

(2010) 05 DEL CK 0198

In the Delhi High Court

Case No : W.P (C) No. 4876 of 2007 and CM No. 6943, 11867, 11868 of 2009 and 1178 of 2010

The Central Secretariat Stenographers Service Association
and Others

APPELLANT

Vs

The Central Secretariat Service, Direct Recruit Assistants
Association and Others

RESPONDENT

Date of Decision : 26-05-2010

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19
Central Secretariat Service Rules, 1962 — Rule 10, 12(2), 13
Central Secretariat Service Section Officers Grade/Stenographers Grade B (Limited Departmental Competitive Examination) Regulations, 1964 — Regulation 4
Constitution of India, 1950 — Article 14, 16, 226, 227, 309

Citation : (2010) 118 DRJ 659

Hon'ble Judges : V.K. Jain, J;A.K. Sikri, J

Bench : Division Bench

Advocate : Ajit Kumar Sinha, R. Balasubramanian, Ashwqarya Sinha and Rohit Tripathy, Padam Kumar S. and Karant Singh Bhati, for the Appellant; Sudhir Nandrajot A.K. Behera and A.K. Bhardwaj, for the Respondent

Final Decision : Allowed

Judgement

V.K. Jain, J.—This writ petition is directed against the order of the Central Administrative Tribunal dated 25.05.2007 in O.A. No. 145/2006 read with O.A. No. 669/2006, whereby the Tribunal declined to recall/modify its order dated 11.11.2005 passed in OA No. 1435/2005, quashing para 4 of the Central Secretariat Service Section Officers Grade/Stenographers Grade B (Limited Departmental Competitive Examination) Regulations, 1964 (hereinafter referred to as the Regulations) whereby the members of the Central Secretariat Stenographer Services were eligible to sit in the Limited Departmental Competitive Examination (LDCE) for the post of Section Officers.

2. The Central Secretariat Stenographers" Service (hereinafter referred to as

CSSS) is one of the three Central Secretariat Services, the other two being Central Secretariat Service (CSS) and the Central Secretariat Clerical Service. Rule 13 of the Central Secretariat Service Rules 1962 (hereinafter referred to as "the Rules") framed under the proviso to Article 309 of the Constitution of India, to the extent it is relevant reads as under:

13. Recruitment to the Section Officers" and the Assistants" Grade- (1) Section Officers Grade - Twenty per cent of the regular vacancies in the Section Officers" Grade in any cadre shall be filled by direct recruitment on the basis of the result of a competitive examination held by the Commission for this purpose, from time to time. The remaining vacancies shall be filled by appointment of persons included in the Select List for the Section Officers" Grade. Such appointments shall be made in the order of seniority in the Select List except when for reasons to be recorded in writing, a person is not considered fit for such appointment on his turn.

Rule 23 of the aforesaid Rule reads as under:

23. Regulations.- The Department of Personnel and Training in the Ministry of Personnel, Public Grievance and Pensions may make regulations, not inconsistent with these rules, to provide for all matters for which provision is necessary or expedient, for the purpose of giving effect to these rules.

3. Regulation 4 of Central Secretariat Service Section Officers" Grade/ Stenographers" Grade "B" (Limited Departmental Competitive Examination) Regulations, 1964 reads as under:

Conditions of Eligibility- Any permanent or temporary officer of the Assistants" Grade of the Central Secretariat Service or of Grade C of the Central Secretariat Stenographers" Service who, on the crucial date, satisfies following conditions, shall be eligible to appear at the examination."

4. In the LDCE held in the year 1975, for preparation of a list of candidates qualified to be appointed to the grade of Section Officers in the Central Secretariat Service, Stenographers belonging to grade-II of the CSSS were allowed to compete along with the Assistants. This was challenged by some Assistants by filing CWP No. 1122/1975 before this Court. The challenge was based on two counts. The first ground taken by the petitioners before this Court was that the scheme of the Rules and the fourth schedule thereof was such that only the Assistants were meant to compete at the LDCE. Their contention was that the Regulations, to the extent they enabled the Stenographers to compete in the Examination, along with the Assistants, were ultra vires the Rules. The second plea taken by the petitioners was that if the Regulations were not ultra vires, then the Rules themselves were unconstitutional being contrary to Article 14, 16 and 309 of the Constitution.

