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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 407 of 1997

New Delhi, this the 9th day of January, 1998

Hon'ble Dr. Jose P. Verghese, Vice Chairman(J)
Hon'ble Mr. N. Sahu, Member (Admnv)

1. Shri Naveen Saxena, Stenographer Gr. 'C'
National Archives of India,
Resident of 4/209, Subhash Nagar,
New Delhi-110 027.
2. Shri Prakash Chand, Stenographer Gr. 'C'
National Archives of India,
Resident of A-26, Bhagirathi Vihar,
Delhi-94.
3. Shri P. Mohan, Stenographer Gr. 'C'
National Archives of India,
Resident of Q.No. 671, Sector - 7,
Pushp Vihar, New Delhi -17.
4. Shri Naresh Chander, Stenographer Gr. 'C'
National Archives of India, Resident
of I-4, Nanakpura, New Delhi -21

-APPLICANTS

(By Advocate - Shri M.L.Ohri)

Versus

1. Union of India Through the
Secretary, Ministry of Human
Resource Development, Department
of Culture, Shastri Bhawan,
New Delhi.
2. The Director General of Archives,
National Archives of India, Janpath,
New Delhi.
3. The Secretary, Ministry of Personnel,
Public Grievances and Pensions,
Department of Personnel and Training,
New Delhi.
4. The Secretary, Ministry of Finance,
Department of Expenditure, North
Block, New Delhi.

-RESPONDENTS

(By Advocate - Shri K.C.D.Gangwani)

JUDGMENT

By Mr. N. Sahu, Member (Admnv) -

The relief prayed for in this O.A. is to direct the respondents to apply the revised scale of pay of Rs.1640-60-2600-EB-75-2900 to the applicants with

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effect from their dates of appointment as Stenographer Grade 'C' and quash impugned Office Memorandum No. F-A-16/3/96-Estt.1 dated 13.1.1997 denying to the applicants the above pay scale.

2. Three of the applicants have worked as Stenographer Grade 'C' in the scale of Rs.1400-2600 from 3.8.1989 and the fourth applicant Shri Naresh Chander in this grade from 18.11.1991. All the applicants work in the National Archives of India, an attached office of Ministry of Human Resource Development, Department of Culture. The ground for claiming parity with the Stenographer Grade 'C' of the Central Secretariat Stenographer Service (in short 'CSSS') is that the applicants had identical pay scale with them (Rs.425-800) prior to the Fourth Pay Commission. The recommendation of the Fourth Pay Commission was to place them in the identical pay scale of Rs.1400-2600. A higher scale of Rs.1640-2990 was allowed to Grade 'C' Stenographers of CSSS. The applicants were denied this higher scale granted to CSSS Stenographers. They allege discrimination on the ground that there was no valid reason for interfering with the recommendations of the Fourth Pay Commission for parity. It is submitted by the applicants that there is no change in the nature of work, duties and responsibilities of the Stenographer Grade 'C' of the CSSS after the recommendation of the Fourth Pay Commission and, therefore, the applicant's claim for parity in the higher scale of Rs.1640-2990 is justified.



3. The respondents vehemently contest the above claim for parity. It is submitted that the recruitment procedure, educational qualifications and service conditions of Group 'C' Stenographers in National Archives of India (applicants) and Stenographers Grade 'C' in CSSS are entirely different. The four applicants in this O.A., it is submitted by the respondents are only promoted to Group 'C' from their initial entry in the service as Grade 'D' Stenographers. They were given the higher grade with effect from 1989. Their Group 'C' grades were a direct outcome of the SIU recommendation for upgradation of certain number of posts of Grade 'D' Stenographers into Grade 'C' Stenographers. Thus, when the Fourth Pay Commission's recommendation was under consideration the applicants' status was not that of Grade 'C'. The revised scale of Rs.1640-2900, according to the respondents, can be extended only when the following conditions are satisfied - (i) where the posts were in comparable grades; (ii) with same classification and pay scales; and (iii) with the same method and source of recruitment, namely, through open competitive examination. It is stated that the applicants are classified as Group 'C' whereas Stenographers in CSSS are classified as Group 'B'. It is next stated that there is no direct recruitment in the case of Stenographers Grade 'C' in National Archives of India whereas there is 50% direct recruitment through the Subordinate Services Commission in the case of Stenographers Grade 'C' in CSSS. For the above reasons the respondents pray that the O.A. has no merit and deserves to be dismissed.

