the Junior Stenographers were fixed in the pay scale of Rs 330-560 which was also the pay scale of Senior Clerks. So far as the junior Clerks are concerned they were fixed in the pay scale of Rs. 260- 400 by the Third Pay Commission. The Committee of Judges have also recommended the pay scale of Rs. 1400-2300 to the Junior Stenographers treating them at par with Senior Clerks of this court who are equivalent to upper Division Clerks of the Delhi High court. It has been contended on behalf of the Junior Stenographers that they are also entitled to the pay scale of Rs. 1400-2300 as already recommended by the Committee. We find force in the above contention. The Senior Clerks of this court have been treated equivalent to U. D. Cs. of Delhi High court who have been allowed the pay scale of Rs.1400-2300 and the Junior Stenographers being treated at par with the Senior Clerks of this court have been rightly placed by the Committee in the pay scale of Rs. 1400-2300. It may also be noted that the Junior Clerks have

already been allowed the pay scale of Rs 1350-2200 and as such the Junior Stenographers of this court, who are on a higher post than the Junior Clerks, are entitled to the pay scale of Rs. 1400-2300 as recommended by the Committee of Judges. The interlocutory Application No. 4 of 1992 in Writ Petition (Civil) No. 801 of 1986 filed by the Junior Stenographers stands disposed of in the manner indicated above.

18. As regards Interlocutory Application No. 3 of 1992 in Writ petition (Civil) No. 801 of 1986 filed by the Supreme court Employees welfare Association it has been prayed that in view of the order passed by the High court of Delhi directing payment of the pay scale of Rs. 3000- 4500, w. e. f. 1/01/1986 to the court Masters, Superintendents and other categories of employees of the said court, the staff holding corresponding posts in this court should also be allowed the aforesaid pay scales by way of interim measure till the rules are framed under Article 146 of the Constitution.

19. It may be worthwhile to note that the Committee of Judges have already recommended the pay scale of rs 3000-4500 in the case of section Officer, Librarian, court Master, Sr. Assistant Librarian to bring them at par with the incumbents holding corresponding posts of superintendent, Librarian and Court Master in the Delhi High court. The committee of Judges have also recommended new pay scale of Rs. 3300-4800 in case of the posts of Assistant Registrar, Principal Private secretary to the chief justice of India, Assistant Editor, Supreme court reports, Chief Librarian, Assistant Registrar-cum-Private secretary to the chief Justice of India, Assistant Registrar-cum-Private secretary to the judges and Assistant Registrar-cum-Private

secretary to the Registrar- general of this court. The said new pay scale has been recommended in view of the fact that the lower post of Section Officer, Librarian, court Master and Sr. Assistant Librarian have been fixed in the pay scale of Rs.3000-4500. It is needless to mention that in the aforesaid category of posts for which the pay scale of Rs. 3000-4500 has been recommended, one more category of Private secretary to Registrar shall be added which have already been dealt above while disposing of Interlocutory application No. 5 of 1992. Thus we direct that the recommendation made by the Committee of Judges for granting the pay scale of Rs. 3000-4500 and a new pay scale of Rs.3300-4800 for the posts mentioned therein may be given by way of interim measure from the month of March 1993 subject to the rules made by the chief justice of India under Article 146 of the Constitution.

20. It may be noted that the Delhi High court by order dated 14/11/1991 in Writ Petition No. 2756 of 1991 had allowed the pay scale of Rs. 3000-4500 from 1/01/1986 to the court Masters, and Superintendents of Delhi High court and the Special Leave Petitions no. 2594 of 1992 filed against the judgment of the High court having been dismissed on 25/03/1992 by this court and the same having become final, the employees in the Supreme court are justified in claiming the pay scale of Rs. 3000-4500 from 1/01/1986. Same is the position in the case of Junior Stenographer. The Chief Justice may consider and if deem appropriate direct that the payment of arrears can be made by deposit of the whole arrears or part in General Provident Fund or by way of suitable instalments as the case may be by taking note of the financial involvement in consultation with the government.

We are making it clear that we are not giving any direction in this regard and the chief Justice while framing the rules under Article 146 of the Constitution shall be free to consider and pass appropriate orders as regards the arrears. Interlocutory Application Nos. 2 and 3 in Writ Petition (Civil) No. 801 of 1986 stand disposed of in the manner indicated above.