5. A Division Bench of this Court was of the view that the question whether Assistants alone should be allowed to compete at the Examination was entirely

administrative, there being no law involved in it. It was noted that the regulations were framed by the same department which had framed the Rules. This Court found it difficult to accept that the department which allowed the Stenographers to compete at the examination, they did not know its own mind reflected in the language of the Rules. This Court rejected the contention that the word "persons" in the Rules must be construed to mean only the Assistants and no other person. It was observed by this Court that had the intention been to confine entry to the LDCE only to the Assistants, the word "Assistants" would have been used in place of the words "persons". The only inference found possible by this Court, therefore, was that the entry was not intended to be confined to the Assistants but was meant to allow other departmental candidates also to appear in the Examination. Thus, challenge to the validity of the Regulations was not accepted by this Court.

6. As regards Constitutional validity of the Rules, one of the contentions of the petitioners before this Court was that the Assistants were doing work which was more akin to the work of Section Officers, while the Stenographers were doing totally different work. It was also contended that the Assistants needed to be graduates whereas Stenographers could be only matriculates and, therefore, the "unequals" were being treated as "equals" for the purpose of appearing at the Departmental Competitive Examination thereby violating Article 16 read with Article 14 of the Constitution. The contention was, however, rejected by this Court which did not find the Stenographers Grade-II in any way inferior to the Assistants for the reasons that both of them have enjoyed the same scales of pay and many of the Assistants were promotees from the Grades of clerks for which the qualification required was only matriculation. It was also noted that an expert body like the Third Pay Commission had recommended that the Stenographers should be allowed to compete at the Limited Departmental Competitive Examination and the Union Public Services Commission had also agreed to the proposal. It was further noted that the Government had taken into consideration the stagnation suffered by the Stenographers before allowing them to appear at the LDCE. It was also observed by this Court that the work done by the Stenographers as Personal Assistants to the Officers was of a higher kind than the work done by the Assistants. This Court was of the view that since only a person who passes the LDCE is allowed to become a Section Officer, the test being common for both the Assistants and the Stenographers, both stand on an equal footing after passing the test and any difference in their qualifications and experience prior to the passing of test then becomes immaterial. It was held that Article 16 & 14 were not violated. This Court took note of the fact that in the year 1970 a new avenue of the promotion was opened to the Stenographers in their own service and their eligibility at the LDCE was discontinued, but, on second thoughts, the Government decided, in the year 1973, to allow them to appear at the examination in view of the recommendations of the Third Pay Commission. This Court found nothing wrong with the decision taken by the Government and dismissed the writ petition. The rules having been upheld, were

operated and followed ever since for almost 30 years.

7. Issue was however sought to be revived by the Respondent No. 1, Central Secretariat Service Direct Recruits Assistants Association and some Assistants, who filed O.A. No. 1435/2005 before the Central Administrative Tribunal challenging Regulation 4 of the Regulations and also sought a declaration that Grade "C" Stenographers of CSSS were not eligible for appearing in the aforesaid examination. The basic grievance of the petitioners before the Tribunal was that Regulation 4 of Regulations 1962 travelled beyond the Rules and the Regulation being a subordinate regulation made under the 1962 Rules cannot travel beyond the parent Rules. It was contended before the Tribunal that the Rules did not provide for entry of Grade "C" Stenographers into Section Officers Grades of CSS and they had been made eligible to sit in the examination, in contravention of the Rules.

Neither the petitioner, i.e., the Central Secretariat Stenographers Service Association, nor any Grade "C" Stenographer was impleaded as a party to this OA. It was contended before the Tribunal that the Rules, which were framed under the proviso to Article 309 of the Constitution, did not either explicitly or implicitly made Stenographers of Grade "C" eligible or feeder category for promotion to Assistant grade and, therefore, the Regulations, framed under the aforesaid Rules, could not make them eligible and feeder grade since the Regulations, which are in the nature of administrative guidelines, cannot supplement the rules.