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4. The applicants on the other hand submit that the discrimination on the ground of source of recruitment and classification is not a valid ground. This principle was laid down by this Court in OAs. Nos. 144A/93, 985/93 and 548/94 decided on 19.1.1996 and this decision was upheld by the Hon'ble Supreme Court in the SLP filed by the Union of India in O.A. No. 985/93. Their Lordships recorded as under -

"The special leave petition is dismissed on
merits".

5. It is next contended by the applicant's counsel that this revised scale of pay of Rs.1640-2900 has been granted to similarly placed persons in the Directorate of Field publicity, CBI, Central Administrative Tribunal, Border Security Force and Indian Council of Medical Research. In this view of the matter the non-application of this scale to the applicants amounts to hostile discrimination. It is submitted that simply because the applicants are promotees they cannot be denied this revised pay scale. Even in the CSSS this scale has been given to the promotee Stenographers. It is further submitted that the Fourth Pay Commission had recommended the same classification, namely, Group 'C' for the Stenographer Grade 'C' of the CSSS and Stenographers Grade 'C' in the attached and subordinate offices. The revised classification of Group 'B' is only notional and is allowed to be continued as a matter of indulgence. When this Court directed payment of CSSS scale to some of the attached and subordinate offices and the order of this Court dated 19.1.1996 in OA 485/93 has attained finality, there is no justification to distinguish and discriminate a few subordinate offices like the National

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Archives of India, which is part and parcel of the Ministry of Culture. The learned counsel for the applicants cited a decision of the Hon'ble Supreme Court in the case of Prem Devi Vs. Delhi Administration, 1989 Supp(2)SCC330 wherein their Lordships directed that other employees identically placed should be given the same benefit which would avoid unnecessary litigation. Following decisions were cited by the applicants in support of their case - G.C.Ghosh and others Vs. Union of India and others, 1992 SCC(L&S) 80, Union of India and Another Vs. P.V.Hariharan & another, 1997 SCC(L&S)838, Bhagwan Dass & others Vs. State of Haryana, AIR 1987 SC 2049, Randhir Singh Vs.Union of India and others, AIR 1982 SC 879, Junior Telecom Officers Forum and others Vs. The Union of India and others, 1994 SCC(L&S)366, Employees of Tannery & Footwear Corporation of India Ltd. & others Vs. Union of India and others, 1992 SCC(L&S)164, and State of H.P. Vs. H.P.State Recognised & Aided Schools Managing Committee and others, 1995 SCC(L&S)1049. They have also cited a decision of the Delhi High Court in Shri Deepankar Gupta and others Vs. National Book Trust, India and another, Civil Writ Petition No.4842 of 1996 dated 28.7.1997 in which the Hon'ble High Court directed application of the same pay scale to the Personal Assistants and Stenographers of the National Book Trust of India as is admissible to the Central Government employees (Stenographers).

6. The duties of Stenographers of the Directorate of Archives, as mentioned in Annexure-I to the counter affidavit of the respondents, are reproduced below -

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(A)

"1. Taking dictation and typing the same.

2. Movement and Dairy of Files of officers with whom they are attached.

3. Maintenance of confidential papers and record which may not goto the section, etc.

4. Any other work assigned by the officers concerned and the Director General of Archives."

7. However, The respondents have not distinguished as to how the duties and functions of Stenographers of CSSS are in any way dissimilar to these duties performed by the applicants.

8. We have carefully considered the rival submissions. We are of the view that the impugned order dated 31.7.1990 of Director General of Archives dated 13.1.1997 denying the CSSS pay scale to the applicants are without merit. This matter has been dealt with at great length by this Court in O.A.No.144A/93 and the same point dealt in OA 985/93 was upheld by the Apex Court subsequently on merits. This Court was dealing with the similar claim of Crime Assistants and Stenographers Grade 'C' in the Office of C.B.I.; Assistants in the Office of the Director General of Income Tax (Investigation); and similarly placed Stenographers Grade-II and Assistants in the Directorate of Field Publicity. The brief genesis was that all the applicants working as Assistants/stenographers Grade 'C' were recommended pay scale of Rs.1400-2600 by the Fourth Pay Commission and the same recommendation was made to the Assistants and Stenographers Grade 'C' in the CSSS.

