

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 2768/2001

New Delhi this the 8th day of November, 2002. (18)

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN

HON'BLE SHRI M.P.SINGH, MEMBER (A)

Shri B.D.Sharma
S/o late Shri Mangal Ram Sharma
Private Secretary
M.R.T.P.Commission
Kota House Annexe
1, Shahjahan Road
New Delhi-110011.Applicant

(By Shri N.Ranganathasamy, Advocate)

-versus-

1. Union of India through
The Secretary
Ministry of Law, Justice and Company Affairs
Shastri Bhawan, 4th Floor
Dr.Rajendra Prasad Road
New Delhi-110 001.
2. The Secretary
Department of Company Affairs
Shastri Bhawan, 5th Floor, 'A' Wing
Dr.Rajendra Prasad Road
New Delhi-110 001.
3. The Secretary
Department of Personnel & Training
Ministry of Personnel, Public Grievances
& Pensions
North Block
New Delhi-110 001.
4. The Secretary
M.R.T.P.Commission
Kota House Annexe
1, Shahjahan Road
New Delhi.Respondents

(By Shri Rajeev Bansal, Advocate)

O R D E R

JUSTICE V.S.AGGARWAL:-

Applicant (Shri B.D.Sharma) had been appointed
as Stenographer Grade-II in the Department of Company

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Affairs. His services were placed at the disposal of the Monopolies and Restrictive Trade Practices Commission (M.R.T.P.Commission) with effect from 16.12.1970 in the same capacity as Stenographer Grade-II. He was promoted as Private Secretary from 1.8.1985 in accordance with the recruitment rules. Applicant contends that as per Section 5.2 of the M.R.T.P. Act, the Chairman of the Commission shall be a person who has been qualified to be a Judge of the Supreme Court or High Court and Members thereto have been also to be persons of ability and integrity. The applicant works as Private Secretary to the Chairman/Members and shoulders responsibility in that capacity .

2. The Government of India is alleged to have issued a circular and clarification and extended the benefit of appointment of Principal Private Secretary in other departments under the control of the Ministries. The applicant fulfils all the eligibility conditions for grant of promotion to the post of Principal Private Secretary on 10.8.1999. The applicant had been discharging his duties as Stenographer Grade II and thereafter as Private Secretary on regular basis. On the recommendations of the Fourth Central Pay Commission, the Government of India had issued orders for creation of the post of Principal Private Secretary which is a Group 'A' Gazetted post in the scale of Rs.10,000-15200 (revised). The applicant's contention is that he is

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discharging similar duties and therefore, he should be granted the scale of the post of Principal Private Secretary from 1.8.1993.

3. The application has been contested. It has been pointed that there are 7 posts of Private Secretary in the M.R.T.P. Commission in the scale of Rs. 6500-10,500/-. This is the highest post for Stenographers. The Private Secretaries attached to the Chairman, Members and the Secretary of the Commission are given the said scale. The Fifth Central Pay Commission had observed that keeping in view the difference in the hierarchical structures and the type of work transacted in the secretariat and in subordinate offices, the Commission was not in favour of adopting a uniform pattern. It had not, therefore, conceded the demand for absolute parity in regard to pay scales between stenographers in the Secretariat and outside it. This was on the basis of the difference in the hierarchical structures and the type of work. Reliance was placed on the judgement of this Tribunal in OA No. 2711/1992 in the case of **K.N. Virmani v. Union of India and others** where a similar question had been considered and parity of scales had been refused. On merits also, the contention of the applicant had been controverted.

8. The learned counsel for the applicant had highlighted the fact that principle of 'equal pay for equal work' would be attracted and in support of his

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claim, relied upon a decision of this Tribunal in OA No. 777/92 (S.K.Sareen v.Union of India and Another). Therein a similar question had been raised by Shri S.K.Sareen pertaining to the scale of pay on the same principle. He was working as Private Secretary to the Vice Chairman of the Central Administrative Tribunal. This Tribunal had held:-

"18. In the result, the O.A. is allowed with the following directions:-

- (i) Respondents No.1 and 2 shall carry out an appropriate review in respect of the applicant's claim for promotional avenues/placement in the pay scale of Rs.3000-4500 from 1.1.86, keeping in view the law laid down on the subject and also the fact that there was no time for the Fourth CPC to take note of the grievances of the applicant herein.
- (ii) Our orders aforesaid should be complied with within a period of four months from the date of issue of this order and the applicant be informed of the position thereafter and be paid the revised pay scale from 1.1.1986, if otherwise found eligible, and revised pension benefits from the date of his superannuation.
- (iii) The reliefs to be granted will, however, be subject to the final outcome of the case referred to the Larger Bench of the Apex Court as mentioned in the order of C.J.Govindan's case (supra)
- (iv) There shall be no order as to costs."

The Union of India had filed Civil Writ Petition No.2511/2000 and the Delhi High Court did not interfere.

9. We deem it unnecessary to go in the said controversy because two posts of different

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organisations would not be alike. In fact, with respect to persons working as Private Secretaries in the M.R.T.P. Commission, one Shri K.N. Virmani, who was working as Private Secretary to the Chairman of the M.R.T.P. Commission had filed OA No. 2711/1992. This Tribunal had decided the said matter on 25.2.1999. The application had been dismissed. The principle that had been pressed into service for higher pay scale on basis of parity to the post of Private Secretary to the Secretary of the Government was not accepted.

10. Once such a decision has already been taken in the case of K.N. Virmani (supra) by this Tribunal, indeed it would be inappropriate for the present applicant or this Tribunal to re-go into the same controversy. However, we were told that during the pendency of the present application, the respondents have granted the scale of Rs. 7500-12000/- to the Private Secretaries to the Chairman and Members of the M.R.T.P. Commission but that is an administrative decision.

11. The fact remains that when earlier such a question had arisen and decided, present application merely because the person has changed will not be maintainable.

12. For these reasons, the application being

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without merit must fail and is dismissed.

MPS
(M. P. SINGH)

MEMBER (A)

VSA

(V. S. AGGARWAL)

CHAIRMAN

/sns/