

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI

22

OAs 515,667 & 733 of 1996 decided on 3.12..1999

Name of Applicant : All India Income-tax Stenographers
Association & others

By Advocate : Shri M.L.Ohri

Versus


Name of respondent/s Union of India & ors.

By Advocate : S/Shri V.P.Uppal & S.M.Arif

Corum:

Hon'ble Mr. Justice Ashok Agarwal, Chairman.
Hon'ble Mr.R.K.Ahooja, Member (Admnv)

1. To be referred to the reporter - Yes
2. Whether to be circulated to the other Benches of the Tribunal. -No


(R.K. Ahooja)
Member (Admnv)

Central Administrative Tribunal, Principal Bench
Original Applications Nos. 515, 667 & 733 of 1996

New Delhi, this the 3rd day of December, 1999

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. R.K. Ahooja, Member (Admnv)

23

(1) O.A.No. 515 of 1996

1. All India Income-tax Stenographers Association (through the Secretary), "ASHIRWAD", B-8/21, Krishan Nagar, Delhi-110051.
2. Shri R.M. Mathur, Stenographer Grade-I, Office of Chief Commissioner of Income-tax, New Delhi, R/o Qr.No. 49, Type-III, Income-tax Colony, Pitampura- Delhi-34 - Applicants

(By Advocate - Shri 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 Grievance and Pensions, Department of Personnel & Training, North Block, New Delhi.
3. The Chairman, Central Board of Direct Taxes, Ministry of Finance, Department of Revenue, North Block, New Delhi.
4. The Secretary, Ministry of Finance, Department of Expenditure, North Block, New Delhi. - Respondents

(By Advocates - S/Shri V.P. Uppal & S.M. Arif)

(2) O.A.No. 667 of 1996

1. Mohinder Pal Singh, S/o Shri Bhagat Singh, R/o Flat No. GGI/181-A, DDA MIG Flats, Vikaspuri New Delhi.
2. Mrs. P. Verghese, W/o Mr. Verghese Mathew, A/14, Saivichram, Karkandarapada, Dhisir West, Bombay.
3. S.K. Bhattacharya, S/o Late Shri M.K. Bhattacharya 133/N, Raja Rajinder Lal Mitra Road, Calcutta-85.
4. Durga Das Dutta, S/o Shri Santosh Kumar Dutta, Aged 41 years, R/o Salt Lake, CPWD Qrs. Flat No. 404, Sector-I, Calcutta-64.
5. Manohar Singh Rana, S/o Shri Pritam Singh, 355-A, Dr. Ambedkar Marg, Mandawali, Delhi-110092
6. Ravinder Kumar, S/o Late Shri Shanker Pilley, 150, Sector A, CGHS Qrts, Bhandup East, Bombay.
7. Smt. Sandhya Bose, W/o Shri A. Bose, A-14/A, Hastal Vihar, Dalmill Road, Uttam Nagar, New Delhi-110059