21. Interlocutory Application No. 2 of 1992 in Writ Petition (Civil) no. 1201 of 1986 has been filed by the Supreme court Class IV employees Welfare Association claiming the pay scale of Rs. 975-1660 as allowed to such employees by the Delhi High court vide its judgment dated 4/11/1991 in Civil Writ No. 3464 of 1990. The Committee of Judges have recommended the aforesaid pay scale to Peon, Farash and safaiwala employed in the Supreme court fixing them at par with corresponding post of Peon, Farash and Sweeper in the Delhi High court. The Committee of Judges have also recommended the new and higher pay scale of Rs. 1000-1750 to Daftry and Jamadar employed in the Supreme a court in view of the fact that these posts are promotional posts and are entitled to higher pay scale as the lower pay scale of Rs. 975-1660 has been recommended to Peon, Farash and Safaiwala. We direct that the pay scales as recommended by the Committee of Judges may be given from the month of March 1993 by way of interim measure. It may be noted that the Union of India has already filed special leave petition under Article 136 of the Constitution before this court against the decision of the Delhi high court dated 4/11/1991 passed in Civil Writ Petition No. 3464 of 1990. The said special leave petition is still pending for consideration. We, therefore, direct that the grant of the

above-mentioned pay scales of Rs. 975-1660 to the Peon, Frash and Safaiwala and the pay scale of Rs. 1000-1750 to Daftry and Jamadar from March 1993 shall be subject to the decision of the special leave petition filed by the Union of India against the judgment of Delhi High court dated 4/11/1991. This disposes of the Interlocutory Application No. 2 of 1992 in Writ petition (Civil) No. 1201 of 1986. As regards arrears from January 1, 1986 the chief justice shall pass appropriate orders.

22. It has been mentioned in the report submitted by the Committee of judges that in view of the constraints of the interim orders passed by this court from time to time the Committee has recommended that the Chief justice of India can make rules under Article 146 of the Constitution of India if the limitations of the interim orders are lifted by the court on the judicial side. We consider the oppositeness of such recommendation made by the Committee. We therefore, make it clear that the Chief Justice of India is free to make rules in exercise of powers under Article 146 of the constitution of India without any constraint and irrespective of any interim orders passed on 25/07/1986, 14/08/1986, 14/11/1986 and 5/01/1987.

23. With the above observations we dispose of all the interlocutory applications as mentioned above.”

54. It was by virtue of judicial pronouncement that the Hon'ble Supreme Court in the aforesaid judgment granted benefit to the employees working in the Supreme Court at par with the employees, who were working in the High Court at Delhi. In the matter of payment of salary, the Hon'ble Supreme Court further

observed that there did not appear to be any justification that the holders of the corresponding posts in the High Court of Delhi were getting scales of pay pursuant to the orders aforesaid, however, those scales could not be denied to the corresponding posts of the Hon'ble Supreme Court till the rules came into force.

55. At this stage, it may be observed that it is not only the employees of Delhi, Punjab and Haryana High Courts alone, but even the employees working in Gujarat, Karnataka and Madras High Courts where the employees are getting a hike pursuant to the judicial pronouncements.

56. As regards the question of parity of pay of the staff of the High Court being at par with the District Judiciary pursuant to the recommendations of the Shetty Pay Commission, the question is no longer *res integra* and has been decided in favour of the staff of the High Court in view of the judgments delivered by the various High Courts. (Refer: ***Adeline Rodrigues and others vs. State of Maharashtra and others (2013) 5 AIR Bombay 1207 : (2013) 6 Maharashtra Law Journal 14, State of West Bengal and others vs. The High Court Employees' Welfare Association and others (2016) 3 Calcutta Law Journal 448, High Court Employees Association and others vs. State of Tripura and others in Writ Petition (Civil) Case No.71 of 2015***, decided on 11.08.2016,

Kishan Pilley and others vs. State of Madhya Pradesh and others in ***Writ Petition No. 7058 of 2016***, decided on 28.04.2017, ***Kerala High Court Typist, Copyist Association- C. Krishna Kumar vs. High Court of Kerala, Writ Petition (Civil) 30000 of 2016***, decided on 09.01.2018).