8. The material question, which the Tribunal considered in that OA, was as to whether para 4 of the Regulations, making Grade "C" Stenographers eligible for LDCE was valid and legal or not. It was observed by the Tribunal that power to frame Rules will not include the power to lay down the conditions of eligibility and making a cadre, which is alien and outside the normal channel and promotion, eligible for the grade of Sections Officers in the CSS. It was observed that the Grade "C" Stenographers were eligible for promotion to the next higher Grade in their own channel of stenography. It was observed that the Parliamentary Standing Committee of Ministry of Home Affairs in its Eighty-Third Report had observed that the channels of promotion of CSS Assistants and Grade "C" Stenographers being different from each other, only CSS Assistants should be allowed to compete in the LDCE for CSS Sections Officers, but, the Government had diluted the recommendations made by the Committee by deciding that only those stenographers, who are graduate would be allowed to participate in the LDCE for the Sections Officers Grade of CSS. The Tribunal was of the view that CSS Rules envisage selection for appointment to Sections Officers and Assistants from the categories of officials prescribed in Rule 13 and it could not admit of any doubt so that the Department could make the Stenographers eligible for selection and appointment to Sections Officer's Grade. The Tribunal was of the view that the Assistants and Stenographers belonged to two different classes and groups and they being unequal in important matters, such as nature of posts,

duties and responsibilities to be decided by them in such posts, were not comparable. The Tribunal took the view that the Government, while framing 1964 Regulations, had enlarged the scope of the Rules, which was beyond its competence and jurisdiction since executive instructions could not override any provision of Rules. Para 4 of the Regulations was, therefore, held to be ultra vires and inconsistent to Rule 13, read with para 2 under the Fourth Schedule of the Rules. The aforesaid para was accordingly quashed and set aside with all consequential benefits.

9. A number of writ petitions were filed before this Court against the order dated 11th November, 2005, passed by the Central Administrative Tribunal. It was noted by this Court that the directions issued by the Tribunal had adversely affected the petitioners by taking away their rights under para 4 of the Regulations. It was also noted that the Tribunal had rejected the preliminary objection raised by the Union of India that the petition was not maintainable, without impleading the association of Stenographers. The petitioners before this Court pointed out that the decision, rendered by the Tribunal on 11th November, 2005 was contrary to and inconsistent with the decision of this Court in W.P. No. 1122/1975 decided on 05th November, 1976 and the decision of the Tribunal in OA No. 1091/2005 decided on 26th July, 2005. A preliminary objection was taken by the private respondents regarding maintainability of the writ petitions on the ground that the petitioners were not parties to the OA filed before the Tribunal. In view of this, the petitioners were permitted to withdraw the writ petition with liberty to file a fresh petition before the Tribunal u/s 19 of Central Administrative Tribunal Act and were also permitted to raise all those issues which they had raised in the writ petitions. It was directed by this Court that if and when such pleas are raised before the Tribunal, the same shall be considered by it in accordance with law and if it is found that the decision of this Court and the decision of the Tribunal governed the case of the parties, orders shall be passed by the Tribunal in accordance with law. It was also directed that if the Tribunal finds that the order passed by it on 11th November, 2005 was contrary to the aforesaid decisions, the matter shall be referred by it to the Larger Bench, wherein all the pleas, arising out of the disputes between the parties, shall be urged and decided by the Tribunal.

10. OA No. 145/2006 and 669/2006 were accordingly filed by Stenographers, seeking review and recall of the order dated 11th November, 2005.

11. It was contended before the Tribunal that the judgment of this Court in CWP 1122/1995 titled as "Joginder Lal Sawhney and Ors. v. Union of India" was rendered in a different factual situation relating to service condition of Stenographers in CSS, which was not a valid precedent after passage of such a long time, particularly when there had been sea-change in the service conditions, namely promotional avenues, besides grant of financial up-gradation under ACP scheme and host of other aspects. It was further contended that career prospects and promotional avenues in CSSS had tremendously improved since

1975, the chances of stagnation in that service had been reduced and, therefore, the delegated legislation, even if valid in the year 1975-76, was not valid anymore.