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8. Mrs. Neelam Bansal, W/o Shri Jupreet Singh Bansal, 4-C/20, Old Rai Nagar, New Delhi.
9. Anand Sagar Negi, S/o Shri S.S. Negi, Aged 25 years R/o-A-58, Laxmi Bai Nagar, New Delhi-110023
10. V.K. Sharma, S/o Late Shri N.L. Sharma, G-70, Nanakpura, New Delhi.
11. S.C. Das, S/o Late Shri N.C. Das, 127, Rajpur Khurd, New Delhi.
12. Jagdish Kumar Bhatia, S/o Late Shri T.P. Bhatia, I-G/40, Lajpat Nagar, New Delhi.
13. Smt. Seema Sadana, W/o Shri Arun K. Sadana, 1/29, Roop Nagar, Delhi-110007.
14. Smt. Kiran Mehra, W/o Shri Pran Mehra, E/10, Nightingale Apartments, Vikaspuri, New Delhi.
15. Satpal Singh, S/o Shri Ramdiya, Village: Samalkha, Dist: Karnal, Haryana.
16. Vivek Khattar, S/o Shri Inder Kumar, 109/10, Near Shanti Mandir, Bahadurgarh, Haryana.
17. Tarunesh Sharma, S/o Shri K.K. Sharma, D/10, Radhey Puri, Delhi-110051.
18. J.K. Golay, S/o Shri H.R. Golay, G/525, Srinivaspuri, New Delhi.
19. Raj Kumar, S/o Late Shri Niranjan Singh, A/605, Sarojini Nagar, New Delhi.
20. Mahesh Kumar, S/o Shri Channu Ram, M/67, Mangolpuri, Delhi-110083.
21. Miss Bindu Mati, D/o Shri Sarvagya Mani, WZ 476/B, Village Tihar, New Delhi.
22. A. Kandasamy, S/o Shri K. Arumugam, No. 758, Sector-12, R.K. Puram, New Delhi.
23. Smt. S. Rajeshwari, W/o Shri J. Vaidhinathan, Flat No. DA/8, DDA MIG Flats, Munirka, New Delhi.
24. Miss Chander Kanta, D/o Shri Ram Singh Bisht, A/324, Kidwai Nagar (East), New Delhi.
25. R.J. Pillai, S/o Shri Raghav Pillay, 13/B, PA Cowl Ext. Villu Vaccum, Madras. -Applicants

(By Advocate - Shri M.L. Ohri)

Versus

1. Union of India through the Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi.

2. The Registrar, Customs, Excise & Gold Control, Appellate Tribunal, West Block No.2, R.K.Puram, New Delhi-110066

3. The Secretary, Ministry of Finance, Department of Expenditure, North Block, New Delhi. -Respondents

(By Advocates - S/Shri V.P.Uppal & S.M.Arif)

(3)O.A.No. 733 of 1996

1. Smt. Lalita Gera, W/o Sh P.C.Gera, G-11, Mukhram Garden, Tilak Nagar, New Delhi-110018
2. Mrs. Santosh Channon, W/o Late Sh Subhash Channon, 3/143, Subhash Nagar, New Delhi.
3. Mr Khyali Ram, S/o Late Sh Jait Ram, 699, Bholi Nagar, Kotla Mubarakpur, New Delhi.
4. Mrs. Jasbir Kaur, W/o Sh A.S. Chawla, H.No.25, Income-tax Colony, Pitam Pura, New Delhi.
5. Baldev Krishan, S/o Sh RK Chandna, L-2/23, DDA Flats, Kalkaji, New Delhi-19
6. Mr. V.K. Khanna, S/o late Sh Jia Lal Khanna, 54/3, Ashok Nagar, New Delhi-18.
7. Mr. S.S.Chopra, S/o Sh Siri Ram Chopra, B-11/217 Double Storey, Dev Nagar, New Delhi-5.
8. Sh V.K.Garg, S/o Shri Shyam Lal Garg, C-10/168, Yamuna Vihar, Delhi-53.
9. Mrs. Nirmal Bagga, W/o Sh Suman Bagga, 178, Village Khirki, Malviya Nagar(P.O.), New Delhi-17
10. Mr. Moti Lal Dhamija, S/o Sh Nand Lal Dhamija, H.No.488, Sector 15, Faridabad, Haryana.
11. Mr. C.P. Kataria, S/o Sh Bhoja Ram Kataria, 5/4, Subhash Nagar, New Delhi.
12. Mrs. Varinder Gupta, W/o Sh Chander Gupta, D-809, Mandir Marg, Gole Market, New Delhi.
13. Mrs. Renu Sachdeva, W/o Sh Ramesh Chander Sachdeva, 43 Gujrawalan Town, Delhi.
14. Mr. Subhash Chander Satija, S/o Sh K.B. Satija, C-399, Sarasvati Vihar, New Delhi - 110034.
15. Mrs. Raj Kamboj, W/o Sh Pradeep Kamboj, H-13, B.K. Dutt Colony, New Delhi.
16. Mr. M.C. Parashar, S/o Sh RK Parashar, H.No.641, Chiragh Delhi, New Delhi-17
17. Mr O.P. Dhawan, S/o Sh Ram Dev Dhawan, R/o B-1, Sector 26, NOIDA-201301.

