

**Central Administrative Tribunal
Madras Bench**

OA/310/01158/2014

Dated the 19th day of December Two Thousand Nineteen

P R E S E N T

Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)

P.Nandini
Senior Hindi Translator,
O/o The Additional Director General,
Southern Region-I, CPWD,
Besant Nagar, Chennai 600 090. .. Applicant
By Advocate **Dr.P.S.Vijayakumar**

Vs.

1. Union of India, rep by
The Secretary,
M/o Urban Development,
Nirman Bhawan, New Delhi 110 011.
 2. The Director General,
Central Public Works Department,
Nirman Bhawan, New Delhi 110 011.
 3. The Secretary,
M/o Finance,
North Block, New Delhi 110 001.
 4. The Secretary,
Department of Official Language,
M/o Home Affairs,
New Delhi 110 001. .. Respondents
- By Advocate **Mr.SU.Srinivasan**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

The applicant herein is now working as a senior Hindi Translator in CPWD and she is given scale Rs.5500-175-9000 w.e.f. 1.1.1996. According to the applicant, Department of Official Language, Ministry of Home Affairs as per order dt. 19.2.03 had revised the pay scales of Senior Hindi Translators and others in the Central Secretariat Official Language Service (CSOLS) and they were granted higher pay scales than the Hindi Translators of Subordinate Offices Official Language Service as follows:-

<i>Post</i>	<i>Existing pay</i>	<i>Upgraded pay</i>
Junior Hindi Translators	Rs.5000-150-8000	Rs.5500-175-9000
Senior Hindi Translators	Rs.5500-175-9000	Rs.6500-200-10500
Assistant Directors (OL)	Rs.6500-200-10500	Rs.7500-250-12000

2. No revision was given to the Junior Hindi Translators of Subordinate Offices Official Languages Service. Their pay scale remained the same as follows.

JHT – Rs.5000-150-8000 (Vth CPC)
SHT – Rs.5500-175-9000

3. The applicant had given a representation to the authorities dt. 19.5.03 (Annexure A3) and sought for the implementation of the scales given to the translators of CSOLS. But the 2nd respondent has rejected the representation as per

letter dt. 17.7.03 (Annexure A4) stating that the upgraded scales in CSOLS cannot be granted to subordinate officers.

4. According to the applicant, the 5th and 6th CPCs had recommended uniform pay scales to Hindi Translators belonging to both CSOLS and subordinate services. The recommendations of those commissions were accepted by the government. But the respondents had denied the parity to subordinate services.

5. Hence this OA is filed seeking the following relief:-

“a) direct the respondents to grant the higher pay scales to Hindi Translators of Sub-ordinate Cadre of CPWD also at par with the Hindi Translators of CSOLS Cadre of CPWD as directed by the Hon'ble Supreme Court of India based on Department of Official Language O.M.No.13/6/2002-OL dated 19.2.2003 (A-1) and O.M.No.13/6/2002-OL dated 2nd April 2004 (A-2), notionally with effect from 01.1.1996 and with actual payment in higher pay scales with retrospective effect since 11.2.2003 and

b) to pass such further or other orders as may be deemed fit and proper in the facts and circumstances of the case and thus render justice.”

6. The respondents filed reply and submitted that there exist two categories of Hindi Translators. One is the Central Secretariat Official Service and the other is Hindi Translators attached to Sub-ordinate Offices Official Language Services. The Hindi Translators of the Sub-ordinate Offices Official Language Services is given separate pay scales. There is no parity between these two service as alleged in the petition. The applicant was appointed as LDC in the Ministry of Urban Development and she became Junior Hindi Translator on deputation and she was absorbed in the

service w.e.f. 30.1.95 in pay scale Rs.5000-150-8000. She was granted 1st ACP and placed under scale Rs.5500-9000. In December 2012 she was promoted as SHT.

