

Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. OA-1750/88

Date: 5th April 1989

Shri Kewal Krishan Kapur Applicant
& Others

Versus

Union of India & Drs. Respondents
For the Applicant The applicant in person
For the Respondents Shri P.H. Ramchandani,
Senior Advocate.

CORAM: Hon'ble Shri P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Shri Ajay Johri, Administrative Member.

(Judgement of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice-Chairman)

The applicant, who was working as Private Secretary in the Office of the Chief of the Air Staff in the Air Headquarters, filed this application under Section 19 of the Administrative Tribunals Act, 1985 against the Union of India represented by the Ministry of Defence praying for granting to him from 1.1.1986 the benefit of the recommendation of the Fourth Central Pay Commission (hereinafter referred to as 'the Pay Commission') regarding pay and allowances relating to Private Secretaries in the same manner as it was given effect to in respect of all other Central Government servants. Alternatively, he has prayed that he should be extended the benefit of the same at least from November, 1987, as has been done in respect of the other Private Secretaries in the Ministry of Defence, of which his Office is a part.

2. The case was heard on 16.9.1988 when a notice was directed to be issued to the respondents on admission. Pursuant thereto, the respondents have entered appearance

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and have filed a reply. The case was listed for admission on 3.4.1989 when we heard the applicant in person and Shri P.H. Ramchandani, the learned counsel for the respondents. We have also carefully gone through the records of the case. The undisputed factual position is that the applicant belongs to the Armed Forces Headquarters Stenographers' Service and his terms and conditions are regulated by the Armed Forces Headquarters Stenographers' Service Rules, 1970. The Stenographers' services in the Armed Forces Headquarters is similar to and patterned on similar service in the Central Secretariat which had four grades, viz.,:-

Stenographer Grade 'A' : Rs.650-1200

Stenographer Grade 'B' : Rs.650-1040

Stenographer Grade 'C' : Rs.425- 800

Stenographer Grade 'D' : Rs.330- 560.

3. The Government of India, by Resolution of the Ministry of Finance (Department of Revenue) dated 29th July, 1983, appointed the Pay Commission which observed in its Report that it would be desirable to merge Grade 'A' and Grade 'B' of the Service so as to bring about parity with C.S.S. at this level. Accordingly, it recommended the scale of Rs.2000-3500 for posts in Grade 'A' (Rs.650-1200) and Grade 'B' (Rs.650-1040). It further recommended that the posts of Private Secretaries to the Secretaries to the Government of India and equivalent officers may be upgraded and given the scale of Rs.3,000-4500.

4. On 13th March, 1987, the President notified the Central Civil Services (Revised Pay) Amendment Rules, 1987. Under the heading 'Central Secretariat Stenographers' Service', the posts of Private Secretary to the Secretaries to the Govt. of India and equivalent officers has been

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mentioned ~~as~~ the revised pay-scale of Rs.3000-4500.
However, a note has been added in the rules to the
following effect:-

"Functional grade requiring promotion as per
normal procedure. The qualifications and
modalities for such promotion will be
prescribed in the recruitment rules to be
framed for these posts."

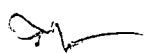
5. Shri Ramchandani contended that the revised scale
was not automatically applicable to all Stenographers in
Grade 'A'. It was not a replacement scale. He further
submitted that pending the framing of recruitment rules,
some posts of Stenographers Grade 'A' on the Civil side
as well as on the Defence side were upgraded to the
revised scale of Rs.3,000-4500, and persons were appointed
on ad hoc basis on the revised scale of pay. On the
Civil side, the new scales of pay were given to those
ad hoc appointees w.e.f. 7th October, 1987 while on the
Defence side, it was given effect to on 23.12.1987. He
further contended that the Pay Commission's recommendations
related only to the Civil side. However, the question of
extending the same benefit to the Defence side was considered
by the Government and six posts of Stenographers Grade 'A'
in the revised pay-scale of Rs.3000-4500 were sanctioned
on 23.12.1987.

6. The contention of the applicant is that the Pay
Commission's recommendations apply to all Stenographers
and cannot be confined to those on the Civil side. His
further contention was that the revised scales would apply
w.e.f. 1st January, 1986. However, he was given the
revised scale of Rs.3000-4500 w.e.f. 11.1.1988, i.e.,
after the six posts were sanctioned on the Defence side
on 23.12.1987.

7. The applicant retired from Government service on attaining the age of superannuation in September, 1988. Therefore, he would not get the full benefits of the revised scale for the purpose of computing his pension.

8. The recommendations of the Pay Commission are not binding on the Government. It is for the Government to take a decision on these recommendations. In the case of Stenographers, the Government has already decided to merge Grades 'A' and 'B' into one and give the revised pay-scale of Rs.2000-3500 to them. As regards the recommendation of the Pay Commission to give a higher grade to the Private Secretaries to the Secretaries to the Government of India and equivalent officers, the Government has taken a conscious decision to give it only as a functional grade requiring promotion as per normal procedure. The higher grade will be given only in accordance with the recruitment rules which are proposed for the purpose. Therefore, that part of the recommendation of the Pay Commission relating to the Private Secretaries to the Secretaries to the Government of India and equivalent officers has been accepted by the Government only in a modified form. There cannot be any legal objection to it. As far as the applicant is concerned, he was appointed on ad hoc basis in the revised scale of Rs.3000-4500 w.e.f. 11.1.1988 when he was so promoted. His counterparts on the Civil side were promoted only in October, 1987. The time-lag between the promotions on the Civil side and the Defence side, cannot be said to be unreasonable.

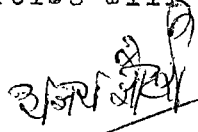
9. The applicant also raised a contention that the 13th March, 1987 letter clearly spells out that the amendment to the C.S.S. (Revised Pay) Rules, 1986 shall

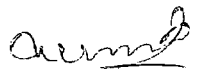


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be deemed to have come into force on the first day of January, 1986. According to him, in this context, he, who was already working as a Private Secretary, should have been given the benefit of the upgraded post w.e.f. 1.1.1986. We do not agree with this contention. The Pay Commission's recommendations which were to be implemented w.e.f. 1.1.1986; were in respect of the replacement pay-scales in place of the existing scales of pay. In regard to the Private Secretaries the recommendation was that the posts had to be upgraded, i.e., some new posts in lieu of the existing Grade 'A' and 'B' posts were contemplated to be brought into existence. These posts had to have their own recruitment rules, etc., and it was an entirely new scale which was recommended for these posts. So, these posts, which were to come into existence after upgradation, had to be brought into existence before any promotions could be made. In this background, the contention of the applicant has no force. It was only when the post had been created that promotions could be made and he was promoted soon after the sanction of upgradation was issued in December, 1987. So, the notification of 13.3.1987 in respect of the date of implementation as 1.1.1986 has no relevance in respect of the Private Secretaries' posts.

10. In the facts and circumstances of the case, we do not see any merit in the contention of the applicant that he is entitled to the revised pay-scale of Rs.3000-4500 w.e.f. 1.1.1986 or November, 1987. The application is, therefore, rejected at the admission stage itself. The parties will bear their own costs.


(Ajay Johri)
Administrative Member


(P. K. Kartha)
Vice-Chairman(Judl.)