

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 1378/1997

New Delhi, this the ^{20th}~~15th~~ day of November, 2000

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MR. S.A.T. RIZVI, MEMBER (A)

1. Central Sectt. Official Language
Translator's Association (Recognised)
Through its President Shri Brij Bhan
Room No. 203, North Block
Central Sectt.
New Delhi-110011
2. Virendra Rawat S/o Shri K.S. Rawat,
Aged 36 years, r/o
38 Davidi Extn., New Delhi-110045
.....Applicants
(By Advocate : Shri P.K. Aggarwal)

Versus

1. Union of India,
Through The Secretary
Deptt. of Personnel & Training
Central Sectt.
North Block
New Delhi-110011
2. Deptt. of Official Languages
Cadre Controlling Authority,
Ministry of Home Affairs,
Through its Secretary,
Lok Nayak Bhawan,
Khan Market, New Delhi-110003
.....Respondents
(By Advocate : None)

O R D E R

By Hon'ble Mr. S.A.T. Rizvi, Member (A)

The applicant's association and another (Junior Hindi Translators working in Respondent No.2's establishment) are aggrieved not by any order passed against them but by an order dated 31.7.1990 passed by the DOP&T (Respondent No.1) revising the scales of pay of Assistants' Grade of CSS and Grade 'C' Stenographers of CS Stenographers' Service. The ground taken is that the pay scale of the Junior Hindi Translators had been equated to that of Assistants of

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the CCS by the 4th Pay Commission and the parity so achieved has now been disturbed consequent upon the issuance of the impugned order. The impugned order raises the pay scale of the Assistants to Rs.1640 - 2900 whereas the applicants' (Junior Hindi Translators) continue in the pay scale of Rs. 1400 - 2600. The applicants contend that the impugned order has been passed after the government had already accepted the recommendations of the 4th Pay Commission and the same goes beyond the recommendations of that Commission. The learned counsel for the applicant has further contended that while in ordinary course the DOP&T are not empowered to modify the recommendations of the Pay Commission (in this case by upgrading the scale of Assistants), that Department should have at the same time upgraded the pay scale of the applicants also to the same level in recognition of the specific recommendations made by the 4th Pay Commission. The learned counsel has drawn our attention to the following recommendations made by the 4th Pay Commission (Annexure 'B'):-

"10.280. It has been suggested by the members of the service that junior translators (Rs.425-700) of the service should be given a higher scale of pay than assistants in CCS as they are required to possess Master's Degree in Hindi whereas the assistants possess Batchelor's degree. Even so, they have been given group 'C' status and pay scale of Rs.425-700 while Assistants of CCS are classified as group B and are given the scale of Rs. 425-800. In view of the higher qualifications required for the entry grade of junior hindi translator, we recommend that this post may be given the scale of Rs.1400-2600".

2. We have heard the learned counsel on either side and have perused the material on record and find

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that it is not possible to grant the relief sought by the applicants which is a declaration that the impugned O.M. dated 31.7.1990 shall apply to the Junior Translators as well in the same manner in which it has been applied to the Assistants and also w.e.f. 1.1.1996. We also find that the consequential relief sought also cannot be granted.

3. During the course of hearing our attention has also been drawn to the Central Secretariat Official Language Service (Group 'C' posts) Rules, 1983, notified on 9th September, 1981 to show that the Junior Translators were placed in the scale of Rs.425-700 and that the educational qualification prescribed at the entry level was a Master's degree. We have taken note of these rules in the context of the recommendations made by the 4th CPC in favour of the applicants based on the entry level qualification being a Master's degree. We will now take up the other issues relevant for a proper consideration of the relief sought by the applicants. ~~

4. We have come across a detailed representation filed by the applicant on 30th December, 1983 before the 4th CPC in which they had requested for the pay scale of Rs.1400-2450 for Junior Translators and Rs.1600-2600 for Senior Translators. As it turned out, the 4th CPC gave them a still higher scale of Rs.1400-2600 and suggested the higher scale of Rs.1640-2900 for Senior Hindi Translators. Sometime later, on coming to know that the Government was

