

(2013) 11 MAD CK 0112

In the Madras High Court

Case No : Writ Petition No's. 1418, 10946 to 10948, 10974, 11285, 18275, 18770 to 18789, 18880, 18881, 19501, 20605 to 20650, 22279 to 22299 and 22342 to 22355 of 2013 and connected Miscellaneous Petitions W.P. No. 1418 of 2013

K. Mani and Others

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 18-11-2013

Acts Referred:

Citation : (2014) 1 LLJ 127

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : L. Chandrakumar in W.P. No. 1418/2013, for the Appellant; A.L. Somayaji, Advocate General assisted by Mr. V. Subbiah, Special Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

D. Hariparanthaman, J.—Since common question is involved in all these writ petitions, all these writ petitions are disposed of by a common order. The petitioners in all these petitions are Drivers in various departments of the Tamil Nadu Government. They have sought for the issuance of writ in the nature of Mandamus directing the Government to pay them Selection Grade and Special Grade at Rs. 5000-150-8000 and Rs. 5500-175-9000 on completion of 10 years and 20 years of service respectively as per the Government Order in G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998 of the Tamil Nadu Government.

2. Therefore, the issue for consideration is as to whether the Drivers in various Departments of Tamil Nadu Government are entitled to Selection Grade and Special Grade pay in Rs. 5000-150-8000 and Rs. 5500-175-9000 on completion of 10 years and 20 years of their service as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998 with effect from 01.01.1996.

3. Heard both sides.

4. This Court put a question to the learned counsels for the petitioners to point out from the Government Order in G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998 to sustain their claim for Selection Grade and Special Grade at Rs. 5000-150-8000 and 5500-175-9000.

5. Admittedly they are not able to lay their hands in G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998, in support of their contentions. But they relied on a judgment of a learned Single Judge of this Court dated 30.09.2008 in W.P. No. 4288 of 2008 batch, and the order of the Division Bench of this Court dated 01.09.2009 in W.A. No. 383 of 2009 batch confirming the aforesaid order of the learned Single Judge.

6(i). On the other hand, learned Advocate General submitted that the claim of the petitioners are in fact based on the erroneous fixation of Selection Grade and Special Grade at Rs. 5000-150-8000 and 5500-175-9000 respectively to Drivers in some of the departments.

6(ii). It was submitted that the Government of Tamil Nadu constituted an Official Committee to examine the question of revision of scales of pay and allowances of the State Government employees and Teachers based on the decisions of the Central Government on the basis of the recommendations of the Fifth Central Pay Commission and make necessary recommendations regarding extension of these pay scales to State Government employees and Teachers.

6(iii). The Committee gave its report to the Government. Based on the report, the Government issued G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998 revising the pay scales to State Government employees and Teachers.

6(iv). The Drivers of various departments sought for Selection Grade and Special Grade pay at Rs. 5000-150-8000 and Rs. 5500-175-9000 respectively as per the Government Order in G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998

6(v). According to him, G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998, nowhere grants Selection Grade and Special Grade pay to the Drivers as sought for by them. He took me through G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998 and submitted that G.O. Ms. No. 162 revised the pay scale on "pay scale to pay scale" basis, as per Schedule I to Tamil Nadu Revised Scales of Pay Rules, 1998, in 25 standard pay scales. He further submitted that while Schedule I indicates the revised pay scales on "pay scale to pay scale" basis, Schedule II has prescribed the Selection Grade and Special Grade pay for the ordinary grade pay.

6(vi). While 25 standard revised pay scales are given in Schedule I, the Schedule II gives 18 ordinary grade pay scales and the corresponding Selection Grade and Special Grade pay scales. The Selection Grade and Special Grade pay for

eighteen pay scales is from Rs. 2550-3200 to Rs. 9100-14050, in Schedule II.

6(vii). He further submitted that the drivers in all the Government departments were in the pay of Rs. 975-25-1150-30-1660 prior to 01.01.1996 and the same was revised to Rs. 3200-85-4900 as per Sl. No. XX in Schedule I, referred to above. The same is not in dispute, according to him. If Rs. 3200-85-4900 is the ordinary grade pay, as per Schedule II, Selection Grade and Special Grade pay are Rs. 4000-100-6000 and Rs. 4300-100-6000. He has taken me through Schedule I and Schedule II of the Tamil Nadu Revised Scales of Pay Rules, 1998, in support of his submissions.

6(viii). He submitted that it is true that certain departments erroneously granted Selection Grade at Rs. 5000-150-8000 and the Special Grade at Rs. 5500-175-9000 to the Drivers, when the same are to be granted only in the case of the ordinary grade pay at Rs. 4000-100-6000, whereas, the ordinary grade pay of the Drivers is Rs. 3200-85-4900.

6(ix) On noticing the erroneous fixation in some of the departments, the Joint Secretary to the Government, Finance Department, issued a letter in Letter No. 96900/PC/98-2, dated 31.12.1998 to all the Secretaries to the Government and all the Departmental Heads including the Registrar, High Court, to review such wrong fixations and effect recoveries, wherever excess payments have been made, based on such wrong fixation.

6(x) He further contended that the Tamil Nadu Government Department Drivers' Central Association made a representation dated 07.12.2005 to grant Selection Grade and Special Grade pay at Rs. 5000-150-8000 and Rs. 5500-175-9000 to Drivers in various departments, as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998. The same was rejected by the Secretary, Personnel and Administrative Reforms Department, in their letter dated 25.04.2006.

6(xi). The Association filed W.P. No. 34800 of 2006 to quash the aforesaid letter and sought for a direction to grant the Selection Grade and Special Grade scales of pay to Drivers as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998. This Court allowed the writ petition on 06.08.2007 in W.P. No. 34800 of 2006 on the ground that the letter dated 25.04.2006 nowhere refers to G.O. Ms. No. 162 and quashed the letter dated 25.04.2006 and the petitioner was permitted to make a fresh representation to the Secretary, Finance Department, mentioning G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998, within a period of two weeks from the date of receipt of a copy of that order and on receipt of the same, the Secretary, Finance Department, was directed to pass orders taking note of G.O. Ms. No. 162 within a period of three months thereafter.

6(xii). Based on the same, the association preferred a representation dated 17.08.2007. The same was rejected by the Finance Department in its letter No. 63685/CMPC/2006-1, dated 01.10.2007 stating the aforesaid facts and also

stating that the Drivers are entitled for the Selection Grade pay of Rs. 4000-6000 and Special Grade pay of Rs. 4300-6000 respectively, as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998. The said order was challenged by individual drivers by filing writ petition in W.P. No. 4288 of 2008 batch.