12. The Tribunal noted that the Fifth Central Pay Commission had observed that the Stenographers in the Secretariat were at a more advantageous position as far as time taken for promotion from one grade to another was concerned when compared to their counterparts in subordinate offices and almost at the same position with other comparable service in the Secretariat and had taken a view that the promotional opportunities for a particular service could not be improved at the expense of another service. It was also noted that the applicants could have promotion in their normal channel of promotion since Stenographer Grade III could be promoted to Stenographer Grade II and Grade I and could reach up to the level of Senior Principal Private Secretaries, who were equivalent to Deputy Secretaries. It was observed by the Tribunal that in the current era of globalization when the entire philosophy of society, on the economic front, is undergoing drastic changes and much emphasis is laid on in the concerned field, Stenographers certainly should concentrate only on their own line and channel and not outside their normal field. The Tribunal also took note of the recommendations made by the Standing Committee of Parliament in its Eighty-Third Report, recommending therein that only Assistant should be allowed to appear in LDCE for Sections Officers. Considering that CSS enjoys promotional avenues and channel of promotion in their own line, which were not available to them three decades ago, the Tribunal saw no justification in their being allowed to encroach upon another distinct line and cadre of Assistants. The Tribunal, therefore, held that the judgment of this Court in the case of Joginder Lal Sawhney (supra) was not a valid precedent after passage of almost three decades. The Tribunal accordingly found no justification to recall/review its order dated 11th November, 2008 passed in OA No. 1435/2005. However, on equitable considerations, the Tribunal directed that Stenographers, who had appeared in the examination for the post of Section Officer till the year 2005 and had successfully cleared that examination, needed to be protected and should not be disturbed.

13. The order dated 25.05.2007 has been challenged before us primarily on the ground that it is contrary to the decision of this Court in the case of Joginder Lal Sawhney (supra) as well as its decision dated 06.01.2006 in W.P.(C) No. 3891-94/2005. The grievance of the petitioners is that the Tribunal being subject to the writ jurisdiction of this Court has not maintained the judicial discipline. The contention of the petitioners is that it was not open to the Tribunal to hold that the judgment of the Division Bench of this Court was not a valid precedent.

14. In its counter-affidavit, respondent No. 6 Union of India has stated that the order of the Tribunal was examined by the department and it was decided to accept and implement the same from 2005 onwards.

15. The private respondents have submitted that the promotional prospects in

the CSS and the promotional prospects in the Central Secretariat Stenographers" Service now stand on a totally different footing than it was thirty years ago. It is further stated that there is acute stagnation in Central Secretariat Service whereas enough opportunity of promotion is available in CSSS, within their own cadre and considering these factors along with other relevant factors, the Tribunal was right in holding against lateral entry of Stenographers to CSS at the level of Section Officers.

16. In the case of Joginder Lal Sawhney(supra) the petitioners before this Court, all of whom were Assistants in Central Secretariat Service had challenged the vires not only of the Rules but also of the Regulations. The Tribunal vide impugned order dated 25.5.2007 has not gone into constitutional validity of the Rules but has held the Regulations to be ultra vires. In the case of Joginder Lal Sawhney(supra), the validity of the Regulations was challenged primarily on the ground that they were ultra vires the rules which envisage only the Assistants to compete at the LDCE. This Court rejected the challenge, holding that the question as to whether the Assistants alone should be allowed to compete at the examination was an administrative decision, and no question of law was involved in it. This Court specifically rejected the contention that the expression "persons" must be considered in the context of the scheme of rules, to mean only the "Assistants". The Tribunal, therefore, while quashing para 4 of the Regulations of 1964 passed an order which is diametrically opposite to the decision of this Court dated 6.1.2006 in the case of Joginder Lal Sawhney(supra).

17. The following justifications were given by the Tribunal for taking a view contrary to the decision of this Court in the case of Joginder Lal Sawhney (supra):

1. In the current era of globalization where much emphasis is laid on specialization in the concerned field Stenographers should concentrate only on their own line of channel and not outside their normal field.
2. The Government of India had taken a policy decision to discontinue the lateral entry of Central Secretariat Services at the level of Under Secretary.
3. The stagnation in CSS was alarming. The Assistants have to wait for more than 15 years to get promotion to the post of Section Officer.
4. Parliament Standing Committee in its 83rd Report had taken a view that only Assistants should be allowed to appear in LDCE for the posts of Section Officers.

18. In our view, none of the reasons given by the Tribunal justified taking a view contrary to the decision of this Court, in challenge to the very same Regulations which have now been struck down by the Tribunal. Justifying its view that the decision of this Court in the case of Joginder Lal Sawhney(supra) was not a valid precedent after 30 years, the Tribunal has relied upon the decision of Supreme Court in State of Punjab and Another Vs. Devans Modern Breweries Ltd. and Another, While delivering a dissenting judgment, Hon"ble Mr. Justice S.B.Sinha, in the case of Devans Modern Breweries(supra), referred to the principle "cess

ante ratione cessat ipsa lex" as explained in Dias Jurisprudence, 5th Edition pp. 147-147, which reads as under:

...It is not easy to detect when such situations occur, for as long as the traditional theory prevails that judges never make law, but only declare it, two situations need to be carefully distinguished. One is where a case is rejected as being no longer law on the ground that it is now thought never to have represented the law; the other is where a case, which is acknowledged to have been the law at the time, has ceased to have that character owing to altered circumstances.