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considering the representation of the Assistants and the Stenographers Grade 'C' for a possible hike in their pay scale to Rs.1640-2900 (up from Rs.1400-2600 recommended by the 4th CPC), the applicants petitioned before the Finance Minister on 26 February, 1990 asking for a similar treatment to be given to them keeping in view the recommendation made by the 4th CPC in their favour. This was followed by yet another petition to the Finance Minister again on 7 June, 1990 in which it has been pointed out that although the Government had, in the meanwhile, decided to grant the higher scale of Rs.1640-2900 to the Assistants and Stenographers Grade 'C', no action had been taken on the petition filed by them. This was followed by yet one more petition dated 14/21 September, 1990 to the Finance Minister. This much of persuasion led to an assurance from the respondent No. 2 saying that the applicants' petition was under consideration. The letter containing the assurance is dated 12.10.1990. The luck, however, did not favour the applicants and the respondent No.2 ultimately decided the matter against the applicants by their letter dated 21.12.1990. This letter clearly brings out that the Government had rectified through proper procedure the anomaly that had come into existence in the pay scale of Assistants and Stenographers Grade 'C' by revising their pay scale. Equally clearly, the same letter points out that the Government found no anomaly in the pay scale of Junior Translators.

5. The applicants, not satisfied with the outcome of their efforts, approached this Tribunal

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through OA No. 837/1991 which resulted in a well considered order dated 26.10.1995. The Tribunal was not inclined to take a view in the matter and left the matter to be considered by the 5th CPC which was then well into its deliberations having been set up on 9.4.1994. In the said order of the Tribunal, there is a mention, however, of an important fact regarding the entry level qualification for Junior Translators. It has already been stated that a Master's degree was the qualification laid down for them in the RRs of 1981. According to the observations contained in the Tribunal's aforesaid order, the said qualification for junior Hindi Translators has been brought down to a Bachelor's degree w.e.f. 27.7.1993. The rationale for the grant of higher pay scales to these translators emphasised in the 4th CPC had thus ceased to exist. Not happy with the Tribunal's order, the applicants approached the Supreme Court where the SLP was dismissed. Still not ready to give up, the applicants approached this Tribunal once again through MA No.509/1996. The provocation for this came from the discovery of a letter dated 17 January, 1996 addressed by the 5th CPC to the Secretary, Ministry of Urban Affairs and Employment, in which it was pointed out that past cases of anomalies were not likely to be addressed by the 5th CPC whose recommendations would, in any case, be prospective and, therefore, the past cases of anomalies could be settled by the concerned administrative Ministries at their levels. The Tribunal found the same not maintainable in law having regard to the fact that its Judgement dated 26.10.1995

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had become final in view of the dismissal of their SLP by the Supreme Court on 20.2.1996. Despite this, the applicants found their way to the Hon'ble Supreme Court once again with reference to the decision of this Tribunal in OA No. 837/1991. This time the Supreme Court ordered as follows:-

"We are not inclined to interfere with the impugned order. It will be open to the petitioner to avail any remedy that may be available to him in the law. The SLP is ~~~ accordingly dismissed".

6. This above order is dated 26.2.1997. The present OA has been filed in the light of this order of the Supreme Court. The respondents have come out in support of the 5th CPC's recommendation in respect of the applicants and have, while doing so, pointed out that the entry level qualification for recruitment as Junior Hindi Translators had since been brought down to a Bachelor's degree. This fact, as already mentioned in paragraph 5 was first pointed out in this Tribunal's order dated 26.10.1995. The respondents contended that the revised scale of Rs. 5000-8000 has been recommended by the 5th CPC in favour of the applicants having regard to the new entry level qualification and the other relevant facts. According to them, the Commission had taken into account the duties and responsibilities of the post of Junior Translators which were not found comparable to the duties and responsibilities of the Assistants and Stenographers Grade 'C'. The Commission had also kept in view the methods of recruitment which were different in both the cases. The respondents asserted that the entry level qualification cannot be