6(xiii). This Court set aside the letter dated 01.10.2007 and issued a direction to pass appropriate orders in respect of fixation of pay for Selection Grade and Special Grade to Drivers of various departments as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998, within a period of eight weeks from the date of receipt of a copy of that order.

6(xiv). The Government took it on appeal in W.A. No. 383 of 2009 batch. The Division Bench confirmed the order of the learned Single Judge and directed to grant Selection Grade and Special Grade pay as indicated in Schedule II of the Tamil Nadu Revised Scales of Pay Rules, 1998.

6(xv). According to the learned Advocate General, both the learned Single Judge as well as the Division Bench directed for fixation as per Schedule II to G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998 and therefore, the same shall be understood that the Drivers are entitled to Rs. 4000-100-6000 as Selection Grade pay and Rs. 4300-100-6000 as Special Grade pay as per Schedule II, since their ordinary grade pay is Rs. 3200-85-4900.

6(xvi). He further submitted that the judgment of the learned Single Judge and the Division Bench referred to above cannot be understood as issuing direction to grant Selection Grade/Special Grade based on wrong fixation.

6(xvii). Those orders cannot be treated as a "precedent" giving right to the petitioners/Drivers to claim Selection Grade and Special Grade pay of Rs. 5000-150-8000 and Rs. 5500-175-9000, if such a fixation is erroneous.

6(xviii). He relied on the judgments of the Apex Court in U.P. State Electricity Board Vs. Pooran Chandra Pandey and Others, and the Division Bench of Delhi High Court in Ram Charan Singh Vs. Union of India (UOI) and Others in this regard.

7. I have considered the submissions made by either side.

8. It is not in dispute that the Drivers in the Government departments were in receipt of scale of pay of Rs. 975-25-1150-30-1660 before 01.01.1996, the date on which revised scale of pay came into effect as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998.

9. The scale of pay of Rs. 975-25-1150-30-1660 was fixed to Drivers pursuant to the Fifth Tamil Nadu Pay Commission, as per G.O. Ms. No. 666, Finance (Pay Commission) Department, dated 27.06.1989 with effect from 01.06.1988.

10. The Government of Tamil Nadu constituted an Official Committee to examine the question of revision of scales of pay and allowances of State Government employees and Teachers based on the decisions of the Central Government on

the recommendations of the Fifth Central Pay Commission and make necessary recommendations regarding extension of these pay scales to the State Government employees and Teachers. The Official Committee submitted its report to the Tamil Nadu Government on 16.03.1998. Based on the said report, the Tamil Nadu Government issued the Tamil Nadu Revised Scales of Pay Rules, 1998 (hereinafter referred to as "the Rules") in G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998. Accordingly, 25 Standard Pay Scales were revised as indicated in Schedule I to the Rules and the pay scale revision is on "pay scale to pay scale" basis. The revision came into effect from 01.01.1996.

11. G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998 also provides for Selection Grade and Special Grade scales of pay as indicated in Schedule II of the Rules. While prescribing the Selection Grade and Special Grade in Schedule II, it is stated that in the case of Promotional posts, if the Selection Grade scale of pay is higher than the pay scale of promotional post, the Selection Grade shall be limited to the pay scale of the first level promotion post. Similarly, the Special Grade scale of pay, as provided in Schedule II, is higher than the second level promotion post, the Special Grade shall be limited to the pay scale of the second level promotion post only. As far as the post of Drivers is concerned, there is no promotional avenue and therefore, the Selection Grade and Special Grade, as indicated in Schedule II to the Rules, shall be straight-away applicable to the Drivers.

12. It is relevant to extract the following passage in G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998 and Schedule I as hereunder:

The Government of Tamil Nadu in Government Order fifth read above has constituted an Official Committee to examine the question of revision of scales of pay and allowances of State Government employees and Teachers based on the decisions of the Central Government on the recommendations of the Fifth Central Pay Commission and make necessary recommendations regarding extension of these pay scales to the State Government employees and Teachers. The Committee was also requested to examine the decisions of the Government of India on the revision of pension, family pension, retirement benefits and make necessary recommendations. It has also been ordered that while making recommendations on scales of pay, the Committee will take into account the local conditions and the present relativities. The Committee was also requested to examine the pay scales of employees of Local Bodies.

2. The Official Committee submitted its report to Government on 16-3-1998. The Government has carefully examined the recommendations of the Committee and has taken the following decisions:-

(i) PAY SCALES:

The broad banding of pay scales, i.e., merger of existing two pay scales and grant of a common revised pay scales adopted by the Central Government need not be followed in the State as it will disturb the horizontal and vertical

relativities of many posts in the State Government. Secondly, the revised pay scales will be on pay scale to pay scale basis as higher/lower pay scales granted to certain categories in the Central Government if adopted in the State, would alter the existing relativities in the pay scales in the State. Accordingly, the existing 25 standard pay scales will be revised as indicated in the Schedule-I to the Revised Scales of Pay Rules ordered in paragraph 18 of this order.

SCHEDULE - I

LIST OF PAY SCALES Group (1)

Group (1)

Existing Scale

Revised Scale

I

5500-200-6500

17400-500-21900

II

5100-150-5700

16400-450-20000

III

4500-150-5700

15000-400-18600

IV

4100-125-4850-150-5300

14300-400-18300

V

3950-125-4700-150-5000

12750-375-16500

VI

3700-125-4700-150-5000

12000-375-16500

VII

3000-100-3500-125-4500

10000-325-15200

VIII

2500-75-2800-100-4200

9100-275-14050

IX

2200-75-2800-100-4000

8000-275-13500

X

2000-60-2300-75-3200-100-3500

6500-200-11100

XI

2000-60-2300-75-3200

6500-200-10500

XII

1820-60-2300-75-3200

5900-200-9900

XIII

1640-60-2600-75-2900

5500-175-9000

XIV

1600-50-2300-60-2660

5300-150-8300

XV

1400-40-1600-50-2300-60-2600

5000-150-8000

XVI

1350-30-1440-40-1800-50-2200

4500-125-7000

XVII

1320-30-1560-40-2040

4300-100-6000

XVIII

1200-30-1560-40-2040

4000-100-6000

XIX

1100-25-1150-30-1660

3625-85-4900

XX

975-25-1150-30-1660

3200-85-4900

XXI

950-20-1150-25-1500

3050-75-3950-80-4590

XXII

825-15-900-20-1200

2750-70-3800-75-4400

XXIII

800-15-1010-20-1150

2650-65-3300-70-4000

XXIV

775-12-835-15-1030

2610-60-3150-65-3540

XXV

750-12-870-15-945

2550-55-2660-60-3200

13. It is also relevant to extract paragraph 4 of the G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998 and Schedule II to the Rules as per G.O. Ms. No. 162, as hereunder:

SELECTION GRADE AND SPECIAL GRADE SCALES OF PAY:

4. The Selection Grade and Special Grade will be the corresponding revised scales based on the existing pay scales of these grades. The appropriate revised

scales of pay for Selection Grade/Special Grade are indicated in Schedule - II to the Tamil Nadu Revised Scales of Pay Rules, 1998. Provided further, Selection Grade and Special Grade scales shall be regulated as below:-

(i) For posts, having no promotional avenue, the Selection Grade and Special Grade shall be allowed as indicated in Schedule-II.