57. But, this is only a secondary issue as the main issue is with regard to recommendations made by Hon'ble the Chief Justice of this High Court calling upon the respondents to issue necessary notification bringing about parity in the pay scales of the employees of this High Court with their counter parts in the Punjab and Haryana High Court on the basis of the judgment rendered in ***Hari Mohan Dixit's case*** (supra).

58. Surprisingly, the State Government has rejected the ground of parity of the employees working in the Himachal Pradesh High Court with that of the Punjab and Haryana High Court by claiming that there is no such parity that too without assigning any reason whatsoever. The State has not given any reasons why the High Court employees of the State cannot be granted upgraded pay scales at par with the High Court of Punjab and Haryana. They have not even made any comparison between the nature of duties discharged by the employees of the High Court of Himachal Pradesh with other High Court employees to get scales of pay at

par with the employees of the Punjab and Haryana High Court. The respondent-State was duty bound to reach at a decision by taking into account the relevant considerations and should not have taken into account the wholly irrelevant and extraneous considerations.

59. The State has clearly misdirected themselves on a point of law, more particularly, being completely oblivious to the provisions contained in Article 229 of the Constitution of India.

60. It is not the answer that the official respondents acted bonafide or that they bestowed painstaking consideration. The reasons as given by the official respondents are not good reasons as the relevant factors have been kept out of consideration and irrelevant considerations were made the basis of the decision (Annexure P-19).

61. As regards the applicability of the judgment of the Hon'ble Supreme Court in ***P.D. Attri's case*** (supra), admittedly, the claim of the employees therein was not based on any constitutional or any other legal provisions whereby they could claim parity with the posts similarly designated in Punjab for grant of pay scales from the same date. It was in that background that the Hon'ble Supreme Court had observed as under:

“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.”

62. Thus, what has been stated by the Hon'ble Supreme Court is that one State is not bound to follow the rules and regulations applicable to the employees of another State since the budget sanction or allocation to a particular head differ from State to State. Moreover, the Central Government has more resources of its own. Hence, the granting of benefits by the Central Government cannot be compared with that of the States.

63. The ratio of the judgment in **P.D. Attri's case** (supra) is not at all applicable to the facts of the instant case, more particularly, when the recommendations in the instant case have been made in exercise of the powers vested with Hon'ble the Chief Justice under Article 229 of the Constitution of India and as mentioned above the recommendations so made are based upon a judgment in **Hari Mohan Dixit's case** (supra). Here, the petitioner is not simply claiming parity with its counter parts in the Punjab and Haryana High

Court, but is armed with the judgment rendered by the Punjab and Haryana High Court in ***Hari Mohan Dixit's case*** (supra) and hosts of other judgments already referred to hereinabove.

64. Thus, from the above stated factual and legal position, it is quite evident that the decision making process while passing order (Annexure P-19) suffers from non-consideration of material and official respondents have otherwise considered the material which was wholly irrelevant. The said decision, therefore, cannot withstand judicial scrutiny.

65. In the instant case, report of the Hon'ble Committee was placed before Hon'ble the Chief Justice for consideration and orders and Hon'ble the Chief Justice recommended the same in its powers conferred upon him under Article 229 of the Constitution of India. Since, no rules were framed under Article 229(2) of the Constitution of India relating to the conditions of service of employees of the Himachal Pradesh High Court, therefore, in absence of a statutory rule, the proposal itself has to be treated as a rule within the meaning of Article 229(2) of the Constitution of India.

66. In coming to such conclusion, we are duly supported and fortified by the Full Bench decision of the Bombay High Court in the case of ***Chandrakant Sakharam Karkhanis and others vs.***

State of Maharashtra and others, AIR 1977 Bombay 193 wherein it has been held as follows:

“31-32.....Circulars, Orders or Resolutions or parts thereof laying down the rules or principles of general application, which have to be observed in the recruitment or fixation of seniority of Government servants generally or a particular class of them, and which have been duly authenticated by a signature under the endorsement "By order and in the name of the Governor of Maharashtra" and intended to be applicable straightway are or amount to the rules framed in exercise of the powers conferred under the proviso to [Article 309](#) of the Constitution of India, although the said Circulars, Orders or Resolutions do not expressly state that the same are made or issued in exercise of the powers conferred under the proviso to [Article 309](#) of the Constitution of India and are not published in the Government Gazette.”