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18. Mrs. Neeru Pritam, W/o Sh Pritam Singh, E-4D,
Pritam Pura, Delhi-34.

19. Mrs. P.L. Sakuntala, W/o Sh P.K.S. Babu, B-67,
Saraswati Kunj Society, Patpar Ganj, New Delhi.

20. Mr. R.G. Sharma, S/o Sh H.S. Sharma, 1/2060 Ram
Nagar East, Shahdara, Delhi-52.

21. Mr. Narain Singh, S/o Sh Malhar Singh, Vill
Jajru, PO Ballabgarh, Distt Faridabad, Haryana.

- Applicants

(By Advocate - Shri M.L. Ohri)

Versus

1. Union of India The Secretary, Ministry of
Finance, Department of Revenue, North Block,
New Delhi.

2. The Secretary, Ministry of Personnel, Public
Grievance and Pensions, Deptt of Personnel &
Training, New Delhi.

3. The Chairman, Central Board of Direct Taxes,
Ministry of Finance, Department of Revenue,
North Block, New Delhi. - Respondents

(By Advocates - S/Shri V.P. Uppal & S.M. Arif)

Common Order

By Mr. R.K. Ahooja, Member (Admnv) -

As the issues involved & arguments advanced by
the learned counsel of parties, in the aforementioned
three OAs are similar, they are being disposed of by
this common order.

2. O.As. 515 & 733 of 1996 bring forth for
consideration of this Tribunal the claim for pay parity
between Stenographer Grade-II in a subordinate
department of Government of India with Stenographer
Grade 'C' of Central Secretariat Stenographer Service.
Similar claims have already been agitated by various
categories of Assistants and Stenographers working in
attached/subordinate offices since the recommendations
of the Fourth Pay Commission were considered by the
Government and implemented with effect from 1.1.1986.

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As we shall see, the claims of Assistant and Stenographer Grade 'C' of the subordinate organisations such as Crime Assistant/ Stenographers Grade 'C' (PA) in CBI and Stenographers in the Directorate of Field Publicity under the Ministry of Information & Broadcasting were allowed by the Tribunal. However, the plea for parity was rejected in the case of Stenographers working in Bhaba Atomic Research Centre under the Department of Atomic Energy. Before the Supreme Court also, while the SLPs filed by the Union of India in respect of the decisions of the Tribunal in favour of Stenographers working in CBI and Department of Field Publicity were dismissed, the Supreme Court also in the case of Stenographers working in Customs & Excise allowed the appeals of the respondents. We have, therefore, to tread a difficult and tortuous path in deciding the present OA. In doing so we have cause to be specially grateful for the assistance provided to us by Shri M.L.Ohri, learned counsel for the applicants and Shri V.P.Uppal, learned counsel for the respondents.

3. The contours of the case may be briefly delineated in order to sharpen our focus on the main controversy. For ease of reference we shall refer to the applicants as 'IT Stenographers' and those of the Stenographers belonging to Central Secretariat Stenographers Service as 'Secretariat Stenographers'. Before 1.1.1986 the pay scale of IT Stenographers was Rs.425-700 while that of Secretariat Stenographers was Rs.425-800. The Fourth Pay Commission recommended the replacements for the two pay scales and these came to Rs.1400-2300 for the IT Stenographers and Rs.1400-2600 for the Secretariat Stenographers. After the pay scale

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28

of the two categories were revised accordingly the staff side in the Joint Consultative Machinery (JCM) took up the case of Stenographers in the subordinate offices for parity with those in Central Secretariat. Since the issue could not be resolved by the JCM, the matter was referred for arbitration. The Board of Arbitration headed by Mr. Justice K. Bhaskaran gave the following Award on 18.8.1989 -

"Term of Reference : 'Whether the scale of pay of Stenographers in Subordinate Offices be brought on par with those in central Secretariat'

AWARD

Having carefully considered the material on the record and the merits of the case and having given our careful consideration to the arguments advanced by the Parties' representatives and having taken into account all the other relevant facts bearing on the matter in issue between the Parties, we give the following Award:-

The Stenographers in the Subordinate Offices in the existing scale of Rs.1400-40-1800-EB-50-2300 shall be placed in the scale of Rs.1400-40-1600-50-2300-EB-60-2600.