(ii) For posts having promotional posts, if the Selection Grade scale of pay indicated in the said Schedule is higher than the pay scale of promotional post, the Selection Grade scale should be limited to the pay scale of the first level promotion post. Similarly, if the Special Grade Scale is higher than the pay scale of second level promotion post, the Special Grade scale shall be limited to the pay scale of second level promotion post only.

The existing procedure for movement to Selection Grade/Special Grade and fixation of pay of these grades shall continue to be adopted in future in the revised scales also.

SCHEDULE - II

REVISED SELECTION GRADE AND SPECIAL GRADE SCALE OF PAY

Sl. No. (1)

Ordinary Grade (2) (Rs.)

Selection Grade (3) (Rs.)

Special Grade (4) (Rs.)

1

2550-55-2660-60-3200

2650-65-3300-70-4000

2750-70-3800-75-4400

2

2610-60-3150-65-3540

2750-70-3800-75-4400

3050-75-3950-80-4590

3

2650-65-3300-70-4000

3050-75-3950-80-4590

3200-85-4900

4

2750-70-3800-75-4400

3050-75-3950-80-4590

3200-85-4900

5

3050-75-3950-80-4590

4000-100-6000

4300-100-6000

6

3200-85-4900

4000-100-6000

4300-100-6000

7

3625-85-4900

4300-100-6000

4500-125-7000

8

4000-100-6000

5000-150-8000

5500-175-9000

9

4300-100-6000

5000-150-8000

5500-175-9000

10

4500-125-7000

5300-150-8300

5900-200-9900

11

5000-150-8000

5500-175-9000

6500-200-10500

12

5300-150-8300

6500-200-10500

8000-275-13500

13

5500-175-9000

6500-200-10500

8000-275-13500

14

5900-200-9900

8000-275-13500

9100-275-14050

15

6500-200-10500

8000-275-13500

9100-275-14050

16

6500-200-11100

9100-275-14050

10000-325-15200

17

8000-275-13500

9100-275-14050

10000-325-15200

18

9100-275-14050

10000-325-15200

12000-375-16500

14. As per Schedule I, revised scale of pay for Rs. 975-25-1150-30-1660 is Rs.

3200-85-4900. Therefore, the revised scale of pay for the post of Drivers, as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998, is Rs. 3200-85-4900. The same is not disputed by the learned counsels for the petitioners. But the learned counsel for the petitioners has sought Selection Grade and Special Grade pay of Rs. 5000-150-8000 and Rs. 5500-175-9000 respectively, while the same are to be given based on the ordinary grade pay at Rs. 4000-100-6000 and Rs. 4300-100-6000, as per Schedule II.

15. As stated above, the ordinary grade pay of Drivers is Rs. 3200-85-4900, for which, the corresponding Selection Grade and Special Grade scale of pay are Rs. 4000-100-6000 and Rs. 4300-100-6000 respectively. The same could be seen from the Schedule II, as extracted above.

16. The petitioners have relied on the wrong fixation made at some places in Health Department, Revenue Department, Rural Development and Panchayat Raj Department and Agriculture Department. Those proceedings are enclosed in the typed-set of papers in support of their contentions.

17. The proceedings of the Medical Officer, Government Primary Health Centre, Vadakur, dated 23.11.1998 is extracted hereunder:

Sd/..... MEDICAL OFFICER GOVT. PRIMARY HEALTH CENTRE VADAKUR-614 002.@

18. In the said proceedings, the Selection Grade pay of the Driver by name Mr. K. Mani, was fixed as on 01.01.1996 at Rs. 5000-150-8000 at his request that he was not given the said scale and he is entitled to Rs. 5000-150-9000 scale of pay as per paragraph 4(i) of G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998, read with Sl. No. 8 of the Schedule II.

19. On the face of it, the said fixation is erroneous. It is not known as to how the Medical Officer, Vadakur, fixed the Selection Grade scale of pay at Rs. 5000-150-9000 as per Sl. No. 8 in Schedule II, which is payable to Rs. 4000-100-6000 ordinary grade scale of pay, when the ordinary grade scale of pay of the Driver as on 01.01.1996 was Rs. 3200-85-4900, as explained above.

20. Likewise, in the Revenue Department, the Tahsildar, Peraiyur, issued proceedings dated 27.11.1998 in Na.Ka. No. 11638/98/A3, which reads as follows: e/f/vz; 11638-98-m3 ehs; 27/11/98

This proceedings was also issued on the representation of the Driver by name Mr. A. Murugesan.

21. In the Rural Development and Panchayat Raj Department, the Block Development Officer (Union), Vadipatti, issued the proceedings dated 03.12.1998 in ROC No. 4115/98/A2 which reads as follows:

Proceedings of the Block Development Officer (Union), Vadipatti

Present: Thiru. K. Subburem, B.A., Roc. No. 4115/98/A2

Dated: 3/12/98

Sub: Fixation Pay fixation as on 1/1/95 Thiru. P. Rajendran Jeep Driver (S.G.) - Fixation orders Issued.

Ref.: 1. Thiru K. Rajendran, Jeep Driver (S.G.) application letter dated 26.11.1998

2. G.O. No. 162, Finance (Pay Cell) Department, dated 13.04.1998 Schedule 11 para 4(1)

3. This office ROC No. ..

ORDER:

The pay of Thiru. K. Rajendran (Selection Grade) Jeep Driver of this office has been fixed at Rs. 5000/- in the cadre of Jeep Driver (S.G.) in the time scale of pay of Rs. 5000-150-8000 with effect from 1.1.96 in accordance with G.O. Ms. No. 162, Finance (Pay Commission) Department, dated 13.4.1998 para 4(1) of Schedule if this office pay fixation statement is enclosed.

