

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
O.A.No. 527 /1998 Date of Decision: 28 - 9 - 1998
Shri P. K. Sehgal & Ors. .. APPLICANT
(By Advocate Shri M. L. Chri

versus

Union of India & Ors. .. RESPONDENTS

(By Advocate Shri Madhav Panicker

CORAM:

THE HON'BLE SHRI T. N. Bhat, Member (J)

THE HON'BLE SHRI S.P. BISWAS, MEMBER (A)

1. TO BE REFERRED TO THE REPORTER OR NOT? YES
2. WHETHER IT NEEDS TO BE CIRCULATED TO OTHER BENCHES OF THE TRIBUNAL?

S.P.Biswas
(S.P.Biswas)
Member (A)

Cases referred:

1. G. C. Ghosh & Ors. Vs. UOI 1992 SCC (L&S) 88
2. UOI V. P. V. Hariharan & Anr. 1997 SCC (L&S) 838
3. Bhagwan Dass & Ors. Vs. State of Haryana AIR 1987 SC 2849
4. Randhir Singh V. UOI AIR 1982 SC 879
5. Jr. Tele Officers Forum & Ors. Vs. UOI 1994 SCC (L&S) 366
6. ETFC of India Vs. UOI 1992 SCC (L&S) 164
7. State of HP Vs. HPSRASMC 1995 SCC (L&S) 1049
8. Delhi Vet. Assn. V. UOI 1984 (3) SCC 1
9. Secy. Finance V. WB Regn. Assn. 1994 (27) ATC 524
10. MR Kanojia V. AIIMS ATJ 1989 (1) 654
11. State of UP & Ors. J. P. Dharasaria 1989 SC (L&S) 71
12. ICAR Vs. A. N. Lahiri 1997 (2) SCALE 699
13. UOI & Ors. M. C. Roy 1997 (3) SCALE 648
14. ABOA V. SBI JT 1997 (8) SC 442
15. S. Sahu V. CSIR 1998 (1) ATJ 182
16. S. R. Dheer & Ors. Vs. UOI ATR 1993 (1) CAT 480

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 527/1998

New Delhi, this 28th day of September, 1998

Hon'ble Shri T.N. Bhat, Member(J)
Hon'ble Shri S.P. Biswas, Member(A)

(12)

S/Shri

1. P.K. Sehgal
2. Shashi Bala Handa
3. Ashok Kumar
4. Jai Ram
5. Swaran Lata
6. Beena Khurana
7. Kamal Malik
8. R.K. Grover
9. Veena Sapra
10. Santra Devi
11. Ravinder Kumar
12. Satya Prakash
13. Meera
14. Pritpal Kaur
15. Aruna Satia
16. Pratibha Bajaj

All working as Grade II

Stenographers in the office

Dte. General of Inspection

Customs & Central Excise, New Delhi .. Applicants

(Through Advocate Shri M.L. Ohri)

versus

Union of India, through

1. Secretary
Department of Revenue
Ministry of Finance
North Block, New Delhi
2. Secretary
Department of Personnel & Training
New Delhi
3. Director General of Inspection
Customs & Central Excise
D Block, 5th Floor, IP Bhavan
New Delhi
4. Secretary
Department of Expenditure
Ministry of Finance
North Block, New Delhi .. Respondents

(By Advocate Shri Madhav Panicker)

ORDER

Hon'ble Shri S.P. Biswas

Applicants, seventeen in number, are aggrieved
by Annexure A-1 and A-2 orders dated 31.7.90 and
7.11.96 respectively. By A-1 order issued by the

Department of Personnel & Training (DoPT for short), Grade "C" Stenographers of the Central Secretariat Stenographers Service (CSSS for short) as well as Assistants of Central Secretariat Service (CSS for short) have been given a scale of pay of Rs.1640-2900 with effect from 1.1.1986. By A-2, the aforesaid scale has been denied to the applicants herein, who claim that they are similarly placed like those in the former category.

