

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.1310/1989

DATE OF DECISION 24.9.91

SHRI V.K. SHARMA & NINE ORS. --- APPLICANTS

VS

UNION OF INDIA AND ORS. --- RESPONDENTS.

CORAM

HON'BLE SHRI I.K. RASGOTRA, MEMBER (A)

HON'BLE SHRI J.P. SHARMA, MEMBER (J)

FOR THE APPLICANTS

--- SHRI G.D.BHANDARI, COUNSEL

FOR THE RESPONDENTS

--- SHRI A.K.BEHRA, PROXY COUNSEL FOR SH.P.H.RAMCHANDANI, COUNSEL.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Y*

2. To be referred to the Reporter or not? *Y*

JUDGEMENT

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J))

The applicants in this joint application comprising senior translators and junior translators are working in the Armed Forces Hq. (in short AFHQ/Inter Service

Organisations in short I.S.O) at New Delhi. They hold the civil posts in Group 'C' grade of senior translator Rs.1600-2600 and junior translator Rs.1400-2300 respectively and were appointed as translators (junior and senior) under the AFHQ/ISO in the erstwhile grades of Rs.425-700 and Rs.550-800 in Group 'C' respectively. Applicant No.4 Shri Ravi Sharma was appointed as senior translator (English/Hindi) grade Rs.1640-2900 through Staff Selection Commission (Annexure A-1). Subsequently the respondents vide their letter dated 3rd July, 1987 (Annexure A-3) intimated the applicant that they pay scale of senior translator be read as Rs.1600-2660 instead of Rs.1640-2900 which was earlier indicated in his appointment letter. The applicant made representations but to no effect. Similarly terms of appointment of some of the other applicants after their appointment were altered unilaterally by the respondents, although before altering the terms of appointment they were paid their salary in the grade of Rs.1640-2900 (Annexure 5a). The applicants have claimed in this application filed under Sec.19 of the Administrative Tribunals Act, 1985 the following relief:-

"that this Hon'ble Tribunal be graciously pleased to grant the scale of Rs.1640-2900 and Rs.1400-2600 instead of Rs.1600-2660 and Rs.1400-2300 being presently granted to the senior and junior translators respectively employed in AFHQ/ISO of the Ministry of Defence w.e.f. 1-1-1986 i.e. date of implementation of Fourth Pay Commission Report with all consequential benefits of pay fixation, arrears plus ancillary allowances etc. and they should be treated at par with

similar situate persons in CSOLS and the position existing prior to 1-1-1986 should be restored".

2. The brief facts of the case are that there are certain posts of senior and junior translators in AFHQs and I.S.O. which were brought on common roster w.e.f. 29th July, 1986. These posts have been given the grade of Rs.1600-2660 and Rs.1400-2300 for senior and junior translators respectively as against Rs.1640-2900 and Rs.1400-2600, which are grades of similarly situated persons in various ministries and office under Government of India. While the posts with higher pay scale are included in Central Secretariat Official Language Service Cadre (in short C.S.O.L.S.) constituted under the Department of Official Language, the posts in the A.F.HQs./I.S.O. are not included in the C.S.O.L.S. cadre. According to the applicants the non-inclusion of the posts held by them in C.L.O.S. is the only reason for grant of lower pay scale to senior and junior translators.

3. The applicants also state that the Fourth Central Pay Commission dealt with the matter and in their report Part-I, Paras 10.278 and 10.280 and recommended grade of Rs.1640-2900 and Rs.1400-2600 for the senior and junior translators (Annexure A-6) respectively. Applicants further state that the Fourth Central Pay Commission in Paras 10.280 observed that there were about 2,400/- posts of Hindi Officers and staff in 20 pay scales existing in the various Ministries/Departments which were not included in C.S.O.L.S. The Recruitment Rules for these posts have been framed by the respective Departments. The Fourth Central

Pay Commission recommended that the Department of Official Languages should prepare Model Rules for all these posts to bring about a kind of uniformity. On the basis of the aforesaid recommendation similarly situated persons in the AFHQ/ISO have not been given the above recommended pay scales. The applicants have given a comparative chart in para (XVI)(A) to show the pay scales before January, 1986 and after January, 1986 of the senior and junior translators employed in AFHQs/I.S.O. A chart of similarly situated employees, employed in other Ministries/Departments is as under:-