2. Consequent to this fixation as on 1.1.96 subsequent annual increment are revised as detailed below:

Previous increment due

Time Scale of pay

Pay fixed as on 1.1.96

Subsequent increment due

Amount of increment

Pay after the revising increment

Jan.

5000-150-8000

Rs. 5000

1.1.97 1.1.98

150 150

5150 5300

Sd/- BLOCK DEVELOPMENT OFFICER VADIPATTI

This proceedings was also issued on the representation of the Driver, by name Mr. K. Rajendran.

22. As also in the Agriculture Department, the Secretary, Madurai Agricultural Marketing Committee, Madurai, issued proceedings dated 14.12.1998 in the

proceedings A1/2635/98 and the same is extracted hereunder:

23. The Secretary, Madurai Agricultural Marketing Committee, Madurai, has fixed scale of pay of two Drivers in the Selection Grade at Rs. 5000-150-8000 erroneously, without any request from the Drivers.

24. The aforesaid wrong fixations were brought to the notice of the Government. The Joint Secretary to the Government, Finance Department, issued the letter in Letter No. 96900/PC/98-2, dated 31.12.1998 to all the Secretaries to Government and the Heads of Departments, to review such wrong fixation and effect recoveries wherever excess payments have been made.

25. But based on such wrong fixation, the Tamil Nadu Government Department Drivers' Central Association sought the Selection Grade and Special Grade pay at Rs. 5000-150-8000 and Rs. 5500-175-9000 respectively. But the same was rejected by the Secretary, Personnel and Administrative Reforms (E) Department, in the proceedings in Lr. No. 13921/K/2005-1 dated 25.04.2006.

26. The Drivers Association filed W.P. No. 34800 of 2006 to quash the said proceedings dated 25.04.2006 and this Court passed the order dated 06.08.2007 in W.P. No. 34800 of 2006 quashing the aforesaid proceedings dated 25.04.2006 on the ground that the said proceedings does not refer G.O. Ms. No. 162, Finance (Pay Cell)

Department, dated 13.04.1998 and the association was directed to give a fresh representation to the Finance Department and the Finance Department was directed to pass orders therein in the light of G.O. Ms. No. 162, dated 13.04.1998.

27. The Drivers' Association gave the representation dated 17.08.2007 seeking Rs. 5000-150-8000 and Rs. 5500-175-9000 as Selection Grade and Special Grade pay respectively as per G.O. Ms. No. 162, dated 13.04.1998. The same was rejected by the Finance Department in their letter No. 63685/CMPC/2006-1, dated 01.10.2007. It is stated in the aforesaid proceedings that before 01.01.1996, ordinary grade scale of pay, Selection Grade pay and Special Grade pay of Drivers was Rs. 975-1660, Rs. 1200-2040 and Rs. 1320-2040 respectively. The same was revised as Rs. 3200-85-4900, Rs. 4000-100-6000 and Rs. 4300-100-6000 as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998. Paragraph 3 of the said letter dated 01.10.2007 is extracted hereunder:

3. Therefore, the Drivers are entitled for the Selection Grade/Special Grade scales of pay as ordered in Schedule - II of G.O. Ms. No. 162, Finance (PC) Department, dated 13-4-98, based on the ordinary grade scale of pay granted to the posts of Drivers. As such all categories on par with Drivers in the Ordinary Grade of Rs. 3200-4900 are entitled for the Selection Grade of Rs. 4000-6000 and Special Grade of Rs. 4300-6000 respectively. The above Government Order has been issued based on the recommendations of the Official Committee, 1998

and the Drivers are not denied the benefits ordered in the Government Order cited. Hence, your request has no merit to consider as requested.

28. A batch of writ petitions were filed in W.P. Nos. 4288 of 2008, 4290, 13524, 4254, 4255, 4256, 4257, 33874 and 2865 of 2008 seeking to quash the aforesaid letter dated 01.10.2007 and to direct the respondents to grant Rs. 5000-8000 for Selection Grade and Rs. 5500-9000 as Special Grade, as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998.

29. Counter-affidavits filed therein were produced by the Government before this Court. It is categorically pleaded that the scale of pay of the Drivers prior to 01.01.1996 was Rs. 975-1660 and the corresponding Selection Grade and Special Grade pay scales were Rs. 1200-2040 and Rs. 1320-2040 respectively and the revised scale of pay with effect from 01.01.1996 for Rs. 975-1660, as per G.O. Ms. No. 162, dated 13.04.1998, is Rs. 3200-85-4900 and the corresponding Selection Grade pay and Special Grade pay are Rs. 4000-100-6000 and Rs. 4300-100-6000.

30. However, the learned Single Judge set aside the order dated 01.10.2007 of the Finance Department in the said batch of writ petitions in W.P. No. 4288 of 2008 etc., and directed the Government to pass orders in respect of fixation of pay for Selection Grade and Special Grade to the Drivers as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998. Paragraphs 6 and 7 of the said judgment dated 30.09.2008 are extracted hereunder:

6. It is pointed out by the learned counsel for the petitioners that pursuant to the said G.O. Ms. No. 162, Finance (Pay Cell) Department dated 13.4.1998 in respect of the drivers in various Government Departments including the Public Health Department etc, the enhanced pay has been fixed to the Selection Grade drivers at Rs. 5,000/- as per Schedule II item No. 8. The same has been followed in respect of Revenue Department also by enhancing the said pay fixation that has been made to the Selection Grade and Special Grade drivers. It is also seen that in the proceedings of the Block Development Officer (Union) Vadipatti, dated 3.12.98 such enhanced fixation has been made based on G.O. Ms. No. 162, Finance (Pay Cell) Department dated 13.4.1988. Similar is the case in respect of the drivers working in the Agricultural Department also as it is seen in the proceedings of the Secretary, Madurai Agricultural Marketing Committee dated 14.12.1998. In all these cases where the drivers from various departments were given enhanced pay is not denied by the respondents. But in the counter affidavit the only reply is that in those departments the enhanced pay has been made as per G.O. Ms. No. 162, Finance (Pay Cell) Department dated 13.4.1998, later when it was realized that some mistake has crept in the fixation of ordinary scale of pay as Rs. 3,050/- the same has been taken into account as Rs. 4,000/- Therefore, the Government has issued a clarification on 31.12.1998 directing all the Departments to follow the ordinary scale of drivers as Rs. 3,050/- and pursuant to that pay selection grade and Special Grade. On the other hand, it is the categoric admission by the learned counsel for the respondents that the

