

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2279/1999
M.A. NO.2285/1999
M.A. NO.2286/1999

New Delhi this the 13th day of September, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

1. R.P.S.Jaggi,
R/O 826 Sector-I,
R.K.Puram, New Delhi.
2. Ram dhari,
R/O Vill. & Post Bajana Khurd,
Distt. sonapat, Maryana.
3. N.K.Joshi,
R/O 890, GH-14 Area,
MIG Paschim Vihar,
New Delhi.
4. Smt. Leela Rawat,
R/O H-7, Priya Apartments,
D-Block, Vikas Puri,
New Delhi.
5. Ram Chander,
R/O Vill. Rajokri,
New Delhi-110038.
6. R.K.Karwal,
R/O 68, sukhdev Vihar,
New Delhi.
7. Smt. Ravinder Kaur,
R/O DG-III, Qr. No.53,
Vikaspuri, New Delhi-18.
8. Smt. Kamlesh Saren,
R/O J-37, Pandav Nagar,
Opp. Mother Dairy,
Delhi-110092.
9. Smt. Shashi Malhotra,
R/O 349, Sector 17,
Faridabad.
10. Prem Singh Pawar,
R/O 542, Sector-II,
Sadiq Nagar, New Delhi.
11. Smt. Gurmeet Kaur,
R/O 97, Saini enclave,
New Delhi.
12. Smt. Kiran Ralhan,
R/O C-III Qr. No.305,
Yamuna Vihar,
New Delhi.

... Applicants

(By Advocate : Sh M.L.Ohri)

VERSUS

1. UNION OF INDIA THROUGH
The Secretary
Ministry of Finance
Department of Revenue
North Block, New Delhi.
2. The Secretary
Ministry of Personnel
Public Grievances & Pensions
Department of Personnel & Training
New Delhi.
3. The Commissioner,
Preventive Operations
Customs & Central Excise
4th Floor, Lok Nayak Bhawan,
New Delhi - 110003.
4. The Secretary
Ministry of Finance
Department of Expenditure
North Block,
New Delhi.

....Respondents

(By Advocate : Sh. R.R.Bharti)

O R D E R (ORAL)

By Hon'ble Shri Govindan S. Tampi, Member (A)

Applicants before us today who are working in Directorate of Preventive Operations of Customs and Central Excise, challenge the memorandum No. 207/6/99-DPO (Estt.)/4590 dated 05-10-99 denying them the pay-scale at par with the Assistants and Stenographers of Central Secretariat Service, in terms of this Tribunal's order dated 28-9-98 in OA No. 527/97, on the ground that the Department's appeal against the same is pending in the Delhi High Court. Also under challenge is the OM No. 2/1/90-CS IV dated 31-7-99 of the DOPT revising the scale of pay of Assistants and Stenographers grade 'C' in Central Secretariat Service (CSS), but denying the same to the applicants.

2. The applicants are working as Assistants/Stenographers Grade II in the pay-scale of Rs. 1400-2600. Originally the applicants, Stenographers Grade II, were in the scale of Rs.1400-2300, but were brought on par to the Stenographers grade 'C' of (CSS) (Rs.1400-2600) on the basis of the Government's decision of 4-5-90. However, w.e.f. 1-1-86, the pay-scale of Assistants and Stenographers in CSS was revised to Rs.1640-2900 which was not granted to the applicants, Assistants and Stenographers. The Tribunal had on 19-1-96 while disposing of OA No.144A, OA 985/93 and OA 545/94 had held the DOPT's Memorandum to be discriminatory and it granted revised pay-scale of Rs.1640-2900 to the Assistants and Stenographers in CBI, Directorate General of Income-Tax (Investigation) and those working in Subordinate Offices of Field Publicity in Information & Broadcasting Ministry. The applicants' representation for similar relief was not granted. In the meanwhile, the Tribunal allowed OA No. 527/97 as well as OA 1869/92 and OA 2870/92 granting revised pay-scales to Stenographers Grade 'C' and Assistants in the Customs Office. The stay application filed by the Department against that order was dismissed by the High Court of Delhi. Following the implementation of the Report of the Vth Pay Commission, those in the scale of Rs.1400-2600 were given the replacement scale of Rs.5000-8000 and those who were given the higher grade of Rs.1640-2900 were given the replacement scale of Rs.5500-9000. This is arbitrary, allege the applicants. In the reply filed on behalf of the respondents it is shown that those working as Assistants and Stenographers in organisations like

D.P.O. were not performing comparable jobs with those working in the Central Secretariat and that only those who have got orders from the Tribunal were given the revised scale. This has been contested in the rejoinder as well. It is also reiterated that the decision of the Tribunal has been contested by the Department and that benefit if any can be given only after the case is decided.

3. Shri Ohri, the learned counsel appearing on behalf of the applicants reiterates the pleas and states that the Tribunal has granted the same benefit in two more OAs i.e. OA No. 2561/99 relating to officers working in the Directorate of Inspection and Audit and OA No. 286/2000 filed by those working in the Directorate of Revenue Intelligence. Benefits granted to similarly placed persons in different Directorates under the same Board should be extended to applicants who are also in the same organisation and also performing same functions in the same organisations. Sh. Bharti, learned counsel appearing for the respondents states that the same was not possible as the Directorate of Revenue Intelligence and the Directorate General of Inspection were attached offices of the Board while Directorate of Preventive Operations wherein the applicants are working was a Subordinate Office. This is the only plea, he has raised.