It was observed that changes are bound to occur in an evolving society and the judiciary must keep abreast of these changes in order that the law is considered to be good law.

19. In our view, the observations made by Hon"ble Mr. Justice S.B. Sinha, while delivering dissenting judgment in the case of Devan Modern Breweries(supra), do not justify the view taken by the Tribunal while passing the impugned order dated 25.5.2007. We are unable to accept the contention that the change in factual situation between the date on which judgment was rendered by this Court in the case of Joginder Lal Sawhney(supra) and 11th November, 2005, when para 4 of the Regulations was struck down by the Tribunal, had taken away the binding effect of the judgment of this Court in the case of Joginder Lal Sawhney (supra). A perusal of the decision of this Court would show that while upholding the vires of the Regulations this Court took the view that the question whether Assistants alone should be allowed to compete in the Limited Departmental Competitive Examination was entirely administrative, there being no law involved in it. The stagnation in the cadre of Stenographers at that time was not at all the reason for this Court upholding vires of the Regulations. This Court was not convinced that the Department which had framed the Rules as well as the Regulations did not know its own mind as reflected in the language used in the Rules. Stagnation amongst Stenographers was taken into consideration by this Court only while considering whether the Rules were ultra vires the Constitution of India.

As noted earlier, the Tribunal has struck down para 4 of the Regulations and has not gone into the vires of the Rules. Therefore, it cannot be said that the decision of this Court in the case of Joginder Lal Sawhney(supra) had lost its binding effect, as a precedent, on account of increase in the promotional avenues available to the Stenographers or on account of stagnation in the cadre of Assistants having increased in the meanwhile. It is for the Government, to decide, after taking into account all the facts and circumstances, including the Report of Commissions/ Committees which examined this issue and take a view as to whether there was so much change in the factual situation as would warrant any amendment to the Regulations, which permitted the Stenographers to compete at the LDCE. Unless the Rules framed by the Government under the proviso to Article 309 of the Constitution are shown to be ultra vires the

constitution or the Regulations framed by the Government in furtherance of the Rules are shown to be ultra vires the Rules, it will not be appropriate for the Court to quash or set them aside. The Tribunal noted that the Government of India had taken a policy decision to discontinue the lateral entry of Central Secretariat Stenographer Services Officers into Central Secretariat Services at the level of Under Secretary, but failed to notice that no such decision was taken by it with respect to the lateral entry of Stenographers, by permitting them to appear in the LDCE for the posts of Section Officers. The Tribunal also failed to take note of the fact that the Committee on Cadre Restructuring of CSS, which submitted its report in February, 2002 recommending that the lateral entry of CSS Officers into CSS at the level of Under Secretary of CSS be discontinued, had also recommended that those Stenographers who were graduates should continue to participate in the LDCE for Section Officers grade of CSS and accepting that recommendation, the Government decided to permit only the graduate Stenographers to participate in the LDCE. No recommendation was made by the Committee on Cadre Restructuring of CSS to altogether discontinue the participation of Stenographers Grade "C" in the LDCE for the Section Officers Grade of CSS. The Tribunal noted that the Parliament Standing Committee in its 83rd Report, submitted on 19th December, 2001, had recommended that only CSS Assistants should be allowed to appear in LDCE for Section Officers, but failed to note that the Government even after receipt of the aforesaid Report chose not to exclude the Stenographers altogether from participation in LDCE for the Section Officers Grade of CSS and decided to exclude only those Stenographers who were not graduates. Therefore, in our view, there was no justification for the Tribunal to take a view contrary to the view taken by this Court in the case of Joginder Lal Sawhney(supra), which was binding upon the Tribunal.