2. Applicants are Grade II Stenographers working under the Directorate General of Inspection (DGI for short), Customs and Central Excise in the scale of Rs.1400-2600 from different periods as shown against each in the OA. DGI is an attached office under the Ministry of Finance/Department of Revenue.

3. To appreciate the legal issues involved in this OA, elaboration of background facts would be essential. These are as under:

Prior to 4th Pay Commission (PC for short), pay scales of applicants as well as those belonging to CSSS stood at Rs.425/700 and Rs.425-800 respectively. After 4th PC, the position of pay scales for both of them was Rs.1400-2300 and Rs.1400-2600 respectively. Applicants started agitating against the alleged discrimination and on the demand from the staff side of National Council of JCM, Government of India referred the matter to the Board of Arbitration headed by the Hon'ble Mr.

(3)

Justice D. Bhaskaran. The said Board gave its award in favour of Stenos Gr.II in the subordinate offices (i.e. applicants) and the Government of India vide its order dated 4.5.90 (A-3) accepted the award. Thus, the Stenos in the subordinate and attached offices like the applicants herein were placed in the pay scale of Rs.1400-2600 bringing them at par with Steno C of CSSS. Applicants allege that this situation, however, took an unhappy turn, when suddenly Steno Grade-C of CSSS were offered the benefit by revised higher pay scale of Rs.1640-2900 with effect from 1.1.86. This revised scale was not extended to the applicants. It is this upgradation of pay scale in favour of Assistants and Stenos Gr. C of CSSS which is under challenge.

5. One of the grounds chosen by the applicants to assail the aforesaid upgradation is that the duties and responsibilities of the applicants are in no way inferior to those of Stenos C of CSSS. That confining A-1 benefit only to Assistants of CSS and also Grade C Stenos of CSSS has been held to be wrong by this Tribunal in OAs 144A/93, 985/93 and 548/94 decided on 19.1.96. In these cases the applicants were Assistants and Stenos of CBI, Assistants in the Directorate General of Income-Tax (Investigation) and Stenos Gr.II, working in subordinate office of the Directorate of Field Publicity, under the Ministry of Information & Broadcasting. All the OAs were allowed by this Tribunal granting the benefits of scale of pay of

Rs.1640-2900 to the applicants who are similarly placed like the applicants herein. Applicants would assert that since A-1 order has been held to be discriminatory by this Tribunal vide its order dated 19.1.96 and their duties, functions and responsibilities are identical with the applicants in the aforementioned three OAs, the denial of the same facility is illegal and violative of Articles 14 and 16 of the Constitution of India. Being aggrieved, applicants had filed OA 481/96 praying for the grant of revised pay scale of Rs.1640-2900 to them also. That OA was disposed of by this Tribunal vide its order dated 1.8.96 with the direction to the applicants to make a representation to the respondents and the latter were directed to dispose of the representation by a speaking order. Representation dated 27.8.96 was accordingly made. However, respondents rejected applicants' abovesaid representation by A-2 order on 7.11.96. This rejection is unreasonable since the grounds on which this has now been rejected are those that have been held untenable by this Tribunal in its earlier order dated 19.1.96. The decisions of this Tribunal in OA 985/93 (in a common order) decided on 19.1.96 were taken up by the Union of India in an SLP to the Hon'ble Supreme Court and the latter dismissed the same on merits vide their order dated 11.7.96.

6. Shri M.L. Ohri, learned counsel appearing for the applicants, argued vehemently to say that the details aforesaid are more than enough for this

