

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/01825/2016
Dated the 02nd day of June Two Thousand Twenty

CORAM : **HON'BLE MR. P. MADHAVAN, Member (J)**
HON'BLE MR. T. JACOB, Member (A)

N.Remadevi,
W/o. Sivasankaran,
25/7, CPWD Quarters,
Old Campus, Besant Nagar, Chennai 90.Applicant

By Advocate M/s. L. Chandrakumar

Vs

UOI represented by,
1.The Director,
Department of Pension & Pensioners Welfare,
Ministry of Personnel, Public Grievance & Pension,
Lok Nayak Bhavan, Khan Market, New Delhi 110003.

2.The President,
Income Tax Appellate Tribunal,
4th Floor, Old CGO Building,
101, Maharishi Karve Marg, Mumbai 400020.

3.The Pay & Accounts Officer,
Pay & Accounts Office,
Ministry of Law and Justice,
Department of Legal Affairs,
4th Floor, Janpath Bhavan, New Delhi 110001.

4.The Registrar,
Income Tax Appellate Tribunal,
A3, II Floor, Rajaji Bhavan, Chennai 600090.Respondents

By Advocate Mr. K. Rajendran

ORDER

(Pronounced by Hon'ble Mr. P. Madhavan, Member(J))

The applicant in this case seeks the following relief :

"To direct the respondents to regularize the pay and other consequential fixation of revised pay at Rs. 7250/- w.e.f. 05.04.2002 (in the scale of Rs. 6500-200-10500) and other revision in monthly emoluments as and when the same fell due on the basis of the revised LPC made in UIL:PER:3169 dated 29.01.2010 with further and appropriate re-fixation thereto forthwith and to pass such further or other order as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice."

2. The applicant was working as Asst. Personal secretary in the UP Electronics Corporation(UPTRON) in the scale of pay of Rs.1600-2720.

The applicant was drawing a pay scale of Rs.2300 in the said scale. Since UPTRON became sick, the applicant applied for the post of Private secretary in I.T.A.T on deputation and she was appointed as such from 5-4-2002 in the scale of Rs.6500-10500. The said appointment was done as per provisions of O.M 2/29/91 Esst.(pay II dt 5-1-1994. When she completed 3 years, she was absorbed as Senior Private Secretary (upgraded) from 5-4-2005 in the scale of Rs.7500-12500.

3. According to her, she was working in the post of Asst. Personal Secretary in UPTRON in the scale of Rs1600-2720 which is analogous to scale Rs.1640-2900. The applicant was appointed as Private Secretary in I.T.A.T from 5-4-02 and her pay was fixed at Rs.6500-10500 without

giving pay protection. The applicant's cadre of Private Secretary was upgraded to Senior Private Secretary on 30-6-05 with scale of pay 7500-12000 with minimum of pay @Rs.7500/-.

4. The applicant's parent dept. had implemented Vth CPC recommendations and her scale was revised as 5000-8000 and her basic pay was fixed as Rs7250/- and she was issued with LPC showing her basic pay on 29-1-10. But her basic pay of Rs.7250 was not protected by the respondents. The respondents had earlier accepted the LPC and had given pay protection to one Mr.R.N. Mishra. So, according to the applicant, she is also entitled to get pay protection on coming to ITAT w.e.f 5-4-02 and consequential benefits.

5. The respondents appeared and filed objections as follows. They admitted the appointment of applicant as Private Secretary in I.T.A.T in the scale of Rs. 6500-10500 from 5-4-02. The pay scale of the applicant in the parent department was Rs.1600-2720 during the IV th CPC period. The pay of applicant was fixed as per FR 22(1)(a)(i) as under I.T.A.T order dt 27-5-02 @ Rs7300 in the scale of Rs 6500-10500. On 5-4-05 onwards the post was upgraded to Senior Private Secretary with scale Rs.7500-12000 as per order dt.30-06-2005 (annexure R4). When this was done, the Pay

and Accounts Office, Ministry of Law and Justice as per letter annexure A6 raised objection stating that the applicants scale in the parent department UPTRON was not analogous to pay scale Rs 5500-9000 at the time of her appointment on 5-4-02. So, her appointment as PS in I.T.A.T was not with requisite grades. The scale of Rs.1600-2720 is not analogous to scale Rs 1640-2900 in the IVth CPC. As per standard pay scale 1600-2660 comes in the level S9 and scale 1640-2900 comes under level S10. When this was pointed out I.T.A.T instead of terminating her, re-fixed her scale to Rs.6500-10500 at Rs.6700/- with effect from 01-04-03. When the post was upgraded, she was granted Rs.7500-12000 with basic pay of Rs 7500/- as per order dt. 30-06-2005.(annexure R4). So, according to the respondents, she is not entitled to get any refixation. The revised scale fixed by the UPTRON was only Rs.5000-8000 in the Vth CPC. Annexure R2 clearly states that absorption will take place only with effect from 05-04-05 FN. and it will not have retrospective application. So, according to the respondents the OA is mis-conceived and it is liable to be dismissed.

6. On a perusal of the pleadings and annexures produced, we find that the applicant was working as Asst. Personal Secretary in UPTRON when she was appointed on deputation to ITAT. *Admittedly, the applicant was*

drawing a basic pay of Rs.2300 in the scale of Rs.1600-2720(IVth CPC).

The scale of pay of Private Secretary was Rs.1640-2900 which was one level above the scale of Asst. Personal Secretary of UPTRON.

7. The scale of 1600-2660 in the corresponding scale of pay of Vth CPC is 5000-8000 ie: level 9. The parent department had fixed the scale of the applicant in scale 5000-8000 accordingly. The corresponding scale of 1640-2900 in the Vth CPC is 5500-9000. So, it is clear that the scale of the applicant in parent post Asst. Personal Secretary was not analogous to the scale of Private Secretary in ITAT and hence the scale was to be fixed in the minimum of the scale. *The claim of the applicant is mainly based on the ground that the applicant's scale of pay 1600-2720 and the scale of PS Rs.1640-2900 are analogous.* Annexure A23 gives the criteria for determining analogous posts. As per this OM, even though scale of pay is different, they should be such as to be an extension of or a segment of each other. It should be falling in the same group of posts, the levels and responsibility and duties of two posts should be comparable, the qualification and experience of the officers should be comparable. There is no material available to ascertain this independently from what is available on records.

8. From the above, it can be seen that the applicant was not holding analogous post when she was appointed as Private Secretary and she is entitled to get scale fixed only at the minimum of the higher scale and she was granted the scale of Rs.6500-10000 and Rs.7500/- in the scale of Rs.7500-12500/-.

9. Hence we find the OA lacks merits and it is dismissed. No costs.

(T.Jacob)
Member(A)

(P. Madhavan)
Member(J)

02.06.2020

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