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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2513/2001

New Delhi, this the 3rd October, 2002

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri M.P. Singh, Member (A)

1. Central Secretariat Official Language Service Asstt. Director Association through its President Shri S.N.Shukla Room No.202C, Nirman Bhavan New Delhi
2. C.P. Dhaundiyal BD-879, Sarojini Nagar New Delhi
3. Kanwar Singh Assistant Director Ministry of Environment & Forest Paryavaran Bhavan, New Delhi .. Respondents

(Shri V.S.R. Krishna, Advocate)

versus

Union of India, through

1. Secretary Department of Official Language Lok Nayak Bhavan Khan Market, New Delhi
2. Secretary Department of Expenditure Ministry of Finance South Block, New Delhi .. Respondents

(Shri Adish C.Aggarwala, Advocate - not present)

ORDER(oral)

Shri M.P.Singh, Member(A)

By the present OA, applicants seek to challenge the order dated 17.8.2001 whereby the posts of Assistant Director (Official Languages) [(AD)(OL), for short] had been bifurcated into two grades viz. AD Gr.I (Rs.7500-12000) and AD Gr.II (Rs.6500-10500) with a prayer to direct the respondents to consider granting of pay scale of Rs.7500-12000 to the applicants with effect from 1.1.96 with all consequential benefits.

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2. Brief facts giving rise to the present OA, as stated by the applicants working as ADs, are that they have been given the pay scale of Rs.6500-10500 as per the recommendations of Vth Central Pay Commission (CPC). As per the statutory Recruitment Rules (RRs), the qualification for the post of AD is post-graduate degree with 5 years experience in terminological or translation work. According to the applicants, ADs of Central Hindi Training Institute (CHTI) and Translation Officers (TOs) of Central Translation Bureau (CTB) who were in the pay scale of Rs.2000-3200 have now been granted upgraded pay scale of Rs.7500-12000 (Rs.2500-4000). However, respondents instead of giving the applicants the pay scale of Rs.7500-12000 (Rs.2500-4000) have brought down their pay scale to Rs.6500-10500 (Rs.2000-3500) without any justification or reason and overlooking the fact that the applicants are better qualified and experienced and were earlier in the higher pay scale and that duties of applicable are more onerous in nature than that of the comparable posts. Though the Vth CPC has recommended bifurcation of ADs as aforesaid (vide impugned order), the posts of similar nature like that of AD in CHTI and that of TO in CTB which were earlier in the pay scale of Rs.2000-3200 have now been accorded the upgraded pay scale of Rs.2500-4000 across the board without any bifurcation or change of duties. Recruitment experience for these posts is lower than that of the posts held by the applicants. That apart, most of the applicants have put in more than 8 years service in the grade of AD and have become eligible to the post of Deputy Director (DD) but with the issue of the impugned order dated 17.8.2001, applicants have to be promoted first to the level of AD-1 and then to the post of DD. With the introduction of



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Assured Career Progression (ACP) Scheme, applicants would have been eligible for the pay scale of DD (Rs.3000-4500) but the ACP Scheme will be limited to the pay scale of Rs.2500-4000 which was their legal due. Aggrieved by this, they have filed the present OA.

3. Respondents in their reply have contested the application and have stated that the Vth CPC in para 70.121 of its report have inter alia made the following recommendations in respect of the pay scales of ADs in CSOLS:

<u>Designation</u>	<u>No. of posts</u>	<u>Pay scale</u>	<u>Remarks</u>
AD Gr.I	65	Rs.7500-12000	By redistribution of existing 145 posts of AD
AD Gr.II	80	Rs.6500-10500	Mode of Recruitment 50% by direct recruitment & 50% by promotion

The aforesaid recommendations, notified on 30.9.1997, were subject to fulfilment of specific conditions which inter alia relate to change in Recruitment Rules (RRs), restructuring of cadres, redistribution of posts into higher grades etc. Thus, it became necessary for the Ministries/Departments concerned not only to accept these preconditions but also to implement them before the scales are applied to those posts. It is implicit in the recommendations of the Vth CPC that such scales necessarily have to take prospective effect and the concerned posts will be governed by the normal replacement scales until then. The issue relating to placement of all the posts of AD in CSOLS in the revised scale of Rs.7500-12000 was considered by the Government



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of India; however, it was not found feasible to do so. Government have accepted the recommendations of Vth CPC with a view to uplift the cadre by upgrading 20 posts of DD to the post of Joint Director in scale of Rs.12000-16500 and 65 posts of AD to the post of AD Gr.I (Rs.7500-12000). The scale of Director has been upgraded from Rs.12000-16500 to Rs.14300-18300.