7. The respondents admits that government as per order dt. 19.2.03 and 14.7.03 has granted higher pay scale to Hindi Translators of CSOLS, notionally w.e.f. 01.1.96 and actual payments w.e.f. 11.2.03. It is made clear in the orders that the said scales are given to the Hindi Translators of CSLOS alone and it is not applicable to Sub-ordinate Offices Official Language Services. For giving parity in scales it is necessary to consider -

(a) whether the duties performed by the applicant in an attached offices is at par with her counterparts in CSOLS,

(b) whether equality of pay can be implemented.

Traditionally, the posts in Central Secretariat are placed in a higher pay as the work in the Central Secretariat is more onerous and difficult. The nature of work in CSOLS includes translating various gazette notifications, Parliament questions, Cabinet notes and other notification and it also requires a level of secrecy in certain matters. Owing to this, government had taken a policy decision that Hindi Translators of CSOLS should get a higher scale. There is also difference in the mode of appointment to these two services. The appointment to JHT in sub-ordinate service is by transfer where JHT of CSOLS Cadre is through Staff Selection Commission in an all India examination. It is well settled that equal pay must depend on the nature of work done. There is no violation of Article 14 of Constitution in this case. There is no similarity in both these posts. Applicant has filed a rejoinder stating more or less on

the same lines. According to him, the qualifications prescribed for both the posts is one and the same.

8. From the pleadings, we find that the only point to be decided is whether the applicant is entitled to get pay parity with Hindi Translators of CSOLS?

9. This case was earlier disposed of by this Bench allowing the OA on 26.4.16. Aggrieved by the order, the respondents in OA filed a Review Application as RA 5/17. The RA was dismissed on 15.6.17. The respondents filed WP No.24404/17 against the order in OA 1158/14 and order made in RA 5/17 before the Hon'ble High Court of Madras and the Hon'ble High Court by order dt.27.3.18 set aside the orders passed by the Tribunal and remanded back for fresh disposal.

10. Accordingly we have heard both sides. The applicant herein cites the following cases in support of her case:-

“1. Dhananjay Singh v. U.O.I – OA 939/2004 of CAT, Calcutta Bench, confirmed by WP 632/2007 of Hon'ble High Court of Calcutta & Civil Appeal No.1119/2013 arising out of SLP © 3380/09 filed by Union of India (SLP 17419/09 & 2 Others).

2. Rajesh Kumar Gond v. U.O.I. - OA 932/04 of CAT, Calcutta upheld by Hon'ble High Court in WP 632/07 and SLP © 17419/09 filed by Union of India (SLP 17419/09 & 2 Others).

3. Ashish Kumar Khare v. Union of India, CAT, Hyderabad Bench.

4. Rakesh Sharma v. Union of India in OA 4655/11 of CAT, Principal Bench, Delhi.
T.P.Leena v. U.O.I – OA 107/2011 of CAT, Ernakulam Bench.

5. Smt. Anandavally Amma v. U.O.I. - OA 656/2012 of CAT, Ernakulam Bench.

6. Hariom Prasad Babulal Gupta & Others v. Union of India in OA 2120, 2138, 2139/2005 of CAT, Mumbai Bench.”

11. The SLP filed against the above judgments were dismissed and the issue is well settled once for all in 2013.

12. According to the applicant, the Hon'ble Supreme Court has held in ***State of Karnataka v. C.Lalitha & Others (Civil Appeal No.919/2002)*** that “...service jurisprudence evolved by this court from time to time postulates that all persons similarly situated should be treated similarly. Only because one person has approached the court that would not mean that persons similarly situated be treated differently....”

13. The counsel for the applicant would contend that law was settled in SLP (Civil) No.1119/13, 17419/09, 37255/12 by the Hon'ble Supreme Court. Hence the applicant is entitled to get the relief sought.