In all other aspects, the claim of the staff side shall stand rejected.

This Award will take effect on and from the 1st January, 1986."

In compliance with this Award the Ministry of Personnel, Public Grievances and Pension issued an OM dated 4.5.1990 in the following terms :

"The Staff Side in the National Council of the J.C.M. made a demand that scales of pay of Stenographers in the Subordinate Offices should be brought at par with those in the Central Secretariat. The matter which was referred to the Board of Arbitration came up before the Board for hearing on 17th & 18th August, 1989. While rejecting the demand for absolute parity in the pay scales of Stenographers in the Subordinate Offices and Secretariat, the Board gave its Award on 18th August, 1989 in favour of the Stenographers Gr. II in the Subordinate Offices in the existing scale of Rs.1400-40 - 1800-EB- 50-2300. Accordingly pursuant to the Award of the Board of

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Arbitration, the President is pleased to decide that the Stenographers Gr.II in the Subordinate Offices in the existing scale of Rs.1400- 40-1800- EB-50- 2300 may be placed in the scale of Rs.1400- 40- 1600- 50- 2300- EB- 60- 2600."

Subsequently, by an OM dated 31.7.1990 (Annexure-A-1) the pay scales of Assistant Grade of Central Secretariat Service and Grade 'C' Stenographers of Central Secretariat Stenographers Service were revised. Para 1 of the OM reads as follows :

"The undersigned is directed to say that the question regarding revision of scale of pay for the post of Assistants in the Central Secretariat etc. has been under consideration of the Government in terms of order dated 23rd May, 1989 in OA No.1538/87 by the Central Administrative Tribunal, Principal Bench, New Delhi for some time past. The President is now pleased to prescribe the revised scale of Rs. 1640- 60- 2600- EB- 75- 2900 for the pre-revised scale of Rs.425- 15- 500- EB- 15- 560- 20- 700- EB- 25- 800 for duty posts included in the Assistant Grade of Central Secretariat Service and "Grade 'C' Stenographers of Central Secretariat Stenographers Service with effect from 1.1.1986. The same revised pay scale will also be applicable to Assistants and Stenographers in other Organisations like Ministry of External Affairs which are not participating in the Central Secretariat Service and Central Secretariat Stenographers Service but where the posts are in comparable grades with same classification and pay scales and the method of recruitment through open competitive Examination is also the same."

The applicants also sought extension of the pay scale provided by the aforesaid OM dated 31.7.1990. It is aggrieved by the rejection of their representations that they are now before this Tribunal.

4. Shri Ohri, learned counsel for the applicants admitted that the Administrative Tribunals in terms of the ratio of Union of India and another Vs. P.V.Hariharan and another, 1997 SCC (L&S) 838 were not

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expected to interfere with the prescribed pay scale since it could have escalating effect with other categories similarly situated putting forward their claims on the basis of any change. He also conceded that in terms of State of U.P. and ors. Vs. J.P.Chaurasia and others, 1989 SCC (L&S) 71 the evaluation of duties and responsibilities of respective posts should be left to expert bodies like the Pay Commission. The learned counsel rested the main plank of his case on the argument that such a determination about parity in respect of work and responsibilities had already been done by the Board of Arbitration while considering the claim of Stenographers of Subordinate Offices that they should also be in the pay scale of Rs.1400-2600 allowed to Stenographers of Central Secretariat consequent to the implementation of the recommendations of the Fourth Pay Commission. He pointed out that the whole genesis of disagreement before the JCM was a question of grant of similar pay scale to the Stenographers of Subordinate Offices and Secretariat Stenographers and the upgradation of the pay of the former to Rs.1400-2600 in line with those of the Secretariat Stenographers. This plea was considered and the Board of Arbitration headed by Justice K.Bhaskaran - a Judge of the High Court - had come to the conclusion that parity in pay scales was justified. This having been done, according to the learned counsel, it was not open to the Government to disturb the parity as the Award of the Arbitrators could be modified or rejected by the Government only with the approval of the Parliament and that too on grounds of 'National Economy' and 'Social Justice' as stated by the Fifth Pay