20. It was contended by Shri Sudhir Nandrajog, learned senior counsel for the private respondents that the judgment of this Court in the case of Joginder Lal Sawhney (supra) is per incuriam, as the attention of this Court in that case was not drawn to the provisions of Rule 10 of the Rules. The decision of this Court in the case of Joginder Lal Sawhney(supra), in our view, cannot be said to be per incuriam, merely because it does not refer to the provisions of Rule 10 of CSS Rules, 1962. Rule 10, to the extent it is relevant, provides that every duty post in a cadre shall unless declared to be excluded from the cadre and/or held in abeyance for any reasons, be held by a cadre of the officers of an appropriate grade. The contention of the private respondents is that Rule 10 mandates that all the duty posts of Central Secretariat Service shall be held by cadre officers of that service alone. We are unable to accept the contention of the private respondents. The proviso to Rule 10 itself provides that the officers of Grade A of the corresponding cadre of Central Secretariat Stenographers Service who have rendered not less than two years service in that grade may be posted to duty posts in the Section Officers grade. Therefore, it cannot be said that the scheme of the Rules totally excludes manning of the posts of Section Officers by any

person other than a member of Central Secretariat Service. The argument that the scheme of the rules does not envisage participation by an outsider in the LDCE for the post of Stenographer was rejected by this Court in the case of Joginder Lal Sawhney(supra) holding as under:

It was argued by Mrs. Shyamla Pappu that the word "persons" must be construed in the context of the scheme of the Rules to mean only "Assistants" and no other persons. The reasons in support of the argument are that the Central Secretariat Service which contains the Grade of Section Officers also contains the Assistants but does not take in the Stenographers who have a separate service of their own. But this cannot necessarily mean that the posts of Section Officers are to be filled up only by Assistants. Even the Rules as originally framed contemplated Stenographers filling up the posts of Section Officers. For instance, Rule 12(2) allows Stenographers with certain experience and who have acted as Section Officers for two years to be included in the Select List for Grade I of the service. This means that for two years Stenographers were allowed to act as Section Officers with a view to promotion to a Grade above the grade of Section Officers. This Grade I is also in the Central Sectt. Service. The assumption made on behalf of the petitioners that persons outside this Service are not to come into the Service to occupy any Grade in the Service is, therefore, not partly by recruiting Stenographers, there is no a priori reason why the Grade of Section Officers cannot be filled up partly by Stenographers.

We, therefore, are unable to accept the contention of learned senior counsel for the private respondents, that the judgment of this Court in the case of Joginder Lal Sawhney(supra) was per incuriam.

21. It was contended by the learned senior counsel for the private respondents that with effect from 1.11.1985 the jurisdiction of the High Court was divested in service matters and came to be vested in Central Administrative Tribunal and, therefore in view of the change in the factual scenario in last 30 years, it was permissible for the Tribunal to take a view contrary to the view taken by this Court in the case of Joginder Lal Sawhney(supra). We are unable to accept the contention. In our view, the judgment delivered by a Division Bench of this Court upholding the vires of the CSS Rules, 1962 and the Regulations was binding upon the Tribunal. As noted earlier, the decision of this Court upholding the vires of the Regulations was not based upon the stagnation prevalent in cadre of stenographers at that time but was based upon the view taken by this Court that the decision taken by the Government in this regard was an administrative decision, and no law was involved in it, and the Court rejecting the contention that while framing Regulations the Government did not appreciate the true import of CSS Rules, 1962. In our view, merely because the Tribunal had the power to adjudicate upon the vires of the Rules, it cannot be said to be Coordinate-Bench of the High Court, to the extent that the decision of the High Court, on the validity of the very same Regulations, which are under challenge before it, will not be binding on it, despite the fact that all the decisions of the

Tribunal, including the decisions of the validity or otherwise of a Rule/Regulation are subject to writ jurisdiction of this Court. We may note here that the decision of Supreme Court in *L. Chandra Kumar Vs. Union of India and others*, holding therein that the Tribunal had the power to adjudicate upon the vires of any statutory provisions such decision will be subject to High Court's writ jurisdiction under Articles 226/227 of the Constitution, before a Division Bench of the concerned High Court, had been delivered much before the impugned order was passed by the Tribunal. The Tribunal, therefore, was very much aware of the binding nature of the judgment rendered by the Division Bench of this Court. Even otherwise, the law declared by the jurisdictional High Court is binding on all the Tribunals, including the Benches of CAT functioning in its local jurisdiction. We, therefore, are of the view that though the Tribunal was competent to examine the vires of the Regulations, it could not, while doing so, have taken a view contrary to the view taken by the Division Bench of this Court in the case of *Joginder Lal Sawhney (supra)*. Even a Coordinate-Bench of this Court is bound by the judgment rendered by this Court in the case of *Joginder Lal Sawhney (supra)* and if it for some reasons does not agree with the view taken in that case, the only course of action available to it is to refer the matter to a larger Bench. As far as the Tribunal is concerned, it was in any case bound by that judgment.