<u>SENIOR TRANSLATORS</u>	<u>AFHQ/IS</u>	<u>OTHER MINISTRIES/DEPARTMENTS</u>
Before January, 86	Rs. 550-800	Rs. 550-800
After January, 1986	Rs. 1600-2660	Rs. 1640-2900
<u>JUNIOR TRANSLATORS</u>		
Before January, 86	Rs. 425-700	Rs. 425-700
After January, 1986	Rs. 1400-2300	Rs. 1400-2600

4. It is further stated by the applicant that AFHQ recommended (Annexure A-10) grant of similar pay scale but the Finance Ministry has remarked that till such time Raj Bhasha Vibhag frames Uniform Recruitment Rules the higher scales recommended by Fourth Pay Commission shall not be extended to non-CLOS Hindi Translators. It is further stated that the Recruitment Rules of the applicants framed by the AFHQ (Annexure A-8) were framed and promulgated after concurrence of Raj Bhasha Vibhag and are, in fact, similar to those laid down by the Vibhag itself for CSOLs. A letter in this regard has also been written by the Translation Officer Air H.Q. in November, 1988 to the Chief Administrative Officer/C.P.Cell (Annexure A-12) pointing out the following facts:-

(a) The senior and junior translators of AFHQ are recruited through Staff Selection Commission like those of the Official Language cadre of Raj Bhasha Vibhag.

- (b) The academic qualifications for both the equivalent.
- (c) The norms of translation and vetting are the same in both the services.
- (d) At the time of formulation of CSOLS it was provided for that the posts in certain attached offices might be included in the said service in future.

5. It is further stated by the applicant that the qualifications, condition of service and other ancillary conditions are almost the same if not onerous, more technical and exacting. The quality of functions entrusted to the applicants are of more technical in nature whereas in other Ministries position is not the same. Thus the applicants claim equal pay for equal work.

6. The respondents contested the application and filed the reply and stated that the relief sought by the applicants pertains to the pay scales implemented by the Government on the recommendations of the Fourth Pay Commission and that the matter cannot be taken up for adjudicature in view of para 20(ii) of the scheme for J.C.M. as "matters determined by the Government in accordance with the recommendations of the Commission will not be subject to arbitration for a period of 5 years from the date of recommendations". The Central Fourth Pay Commission has not made any specific recommendation for the post of senior and junior translators in AFHQs and I.S.O., Ministry of Defence. Mere identical pre-revised scales cannot be a justification for enhancement of scale of pay. The Fourth Central Pay Commission had recommended normal replacement pay scale of Rs.425-700 and Rs.550-800 to Rs.1400-2300 and Rs.1600-2660 respectively for these categories. However, Fourth Pay Commission have recommended higher pay scale of Rs.1400-2600 for junior translators and Rs.1640-2900

for senior translators belonging to Central Secretariat Official Language Service having regard to their functional requirement, recruitment rules and other relevant factors. Fixation of pay scale is a matter of administrative policy and is based on administrative consideration and therefore, courts are not expected to go into these matters. It was further submitted that neither the Hindi posts in AFHQs/ISO are encadred in the CSOLS nor is AFHQs. participating in other Central Secretariat Services like CSS, CSSS and CSCS. It is further stated by the respondents that the matter is pending before the Anomalies Committee of the Departmental Council (JCM) of Ministry of Defence. The applicants, therefore, are not entitled to any relief.

7. The main thrust of the learned counsel for the applicant is that the senior and junior translators employed with the respondents are getting less pay and allowances than their counter-part in CSOLS having similar qualification and performing identical duties and that this is violative of Articles 14 and 16 of the Constitution. It has been held in Randhir Singh's Vs. Union of India 1982 SCC (L&S) that where all relevant considerations are the same, persons holding identical posts must not be treated differently in the matter of their pay merely because they belong to different departments.