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Commission in para 126.1 of its report. The second plank of his argument rested on the orders of this Tribunal in OA No.144-A of 1993, V.R.Panchal & others Vs. Union of India and others, which was disposed of on 18.1.1996 along with two other OAs. In these OAs the applicants were working as Crime Assistants and Stenographers Grade 'C' in CBI; Assistants in the Office of the Director General of Income tax; and Stenographers Grade-II in the Directorate of Field Publicity under the Ministry of Information & Broadcasting. The Tribunal held that the duties and responsibilities of the Stenographers in CBI were equal to those of their counterparts working in the cadre of CSS and CSSS and that this parity had been corroborated by the Department of Personnel itself. It also concluded that the Fourth Pay Commission had also recommended the same pay scale for both the categories twice but the issue of the OM dated 31.7.1990 had disturbed this parity. The Tribunal also found that in earlier judgments parity had been granted between the Assistants and Stenographers Grade 'C' working in the Central Administrative Tribunal, Border Security Force, ITBP, CISF and BPRD even though there was no direct recruitment to the post concerned in BSF and the post of Assistants in the Central Administrative Tribunal. Reliance was also placed on the decision of Bhagwan Das, Vs. State of Haryana, 1987 (2) ATJ 479 in which the Supreme Court rejected the distinction in pay scales only on the ground of the method of recruitment.

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32

5. Shri Ohri also pointed out that as recently as 28.9.1998 this Tribunal in the case of P.K.Sehgal and others Vs. Union of India and others, 1999 (1) ATJ 182 has directed that Stenographers Grade-II working under the DG Inspection, Customs & Central Excise may be allowed the pay scale of Rs.1640-2900 in line with Group 'C' Stenographers of the Central Secretariat.

6. Shri Ohri contended that since the Tribunal had already granted parity in pay scale of various Subordinate Offices such as Central Administrative Tribunal, BSF, CISF, CBI etc. it would be an invidious discrimination if similar relief was not granted to the applicants before us. He also pointed out that the respondents had filed an SLP against the grant of pay scales mentioned in the OM dated 31.7.1990 but the said SLP had been dismissed on merit by the Supreme Court. Placing reliance on Supreme Court's decision in G.C.Ghosh & others Vs. Union of India and others, 1992 SCC (L&S) 80, he argued that benefit extended to one section of employees must extend to other sections also.

7. Shri Ohri also cited a number of decisions of the Delhi High Court in K.P.Grover & others Vs. The Indian Road Construction, Corpn. Ltd., 1999 (1) ATJ 443; Shri B.C.Pant and others Vs. Sangeet Natak Akademi & others, CW No. 3790 of 1995 decided on 16.10.1998; Shri Deepankar Gupta and others Vs. National Book Trust, India and others, CWP No.4842 of 1996, decided on 28.7.1997; Shri Arun Bahl & others Vs. Sahitya Akademi & others, C.W.No.559 of 1998 decided on 16.10.1998; and P.S.Gopinathan Nair & others Vs. All

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India Institute of Medical Sciences & another, CWP No. 4462 of 1994 decided on 16.10.1995. In all of these the petitioners who were Stenographers in the Public Sector Undertakings and statutory bodies were granted their claim for parity with Stenographers in the Central Secretariat Stenographers Service in terms of the OM dated 31.7.1990.