14. The counsel for the respondents would submit that there is no parity in the work done by Hindi Translators in the Sub-ordinate Offices of various departments and CSOLS are different and the government had granted separate pay scales to Hindi Translators in CSOLS considering arduous nature of work they have to do. The respondents had produced Annexure R22 issued by the Directorate General, CPWD (F.No.11/7//2015-EC(IV)(SC)/348 dt. 23.3.15) showing the duties and responsibilities of Hindi Translators in CPWD. The duties of Hindi Officers and definite work requirements and duties are as follows:-

“Duties of Hindi Officers and definite works to be taken from them

The requirements are designed to meet the post of Hindi Officers, it would be appropriate to assign the following duties to them.

- (1) English to Hindi and Hindi to English translation works and vetting of the same.
- (2) To keep the officers and officials of the department informed of the Official Languages Act, training and orders of the OL Act, and to help in their implementation.
- (3) To keep the officers and officials of their department, Sub ordinate offices, Sections, companies etc. informed of the Official Languages Act, training and orders of the OL Act, and to help in their implementation.
- (4) To act as the Secretary of the OL implementation committee of the Dept. or Offices and to conduct periodical meetings, to prepare the agenda and minutes of the meeting and to coordinate take action on the decisions taken in the meeting.
- (5) To suggest improvements in Hindi in the QPR from time to time and to keep appropriate contacts with the OL department.
- (6) Preparation of auxiliary and literature reference to arrange for Hindi Workshops and to assist the officers and staff to learn Hindi and using it in the official work.
- (7) Hindi officers, Translators to only to translate and to look after the implementation of the Official Languages for which their posts are approved. If in any office the stipulated work in Hindi is being done by achieving the targets fixed in the Annual Programme, and even after that if any officers or officials in the Hindi posts find time only then in addition to translation works and implementation works they may be given any other works.

10.5.1 So far the senior officials of the department responsible for the implementation of Hindi-related orders. Their responsibility will continue further. The services of the Hindi officers should be viewed with that responsibility.

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(2) (O.M.No.11/13019/75-OL(C) dt. 31.12.1975 sl.no.139

OM No.13035/11/87/(OL) © dt. 8.9.1987

(3) OM No.13017/4/88/(OL) © dt. 8.6.1988 Sequence No.255

10.6 The standard and volume of work done by Hindi typists and Tallyman.

The Hindi typing related works being done by various Ministries/Departments/Offices...”

They had also produced R28 showing the functional difference of Hindi Translators in CSOLS and those of CPWD Sub-ordinate Services as follows:-

A. DUTIES AND RESPONSIBILITIES

CSOLS			CPWD	
S. No.	Description	Nature	Description	Nature
1	Translation of reply to the Parliament Questions	Confidential Time bound Sensitive	Translation work from Hindi to English and vice-versa	Routine
2	Translation of Note for Supplementary prepared in connection with reply to a Starred Question in the Parliament	Confidential Voluminous Time bound Sensitive	Maintenance of data in respect of quarterly progress report	Routine
3	All Parliamentary matters like Statement indicating fulfilment of Assurance, Special Mention in both Houses of the Parliament, etc.	High degree of responsibility Time bound Strenuous	To assist in organizing Hindi Meeting and Hindi Workshop/Hindi <i>Pakhwara</i> (fortnight)	Occational
4	Hindi version of a bill to be introduced in the Parliament	High degree of responsibility Time bound Strenuous	Inspection of division and sub divisional offices for	Routine

			Hindi work	
5	Hindi version of Rules under various Acts to be placed on the Table of both Houses of the Parliament	High degree of responsibility Voluminous Strenuous		
6	Hindi version of the Annual Report of the concerned Ministry/Department/Office	Voluminous Time bound Strenuous		
7	Hindi version of the Cabinet Notes prepared by the Ministry/Department/Offices	Confidential Time bound Responsibility		
8	Hindi version of replies to letters from the Members of Parliament (received in Hindi)	High degree of responsibility Urgent		
9	Hindi version of all orders, circulars etc issued by the Ministries/Departments for general information	Voluminous		
10	Translation of all communications sent in Hindi by the Ministries/Departments	Time bound Responsibility Quality		
11	Translation of various forms including application forms, tables, returns, etc.	Time bound Quality		