✓ Tribunal to strike down A-2 order. However, to add strength to his contentions, learned counsel contended that the action of the respondents is untenable in law because the Board of Arbitration had given award for parity of pay scale between Grade C. Stenos of CSSS and Stenos Gr.II in subordinate offices of Government of India which stands accepted by the latter. Respondents had no justification to change the award surprisingly to the detriment of the applicants. Offering such preferential treatment to Stenos C of CSSS amounts to favouritism and hostile discrimination. This is particularly so when there has been no change in the nature of work, duties and responsibilities of Steno Gr. C of CSSS after Arbitration Award and hence applicants ought to have been also granted the revised pay scale of Rs.1640-2900 to maintain parity of pay scale amongst Stenos Gr.C of CSSS and the applicants. The main plank of applicants' attack is on the basis that the revised pay scale of Rs.1640-2900 has also been granted to the group of promotee Stenos Gr.C of CSSS. The learned counsel for the applicants cited a decision of the Hon'ble Supreme Court in the case of Prem Devi Vs. Delhi Admn. 1989 Supp (2) SCC 330 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 & Ors. Vs. UOI & Ors. 1992 SCC (L&S) 88, UOI & Anr. V. P.V. Hariharan & Anr., 1997 SCC (L&S) 838, Bhagwan Dass & Ors. Vs. State

of Haryana, AIR 1987 SC 2849, Randhir Singh Vs. UOI & Ors. AIR 1982 SC 879, Jr. Telecom Officers Forum & Ors. Vs. UOI & Ors. 1994 SCC (L&S) 366, the Employees of Tannery & Footwear Coprn. of India Ltd. & Ors. Vs. UOI & Ors., 1992 SCC (L&S) 164 and State of H.P. Vs. H.P. State Recognised & Aided Schools Managing Committee and Ors., 1995 SCC (L&S) 1049. They have also cited a decision of the Delhi High Court in Shri Deepankar Gupta & Ors. Vs. National Book Trust & Anr. CWP No. 4842/96 dated 28.7.97 in which the Hon'ble High Court directed application of the same pay scale to the PAs & Stenographers of the National Book Trust as is admissible to the Central Government employees (Stenographers).

7. In the counter, Shri Madhav Panicker, counsel for respondents submitted that 4th PC recommended pay scale of Rs.1400-2300 to Stenos of DGI which was the normal replacement scale of Rs.425-700. The pay scale recommended by 4th PC for Stenos Gr.C in the CSSS was Rs.1400-2600. Respondents did not deny that the pay scale of Stenos Gr.II in DGI was revised from 1400-2300 to 1400-2600 vide order dated 4.5.90 bringing them at par with Stenos Gr.C of CSSS. The aforesaid parity was later on disturbed by order dated 31.7.90 by revising the pay scale of Assistants and Stenos Gr.C in CSSS from Rs.1400-2600 to Rs.1640-2900 in implementation of order dated 23.5.89 by the Principal Bench of this Tribunal. According to this order, revised scale of Rs.1640-2900 is applicable for pre-revised

✓ scale of Rs.425-800 for the duty posts included in the Assistants Grade of CSS and Stenos C of CSSS. This scale was also applicable to Assistants and Stenos C in other organisations like Ministry of External Affairs which are not participating in the CSS/CSSS but where the posts are in comparable grades with same classification and pay scale and the method of recruitment is through open competitive examination. Subsequently, this OM was followed by clarificatory OM dated 3.1.91 by DoPT making it clear that the revised pay scale is also applicable to such posts in the Ministries/Departments and those of attached and subordinate offices in which the method of recruitment is direct recruitment through examinations conducted by SSC. In case of posts of Assistants and Stenographers or other posts in the pre-revised scale of Rs.425-800 where the method of recruitment is not through the same open competitive examination, these orders are not applicable.

8. Appointment to the post of Stenos Gr.II in DGI is made by promotion from amongst Stenos Gr.III (Rs.1200-2040) with 5 years regular service in the grade failing which by direct recruitment. The post of Steno Gr.II in DGI is classified as Group-C post. On the other hand, Steno Gr.C in CSSS in the pay scale of Rs.1640-2900 are appointed 50% by direct recruitment through open competitive

examination conducted by SSC and 50% by promotion from amongst the Steno Gr.D (Rs.1200-2040). This post is classified as Group-B.