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9. As mentioned above, a higher scale of Rs.1640-2900 was allowed to Grade 'C' Stenographers of CSSS. The same scale was made applicable to Assistants and Stenographers Grade 'C' in other organisations like the Ministry of External Affairs which was not participating in the CSSS cadre. Relying on Randhir Singh's case (supra) this Court held that the principle of equal pay for equal work is applicable when employees holding the same rank performed similar functions and discharged similar duties and responsibilities.

10. That apart the claim of the Ministry of Personnel about classification of pay scale and method of recruitment through open competitive examination in the case of CSSS Stenographers has been examined by various Benches of the Tribunal when the applicants belonging to Central Administrative Tribunal, B.S.F., Indo-Tibetan Border Security Force and Bureau of Police and Research Development wanted parity with CSSS. This is so when there is no provision for direct recruitment to the post of Assistant in B.S.F. and CAT. The Tribunal found no substance in this claim. This aspect was considered by the Hon'ble Supreme Court in the case of Bhagwan Dass (supra). There the question was direct competitive examination throughout the country where the recruitment was through subordinate service commission and in another case the recruitment was limited to a cluster of a few villages only. Their Lordships held that when the nature, function and work are not shown to be



dis-similar, the fact that the recruitment was made in one way or the other would hardly be relevant from the point of view of equal pay for equal work doctrine.

11. The question of parity in the pay scale of the Stenographers Group 'C' of the CSSS and Stenographers Grade-II in the Subordinate offices of the Govt. of India was referred to the Board of Arbitration headed by Hon'ble Mr. Justice K. Bhaskaran which held that Stenographers Grade-II in the subordinate offices were entitled to the same pay scale as was given to the Stenographers Grade 'C' of the CSSS. This was accepted by the Govt. of India by its order dated 4.5.1990. It is, therefore, contended that again to distinguish and discriminate the applicant from CSSS is highly discriminatory, particularly, when the Board of Arbitration had already examined the duties and responsibilities of the Stenographers Grade 'C' and that of Grade-II of the subordinate offices and came to the conclusion that there has to be parity in their pay scale.

12. A similar dispute was disposed of by a Full Bench of this Court in OA 1130/91 decided on 19.5.1995 in the case of DGOF Stenographers Association Vs. Union of India. In that case the applicants were Personal Assistants and Stenographers in the Ordnance Factory Board. They claimed pay scale of Rs. 1640-2900 as given to Personal Assistants in the Armed Forces Headquarters. Their claim was rejected on the ground that the classification is different between the two categories. The Full Bench held that this classification has no

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relevance when the duties performed by the Personal Assistants in both the establishments are same. No other cogent reason was given for denying the pay scale. Therefore, the Full Bench held that the applicants are entitled to the pay scale of Rs.1640-2900 in terms of DOPT's OM dated 31.7.1990 but the Full Bench directed that the benefit should be given with effect from 1.1.1992. We respectfully hold that this is another binding authority on us in this case which we are obliged to follow.

13. In view of the above, the O.A. succeeds and the respondents are directed to apply the revised scale of pay of Rs.1640-2900 to the applicants on the same basis as Stenographers of CSSS but the payment of arrears would be limited to one year prior to the date of filing of this O.A., namely 18.2.1997. We respectfully follow the order of this Court in OA 144-A/93 dated 19.1.1996 in its regard.

It is clarified that the scale of pay will be applicable from the dates the applicants were promoted to Stenographer Grade 'C', namely, 3.8.1989 in the case of the first three applicants and from 18.11.1991 in the case of applicant Naresh Chander for fixation of pay purposes and service benefits. The parties shall bear their own costs.

N. Sahu
(N. Sahu)
Member (Admnv)

Dr. Jose P. Verghese
(Dr. Jose P. Verghese)
Vice Chairman (J)

rkv.