amount already paid to the drivers of various Departments continued to remain the same. In the impugned letter of the first respondent, the first respondent has chosen to state as if the Government order in G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.4.1998 has been explained by a letter of the Government dated 31.12.1998 which cannot be accepted. Unless and until G.O. Ms. No. 162, Finance (Pay Cell) Department dated 13.4.1998 is modified or superceded in the manner known to law, it is not open to the first respondent or any other official to clarify, especially, in the circumstances that G.O. has been given effect to in respect of drivers of various other Departments. While earlier direction was given by this Court in W.P. No. 34800/2006 it was not even the stand of the Government. Under these circumstances, apart from the fact that G.O. Ms. No. 162, Finance (Pay Cell) Department dated 13.4.1998 cannot be explained by the Government official by letter dated 31.12.1998 and that as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.4.1998 benefits have been given to drivers of various departments, it is not for the respondents now to go back and say that the petitioners are not entitled for the benefits conferred to the similarly situated drivers.

7. In view of the same, these Writ Petitioners are allowed. The impugned letter of the 1st respondent dated 1.10.2007 is set aside with a direction to the first respondent to pass appropriate orders in respect of fixation of pay for selection grade and Special Grade to the drivers of various Government Departments relating to the petitioners as per G.O. Ms. No. 162, Finance (Pay Cell), dated 13.4.1998 and confer the said benefits and such orders shall be passed by the first respondent within a period of eight weeks from the date of receipt of a copy of this order.

31. It is recorded in paragraph 6 of the judgment that the ordinary grade scale of pay as on 01.01.1996 as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998, is Rs. 3050. As stated above, as per the impugned proceedings dated 01.10.2007 in those batch of writ petitions and the counter-affidavits, the ordinary grade scale of pay of the Drivers at Rs. 975-1660 was revised to Rs. 3200-4900 as per G.O. Ms. No. 162. While Rs. 950-20-1150-25-1500 was revised to Rs. 3050-75-3950-80-4590, in G.O. Ms. No. 162. The case of both sides is that the Drivers' scale of pay prior to 01.01.1996 was Rs. 975-1660 and therefore, the revised pay as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998 was Rs. 3200-4900.

32. Further, paragraph 6 of the judgment dated 30.09.2008 in W.P. Nos. 4288 of 2008 batch referred to wrong fixations in Health Department, Revenue Department, Rural Development and Panchayat Raj Department and Agriculture Department. Paragraph 6 of the judgment also referred to the proceedings dated 31.12.1998 of the Finance Department, by which, those wrong fixations were sought to be reviewed and action sought to be taken to recover the excess payment accordingly. The statement made by the learned Government Advocate that the wrong fixation in those departments was continued was recorded by the

learned single Judge.

33. Just because the wrong fixation is continued in other departments, the same cannot be the basis to claim such fixation. Ultimately, as stated above, the learned Judge directed the Government to fix Selection Grade and Special Grade as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998.

34. Therefore, in my view, the order of the learned Single Judge, as per paragraph 7, is to give Selection Grade and Special Grade pay to Drivers as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998. There is no categorical finding by the learned Single Judge that the Selection Grade and Special Grade of the Drivers as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998 is Rs. 5000-8000 and Rs. 5500-9000 respectively.

35. I would like to reiterate that the direction issued by the learned single Judge is to fix Selection Grade and Special Grade pay as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998, to the Drivers.

36. However, the Government filed an appeal against the said order in W.A. No. 383 of 2009 batch. The batch of writ appeals was disposed of by the Division Bench on 01.09.2009 confirming the order of the learned Single Judge. In paragraph 13 of the judgment dated 01.09.2009, the Division Bench has noted about wrong fixation made in other departments, which is extracted hereunder:

13. In support of the contention that the similarly placed drivers working in various Government Departments have been fixed at the higher scale of pay, viz., 4000-100-6000, learned counsel appearing for the writ petitioners has enclosed the copies of the proceedings issued in respect of certain beneficiaries. It is seen that in the proceedings of the Block Development Officer (Union), Vadipatti, dated 03.12.1998, such enhanced fixation has been made based on G.O. Ms. No. 162, dated 13.4.1998 and the same is available at page 15 of the typed set filed by the writ petitioners. Similar is the case in respect of drivers working in the Agricultural Department also as it is evidence from the proceedings of the Secretary, Madurai Agricultural Marketing Committee, dated 14.12.1998 found at page 17 of the typed set of papers.

37. The Division Bench recorded in paragraph 14 of the judgment that the wrong fixation is continued in other departments. The Division Bench held, in those circumstances, that the learned Single Judge was correct in issuing the direction to pass appropriate orders in respect of fixation of pay for Selection Grade and Special Grade to the Drivers of various Government Departments, as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998. Paragraphs 14 and 15 are relevant and the same are extracted hereunder:

14. Further, in all the cases where the drivers from various departments were given enhanced pay is not denied by the learned Special Government Pleader. On the contrary, it is the specific admission of the learned Government Advocate before the learned Single Judge that the amount already paid to the Drivers of

various Departments continued to remain the same. When the fact remains so, we are at dark to understand as to how the authorities can now go back and say that the writ petitioners are not entitled for the same benefits conferred to the similarly situated drivers. The learned Judge is perfectly right in coming to the conclusion that unless and until G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998 is modified or superceded in the manner known to law, it is not open to the authorities to clarify especially in the circumstances that G.O. Has been given effect to in respect of drivers of various other Departments. We are of the opinion that the learned Judge has gone into the matter in depth and has rightly quashed the impugned letter dated 01.10.2007 passed by the Secretary to Government, Finance (Pay Cell) Department, with a direction to pass appropriate orders in respect of fixation of pay for selection Grade and Special Grade to the drivers of various Government Departments relating to the writ petitioners as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.4.1998 and confer the said benefits. We do not find any illegality or infirmity in the order of the learned Single Judge so as to take a different view from that of the same.

15. In that view of the matter, the authorities are bound to implement the Selection Grade and Special Grade scale of pay as indicated in Schedule - II of the Tamil Nadu Revised Scales of Pay Rules, 1998 and they cannot refused to extent the benefit uniformly to all the drivers who have no promotional avenues. We find no illegality or infirmity in the order of the learned single Judge warranting interference of this Court.

38. Therefore, in paragraphs 13 to 15 of its judgment dated 01.09.2009, the Division Bench has nowhere given a direction to grant Selection Grade and Special Grade pay to Drivers at Rs. 5000-8000 and Rs. 5500-9000 respectively. But the direction of the Division Bench is only to grant Selection Grade and Special Grade as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998.

