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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.557/2000

New Delhi, this the 16th day of the April, 2001

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

1. Shri Surinder Lal Malhotra,
S/o Lt. Sh. Brij Lal Malhotra,
R/o B-149, South Moti Bagh,
New Delhi-110021.

Working as Sub Editor,
Dept. of Official Language,
Ministry of Home Affairs, Lok Nayak Bhawan,
New Delhi-110003.

... Applicant

(By Advocate: Shri M.K. Gupta)

V E R S U S

1. Union of India,
Through its Secretary,
Ministry of Home Affairs,
North Block,
New Delhi-110001.

2. The Secretary,
Dept. of Official Language,
Ministry of Home Affairs,
Lok Nayak Bhawan, Khan Market,
New Delhi-110003.

3. The Secretary,
Department of Expenditure,
Ministry of Finance,
North Block,
New Delhi-110001.

... Respondents

(By Advocate: Shri Rajeev Bansal)

ORDER (ORAL)

By S.A.T. Rizvi, Member (A):

Aggrieved by the Respondent No.2's OM dated 4.2.2000 by which the proposal for upgradation of one of the two posts of Sub-Editor has not been approved by the Ministry of Finance (Department of Expenditure) on the ground that no such recommendation has been made by the 5th Central Pay Commission (CPC) and further that it would not be proper to compare the Sub-Editors working in the Official Languages (OLD) and the Legislative

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Departments (LD), the applicant, who himself is a Sub-Editor in the OLD in the Ministry of Home Affairs, has filed this OA.

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

3. One of the contentions raised by the learned counsel appearing in support of the OA is that the IIIrd and IVth CPCs maintained parity between the posts of Sub-Editor in the OLD and Assistant Director (AD) of the Official Language Service (OLS). Thereafter, out of the 145 of ADs in the pay scale of Rs.2000-3500/-, 65 were placed in the higher grade (grade -I) of Rs.2500-4000/- by the Vth CPC. Similarly, the post of Translation Officer in the Central Translation Bureau, an office subordinate to OLD, has been placed in the pay scale of Rs.2500-4000/-, though earlier the said post carried the pay scale of Rs.2000-3200/-. Likewise the Assistant Education Officers (AEO) and Research Officers (RO) earlier placed in the pay scale of Rs.2000-3200/- have been given the revised pay scale of Rs.2500-4000/- by the Vth CPC.

4. Relying on the revised pay scales granted to the various posts mentioned in the above paragraph, the relevant Recruitment Rules for the said posts which, according to the learned counsel, provide for similar qualifications etc., as are applicable to the post of Sub-Editor in the OLD, and also the following recommendation made by the Vth CPC, a plea has been

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advanced that justice has not been done in the case of the applicant having regard, in particular, to the aforesaid recommendation made by the Vth CPC -

"Para 168.3

In the event of any Central Government post being left out without allotment of revised pay scales in the Report, it should be given the commensurate revised scale of pay as applicable for posts with similar entry qualifications, duties and responsibilities, duly retaining the horizontal and vertical relativities in the organisation. It will also be eligible for the provisions of Assured Career Progressions (ACP)."

5. The learned counsel emphatically contends that since the post of Sub-Editor in the OLD was not considered by the Vth CPC, the applicant is fully entitled to a proper and a fair consideration in terms of the aforesaid recommendation made by the Vth CPC. According to him, the applicant has not been considered for the grant of revised scale of pay made applicable to posts with similar entry qualifications, duties and responsibilities. The aforesaid impugned order dated 4.2.2000 is, to this extent, a non-speaking order. The respondents have not gone into the merits of the issues raised by the applicant in his various representations, nor, have they cared to consider carefully and honestly what the Vth CPC has recommended in respect of left out posts.

6. Further, the respondents are also bound, according to the learned counsel, to consider the fact that the post of Sub-Editor in the OLD is an

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isolated post without any promotional avenue. His further contention is that the applicant should not be made to suffer for in-action on the part of the respondents who failed to have the claim of the Sub-Editor's post considered by the Sub Committee constituted by the Vth CPC under the Chairmanship of Joint Secretary in the OLD.