67. In view of the aforesaid discussion, even a letter, memorandum or circular so issued on behalf of Hon'ble the Chief Justice of the High Court to the State Government is essentially required to be treated as the one issued in exercise of the powers under Article 229 of the Constitution of India.

68. Here, it would be apposite to take note of the Division Bench judgment of the Gujarat High Court in the case of ***High Court of Gujarat vs. K.K. Parmer 1992 (2) GLH (DB) 379*** wherein it was held that Article 229 (2) of the Constitution of India nowhere prescribes or indicates any particular form in which the rule should

be framed nor does it prescribe any formality required to be gone through. Even though the decision is not expressed in the form or in words in which the rule is framed or an order is issued, the same amounts to a rule framed in exercise of the powers conferred under Article 229(2) of the Constitution of India.

69. At this stage, it would also be necessary to take note of a decision of the Division Bench of the Karnataka High Court in **Writ Appeal No. 4411 of 2011** case titled **Nijaguni vs. The High Court of Karnataka and another**, decided on 12.10.2011, wherein it was held that the recommendatory letter with model pay scale attached thereto by way of an annexure in itself is to be taken as a rule and the Government is required to act on the same as if it was a rule framed by Hon'ble the Chief Justice in exercise of the powers under Article 229(2) of the Constitution of India.

70. This decision of the Karnataka High Court was also affirmed by the Hon'ble Supreme Court in **Civil Appeal No. 5914-5915 of 2012** case titled **State of Karnataka vs. Nijaguni and others** vide order dated 18.11.2015 which reads as thus:

"1. These appeals are directed against the judgment(s) and order(s) passed by the High Court of Karnataka at Bangalore in Writ Appeal No. 4411 of 2011, dated 12.10.2011 and Review Petition No. 63 of 2012, dated 30.03.2012.

2. We have heard learned counsel for the parties to the *lis*.

3. After going through the judgment(s) and order (s) passed by the High Court and the material available on record we see no infirmity in the impugned judgment(s) and order(s) passed by the High Court. Accordingly, the Civil Appeals are dismissed.

4. As a sequel to the above, the interim stay granted by this Court on 13.08.2012 stands vacated.

5. Application(s) for impleadment are dismissed.”

71. The Division Bench of the Karnataka High Court after elaborate consideration of the rival submissions held that in spite of the recommendations made by Hon'ble the Chief Justice of the High Court of Karnataka way back on 06.10.2004, the Government had not taken any steps to implement the recommendations. It was also held that the recommendations of Hon'ble the Chief Justice of the High Court should ordinarily be approved by the State and refusal thereof must be for strong and adequate reasons and one cannot treat the same lightly.

72. After concluding so, the Division Bench of the High Court allowed the writ appeal and set aside the order passed by the learned single Judge on 12.10.2011. It needs to be noticed that despite the orders of the Hon'ble Supreme Court dismissing the appeal filed by the State of Karnataka, Contempt Petitions in C.C.C.

(Civil) Nos. 1241 and 1244 of 2016 were filed before the Division Bench of the Karnataka High Court.

73. The Division Bench of the Karnataka High Court vide its order dated 14.07.2017 held that the State Government had not complied with the order dated 12.10.2011 and, therefore, refused to drop the contempt proceedings. Even this order dated 14.07.2017 was again unsuccessfully assailed by the Government of Karnataka before the Hon'ble Supreme Court.

74. The Hon'ble Supreme Court vide its order dated 18.09.2017 not only dismissed the SLP, but also directed the State Government to accordingly implement the order of the Division Bench of the Karnataka High Court within a period of four months. It was pursuant to these orders that the State Government thereafter issued a government order on 11.01.2018 conferring Central Government Pay Scales to the employees of the State of Karnataka. Similar benefits have already been extended to the employees of the Punjab and Haryana High Court pursuant to the directions passed by the learned single Judge in the case of ***Hari Mohan Dixit's case*** (supra).