	for general circulation		
12	Any other translation work of time bound nature arising from time to time in the Ministries/Departments/Offices	Time Bound	
13	Any other matter related to Official Language concerning the Ministries, Departments and Offices	Time Bound	
14	Assistance for the meeting of Hindi Salaharkar Samiti, Official Language implementation Committee etc.	Time bound Sensitive	
15	Implementation of Official Language policies framed from time to time	Responsibility	

B.MODE OF RECRUITMENT

Period	CSOLS	CPWD
Up to the year 2015	The vacancies in this grade shall be filled by direct recruitment through an All India Open Examination conducted by the Staff Selection Commission for recruitment to the post of Junior Hindi Translators in CSOLS	By transfer on deputation/transfer or By direct recruitment [through an All India Open Examination conducted by the Staff Selection Commission]

Since the year 2016	Combined recruitment through an All India Open Examination conducted by the Staff Selection Commission.
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15. The respondents also submit that some of the Pay Commissions had recommended uniform pay scales to both services but the government keeping in view of various factors and financial implications had decided to give higher pay scales to CSOLS. The government is not bound to accept all recommendations of the Pay Commissions. The higher scale were given because the nature of work of the Translators in CSOLS were different. The counsel invited our attention to the decision of the Hon'ble Apex Court in *State of Haryana & Another v. Haryana Civil Secretariat Personal Staff Association [reported in (2002) 6 SCC 72]* wherein the court observed that -

“10. It is to be kept in mind that the claim of equal pay for equal work is not a fundamental right vested in any employee though it is a constitutional goal to be achieved by the Government. Fixation of pay and determination of parity in duties and responsibilities is a complex matter which is for the executive to discharge. While taking a decision in the matter several relevant factors, some of which have been noted by this Court in the decided case, are to be considered keeping in view the prevailing financial position and capacity of the State Government to bear the additional liability of a revised scale of pay. It is also to be kept in mind that the priority given to different types of posts under the prevailing policies of the state Government is also a relevant factor for consideration by the State Government. In the context of complex nature of issues involved, the far reaching consequences of a decision in the matter and its impact on the administration of the State Government courts have taken the view that ordinarily courts should not try to delve deep into administrative decisions pertaining to pay fixation and pay parity. That is not to say that the matter is not justiciable or that the courts cannot entertain any proceeding against such administrative decision taken by the government. The courts should approach such matters with restraint and interfere only when they are satisfied that the

decision of the government is patently irrational unjust and prejudicial to a section of employees and the government while taking the decision has ignored factors which are material and relevant for a decision in the matter. Even in a case where the court holds the order passed by the government to be unsustainable then ordinarily a direction should be given to the State Government or the authority taking the decision to reconsider the matter and pass a proper order. The court should avoid giving a declaration granting a particular scale of pay and compelling the government to implement the same. As noted earlier, in the present case the High Court has not even made any attempt to compare the nature of duties and responsibilities of the two sections of employees, one in the State Secretariat and the other in the Central Secretariat. It has also ignored the basic principle that there are certain rules, regulations and executive instructions issued by the employers which govern the administration of the cadre.”

16. It is further submitted that different Ministries have their own Recruitment Rules for the post of Hindi Translators. The CPWD has its own Recruitment Rules for selection of JHT's (Annexure R27). Our attention was also invited to the decision of the Hon'ble Apex Court in *State of West Bengal and Another v. West Bengal Minimum Wages Inspectors Association and Others [reported in (2010) 2 SCC (L&S) 1]* wherein it was held as follows:-