4. AD in CHTI and TOs in CTB have been recommended the pay scale of Rs.7500-12000 by Vth CPC due to the fact that the Hindi Pradhyapaks (HPs) in CHTI possess post-graduate qualification, who were earlier in the pay scale of Rs.1640-2900, were allowed pay scale of Rs.2000-3500. The post of AD which is a promotional post for HP was earlier in the pay scale of ~~Rs.6500-12500~~ ²⁰⁰⁰⁻³⁵⁰⁰ was placed in the pay scale of Rs.2500-4000 due to higher scale recommended for feeder post. Similarly, the TOs in CTB who were in the pay scale of Rs.2000-3200 were recommended higher pay scale of Rs.2500-4000 due to higher recruitment qualifications of feeder posts whose scales are upgraded. With the change in mode of recruitment to the post of AD Gr.II, i.e. 50% by direct recruitment and 50% by promotion and in terms of DoPT guidelines contained in OM dated 25.5.1998, it has become necessary to undertake revision of RRs. Pending revision of RRs with reference to pay scales as approved by the Government, the existing rules for the lower pay scale may not be operated. Respondent No.1 ~~has~~ taken steps to amend the RRs. Similarly, the scale to be allowed under ACP Scheme after restructuring of the CSOLS would be Rs.7500-12000 as against Rs.3000-4500 (pre-revised) being given to ADs after 12 years regular service.

[Signature]

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5. It is further stated in the reply that Respondent No.1 has requested Union Public Service Commission (UPSC) to decide the mode of recruitment as a one-time measure for the newly upgraded posts of JD and AD Gr.I. UPSC have intimated the mode of recruitment. Action to fill up the newly created posts as per advice of UPSC was in progress, but has been held up on receipt of the stay order granted by the Tribunal. After restructuring of the CSOIS cadre vide impugned order dated 17.8.2001, direct recruit ADs will be eligible for the next higher grade of AD Gr.I viz. Rs.7500-12000 and not Rs.10000-15200. In view of this position, the OA be dismissed.

6. We have heard the learned counsel for the parties and perused the records.

7. During the course of the arguments, the main grounds taken by the learned counsel for the applicants are that prior to implementation of the recommendations of Vth CPC, the applicants were in the pay scale of Rs.2000-3500 as compared to ADs in CHTI and TOs of CTB who were drawing lower scale of Rs.2000-3200 and that qualifications, duties and responsibilities and experience required for induction to the post of AD in the applicants' case are higher than that of their counterparts and therefore there is no reason to reduce the pay of applicants i.e. Rs.6500-10500 while granting higher pay scale of Rs.7500-12000 to their counterparts. The bifurcation of cadre will lead to an awkward situation that there can be no further promotion from the grade of AD Gr.I to post of DD since all the incumbents

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in the posts of AD-1 will be assuming the charge of their posts from a prospective date only and therefore they have to count their seniority from day one and for the next 5 years no promotion can take place since no AD-1 will be eligible as per rules.

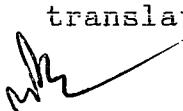
8. On the other hand, respondents counsel have denied the aforesaid grounds. He has contended that ADs Gr.II will get their promotion to AD Gr.I in the scale of Rs.7500-12000 and thereafter, their promotion will be made in the scale of Rs.10000-15200 after completion of required eligibility service. He has further stated that Respondent No.1 would take necessary action to fill up the posts of DD in CSOLS in consultation with DoPT and UPSC.