8. The controversy before us is that the applicants senior/junior translators in AFHQ were earlier placed in the grade of Rs.425-700/Rs.550-800 respectively in Group 'C'. After the Central Fourth Pay Commission they were given the replacement scale of Rs.1600-2660/1400-2300 respectively. However, senior and junior translators in various Ministries and offices under Government of India in the CSOLS having about 30 proper Ministries/Departments were given higher pay scale on the specific recommendation of the Central Fourth Pay Commission

1640-2900/1400-2600 senior or junior translators respectively. But normal replacement pay scales which are lower were allotted to AFHQ, although they enter service through the same exam conducted by Staff Selection Commission as members of CSOLS. Further they possess same recruitment qualification and undertake in fact more onerous and technical work than members of CSOLS. The extract of the relevant recruitment from the Central Fourth Pay Commission's report Paras 10.280 & 10.282 (Annexure A-6) is reproduced below:-

"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 CSS, as they are required to possess Master's Degree in Hindi whereas the assistants possess Bachelor's degree. Even so, they have been given Group 'C' status and pay scale of Rs.425-700 while Assistants of CSS 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 for the post of senior Hindi translator (Rs.550-800), we recommend the scale of Rs.1640-2900.

10.282 There are about 2400 posts of Hindi Officers and staff in 20 pay scales existing in the various Ministries/Departments for implementation of Official Language policy of the Government. These posts are not included in the CSOLS. The recruitment rules for these posts have been framed by the respective Departments. We suggest that the Department of Official Language may prepare Model Rules for all these posts scattered in various non-participating offices with a view to bringing uniformity in the

in the recruitment procedure, pay structure and, to the extent possible, their service prospects. This would ensure availability of men of good calibre to the departments for handling Hindi work in different officers connected with Official Language policy of the Union".

9. A supplementary affidavit has also been filed by the respondents to show action had been taken for compliance of the recommendations made by the Fourth Central Pay Commission. The Secretary, Official Languages, Ministry of Home Affairs initiated proposals in consultation with the Department of Personnel and Training to circulate the Model Recruitment Rules for the post of senior and junior translators for the purposes of bringing uniformity. The scale of Rs.1400-2600 and Rs.1640-2900 for junior and senior translators was also proposed therein so that these posts also become at par with those of C.S.O.L.S. The Department of Expenditure however has turned down the proposal of upgrading the pay scale on the ground that the Central Fourth Pay Commission nowhere recommended parity of the pay scales for junior and senior translators of the Central Secretariat Official Languages Services and the non-participating offices. However, in the counter affidavit it is stated that the matter had again been taken up with the Department of Expenditure, Ministry of Finance at the level of Secretary, Department of Official Languages and the proposal is still under consideration.

10. In the present case the applicants in Para 4-XVIII have stated that the Recruitment Rules of the applicants framed by AFHQ (Annexure A-8) were framed and promulgated after concurrence of Raj Bhasha Vibhag and are, in fact, applied similar to those laid down by the Vibhag itself for CSOLS and further stated that- JL

- (a) The senior and junior translators of AFHQ are recruited through Staff Selection Commission like those of the Official Language cadre of Raj Bhasha Vibhag.
- (b) The academic qualifications for both are equivalent.
- (c) The norms of translation and vetting are the same in both the services.
- (d) At the time of formulation of CSOLS it was provided for that the posts in certain attached offices might be included in the said service in future.

11. The respondents in their counter have admitted Para 4-XVIII. Thus when it is admitted by the respondents that in other respect senior and junior translators employed in CSOLS and ISO are at par with those CSOLS then any discrimination in grant of pay scale to them would be discriminatory as well as arbitrary. In fact, this was also felt by the Central Fourth Pay Commission as is obvious from the special recommendations, made by them.

12. The learned counsel for the respondents has not pointed out either in the counter filed by the respondents or in the submissions before the Bench that there is any qualitative difference as regards to duties and responsibility between the two classes of senior and junior translators employed in AFHQ/ISO and those working in CSOLS. Though normally this is work of the expert body but when the expert body like Pay Commission had made specific recommendations (Annexure-I and II of the counter) the respondents should have acted with a sense of urgency to meaningfully implement the recommendation in the case of similarly situated senior and junior translators in other departments to bring them at par with those translators in CSOLS. The respondents has failed the applicants but the Bench will not fail them.

21. In view of the above discussion the application is allowed and the respondents are directed to grant the scale of Rs.1640-2900 and Rs.1400-2600 to the senior and junior translators respectively employed in AFHQ/ISO of the Ministry of Defence with effect from 1-1-1986 with all consequential benefits of pay fixation, arrears plus ancillary allowances etc. The respondents are directed to implement the above order within four months from the receipt of this order. However, the parties are directed to bear their own costs.

Sharma
(J.P. SHARMA) 24/9/91 .
MEMBER (J)

Delhi
(I.K. RASGOTRA)
MEMBER (A) 24/9/91