39. As stated above, the Selection Grade and Special Grade pay of the Drivers as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998, are Rs. 4000-6000 and Rs. 4300-6000 as the Ordinary Grade Scale of pay of the Drivers as on 01.01.1996 was Rs. 3200-4900. But the Division Bench has recorded in paragraph 12 of the judgment that the ordinary grade pay of the Drivers is Rs. 4000-6000 and corresponding Selection Grade and Special Grade pay are Rs. 5000-8000 and Rs. 5500-9000.

40. Paragraph 12 of the judgment of the Division Bench dated 01.09.2009 is usefully extracted hereunder:

12. A plain reading of G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998 would make it clear that the purpose of the Government Order is to confer the enhanced basic pay in the Selection Grade as well as Special Grade level since there is stagnation for want of promotional avenues. As per the

recommendations of the VI Pay Commission, the scale of pay of the Drivers is as follows:-

In view of the above time scale of pay, it is clear that as per the revised pay Rules, the fixation for the Selection Grade should be done at Rs. 5000/- -Rs. 8000/- and Special Grade at Rs. 5500/- to 9000/-.

41. In my view, the aforesaid statement is factually incorrect. G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998, does not revise the pay to any post and the revision was on "pay scale to pay scale" basis and the relevant passages from G.O. Ms. No. 162, were extracted above. Therefore, G.O. Ms. No. 162 nowhere fixed ordinary grade of pay to Drivers at Rs. 4000-6000, as extracted in paragraph 12 of the judgment of the Division Bench dated 01.09.2009.

42. At the risk of repetition, I would like to state that G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998, granted revision of pay from pay scale to pay scale basis and there is no reference to any post in G.O. Ms. No. 162, while in earlier fixation during 1989 in G.O. Ms. No. 666, Finance Department, dated 27.06.1989, it was related to the posts. Prior to G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998, the scale of the driver was Rs. 975-1660 and the same is not in dispute. As per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998, the revised scale of Rs. 975-1660 is Rs. 3200-4900. But it is not known as to how it is stated that the ordinary grade scale of pay of the Drivers, as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998, is Rs. 4000-6000.

43. At this juncture, it is relevant to note that it is not the case of the learned counsels for the petitioners that the ordinary Grade pay of the Drivers was revised in G.O. Ms. No. 162, to Rs. 4000-6000 and it is admitted that the revised pay is Rs. 3200-4900.

44. If the ordinary grade pay of the drivers Rs. 4000-6000, then there is no quarrel in revising the Selection Grade and Special Grade pay at Rs. 5000-8000 and Rs. 5500-9000 respectively. But even it is the case of the petitioners that their scale of pay prior to 01.01.1996, was Rs. 975-1660 and the same was revised to Rs. 3200-4900, as per G.O. Ms. No. 162. But they sought to claim Selection Grade and Special Grade at Rs. 5000-8000 and Rs. 5500-9000 which is applicable only to ordinary grade to Rs. 4000-6000, for which, there is no basis.

45. Faced with the aforesaid situation, particularly, the statement made in paragraph 12 of the judgment of the Division Bench dated 01.09.2009 in W.A. No. 383 of 2009 batch that the Driver's ordinary grade pay was Rs. 4000-6000, the learned Advocate General has submitted that the same should be read along with ultimate direction given in paragraphs 14 and 15 of the judgment of the Division Bench, which make it clear that the direction was given by the Division Bench to grant the Selection Grade and Special Grade as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998.

46(i). At this juncture, it is relevant to refer to the judgment of the Apex Court in Union of India (UOI) and Others Vs. Shri Bhanwar Lal Mundan, . In the said judgment, the respondent was appointed as a Gangman in the Railways on 15.01.1966 as a substitute. He was regularized in 1972. He was promoted as Store Keeper in October 1977. Thereafter, he was sent on deputation to Construction Organization in December 1977. He was given PW Mistry in the Construction Organization from 10.04.1981 and he was given scale of pay of Rs. 1400-2300. When there was a regular selection in the parent department for the post of Junior Engineer I, he was called to participate in the selection. He was successful and he joined promotional post of Junior Engineer I on 03.12.1994. He was to retire on 31.12.2007. It was noticed before his retirement that he was fixed higher pay in the post of Junior Engineer I at the time of promotion in 1994, taking into account his pay fixation in the construction wing, while other promotes were given lesser pay. The same was sought to be corrected on 22.10.2007 after 13 years by refixing his pay and directing recovery of the excess sum.

46(ii). The refixation and recovery was questioned by the respondent before the Central Administrative Tribunal (CAT), Jodhpur Bench in O.A. No. 109 of 2008. The Tribunal quashed the refixation and recovery.

46(iii). The Department filed Civil W.P. No. 11838 of 2010 before the Rajasthan High Court. The Division Bench of the Rajasthan High Court dismissed the same on 09.05.2011. Thus, the Union of India filed an appeal before the Apex Court.

46(iv). The Apex Court allowed the appeal and held that the respondent cannot have the benefit of wrong fixation. However, the Apex Court held that there cannot be recovery of the amount already paid, particularly, recording the statement made by the learned counsel who appeared for the Union of India.

46(v). When the respondent therein relied on the decision in Union of India (UOI) and Another Vs. P.N. Natarajan and Others, , that the withdrawal of pensionary benefits without notice is illegal, the Apex Court held that the said decision shall be read in the context of its facts and not to be considered as a precedent for the proposition that if the pay has been erroneously fixed that cannot be revised even if the facts are absolutely clear and undisputed.

46(vi). Paragraphs 16 and 17 of the judgment of the Apex Court in Union of India (UOI) and Another Vs. P.N. Natarajan and Others, are extracted as hereunder:

6. In Union of India (UOI) and Another Vs. P.N. Natarajan and Others, the Court was dealing with a fact-situation where there was withdrawal of pensionary benefits. Adverting to the concept of natural justice and, relying on the decisions in State of Orissa Vs. Dr. (Miss) Binapani Dei and Others, and Sayeedur Rehman Vs. The State of Bihar and Others, , the Court ruled thus:-

16. It is not in dispute that before directing revision of the pension, etc. payable to the private respondents, the Central Government did not give them action-

oriented notice and opportunity of showing cause against the proposed action. Therefore, it must be held that the direction given by the Central Government to revise the retiral benefits including the pension payable to the respondents was nullity.