9. After considering the rival contentions of both parties, we find that the applicants are claiming parity of pay scale with their counterparts working as ADs in CHTI and TOs in CTB who were earlier working in the pay scale of Rs.2000-3200 and have now been granted the revised pay scale of Rs.7500-12000. They have been granted the higher pay scale due to the fact that HFs in CHTI who are in the feeder grade possess higher recruitment qualification i.e. post-graduate degree. Therefore, they have now been allowed the upgraded pay scale of Rs.2000-3500 (pre-revised) from Rs.1640-2900 which they were drawing earlier. The post of AD which is a promotional post for HF was earlier in the pay scale of Rs.2000-3500 has now been placed in the scale of Rs.2500-4000 (pre-revised) due to higher scale recommended for feeder post. Similarly, TOs in CTB who were in the pay scale of Rs.2000-3200 were recommended

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higher pay scale of Rs.2500-4000 (pre-revised) due to higher recruitment qualifications of feeder posts whose scales are upgraded.

10. As per the RRs, the post of AD in CSOLS is to be filled 50% by promotion and 50% by direct recruitment. The lowest posts in CSOLS is JT which is filled by direct recruitment. The minimum educational qualification for appointment to the post of Junior Hindi Translator in CSOLS is Bachelor's degree with Hindi and English as main subjects (which includes the term compulsory and elective). Junior Translator with 5 years regular service in the grade are eligible for promotion to the post of ST and STs with 3 years regular service in turn are eligible for promotion to the post of AD. On the other hand, the minimum qualification to the post of HP (feeder post) in CHTI is post-graduation and the minimum qualification to the post of TA (feeder post) in CTB is Master's Degree in Hindi. Thus, it is evident that the minimum qualification for the lowest feeder post of JT in CSOLS is less than that of feeder posts of HP and TA in CHTI and CTB respectively. That apart, qualification for direct recruitment of AD in CSOLS and TO in CTB are also not similar as the TOs possess MA second class whereas ADs in CSOLS possess only a Master's degree without any requirement of second class. Qualification regarding experience for TO in CTB is atleast 3 years experience of translation from Hindi to English and vice-versa out of which at least one year experience of supervisory and review whereas the ADs in CSOLS should have 5 years experience of terminological work in Hindi and or translation work from English to Hindi or vice-versa



preferably of technical and scientific literature or 5 years experience of teaching/research, writing or journalism in Hindi.

11. It is thus abundantly clear that the posts of AD in CHTI and TOs of CTB have been granted higher pay scale because of higher educational qualification. Moreover, there are various other aspects like restructure of cadre, duties and responsibilities, redistribution of posts, change in RRs etc. which are to be taken into consideration before deciding the pay scale of a particular post. The Vth CPC, an expert body, have gone into all these factors and recommended higher pay scale for these posts, ^{also} and they have bifurcated the post of AD into two grades, i.e. 65 posts in AD Gr.I and 80 posts in AD Gr.II and recommended the pay scale of Rs.7500-12000 for AD Gr.I and Rs.6500-10500 for AD Gr.II.

12. Law is well settled in the matter relating to pay scale. In this connection we may refer to the judgement of the Hon'ble Supreme Court in the case of UOI & Anr. F.V.Hariharan & Anr. (1997) 3 SCC 568, the relevant part of which is extracted below for the purpose of adjudication of the present case:

"Quite often the Administrative Tribunals are interfering with pay scales without proper reasons and without being conscious of the fact that fixation of pay is not their function. It is the function of the Government which normally acts on the recommendations of a Pay Commission. Change of pay scale of a category has a cascading effect. Several other categories similarly situated, as well as those situated above and below, put forward their claims on the basis of such change. The Tribunal should realise that interfering with the prescribed pay scales is a serious matter. The Pay Commission, which goes into the problem at great depth and happens to have a full picture before it, is the proper authority to decide upon this issue. Unless



13. In view of what has been discussed above and having regard to the judgement of the apex court (court), we find no merit in the present OA and the same is accordingly dismissed. Interim order passed on 21.9.2001 stands vacated. No costs.

M.P. Singh
(M.P. Singh)
Member(A)

V.S. Aggarwal
(V.S. Aggarwal)
Chairman

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