9. In para 46.34 the 5th PC had examined the pay scale of Stenos in non-secretariat organisations in details. Respondents would submit that the PC did not find any justification for absolute parity in pay scales for this category of staff (i.e. applicants) with the Stenos in Central Secretariat. Accordingly they have recommended the replacement scale of Rs.1600-2600 for this category. In support of his contentions, Shri Panicker drew our attention to the decisions of the Apex Court in **Union of India Vs. Hariharan (CA No. 7127/93)**.

10. It would be appropriate at this stage to bring out the position of law on the subject. The Hon'ble Supreme Court in a long chain of decisions in the cases of (i) **Delhi Vet. Assn. Vs. UOI 1984(3) SCC 1**, (ii) **Secretary/Finance V. West Bengal Regn. Assn. & Ors. Vs. H.N.Bhowal 1994 (27) ATC 524**, has laid down the parameters/factors to be considered while evolving appropriate pay scale for a group or class of employees. The law/principles that need to be probed into simultaneously before granting such reliefs are as under:

- (A) (i) Method of recruitment;
- (ii) Educational qualifications - minimum educational qualification including technical one required;
- (iii) Nature of duties - both qualitatively and quantitatively;

(iv) Discrimination:

(v) Hierarchy of service in a given cadre providing chances for promotion - both horizontal and vertical prospects of advancements; and

(vi) public dealings, arduous nature of job, experience and fatigue involved and training required and the degree of skill required.

(B) In the case of **Randhir Singh Vs. UOI & Ors.** AIR 1982 SC 877, the apex court has held as below:

"It is well known that there can be and there are different grades in a service, with varying qualifications for entry into a particular grade, the higher grade often being a promotional avenue for officers of the lower grade. The higher qualification of the grade, which may be either academic qualifications or experience based on length of service, reasonably sustain the classification of the officers into two grades with different scales of pay".

(C) The principle laid down in **Randhir Singh's** (supra) case has been reiterated in the case of **Mewa Ram Kanodia Vs. AIIMS & Ors.** ATJ 1989 (1) 654 in the following words:

"The doctrine of 'equal pay for equal work' is not abstract one, it is open to the State to prescribe different scales of pay for different posts having regard to educational qualifications, duties and responsibilities of the post. The principle of 'equal pay for equal work' is applicable when employees holding the same rank perform similar functions and discharge similar duties and responsibilities are treated differently. The application of the doctrine would arise where employees are equal in every respect but they are denied equality in matters relating to the scale of pay".

(D) While dealing with parity of pay scale in the case of **State of UP & Ors. Vs. J.P. Chaurasia & Ors.** 1989 SC (L&S) 71, the apex court relied on

the earlier decisions including Randhir Singh (supra) and Bhagwan Das Vs. State of Haryana 1987 (4) SCC 634 and observed as under:

"The quantity of work may be the same, but quality may be different that cannot be determined by relying upon in different averments in affidavits of interested parties. The equation of posts or equation of pay must be left to the executive government. It must be determined by expert bodies like Pay Commission. They would be the best judge to evaluate the nature of duties and responsibilities of posts. If there is any such determination by a Commission or Committee, the court should normally accept it. The court should not try to tinker with such equivalence unless it is shown that it was made with extraneous consideration."

11. These principles have been again reiterated by the apex court recently in ICAR Vs. A.N. Lahiri, 1997 (2) SCALE 699, Union of India & Ors. V. M.C. Roy, 1997(3) SCALE 648, Associate Bank Officers Assn.Vs. State Bank of India, JT 1997 (8) SC 442 and Shri S. Sahu etc. Vs. CSIR, 1998(1) ATJ 182.

12. We have to adjudicate merits of the applicants' case keeping in view the principles/ law laid down above.

13. The basic issue for consideration is whether the applicants - Stenographers Gr.II under the attached and subordinate office of DGI/Department of Revenue are similarly placed as Stenographers Gr.C in CBI and Stenos Gr.II in the Directorate of Field Publicity/Ministry of I&B?