75. Moreover, there is nothing on record to suggest that the recommendations made by Hon'ble the Chief Justice were in any way arbitrary or that the relevant factors have not been considered.

76. The Hon'ble Chief Justice asked the High Court to recommend the grant of benefits to the employees of the High Court and asked the concerned Registry to take up the matter with the State Government. Therefore, in such circumstances, the recommendations made by Hon'ble the Chief Justice of the High Court cannot be said to be without application of mind.

77. The respondents appear to have been totally oblivious of the fact that it was the Hon'ble Supreme Court that in the case of ***State of Maharashtra vs. Association of Stenographers AIR 2002 SC 555*** had directed the Registrar General of the Supreme Court to issue a circular that the High Courts can have their own pay scales to its employees after considering the special nature of their duties and functions.

78. The State Government further appears to have been totally oblivious to the fact that it is Hon'ble the Chief Justice and the Hon'ble companion Judges of the High Court, who are better equipped to assess the requirements of the High Court staff and servants. The decision so taken by Hon'ble the Chief Justice cannot be lightly discarded or sidelined. Moreover, the High Court staff and servants render the services which are quite different from the services rendered by the staff of the Secretariat. Further, neither the High Court staff/servants nor Secretariat staff can, as a

matter of right, demand increase in salary. This power to pay pension, allowance and leave is vested with Hon'ble the Chief Justice of the High Court for the staff and servants.

79. As far as the nature of duties and responsibilities shouldered by the staff of the State Secretariat and the High Court are concerned, there is a vast difference. Unlike, the State Secretariat, the staff of the High Court have to strive hard to accomplish the given task as is other contended by the learned Senior Counsel for the petitioner. This submission needs to be considered and analyzed to arrive at an appropriate decision. The duty hours of the staff of the High Court normally and invariably get stretched and extended to odd hours and they are more often than not required to work till late in the night.

80. It is needless to mention that most of the work assigned to the staff of the High Court is required to be accomplished and/or completed in a time bound manner and cannot be delayed. Such nature of work is required to be discharged by the employees of the High Court from the date of the commencement of their service till their retirement. Therefore, when a comparison is made between the nature of the work discharged by the staff of the Judiciary on the whole with that of the staff of the State Secretariat, there is vast difference. Therefore,

fixation of same scale of pay to the staff of the State Secretariat and the staff of the High Court is not warranted taking into account the peculiar nature of work expected out of the staff of the Judiciary.

81. Noticeably, a similar contention was raised before the Karnataka High Court wherein it was contended that the employees of the various High Courts draw wages and pay scales equivalent to the Central Government employees or even more. The comparative statement produced by the employees was also reproduced in the judgment of the Division Bench of the Karnataka High Court. On comparing the scale of pay as also the nature of work and responsibilities and the working hours of the employees of the High Court of Karnataka, the Division Bench held that the work that is required to be turned out by the employees of the High Court, more particularly, the Senior Judgment Writers, Judgment Writers, Stenographers etc. is not only time bound but the employees of the High Court are made to work beyond normal office hours.

82. All these aspects of the matter have been eloquently set out and dealt with by the Division Bench of the Madras High Court in ***R.N. Arul Jothi and others vs. Principal Secretary to Government Home (Cts. V) Department Secretariat, Chennai***

and another 2020 Labour and Industrial Cases 3324, when the Madras High Court proceeded to observe as under:-

“76. In the order of refusal dated 29.01.2019, which is challenged in WP No. 21586 of 2019, the Government has mainly reiterated that the revision of pay scales of the staff of the Madras High Court is always determined in the Pay Commission/Pay Panels. It was also reasoned that the revision of pay of the staff of the Madras High Court was recently given effect to on the basis of the recommendations made by the Official Committee constituted for the purpose of giving effect to the Seventh Pay Commission. While so, any change in the revision of pay of the members of the staff of the High Court, will have a spiraling and cascading effect on the pay scale of the staff of the State Secretariat as well as other Departments of the Government. It was also reasoned that the pay structure of the staff members of the Madras High Court cannot be compared with the Delhi High Court, where the pay structure is different and the expenses of which are borne by the Central Government, which has its own resources at its command. Thus, it is evident that the order of rejection mainly proceeds on the footing that the revision of scale of pay, if effected to the staff of the Madras High Court, will have a spiraling and cascading effect on the pay scales of the staff of the Secretariat and other wings of the Department and it will lead to multiplicity of claims by others. This reason in the impugned order cannot be accepted for more than one reason. First of all, the comparison between the scale of pay between the staff of the High Court and the State Secretariat, cannot be made. The nature of work discharged by the staff of the High Court is not akin to or comparable with the nature of work