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the sole criterion for determining pay scales. Taking advantage of the fact that the Government had, after review and by following proper procedure, removed the anomaly in respect of the pay scale of Assistants and Stenographers Grade 'C' arising from the 4th CPC's recommendations and had placed them in the scale of Rs.1640-2900, w.e.f. 1.1.1986, the respondents have hastened to point out that as a matter of fact there never was any parity between the pay scales of Junior Hindi Translators and the Assistants/Stenographers Grade 'C'. Recalling the past position, the respondents have pointed out that no parity ever existed between the Junior Translators and the Assistants/Stenographers Grade 'C' right upto to 31.12.1985 on which date the Assistants and Stenographers Grade 'C' enjoyed the pay scale of Rs.425-800; whereas the Junior Hindi Translators worked in the pay scale of Rs.425-700 and from 1.1.1986, the Junior Translators were placed in the scale of Rs.1400-2600; whereas w.e.f. the same date the Assistants/Stenographers Grade 'C' were placed, as a result of Government's intervention, in the scale of Rs..1640-2900. The respondents have stressed that fixation of pay scales of different posts and grades in different organisations and departments of the Government invariably entails a comprehensive and complicated exercise, which could be undertaken by experts alone and the Courts and Tribunals are not sufficiently equipped to undertake such a task. We are fully aware of these considerations and stand reminded about the limitations of Courts and Tribunals

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in this respect in the light of the views expressed by the Supreme Court in Secretary to the Govt. and others V/s C. Muthu reported as JT 2000 (10) SC 541 decided on 6.9.2000. The learned Court has observed as follows:-

"1. The State of Tamil Nadu is in appeal against the order of the Tamil Nadu Administrative Tribunal, Madras allowing the application of the respondent and directing the Government of Tamil Nadu to grant him the pay scale fixed for the post of Chemist in the Industries Department. The Tribunal obviously has applied the principle of equal pay for equal work.

2. From the narration of facts as borne out in the impugned order of the Tribunal, it is crystal clear that the post of Chemist in the Department of Industries and the post of Chemist in the Inspectorate of Factories are borne in two different streams having different source of recruitment, prescribing different qualifications and providing for different scale of pay. Even the learned Tribunal, on comparison of the work done by the individuals of the two posts, has come to the conclusion that the same cannot be held to be exactly of the same nature though it can be said to be of identical nature. It also further transpire that the question has been considered by different Pay Commissions from time to time and a differentiation has been maintained with regard to the pay scale of two posts.

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4. Having regard to the qualifications meant for the posts, the duties and responsibilities, nature of job as well as the mode of recruitment to the two posts in question, we are unable to subscribe to the view taken by the Tribunal through the responsibilities discharged by the said two posts are similar and as such the post in the Inspectorate should have the same scale of pay as that of the post in the Department of Industries.

5. In granting relief while applying the principle of "equal pays for equal work", the Court or Tribunal should be very circumspect and until and unless it is established that the two posts are almost similar in all aspects, the Court or Tribunal should not venture to grant the relief sought for.

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6. On going through the impugned order of the Tribunal and on the findings of the Tribunal, we have no hesitation to come to the conclusion that the Tribunal overstepped its jurisdiction in granting the relief sought for by the respondent. We, therefore, set aside the impugned order of the Tribunal and allow this appeal accordingly."

7. Having regard to the facts set out in the preceding paragraphs and the averments made by the respondents with which we agree, we find absolutely no force in this OA, which must be dismissed. ~

8. Along with their rejoinder, in which virtually nothing new has been mentioned by the applicants, they have enclosed a letter dated 8.1.1998 from the office of Respondent No.2 addressed to the Ministry of Finance in which an attempt has been made to make out a case in favour of the Junior and Senior Translators. It transpires from this letter that the pay scale of the Senior translators of Central Translation Bureau, which is a subordinate office of the respondent No.2, has been enhanced from Rs.1640-2900 to Rs.2000-3500. The pay scale of Hindi Pradhyapakas of the Central Hindi Training Institute, another subordinate office of the respondent No.2 has also been enhanced from Rs.1640-2900 to Rs.2000-3500. Considering these features as constituting anomaly, the respondent No.2 has in the letter in question, requested for favourable consideration of the matter. We need not take note of this letter as the learned counsel for the applicants did not press this at the time of the argument. Further, in view of what we have mentioned above about the role of Pay Commissions as expert bodies, and the very limited role of the

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Courts and Tribunal in this area, we still hold the view that we have expressed in para 7. Nevertheless, we need not have any objection if the Ministry of Finance would consider the matter in the light of the aforesaid letter dated 8.1.1998 and take an appropriate decision in due course. The applicants are free to draw the attention of the respondents to this limited observation of ours.

9. In the result the OA fails and is dismissed without any order as to costs.

(ASHOK AGARWAL)
CHAIRMAN

(S.A.T. RIZVI)
MEMBER (A)

(PKR)