17. Dehors the above conclusion, we are convinced that the action taken by the appellants to revise and reduce the retiral benefits payable to the respondents was ex facie arbitrary, unreasonable and unjustified and the learned Single Judge did not commit any error by declaring that the Central Government did not have the jurisdiction to unilaterally alter/change the option exercised by the writ petitioners u/s 12-A(4)(b) read with Section 12-A(4-C).

17. The aforesaid conclusion was arrived at as the Union of India as such could not have invoked the terms of the memorandum of settlement to justify the directives and retiral benefits payable to the respondents. The aforesaid decision has to be read in the context of its facts and not to be construed as a precedent for the proposition that if the pay has been erroneously fixed that cannot be revised even if the facts are absolutely clear and undisputed.

46(vii). In my view, last few lines that are highlighted in paragraph 17 of the judgment of the Apex Court directly applies to this case. The wrong fixation made at some places in other departments cannot be relied on as a precedent for seeking fixation to the petitioners. The facts are clear and not disputed. It is a different matter, if the petitioners demonstrated that their ordinary grade pay as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998, is Rs. 4000-6000 and then they are entitled to the corresponding Selection Grade and Special Grade pay are at Rs. 5000-8000 and Rs. 5500-9000 respectively. But it is otherwise demonstrated by the learned Advocate General that the scale of pay of the Drivers prior to 01.01.1996 was Rs. 975-1660 which was revised to Rs. 3200-4900 and the corresponding Selection Grade and Special Grade pay are Rs. 4000-6000 and Rs. 4300-6000 respectively.

46(viii). It is again reiterated that G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998, only revised scale on "pay scale to pay scale" basis and the Government Order does not give any revision on the basis of "post" while earlier revisions were based on the posts. Therefore, to ascertain the revision of pay scale as on 01.01.1996 as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998, for the Drivers, one should ascertain the scale of pay of the drivers prior to 01.01.1996. It is not in dispute that before 01.01.1996 the scale of pay for Drivers was Rs. 975-1660 and the same was revised in G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998 to Rs. 3200-4900. Therefore, in view of the aforesaid judgment of the Apex Court and more particularly, paragraph 17, the petitioners cannot seek the Selection Grade and Special Grade scale of pay at Rs. 5000-8000 and Rs. 5500-9000 based on wrong fixation at some places in some departments.

46(ix). It is relevant to extract paragraph 22 of the judgment in Union of India

(UOI) and Another Vs. P.N. Natarajan and Others, which reads as hereunder:

22. In the case at hand, as stated earlier, the respondent was getting higher scale of pay in the post while he was holding a particular post as a deputationist. After his repatriation to the parent cadre on selection to a higher post he was given higher scale of pay as it was fixed keeping in view the pay scale drawn by him while he was working in the ex-cadre post. Such fixation of pay, needless to say, was erroneous and, therefore, the authorities were within their domain to rectify the same. Thus analysed, the irresistible conclusion is that the tribunal and the High Court have fallen into error by opining that the respondent would be entitled to get the pension on the basis of the pay drawn by him before his retirement.

46(x). Therefore, a reading of the paragraph 17 read with paragraph 22 of the judgment in Union of India (UOI) and Another Vs. P.N. Natarajan and Others, , makes it clear that the petitioners cannot ask for extension of wrong fixation made at some places in some departments, namely, Health Department, Revenue Department, Rural Development and Panchayat Raj and Agriculture Department, particularly, when the Government has clarified the same in the letter dated 31.12.1998 that has been extracted above.

47. It is also relevant to refer to the judgment of the Apex Court in U.P. State Electricity Board Vs. Pooran Chandra Pandey and Others, , relied on by the learned Advocate General, for the proposition that the a decision is only an authority for what it actually decides and the actual decision of the Division Bench of this Court in the judgment dated 01.09.2009 in W.A. No. 383 of 2009 is that the Drivers are entitled to Selection Grade and Special Grade scale of pay as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998 and nothing more.

The learned Advocate General relied on paragraph 12 to 15 of the said judgment in U.P. State Electricity Board Vs. Pooran Chandra Pandey and Others, which is usefully extracted hereunder:

12. As observed by this Court in The State of Orissa Vs. Sudhansu Sekhar Misra and Others, :

13. A decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in it. On this topic this is what Earl of Halsbury, L.C. said in Quinn v. Leathem, 1901 AC 495: (All ER p. 7 G-I)

Before discussing Allen v. Flood, 1898 AC 1 and what was decided therein, there are two observations of a general character which I wish to make; and one is to repeat what I have very often said before - that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be

expositions of the whole law, but are governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical code, whereas every lawyer must acknowledge that the law is not always logical at all

(emphasis supplied in original)

13. In *Ambica Quarry Works Vs. State of Gujarat and Others*, this Court observed:

18. The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it.

14. In *Bhavnagar University Vs. Palitana Sugar Mill Pvt. Ltd. and Others*, this Court observed:

59. It is also well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision.

(emphasis supplied)

15. As held in *Bharat Petroleum Corporation Ltd. and Another Vs. N.R. Vairamani and Another*, a decision cannot be relied on without disclosing the factual situation. In the same judgment this Court also observed: (SCC pp. 584-85, paras 9-12)

9. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of courts are neither to be read as Euclid's theorems nor as provisions of a statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In *London Graving Dock Co. Ltd. v. Horton* 1951 AC 737 (AC at p. 761) Lord MacDermott observed: (All ER p. 14 C-D)

The matter cannot, of course, be settled merely by treating the ipsissima verba of Willes, J. as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge.

10. In *Home Office v. Dorset Yacht Co.*, 1970 (2) All ER 294 Lord Reid said, "Lord Atkin's speech" is not to be treated as if it were a statutory definition. It will

require qualification in new circumstances." Megarry, J. in *Shepherd Homes Ltd. v. Sandham* (No. 2), (1971) 1 WLR 1062, observed: (All ER p. 1274d)

One must not, of course, construe even a reserved judgment of even Russell, L.J. as if it were an Act of Parliament;

And, in *Herrington v. British Railways Board*, 1972 AC 877 Lord Morris said: (All ER p. 761c)

There is always peril in treating the words of a speech or a judgment as though they were words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case.

11. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.

12. The following words of Lord Denning in the matter of applying precedents have become locus classicus:

Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive.

Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path of justice clear of obstructions which could impede it.

(emphasis supplied)

48. Applying the aforesaid principle of the Apex Court in respect of "precedent", I am of the view that the Division Bench judgment cannot be understood as a direction to the Government to give Rs. 5000-8000 and Rs. 5500-9000 respectively as Selection Grade and Special Grade pay respectively. But the direction is only to give benefit of Selection Grade and Special Grade pay as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998.