discharged by the members of the State Secretariat. This has been reiterated time and again by this Court as well as the Honourable Supreme court. In one of the decisions rendered by the Honourable Supreme Court in the case of SAIL vs. Dibyendu Bhattacharya, 2011 11 SCC 122, it was held by the Honourable Supreme Court that granting parity in pay scales depends upon the comparative evaluation of job and equation of posts. It was also held in that judgment that the functions may be the same, but the skills and responsibilities may be really and substantially different. **Since the Chief Justice of the High Court is better equipped to assess the requirements of High Court staff and servants, the decision taken by the Chief Justice of the High Court cannot be ignored by citing the spiralling and cascading effect. The High Court staff and servants render service which are quite different from the service rendered by the staff of the Secretariat. Further, neither the High Court staff/ servants nor Secretariat staff can, as a matter of right, demand increase in salary. Constitutionally, the power to fix pay, allowance, pension, leave etc., is vested with the Chief Justice of the High Court for the staff and servants. The framers of the Constitution, have in their wisdom, bestowed the powers to fix salary and allowance of such staff and servants by Rules with the Chief Justice of the High Court.**

77. As far as the nature of duties and responsibilities shouldered by the staff of the State Secretariat and the High Courts, there is a vast difference. It is the contention of the learned Senior Counsel appearing for the petitioners that unlike the State Secretariat, the staff

of the High Courts have to strive hard to accomplish the given task. This submission of the learned Senior Counsel appearing for the petitioners needs to be considered and analysed to arrive at appropriate decision. The duty hours of the staff of the High Court normally get stretched and extended to odd hours and they are required to work quite often till late in the night. It is needless to mention that most of the work assigned to the staff of the Madras High Court, are to be accomplished and/or completed in a time-bound manner and it cannot be delayed. Such nature of work is required to be discharged by the employees in the High Court from the date of commencement of their service till their retirement. Therefore, when a comparison is made between the nature of work discharged by the staff of the Judiciary on the whole, with the staff of the State Secretariat, there is vast difference. Therefore, fixation of same scale of pay to the staff of the State Secretariat and the staff of the High Court, is not warranted taking into account the peculiar nature of work expected out of the staff of the Judiciary. It is in the light of the above traits and characteristic, the Staff Grievance Committee made a comparison of the pay scale prevailing among the staff of the various High Courts and not among the staff of the various State Secretariat. The Staff Grievance Committee has also concluded that the pay pattern prevailing in the Delhi High Court is suitable for being adopted to the staff of the Madras High Court and accordingly, a report was filed before the Honourable Chief Justice of Madras High Court.”

83. Earlier to that the Karnataka High Court while dealing with the similar issue drew up a comparative statement produced by the employees which was also reproduced in the judgment. On comparing the scales of pay as also the nature of work and responsibilities and working hours of the employees of the High Court of Karnataka, the Division Bench held that the work that is required to be turned out by the employees of the High Court, more particularly, the Senior Judgment writers, Judgment Writers, Stenographers etc., is not only time-bound and even the employees of the High Court are made to work beyond the normal office hours. These observations have been applied by the Madras High Court and the same squarely apply to the facts and circumstances of the instant case also.