22. The Supreme Court in *M.A. Murthy Vs. State of Karnataka and Others*, , *inter alia*, observed as below:

The doctrine of binding precedent helps in promoting certainty and consistency in judicial decisions and enables an organic development of the law besides providing assurance to the individual as to the consequences of transactions forming part of the daily affairs.

It was further observed that, as noted in *Pradip Chandra Parija and Others Vs. Pramod Chandra Patnaik and Others*, , judicial discipline envisages that a coordinate Bench follow the decision of an earlier coordinate Bench and that if it does not agree with the principles of law enunciated by another Bench, the matter may be referred only to a larger Bench. It was further noted that, as noted in *Kalyani Stores Vs. The State of Orissa and Others*, and *Krishna Kumar Narula etc. Vs. The State of Jammu and Kashmir and Others*, no decision can be arrived at contrary to or in consistent with the law laid down by the coordinate Bench.

In *Dr. Vijay Laxmi Sadho Vs. Jagdish*, Supreme Court, *inter alia*, held as under:

It is well settled that if a Bench of coordinate jurisdiction disagrees with another Bench of coordinate jurisdiction whether, on the basis of "different arguments" or otherwise, on a question of law, it is appropriate that the matter be referred to a larger Bench for resolution of the issue rather than to leave two conflicting judgments to operate, creating confusion. It is not proper to sacrifice certainty of law. Judicial decorum, no less than legal propriety forms the basis of judicial procedure and it must be respected at all costs.

In State of Bihar Vs. Kalika Kuer @ Kalika Singh and Others, Supreme Court, inter alia, held as under:

The earlier judgment may seem to be not correct yet it will have the binding effect on the later Bench of coordinate jurisdiction. Easy course of saying that earlier decision was rendered per incuriam is not permissible and the matter will have to be resolved only in two days - either to follow the earlier decision or refer the matter to a larger Bench to examine the issue, in case it is felt that earlier decision is not correct on merits.

23. It was also contended by the learned senior counsel for the private respondents that since the Government, which is the Rule making authority has decided to accept the decision of the Tribunal from 2005 onwards, as stated in para 5 of the affidavit filed by the Union of India, it amounts to amendment of Regulations and the Rules by implication. It was also pointed out that since the Regulation was struck down by the Tribunal on 11th November 2005, there was no occasion for the Government to amend the Regulations thereafter, taking the changed factual situation into consideration. We are unable to agree with the learned senior counsel for two reasons. Firstly, despite receipt of Reports referred in the order of the Tribunal, the Government did not make any amendment in the Rules or Regulations before till the Regulation itself was struck down by the Tribunal on 11th November, 2005. Nothing prevented the Government from carrying out appropriate amendment in the Rules/Regulations if it was satisfied that considering the removal/reduction of stagnation amongst Stenographers, coupled with increase in stagnation amongst Assistants, lateral entry of Stenographers in the cadre of Section Officers in Central Secretariat Service was not justified anymore. The Government, however, did not take resort to any such amendment. Even while issuing the order dated 27.7.2005 after considering the Report of the Committee on Cadre Restructuring of CSS, the Government allowed graduate Stenographers to continue to participate in LDCE for the Section Officers Grade of CSS. Even in its counter-affidavit filed before the Tribunal in OA No. 1435 of 2005 the Government took the stand that the provision of lateral entry of Stenographers Grade "C" in Section Officers Grade through LDCE was in accordance with the Rules. Hence, the decision taken by the Government after 11th November, 2005, to accept the decision of the Tribunal, in our view, does not amount to amendment of Rules or Regulations. Secondly, despite order of the Tribunal dated 11th November, 2005, having been challenged firstly before this Court in CWP 23891-94/2005 and then by filing OA No. 145/2006 and 696/2006, before the Tribunal, no effort was made by the Court to amend the very Rules, under which the Regulations were framed by it, so as to give a legal effect to the decision taken by it. Had that been done by the Government, OA No. 145/2006 and 696/2006 would probably have become infructuous. Moreover, had the Rules been amended by the Government, the Stenographers would have been entitled to challenge the amendment before an appropriate forum. We, therefore, find no merit in this submission.