8. Shri Uppal, arguing for the respondents submitted that the applicants had no justifiable case for grant of higher pay scales as per the OM dated 31.7.1990 for three reasons. Firstly, Shri Uppal contended, the nature of duties and responsibilities of the IT Stenographers were not comparable with those of Secretariat Stenographers. He outlined the scheme of the transaction of business in Govt. of India in which the policy making was undertaken in the Ministries which were staffed by the Central Secretariat Stenographers Service. On the other hand the attached offices provided the technical inputs to the Ministry proper to facilitate the decision making while the subordinate offices such as Income-tax Department were the implementing agencies of the decisions taken by the Ministries. In the Central Secretariat there were entitlement orders which provided for attachment of Stenographers of the rank of Principal Private Secretary with Secretaries to Govt. of India. Keeping in view the level of the responsibilities on account of their attachment with such high ranking officers, Principal Private Secretaries carried same pay scale as that of an Under Secretary to the Government. The Additional Secretaries, Joint Secretaries and Deputy Secretaries to Govt. of India were provided with stenographic

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34

assistance of appropriate level. Thus, the level of responsibilities of Stenographers of Central Secretariat Service was correspondingly higher as officers to whom they were attached at the policy making level had greater and higher responsibilities than those in the implementing department with whom Stenographers such as the applicants were attached. Shri Uppal also pointed out that it was because of this difference in nature of duties that the Staff Selection Commission required a qualifying speed of 120 word per minutes for Secretariat Stenographers. Secondly, Shri Uppal contended that till now there was no parity in the pay scales of IT Stenographers and Secretariat Stenographers. None of the Pay Commissions had recommended parity and the 5th Pay Commission had made recommendations which if implemented would even further widen the disparity. Thirdly, Shri Uppal argued that the Board of Arbitration on which reliance had been placed by Shri Ohri, had only granted the pay scale of Rs.1400-2600 to Stenographers of Subordinate Offices but had rejected the claim of absolute parity between them and the Secretariat Stenographers.

9. We have carefully considered the submissions made on behalf of both the parties. As admitted by Shri Ohri the Tribunal is not called upon to draw a comparison between the nature of duties and responsibilities of the IT Stenographers and the Secretariat Stenographers. Shri Ohri, however, has contended that this assessment has already been made and parity justified by the decision of this Tribunal in the case of V.R.Panchal (supra) duly confirmed by the Supreme Court by dismissal of the SLP on merits and by

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the Board of Arbitration which granted the pay scale of Rs.1400-2600 to the Stenographers of Subordinate Offices. We are unable to agree with this reasoning advanced by Shri Ohri. As regards the order of this Tribunal in V.R.Panchal case (supra) we have carefully perused the same and we agree the conclusion of the Mumbai Bench of this Tribunal in M.K.Francis & others Vs. The Chairman, Atomic Energy Commission and others, 1993 (3) SLJ (CAT) 347 that the decision of the Supreme Court in Federation of All India Custom and Central Excise Stenographers (Recognised) and others Vs. Union of India and others, 1988 SCC (L&S) 673 had not been brought to the notice of the Tribunal in V.R.Panchal's case (Supra). We find that this was also apparently the case in the matter of P.K.Sehgal (supra). In the case of Fed. of Customs and C.E. Stenographers (supra) the claim of Stenographers Grade-I, attached with level-1 officers in Customs Department, of parity with Secretariat Stenographers attached with Joint Secretaries was rejected by the Supreme Court. The Supreme Court had concluded that "the same amount of physical work may entail different quality of work some more sensitive, some requiring more tact, some less - it varies from nature and culture of employment." On that basis the claim of the petitioners before it was rejected by the Supreme Court. We find that the whole case of the respondents in the Fed. of Customs & C.E. Stenographers case (supra) rested upon the sensitivity and qualitative difference of responsibilities and nature of duties of these Secretariat Stenographers as compared to the Stenographers working in Subordinate Offices. We do not find any mention of the aforesaid

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36

judgment in the order of this Tribunal in V.R. Panchal's case (supra). Therefore, in view of the ratio laid down by the Supreme Court in the case of Fed. of Customs & C.E. Stenographers (supra) we cannot follow the ratio of V.R. Panchal's case (supra).

