PETITIONER:
CHIEF ADMINISTRATOR-CUM-JT.SECRETARY TO THE GOVT. OF INDIA &

Vs.

RESPONDENT:
DIPAK CHAND A DAS

DATE OF JUDGMENT: 16/09/1998

BENCH:
S.SAGHIR AHMAD, S.RAJENDRA BABU

ACT:

HEADNOTE:

JUDGMENT:
JUDGMENT
Rajendra Babu. J.
This appeal is directed against an order made by the Central Administrative Tribunal. The respondent filed an application for re-fixation of his pay with effect from 1st Juanuary, 1986 in the cadre of Divisional Accountant. The Tribunal directed that the respondent be given the pay scale of Rs. 2000-3200 with effect from 1st Junary. 1986 in the cadre of Divisional accountant. The Tribunal directed that the respondent be given the pay scale of Rs. 2000-3200 with effect from 1st January, 1986 till he was declared to be surplus in the organisation on the Project being wound up. The Tribunal noticed: (i) that the post of Divisional Accountant is higher in every respect other than that of a Senior Accountant; (ii) The Senior Accountants were always regarded as assistants to the Divisional Accountants; (iii) That Senior Accountants constitute a feeder cadre to promotion to Divisional Accountant and some of the Senior Accountants appeared for examinations for promotion to the Divisional Accountants cadre and a candidate had to pass examination to become Divisional Accountant than the one precribed for becoming a Senior Accountant and the Third and Fourth Pay Commissionions had recommended higher pay-scales for Divisional Accountants compared to Senior Accountants and the Senior Accountants are junior to him. The Divisional Accountants took the view that it would be wholly incqui0able alone a Divisional Accountant who is higher in status than a Senior Accountant, to grant him salary lesser than of Senior Accountant, on that basis given the direction referred to by us earlier.
The learned Additional Solicitor General submitted that even proceeding on the basis that the Divisional Accountant is higher in status to Senior Accountant, a direction issued by the Tribunal fixing the pay scale of the respondent is improbable. He also contended that two posts are not comparable as Divisional Accountants are in line of promotion to Junior Accounts Officer of a lower cadre alone whereas Senior Accountants are in line for promotion to Establishment Officers with the higher pay scales.
However, it is not possible for us to decide the

second question raised by the learned Additional Solicitor General. The Tribunal has on consideration of different aspects of the matter to which we have adverted to has taken the view that Divisional Accountant is nigher in status than a Senior Accountant which is a finding on a question of fact. On examination of the duties assigned to different persons and other relevant circumstances the Tribunal has come to this conclusion. Hence we do not think we can disturb that finding.

However, the Tribunal could not have directed fixing the pay-scales of the respondent. On the other hand, a direction should have been issued to the concerned authority to fix a proper pay scale bearing in mind the finding recorded by the Tribunal that Divisional Accountants enjoy a higher status to that of a Senior Accountant. The appeal filed by the Government is, therefore. allowed in part modifying the direction issued by the Tribunal to give a particular pay scale of Rs. 2000-3200 with effect from 1st January, 1986, on the other hand, the appellants shall fix appropriate pay scale bearing in mind the finding recorded by the Tribunal the Divisional Accountant. We direct that the action be taken by the Government, for the respondent, within a period of six months from today.