“that equal pay for equal work is not a fundamental right but a constitutional goal. It is dependent on various factors such as educational qualifications, nature of jobs, duties to be performed, responsibilities to be discharged, experience, method of recruitment, etc. Comparison merely based on designation of posts is misconceived. The principles relating to granting higher scale of pay on the basis of equal pay for equal work are well settled. The evaluation of duties and responsibilities of different posts and determination of the pay scales applicable to such posts and determination of parity in duties and responsibilities are complex executive functions, to be carried out by expert bodies. Granting parity in pay scale depends upon comparative job evaluation and equation of posts. The burden to prove disparity is on the employees claiming parity. Courts should approach such matters with restraint and interfere only if they are satisfied that the decision of the Government is patently irrational, unjust and prejudicial to any particular section of employees.”

After the 6th CPC, government has initiated steps to frame uniform Rrs and conduct common examinations through SSC. At present there is no parity among the two posts and the applicant is not entitled to get the pay scale of CSOLS. The counsel for the respondents had invited our attention to the case ***State of West Bengal v. Subhas Kumar Chatterjee and Others [(2010) 11 SCC 694]*** wherein the Hon'ble Apex Court held that “*the fixation of pay and determination of parity in duties and responsibilities is a complex matter which for the executive to discharge.*” In para-14, it was also reiterated that -

“14. This Court time and again cautioned that the court should avoid giving a declaration granting a particular scale of pay and compel the Government to implement the same. Equation of posts and equation of salaries is a matter which is best left to an expert body. Fixation of pay and determination of parity in duties and responsibilities is a complex matter which is for the executive to discharge. Even the recommendations of the Pay Commissions are subject to acceptance or rejection, the Courts cannot compel the State to accept the recommendations of the Pay Commissions though it is an expert body. The State in its wisdom and in furtherance of its valid policy may or may not accept the recommendations of the Pay Commission. [See: *Union of India v. Arun Jyoti Kundu (2007) 7 SCC 472* and *State of Haryana and Anr. v. Haryana Civil Secretariat Personal Staff Assn. (2002) 6 SCC 72*]. It is no doubt true, the constitutional courts clothed with power of judicial review have jurisdiction and the aggrieved employees have remedy only if they are unjustly treated by arbitrary State action or inaction while fixing the pay scale for a given post.”

The respondent had also cited the decision in ***Mohammed Shujat Ali & Ors. v. Union of India & Ors. Etc. [reported in (1975) 1 SCR 449]*** and ***Federation of All India Customs & Central Excise Stenographers (Recognised) & Ors. v. Union of India & Ors. [(1988) 3 SCC 91]***, to show that reasonable classification can be drawn up and the claim of Stenographers of Customs & Central Excise for parity with

Personal Assistants attached to Joint Secretaries was rejected by the court on the ground of functional requirements of work done, training and responsibility prescribed for the two posts.

17. The counsel for the respondents contends that “normally a party claiming equal pay for equal work should be required to raise a dispute in this regard. In any event, the party who claims equal pay for equal work has to make necessary averments and prove that all things are equal. Thus, before any direction can be issued by a court, the court must first see that there are necessary averments and there is a proof.”

18. This Tribunal has earlier disposed of this OA without considering the basic principle of evidence and pleadings and the burden of proof stating that “we are of the view that the respondents have not been able to explain how the duties and responsibilities of different grades of Hindi Translators in the Sub-ordinate Offices of CPWD in inferior qualitatively and quantitatively or otherwise compared to similar job done by the Hindi Translators of CSOLS cadre and of CPWD. No material has been placed before us to show how the functional requirement in the two cases are different.”

19. We had carefully gone through the pleadings and various documents produced by both sides. The respondents in this case had granted the scales equivalent to CSOLS to the applicants also as per Annexure A25 OM F.No.1/1/2008-1C Ministry of Finance, Department of Expenditure Implementation Cell dt. 24.11.2008.