10. The second issue which needs to be resolved is whether the Board of Arbitration had on examination of the case of the Stenographers of Subordinate Offices given a finding that there should be parity in their pay scales vis-a-vis the pay scales of Secretariat Stenographers. We have already reproduced the Award of the Board of Arbitration. The Award was only that the Stenographers in the Subordinate Offices in the existing scale of Rs.1400-2300 shall be placed in the scale of Rs.1400-2600. This does not indicate that parity has been allowed. On the other hand it is specifically stated in the Award that the claims of the Staff Side in all other aspects shall stand rejected. We are unable to agree with the arguments advanced by Shri Ohri that since at that point of time the pay scale of Secretariat Stenographers Grade 'C' was also Rs.1400-2600, awarding the same pay scale to Stenographers Grade-II of Subordinate Offices could not be regarded as anything but a recommendation on parity. If that had been the intent of the Board of Arbitration, then nothing prevented it from answering the reference in such terms. The pay scale of Rs.1400-2600 to the IT Stenographers might be justified of its own without any reference to Secretariat Stenographers but it does not mean that the grade of Rs.1640-2900 should also be given to the IT

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Stenographers. Therefore, the applicants before us cannot sustain their claim on the findings of the Board of Arbitration.

11. Before us, Shri Uppal tried to justify the differentiation on merits by referring to the mode of recruitment in the two cases which are not identical, by pointing out to the different pay scales existing prior to the recommendations of the Fourth Pay Commission and by highlighting the judgment of the Supreme Court that the Tribunal cannot go into the assessment of comparable duties and responsibilities. On the other hand Shri Ohri cited a number of authorities to show that difference in method of recruitment could not by itself justify difference in pay scale and that the decisions of this Tribunal in V.R.Panchal and the numerous decisions of the High Court of Delhi; some of them affirmed by the Supreme Court, support his case. In our view, however, there is no need to traverse any further than the decision of the Supreme Court in Fed.of Customs & C.E. Stenographers's case (supra) which was also endorsed by the Apex Court in the case of Tarsem Lal Gautam and others Vs. State Bank of Patiala and others, ATR 1989 (1) SC 236; State of U.P. and others Vs. Ministerial Karamchari Sangh, JT 1997 (8) SC 415; and State of M.P. and another Vs. Pramod Bhartiya and others, 1993 (1) SCC 539. Shri Ohri sought to distinguish this judgment on the ground that the Supreme Court therein was dealing with the case of Stenographers Grade-I while in the present case the applicants are Stenographers Grade-II. This distinction in our view is immaterial because the grant of relief sought for by the applicants would have an escalating effect inasmuch as

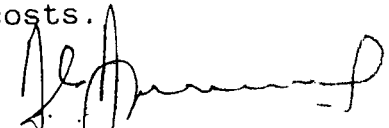
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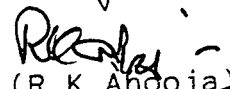
38

the pay scales of Stenographers Grade-II and Grade-I in the Subordinate Offices would become similar. If the IT Stenographers Grade-I cannot be granted the pay scale of Stenographers of the equivalent grade in Central Secretariat, then the same would apply to Stenographers Grade-II in Subordinate Offices vis-a-vis Stenographers Grade 'C' in Central Secretariat Services. The Customs and Central Excise Stenographers are working in a parallel department of the Income Tax Department and they are under the same Ministry i.e. the Ministry of Finance, Department of Revenue. Both departments are charged with the duty of collection of Government revenues through customs and excise duties and income-tax respectively. Hence the case of the applicants before us is on all fours as similar with the Fed. of Customs & C.E. Stenographers' case. In the ratio of the decision of the Supreme Court in the case of Fed. of Customs & C.E. Stenographers, the claim of the applicants before us cannot also be allowed. In the result, the OAs 515/1996 and 733/1996 are dismissed.

12. As regards the claim of Private Secretaries and Personal Assistants in the Customs, Excise & Gold Control Appellate Tribunal in OA 667/96 is concerned, no additional arguments were advanced by their counsel. In view of our above findings, OA No.667 of 1996 is also dismissed.

13. In the facts and circumstances of the case. the parties shall bear their own costs.


(Ashok Agarwal)
Chairman


(R.K. Andoja)
Member (Admnv)