4. We have given careful consideration to the rival contentions raised in this matter, it is not disputed that the Directorate of Preventive Operations wherein the applicants are working is a Directorate

like similar other Directorates also functioning under the Central Board of Excise and Customs and their responsibilities and duties are similar or same. All these organisations are functioning to assist and advise the Central Board of Excise and Customs and there is no rationale which justifies any distinction among the staff working in these Directorates. The decision of the Principal Bench of the Tribunal in Original Application No. 2561/99 relating to the Directorate of Inspection and 286/2000 in respect of Directorate of Revenue Intelligence will clearly cover the instant case. Paras 5 to 7 of the decision in OA No. 286 reads as below :-

"5. It is not disputed applicants in aforesaid OAs 1869/92 & 2870/92 have been granted the revised pay scale of Rs.1640-2900 with effect from 1.1.1986. It is further not disputed that applicants are similarly placed as the applicants in aforesaid OAs 1869/92 & 2870/92. It is, however, pointed out that aforesaid order of this Tribunal has been challenged in the High Court by filing CWP wherein rule has been issued. The decision of the Tribunal in the circumstances is pending consideration of the High Court. It is, however, conceded that no stay has been granted by the High Court to aforesaid order passed by the Tribunal. It is further conceded that aforesaid order of the Tribunal has been implemented as far as the applicants in the said OAs are concerned. However, as the applicants in the instant OA are concerned, it has been stated that though aforesaid order has been implemented that has been done only in regard to the applicants therein. As far as the applicants in the present OA are concerned, they will have to await the decision of the High Court. A situation similar to the one which has arisen in the present case had arisen before us in the case of Smt.Simi Thukral Vs. Union of India & another, O.A. No.419/2000 decided on 4th July,2000. It has inter alia been observed by us in aforesaid order as under:-

2. As far as the claim of the applicant is concerned, that relates to the decision of the

Tribunal in OA No. 407/97 at Annexure A-1 though challenge to the same is pending in the High Court. The same has not been stayed either by the High Court or by the Supreme Court. The order of the Tribunal, therefore, very much hold the field. The same is also binding upon us.

(17)

3. The Supreme Court in the case of Ashwani Kumar & Ors. Vs. State of Bihar & Ors. 1997 SCC (L&S) 267 has held that Parties who failed to approach the Court cannot be ignored and all affected persons, whether parties or not to be included for grant of the relief. Hence employees who are similarly circumscribed and who might not have approached the High Court or the Supreme Court earlier and who may be waiting in the wings would also be entitled to claim similar relief against the State which has to give equal treatment to all of them otherwise it would be held guilty of discriminatory treatment which could not be countenanced under Articles 14 and 16(1) of the Constitution of India.

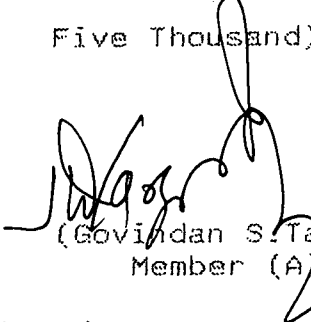
4. If one has regard to the aforesaid decision as also the decision of this Tribunal of 9.1.98 in OA 407/97 which, as already observed, holds the field, applicant herein will be entitled to the new scale in the present O.A.

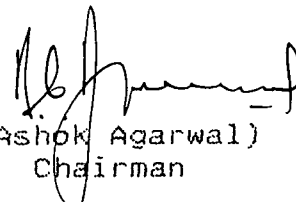
6. If one has regard to aforesaid observations contained in the order passed by us we find that the applicants herein have made good their claim for grant of the very same reliefs which have been granted in aforesaid OAs 1869/92 and 2870/92, namely, pay scale of Rs.1640-2900 with effect from 1.1.1986 or thereafter as the case may be. As far as the applicants in the instant OA are concerned, their colleagues in the very same office have been granted the relief by aforesaid order. Denying the same to the applicants herein would indeed be discriminatory and would thereby directly offend Article 14 of the Constitution. We find no distinguishing feature so as to discriminate present applicants from those in aforesaid OAs 1869/92 & 2870/92.

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7. In the circumstances we hold that the applicants in the instant case are entitled to the pay scale of Rs.1640-2900 (pre-revised) with effect from 1.1.1986 or thereafter as the case may be. Payment of arrears pursuant to the present order shall be limited to one year prior to the filing of the present OA, which has been filed on 2.2.2000. The applicants would, in the circumstances, be entitled to payment of arrears with effect from 1st February, 1999. The respondents shall comply and grant reliefs to the applicants herein within a period of three months from the date of receipt of a copy of this order. Present O.A. is allowed in afore-stated terms. No order as to costs."

5. The above decision squarely covers the case of the present applicants as well, as they are performing the similar functions under the same Board and we are inclined to accept their claim. The OA is accordingly allowed and the respondents are directed to grant to the applicants the revised pay-scale of Rs.1640-2900 from 1-1-86 and its replacement scale thereafter on parity with their counter parts in the other Directorates. However, they would be entitled to arrears from the period of six months prior to their filing this OA i.e. only from 1-4-99. This shall be done within three months from the date of receipt of a copy of this order. We also direct the payment of costs quantified at Rs. 5,000/- (Rupees Five Thousand).


(Govindan S. Tampi)
Member (A)


(Ashok Agarwal)
Chairman

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