20. So, the only point now to be decided is whether there existed parity between the OL posts in the Sub-ordinate Offices of the Central Government and Central

Secretariat Official Language Service in all respects. The respondents as per order dt. 19.2.03 had upgraded the scales of CSOLS. The applicant herein claims to get the same scale contending that the work of Hindi Translators are one and the same and the service in CSOLS cannot be treated differently. On a perusal of OAs cited by the applicant, it can be seen that similar cases were filed by various individuals in various co-ordinate Benches and some of them were successful in getting favourable orders.

21. The government has now given same scales to the Sub-ordinate Services also. But whether the functions and duties of Hindi Translators in CSLOS and Sub-ordinate Services are one and the same and whether there existed historical parity, in the mode of recruitment, qualification etc., has to be decided first to say that the applicant in this case is entitled to get parity w.e.f. 11.2.03. The respondents in this case had produced the details of the duties and responsibilities of the Hindi Translators working in CSLOS and Sub-ordinate Services as Annexure R28. On a perusal of the duties of CSLOS, we find that the work of Hindi Translators in CSLOS are more arduous in nature. They had to work in a time bound manner and they have to undertake voluminous translation work for e.g., Bills, Rules etc., which are introduced in the Parliament. Further, they have to attend matters related to questions raised in the Parliament also. On the other hand, the work in the Sub-ordinate Offices is more or less routine and less onerous. This is what we understand from a reading of Annexure R28.

22. In *S.C.Chandra & Others v. State of Jharkand & Others [reported in (2007) 2 SCC (L&S) 897]*, the Hon'ble Apex Court has held that fixation of pay and

determination of parity is a complex matter, which is for the executive to discharge.

In *State of West Bengal and Another v. West Bengal Minimum Wages Inspectors Association and Others* (cited supra) the Hon'ble Apex Court held that comparisons merely based on designation of posts is misconceived.

23. One contention raised by the counsel for the applicant is that CPIO had issued a reply under RTI showing similarity in the work. But we have to note that the opinion of CPIO has no legal backing as he is not competent to say regarding the parity of work undertaken by officers of CSOLS and Sub-ordinate Hindi Translators. The recommendations of Pay Commissions are only recommendatory in nature and it can be enforced only if it is accepted by the government.

24. The Hon'ble Supreme Court in *State of West Bengal v. Subhas Kumar Chatterjee and Others* (cited supra) has held that “ This Court time and again cautioned that the court should avoid giving a declaration granting a particular scale of pay and compel the Government to implement the same. Equation of posts and equation of salaries is a matter which is best left to an expert body. Fixation of pay and determination of parity in duties and responsibilities is a complex matter which is for the executive to discharge. Even the recommendations of the Pay Commissions are subject to acceptance or rejection, the Courts cannot compel the State to accept the recommendations of the Pay Commissions though it is an expert body.” In *Union of India v. Arun Kundu [(2007) 7 SCC 472]*, the Hon'ble Apex Court held that “...the constitutional courts clothed with power of judicial review have jurisdiction and the aggrieved employees have remedy only if they are unjustly treated by arbitrary State

action or inaction while fixing the pay scale for a given post.”

25. From the above discussion, it can be seen that parity and equality in pay scale has to be granted by the government considering various facts and circumstances and according to the policy of the executive. The Tribunal cannot give directions to implement a particular pay scale to a certain section. The applicant has not succeeded in showing that the Hindi Translators working in Sub-ordinate Offices have similar duties and responsibilities as in the case of CSOLS. The respondents had clearly shown that the duties and responsibilities of officers in CSOLS is more onerous in nature than the Sub-ordinate Services.

26. It is for the government to take a policy decision on the subject and decide whether there existed parity among these posts from 2003 to 2008 for the period for which the applicant seeks relief.

27. In the result, we find that the applicant has not succeeded in showing that she is entitled to get retrospective implementation of the scales granted by the government to CSOLS as per OMs dt. 19.2.03 and 2.4.04 to the Sub-ordinate Services in which the applicant is working from 2003 onwards.

28. Hence, the OA will stand dismissed. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

19.12.2019

/G/