14. In Para 18 of their order dated 19.1.96 in OAs 144A/98, 985/93 and 548/94, the Tribunal has observed as under:

"This part of OM has been examined by the various Benches of the Tribunal. Assistants and Stenographers Grade C working in the department of Central Administrative Tribunal Border Security Force, Indo Tibetan Border Police, Central Industrial Security Force and Bureau of Police and Research Development were granted parity with the Assistants of CSS and Stenographers Grade C of CSSS by the Tribunal. It is also worthwhile mentioning that there was no provision for direct recruitment to the post of Assistants in Central Administrative Tribunal.

15. The Stenographers Grade C of CAT were granted revised pay scales of Rs.1640-2900 in the case of S.R. Dheer & Ors. Vs. UOI & Ors. ATR 1993(1) CAT 480".

16. We find that the applicants in OA 985/93 are Assistants in the office of DG/Income-Tax (Investigation). This is also an attached office under the same department of Revenue. Respondents herein have taken the same very four grounds for rejection of applicants' claim as in para 22 of the order in the aforesaid OA. The issues raised stand examined in minute details in paras 23 to 28 in the order dated 19.1.96. We are in full agreement with the views expressed by the Principal Bench in its aforesaid order.

17. We find that the respondents stand that applicants are promotees and they cannot be granted the revised pay scale can hardly be sustained in law. Even in CSSS this scale has been given to the promotee stenos. It is also seen that the 4th PC had recommended the same classification, namely Group C for the Steno Grade C of the CSSS and Steno Grade III 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 this court dated 19.1.96 in OA 985/93 has attained finality after the dismissal of SLP, there is no justification to distinguish and discriminate a few subordinate offices like the DG(Inspection)/Department of Revenue, which is part and parcel of Ministry of Finance. Incidentally, the applicants in OA 985/93 are Assistants in the attached/subordinate offices of DG/Income-Tax (Investigation) under the same department of Revenue. We find no difference between the two units.

18. There is nothing on record to show that after recommendation of the 4th PC, which was accepted by the Government, any new development has occurred to create differentiation between the status of the Assistants working in the DGI and that of CSS. The OM dated 31.7.90 has, thus, created disparity between the two and, therefore, the order dated

(13)

7.11.96 refusing the pay scale of Rs.1640-2900 to the applicants cannot be sustained on the ground of discrimination.

19. Respondents would then argue, on the strength of decision of this Tribunal on 24.3.98 in OA 845/97, that the claim of similarly placed officials like the applicants herein having been denied therein, this application should therefore meet the same fate. We find that the order of this Tribunal in OA 467/97, decided on 9.1.98, was not brought to the knowledge of this Tribunal when it decided the case in OA 845/97. Nor was this Tribunal told that SLP filed by the respondents against this Tribunal's order, dated 19.1.96 in OA-985/93 was dismissed on merits by the Hon'ble Supreme Court.

20. The Hon'ble High Court of Delhi has also allowed the revised pay scale of Rs.1640-2900 to the Assistants and Stenographers of the National Book Trust, India in the case of Deepankar Gupta (supra) in CWP No.4842 /96 on the principle of "equal pay for equal work".

21. In the light of the detailed discussions aforementioned, this OA succeeds on merits and is accordingly allowed with the following directions:

- (1) A-2 order dated 7.11.97 shall stand quashed;
- (2) Respondents are directed to consider applying revised scale of pay of Rs.1640-2900 to the applicants on the same basis as Steno Gr.C of CSSS but the payment of arrears would be

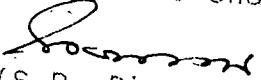
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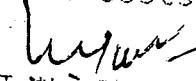
limited to one year prior to date of filing of this OA, i.e. 4.3.97. However, notional fixation of pay in the revised scale will ~~have~~ effect in case of applicants holding the posts of Gr.II after 1.1.1986.

(3) We ~~can~~ make it clear that scale of pay will ~~be~~ applicable from the date the applicants were promoted to Gr.II;

(4) Our orders aforesaid shall be complied with in a period of 3 months from the date of receipt of a certified copy of this order;

(5) There shall be no order as to costs.


(S.P. Biswas)
Member (A)


(T.N. Bhat)
Member (J)

/gtv/