84. We otherwise see no reason why the State Government should not follow the pattern of pay of the Delhi High Court. After-all, prior to establishment of the present High Court on 25th January, 1971, on attainment of statehood, it was being administered by the Delhi High Court, Himachal Bench, at Shimla and earlier to that the Punjab High Court. This is evident from the history of the High Court of Himachal Pradesh as given in the official website, the relevant portion whereof reads as under:

“The Princely States in Pre Independence India had different systems of Administration and set of laws. In most of the Princely States, the administration was run on the whims of the Rulers or the Wazirs and their saying were considered to be the law. Himachal Pradesh was formed as a result of integration of 26 Shimla and 4 Punjab hill States into a Centrally Administered Area on April 15, 1948. On 1st April, 1954, the parts of Bilaspur were also merged with Himachal Pradesh having its Headquarters at Shimla, which was headed by the Chief Commissioner. The first Chief Commissioner was Mr. N.C. Mehta and he was assisted by his deputy Mr. E. Penderal Moon, ICS. On September 30, 1948, an advisory council was formed for the advice of the Chief Commissioner for administrative functions. The Central Government promulgated the Himachal Pradesh (Courts) Order, 1948 on 15th August, 1948. As per Paragraph 3 of this Order, the Court of Judicial Commissioner was established for Himachal Pradesh and the Court was housed at "Harvingtan" (Kelston area, Shimla). It was vested with the powers of a High Court under the Judicial Commissioner's Court Act, 1950. Besides the Court of Judicial Commissioner, two Courts of District and Sessions Judges and 27 subordinate Courts were also set up. The Court of Judicial commissioner started functioning on August 15, 1948 and in the same year, two Courts of District and Sessions Judges were also established. The Punjab High Court rules and orders with suitable amendments were made applicable to the courts in Himachal Pradesh. On April 29, 1967, two more District and Sessions Judges Courts for Shimla and Kangra were established. However in the year 1966, the Delhi High Court Act was enacted by the Government of India w.e.f.

May 1, 1967. The Central Government of India extended the operation of the said Act to the Union Territory of Himachal Pradesh, replacing the Court of Judicial Commissioner by the Himachal Bench of Delhi High Court, at Shimla. It started functioning in old High Court building known as "Ravenswood". At that time, Hon'ble Mr. Justice K. S. Hegde was the Chief Justice of the Delhi High Court. Hon'ble Mr. Justice S. K. Kapoor and Hon'ble Mr. Justice Hardayal Hardy constituted the first circuit bench of the Delhi High Court which held Court at Ravenswood (Shimla). Himachal Pradesh attained Statehood in the year, 1971, and established its own High Court with Headquarters at "Ravenswood", Shimla, having one Hon'ble Chief Justice and two Hon'ble Judges. The first Chief Justice of the High Court of Himachal Pradesh was Hon'ble Mr. Justice M. H. Beg and the other two Hon'ble Judges were Hon'ble Mr. Justice D. B. Lal and Hon'ble Mr. Justice C. R. Thakur."

85. Thus, the comparison of the pay pattern is among the various High Courts in this Country. The nature of duties discharged by the employees of High Court is different and it cannot be compared with the duties and responsibilities shouldered by the employees in the State Secretariat or other Departments of the Government.

86. Therefore, in such circumstances, the endeavour of the State in trying to draw a parity in the nature and duties of the employees of the High Court vis-a-vis the employees of the Secretariat and other Departments, while rejecting the case of the

petitioner, cannot be accepted and is rejected being devoid of any merit.

87. The recommendations of Hon'ble the Chief Justice are required to be placed for approval of His Excellency the Governor of Himachal Pradesh and the same should not have been rejected unless there are strong and cogent reasons for refusal of the same.

88. A decision on the scales of pay to be granted to the employees of the High Court ignoring the recommendations of Hon'ble the Chief Justice is completely impermissible going by the decision of the Hon'ble Supreme Court in **S.B.Vohra's case** (supra). We have no hesitation in holding that the consideration of the claim of the employees of the High Court as if they were the employees of the component departments of the Government is completely unsustainable and bad in law.

89. We are of the considered view that the Chief Secretary to the Government of Himachal Pradesh ought to have placed the recommendations of Hon'ble the Chief Justice of this High Court before His Excellency the Governor of Himachal Pradesh for approval on the principle of comity. The recommendations so made by Hon'ble the Chief Justice of this High Court ought not to have been filtered at any level lower than that of His Excellency the Governor of Himachal Pradesh. Since this course was admittedly

not followed by the respondent-State, therefore, the decision taken by them in the meeting held on 24.07.2019 (Annexure P-19) refusing to accede to the recommendations made by Hon'ble the Chief Justice is set aside.