49(i). A Division Bench of Delhi High Court in *Ram Charan Singh Vs. Union of India (UOI) and Others* , considered the question as to how to read a judgment of Central Administrative Tribunal, Principal Bench, New Delhi.

49(ii). In the said case, the appellant was working as Deputy Collector, Customs and Central Excise at Siliguri, West Bengal. A Departmental proceedings was initiated in terms of Rule 14 of Central Civil Services (C.C.A.) Rules, 1965. He was removed from service by the disciplinary authority on 27.03.1986. He

approached the Central Administrative Tribunal questioning the said order.

49(iii). The Tribunal allowed the application in part by its order dated 06.12.1994 in the following terms:

33. The order removing the applicant from service having not been passed in accordance with new Sub-rule (4) of Rule 15 is not sustainable. We, however, leave it in the discretion of the disciplinary authority (the President) to pass an appropriate order keeping in view the facts and circumstances of this case. The question still remains whether this is a fit case where we should direct the reinstatement of the applicant and also issue a direction that he should be given his back wages. We note that the applicant had been placed under suspension before the commencement of the disciplinary proceedings and his services remained suspended during the pendency of the disciplinary proceeding. Again, in these circumstances, we do not consider it proper to issue any direction on this score. It will be open to the disciplinary authority to take such decision, as it deems just and proper. If it decides to reinstate the applicant, it will be open to it to consider the question as to whether the applicant should be given back wages. Since the matter is pretty old, the disciplinary authority should take an expeditious decisions but not beyond a period of four months from the date of receipt of certified copy of this order by the appropriate competent authority.

49(iv). Before passing the order dated 06.12.1994 by the Tribunal, he reached the age of superannuation on 30.11.1994.

49(v). The aforesaid fact that he reached the age of superannuation on 30.11.1994 was not brought to the notice of the Tribunal.

49(vi). In view of the same, the disciplinary action was continued under the Pension Rules and 50% cut in pension was issued by the order dated 25.10.1995.

49(vii). The said order dated 25.10.1995 was questioned before the Central Administrative Tribunal again. The appellant lost before the Tribunal. The matter was taken before the Division Bench of Delhi High Court.

49(viii). The Division Bench of Delhi High Court has found that when the Tribunal passed the earlier order dated 06.12.1994, it was not brought to the notice of the Tribunal that the appellant reached the age of superannuation on 30.11.1994. The Division Bench noted that the Tribunal has no jurisdiction to direct initiation of the proceedings under Rule 9 of Central Civil Service (Pension) Rules against him, since he was not in service after 30.11.1994.

49(ix). In those circumstances, the Division Bench of the Delhi High Court elaborated, as to how a judgment has to be read, in the following terms in paragraphs 14, 17 and 25 of the order dated 31.05.2002 in Ram Charan Singh Vs. Union of India (UOI) and Others :

14. It is not is dispute that a judgment is to be read in its entirety. It is required to be read reasonably. It cannot be read as a statute. There exists a presumption

that by reason of a judgment, a Court would not permit a party to the lis to do something, which would be contrary to law. The fact that on the date of passing of the said judgment the petitioner had retired had not been brought to the notice of the learned Tribunal. Had the same was brought to the notice of the learned Tribunal, the matter would have been otherwise.

17. Yet again recently in Haryana Financial Corporation and Another Vs. Jagdamba Oil Mills and Another, it was held:-

19. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decisions on which reliance is placed. Observations of Courts are not to be read as Euclid's theorems nor as provisions of the statute. These observations must be read in the context in which they appear. Judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes, their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. v. Horton (1951 AC 737, 761), Lord Mac Dermot observed:

The matter cannot, of course, be settled merely by treating the ipsissima verba of Willes, J. as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge.

25.....In the foundation for exercise of power is non-existent, the same cannot be done relying on or on the basis of an observation made by the Tribunal. A decision must be read having regard to the factual backdrop obtaining therein. If a decision is based on a factual error, the same would be for all intent and purport will not have the value of any binding precedent.

49(x). The judgment of the Division Bench of the Delhi High Court is based on the judgment of the Apex Court and the same is extracted above.

50. Therefore, if it is taken that the learned single Judge in the order dated 30.09.2008 in W.P. No. 4288 of 2008 and the Division Bench affirming the said order in the judgment dated 01.09.2009 in W.A. No. 383 of 2009 have given direction to implement Selection Grade and Special Grade pay as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998, the petitioners are entitled to get 4000-6000 and 4300-6000 as Selection/Special Grade since admittedly their Ordinary Grade Pay is 3200-4900, as per G.O. Ms. No. 162, dated 13.04.1998 and the G.O. Ms. No. 162 nowhere granted the benefit of Selection Grade and Special Grade pay to the petitioners, who are Drivers, at Rs. 5000-8000 and Rs. 5500-9000, since the same is applicable to the Ordinary Grade Pay of Rs. 4000-6000.

51. The claim for grant of Selection Grade and Special Grade at Rs. 5000-8000 and Rs. 5500-9000 is based on erroneous fixation at some places in some departments and the petitioners are not able to point out as to how they are entitled to the ordinary grade scale of pay at Rs. 4000-6000 as on 01.01.1996 as per G.O. Ms. No. 162, Finance (Pay Cell) Department, dated 13.04.1998, and unless the petitioners establish that they are entitled to the Ordinary Grade Pay of Rs. 4000-6000, they are not entitled to the corresponding Selection/Special Grades pay of Rs. 5000-8000 and 5500-9000. On the other hand, as per G.O. Ms. No. 162, the Ordinary Grade scale of pay of the Drivers is Rs. 3200-4900 as 01.01.1996 and the persons, who were in receipt Rs. 1200-2040 prior to 01.01.1996, were only given Rs. 4000-6000 revised scale of pay, but the Drivers were not given Rs. 1200-2040 before 01.01.1996 and they were given only Rs. 975-1660, for which Rs. 3200-4900 is the ordinary Grade pay.

52. Therefore, based on the aforesaid judgments and more particularly judgment of the Apex Court judgment in Union of India (UOI) and Others Vs. Shri Bhanwar Lal Mundan, , I am of the view that the petitioners cannot rely on the erroneous fixation in support of their claim. For all the aforesaid reasons, the writ petitions fail and the same are dismissed. However, there will be no order as to costs. Consequently, connected miscellaneous petitions are closed.