24. It was also requested by the learned senior counsel for the private respondents that if this Court is in disagreement with the view taken by the Tribunal, the matter may be referred to a larger Bench. We find no good ground to refer the matter to a larger Bench since we find no good reason to differ with the view taken by this Court in the case of Joginder Lal Sawhney (supra), to the effect that the question as to whether the Stenographers should be allowed lateral entry in the cadre of Section Officers in CSS or not was an administrative decision. We, therefore, are of the view that it is for the Government to consider the rival claims made by the members of both the services, in the backdrop of other relevant facts and circumstances, including the stagnation, if any, still persisting amongst the Stenographers, the extent of stagnation amongst the Assistants, availability of ACP Scheme to both the cadres and their respective aspirations and take an appropriate decision in the matter. But, as far as the impugned orders passed by the Tribunal are concerned, we are of the view that these being contrary to the decision of this Court in the case of Joginder Lal Sawhney(supra) cannot be allowed to stand.

25. Another reason why the impugned order dated 25.5.2007 needs to be set aside is that a Division Bench of this Court, while deciding WP.(C) 23891-94/2005 on 2.4.2006 specifically directed that if it was found by the Tribunal that the order passed by it on 11th November, 2005 was against and contrary to the decision of this Court in the case of Joginder Lal Sawhney(supra) as also its own decision in OA. No. 109 1/2004 Kailash Chander and Ors. v. Union of India and Anr. decided on 26.7.2005, the matter shall be referred by the Tribunal to the larger Bench, wherein all the pleas arising out of the disputes between the parties shall be urged and decided by the Tribunal. Despite this specific direction, the Division Bench of the Tribunal which considered the applications for recall/review of the order dated 11th November 2005, did not refer the matter to a larger Bench. The impugned order passed by the Tribunal, therefore, need to be set aside.

26. The learned senior counsel, appearing for the private respondents, has referred to the decision of the Supreme Court in Satyawati Sharma (Dead) by LRs. Vs. Union of India (UOI) and Another, where it was observed that the legislation which may be quite reasonable and rationale at the time of its enactment may with the lapse of time and/or due to change of circumstances become arbitrary, unreasonable and violative of the doctrine of equality and even if the validity of such a legislation may have been upheld at a given point of time, the Court may, in subsequent litigation, strike down the same if it is found that the rationale of classification has become non-existent.

He has next referred to Malpe Vishwanath Acharya and Others Vs. State of Maharashtra and Another, where the Supreme Court observed that a statute which, when it enacted was justified, may, with the passage of time become arbitrary and unreasonable, with the change in circumstances. He has also referred to Motor General Traders and Another Vs. State of Andhra Pradesh and

Others, where it was observed that once a non discriminatory piece of legislation may in the course of time become discriminatory and be exposed to successful challenge on the ground that it is violative of the Article 14 of the Constitution. None of these judgments is a authority for the proposition that a Division Bench of the Central Administrative Tribunal, while considering the vires of a Regulations, could have struck it down when a Division Bench of the jurisdictional High Court had upheld the vires of the very same Regulation and another Division Bench of the Court had specifically directed that if the Tribunal found that its earlier order dated 11th November, 2005 was against and contrary to that decision and its own earlier decision on the same subject matter, the matter shall be referred by the Tribunal to its larger Bench for decision.

27. For the reasons given in the preceding paragraphs, the writ petition is allowed and the impugned order dated 25.5.2007 passed by the Central Administrative Tribunal in OA No. 145/06 read with 669/06 as also its earlier order dated 11.11.2005 passed in OA No. 1435/05 are hereby set aside. We, however, make it clear that the order passed by us in this petition will not come in the way of the Government making such amendment, if any, as it may deem appropriate to make, in CSS Rules, 1962 and/or in Central Secretariat Services Section Officers Grade/Stenographers Grade "B" (Limited Departmental Competitive Examination) Regulations, 1964. The writ petition and CMs stand disposed of. There shall be no order as to costs.