90. In light of the aforesaid discussion, we are clearly of the view that the proposal sent by the High Court could not have been rejected by the State Government and due deference had to be accorded to the same. Once, Hon'ble the Chief Justice in the interest of High Court Administration had taken a progressive step specially to ameliorate the service conditions of the Officers and staff working under him, the State Government should not and ought not to have raised any objection to such recommendations unless there were very good reasons for not granting the approval which do not exist in the instant case.

91. What would then be the further course of action required to be drawn in the instant case is clearly laid down by the Hon'ble Supreme Court in three Hon'ble Judge Bench decision in ***State of Rajasthan and others vs. Ramesh Chandra Mundra and others (2020) 20 SCC 163*** in paragraph 28 which reads as under:

“28. The scheme of Article 229 of the Constitution of India obviously requires a joint consideration of the proposal

which the Chief Justice may make in regard to appointment, conditions of service, etc. in accordance with the Rules. Undoubtedly, if the Chief Justice takes a decision which has financial implications and that decision cannot be questioned by any authority, the financial implications which such decision may have imposed, should receive due consideration at the hands of the State Government and eventually the Governor.....”

92. As noticed above, the petitioner is claiming 20% hike in the pay scales (Grade Pay) on the basis of the judgment rendered by Punjab and Haryana High Court in ***Hari Mohan Dixit's case*** (supra) whereby the Union of India was directed to consider the recommendations made by three Judges' Committee which had been accorded approval by Hon'ble the Chief Justice of the Punjab and Haryana High Court and to take an appropriate decision in accordance with law and especially keeping in view the guiding principles reiterated in ***S.B. Vohra's case*** (supra). It was pursuant to these directions that the Government of India eventually granted 20% hike in the pay scales (Grade Pay). The Government of India vide memorandum dated 27.02.2012 granted hike of 20% in the existing pay including Grade Pay to the employees specified in the memorandum and serving in Punjab and Haryana High Court with effect from 01.01.2006.

93. This is an issue which is required to be analyzed and examined by a Committee as held by the Hon'ble Supreme Court in ***High Court Employees Welfare Association, Calcutta and others vs. State of West Bengal and others (2004) 1 SCC 334*** (supra), wherein it was held as under:

“11. The Government will have to bear in mind the special nature of the work done in the High Court which the Chief Justice and his colleagues alone could really appreciate. If the Government does not desire to meet the needs of the High Court, the administration of the High Court will face severe crisis. Hence, a special Pay Commission consisting of Judges and Administrators shall be constituted by the Chief Justice in consultation with the Government to make a report and on receipt of such report, the Chief Justice and the Government shall thrash out the problem and work out an appropriate formula in regard to pay scales to be fixed for the High Court employees. Let such action be taken within six months from today.”

94. In light of the aforesaid discussion, we deem it appropriate to direct that this judgment be placed before Hon'ble the Chief Justice of this High Court to constitute a Committee consisting of at least two Hon'ble Judges of this High Court, Additional Chief Secretary (Home), Additional Chief Secretary (Finance) to the Government of Himachal Pradesh, Principal Secretary, Law, to the Government of Himachal Pradesh or any other person, Registrar General, Registrar (Vigilance) and Registrar (Judicial) of this High

Court and two representatives of the Petitioner-Association. The Hon'ble Committee shall go into the details with respect to grant of hike as per prayer clause of the petition keeping in view the nature of duties and responsibilities discharged by the staff working under various cadres in the adjoining High Courts of Punjab and Haryana and Delhi before recommending the pay pattern as was done by the Division Bench of the Madras High Court in **R.N. Arul Jothi's case** (supra). Since, Article 229 of the Constitution of India contemplates framing of rules for salary, allowance, leave or pension etc., Hon'ble the Chief Justice may empower the Hon'ble Committee to frame the appropriate rules for the aforesaid purpose for the future. The above exercise may be completed preferably within a period of four months. Ordered accordingly.

95. The writ petition is accordingly allowed in the aforesaid terms, leaving the parties to bear their own costs. Pending application(s), if any, also stands disposed of.

96. For compliance to come up on **10.05.2023**.

(Tarlok Singh Chauhan)
Judge

(Sandeep Sharma)
Judge

9th January, 2023.
(krt)