7. In his rejoinder, the applicant has gone on to say that the benefit of the Assured Career Progression (ACP) Scheme notified by the Central Government on 9.8.1999 has also not been extended to the applicant. At another place in the same rejoinder, the applicant has submitted that the ACP Scheme will not solve the problem and the issues raised in the present OA. We take it that the ACP is applicable to the applicant and yet he seeks remedy in question for a revised pay scale.

8. Yet another important contention raised by the learned counsel is that the office of the Respondent No.2 has made strong recommendations time and again for the grant of higher pay scale to the applicant. Our attention has been drawn by him to a number of such letters placed on record. A number of such letters have been sent by the same Joint Secretary who had earlier headed the Sub Committee set up by the Vth CPC and referred to in passing in para 6 above.

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9. The learned counsel for the respondents has firstly contended that the applicant, at the time of his absorption in the post of Sub-Editor, fully knew that the post did not carry any promotional avenues and, therefore, he cannot raise the same issue in the present OA. Benefit of the ACP Scheme is available to all such post holders and for this reason also the claim of the applicant has no force. On the question of parity with the post of Sub-Editor in the Legislative Department of the Ministry of Law, the learned counsel has clarified that the Vth CPC's recommendation for granting the higher pay scale of Rs.7500-12000/- to all the Sub-Editor working in that Ministry has not been accepted by the Ministry and in result the post of Sub-Editor in that Ministry carries the pay scale of Rs.6500-10500/- on par with the pay scale made available to the applicant. He has further contended that having regard to the qualifications prescribed in the relevant Recruitment Rules, the applicant cannot claim parity with the post of AEO either. The job profiles of the two posts are also different.

10. We have considered the matter carefully and find merit in the arguments advanced by the learned counsel for the applicant. The respondents are bound to consider carefully and properly the various issues raised by the applicant in the context of the specific recommendation made by the Vth CPC in paragraph 168.3 reproduced above. We are sure that

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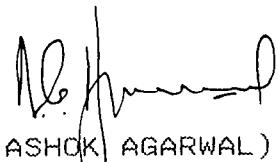
if the respondents had done so and kept in view the strong recommendations made by the office of the respondent No.2 in favour of a higher pay scale, the outcome of various representations filed by the applicant might have been different.

11. The letter of rejection dated 4.2.2000 issued by the respondents is in any case clearly a non-speaking order which does not allow a peep into the mind of the respondents. That the Vth CPC has not made any recommendation in respect of the post of the Sub-Editor in the OLD is admitted on all hands. Also admitted is the fact that in respect of left out cases the Vth CPC had clearly provided that the respondent Ministry/Department will consider the matter further for granting revised scales of pay with due regard to entry qualifications, duties and responsibilities subject to retention of the horizontal and the vertical relativities in the organisation. In view of this, citing absence of recommendation of the Vth CPC cannot, in our view, constitute a reason for rejecting the claim of the applicant. Similarly, saying that it will not be appropriate to compare the posts of Sub-Editors in the Departments of OLD and the Legislative Department will also not constitute a reason. If, in the respondents' view, the two posts cannot be compared, the reasons for the same should have been brought out. The respondents have carefully avoided doing the same.

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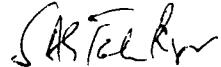
12. For all the reasons brought out in the preceding paragraphs, we find that the ends of justice would be fully met in this case by disposing of the present OA with a direction to the respondents to carefully reconsider the various issues raised by the applicant in this OA in the light of the observations made above, having due regard to the strong recommendations made by the office of the respondent No.2 in favour of a higher pay scale to the applicant and to pass a speaking and a reasoned order unlike the order passed on 4.2.2000. In the event of the order to be passed being adverse to the applicant, the respondent-authority will spell out each and every parameter considered by him and give reasons in support of his decision in respect of each such parameter. The respondent-authority is further directed to complete action as above within a maximum period of three months from the date of service of a copy of this order.

13. The present OA is disposed of in the aforesated terms. No costs.



(ASHOK AGARWAL)

CHAIRMAN



(S.A.T. Rizvi)

MEMBER (A)

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