

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

- (1) ORIGINAL APPLICATION NO.201/01193/2018**
(2) ORIGINAL APPLICATION NO.201/01194/2018
(3) ORIGINAL APPLICATION NO.201/01195/2018

Jabalpur, this Tuesday, the 30th day of June, 2020

HON'BLE MR.NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR.RAMESH SINGH THAKUR, JUDICIAL MEMBER

Manoj Giri S/o Late Shri Anand, Age: 42 years,
Occupation-service, R/O H.No.201/10-B, Ayodhyapuri Colony,
Kodariya, Mhow(M.P.)-453441 -

Applicant in OA 201/01193/2018

Pradeep Singh S/o Shri Vijay Singh, Age 47 years, Occupation Service,
H.No.CC-273/D, Vindhya Vihar, Army War College,
Mhow(M.P.)-453441

- Applicant in OA 201/01194/2018

Harish Kushwah, S/o Shri Biharilal Kushwah, Age 42 years, Occupation
Service, R/o 372, Dr.Ambedkar Nagar, Behind CHL Apollo Hospital
Indore (M.P.)-452011

- Applicant in OA 201/01195/2018

(By Advocate – Shri N.L.Tiwari)

Versus

- 1. Union of India, Through Secretary, Ministry of Defence,
New Delhi, Pin-110011**
- 2. Director General of Military Training, General Staff Branch,
Integrated HQ of Min of Def (Army), DHQ PO New Delhi, Pin-110 011**
- 3. The Commandant, Army War College, Mhow Cantt,
Mhow (M.P.) Pin - 453441-**

Common Respondents in all 3 OAs

(By Advocate – Shri Kshitij Vyas)

(Date of reserving the order: 14.03.2019)

COMMON ORDER

By Navin Tandon, AM.-

All the three applicants in these Original Applications are aggrieved by their non-promotion to the post of Stenographer Grade-I consequent to change in Recruitment Rules.

2. As the facts are identical and the issue involved in these Original Applications is common, these are being disposed of by this common order. For the purpose of this order, the facts are taken from Original Application No.201/01193/2018 except where specifically stated otherwise. Pay scales mentioned are 5th CPC unless otherwise mentioned.

3. The applicants in all the three Original Applications are working as Stenographer Grade III (4000-6000). Their appointment and promotion details are as under:

3.1 Manoj Giri (applicant in OA 201/01193/2018):

He was appointed as LDC (950-1500) (4th CPC) on 29.04.1995. He was promoted to the post of UDC (4000-6000) on 29.04.2003. He appeared for the post of Stenographer Grade III in the same department through open competition along with candidates from open market and on being successful in the said examination, he was appointed as Stenographer Grade III (4000-6000) vide order dated 07.07.2004 (Annexure A-1).

3.2 Pradeep Singh (applicant in OA 201/01194/2018):

He was appointed as LDC (950-1500) (4th CPC) on 24.06.1993. He was promoted to the post of UDC (4000-6000) on 01.08.2004. He appeared in the departmental examination and on being successful was promoted as Stenographer Grade III (4000-6000) in the same pay scale on 09.09.2006 (Annexure A-1).

3.3 Harish Kushwah (applicant in OA 201/01195/2018):

He was appointed as Stenographer Grade III (4000-6000) vide order dated 20.06.2002 (Annexure A-1).

4. The submissions made by the applicant is as under:

4.1 The respondent department has issued Army Group 'C' (Stenographer Grade II and Stenographer Grade III), Recruitment Rules, 2004 (SRO 146 dated 21.09.2004) (Annexure A-2), wherein it has been spelt out that the posts of Stenographer Grade II (5000-8000) as well as Stenographer Grade – III (4000-6000) would be filled up by promotion failing which by transfer and failing both by Direct recruitment. Promotion to Stenographer Grade – III is from clerical cadre with eight years of regular service. Further, promotion to Stenographer Grade - II is from Stenographer Grade - III of the respective cadre with eight years regular service in the grade.

4.2 The respondent department has issued Ministry of Defence, Army (Stenographer Grade I) Group 'B' Post Recruitment Rules, 2005 (SRO 61

dated 07.07.2005) (Annexure A-3) in which it has been stated that vacancies for Stenographer Grade I (5500-9000) are to be filled up by promotion failing which by deputation. Promotion is to be from Stenographer Grade II (pay scale 5000-8000) with three years regular service in the grade.

4.3 The respondent department issued Army Group 'C' (Stenographer Grade II) Recruitment Rules 2011 (SRO 86 dated 20.12.2011)(Annexure A-4). This mentions the pay scale as 5200-20200 and Grade Pay Rs.2400/- (6th CPC). These posts are to be filled up by promotion failing which by transfer and failing both by direct recruitment. Promotion is from clerical cadre with eight years continuous service in the grade. There is no mention about Stenographer Grade III in these Recruitment Rules.

4.4 The respondent department issued Part II order dated 30.03.2012 (page 31 Annexure A-4), wherein the persons working on the posts of Stenographer Grade III have been re-designated as Stenographer Grade II w.e.f. 20.12.2011 with no change in pay band and grade pay. It has been issued on the authority of Revised Recruitment Rules issued vide SRO 86 dated 20.12.2011.

4.5 As per SRO 146 dated 21.09.2004, Stenographer Grade III were eligible for promotion to the post of Stenographer Grade II after eight

years of service. However, after issue of SRO 86 dated 20.12.2011, the option of the applicant to get promoted to the post of Stenographer Grade II by way of promotion has been closed. The applicant has no option but to work on the post of Stenographer Grade II with a lower pay scale as compared to other similarly posted persons who were getting higher pay scale than the applicant.

4.6 The respondent department issued letter dated 27.02.2013 (Annexure A-5), wherein the grades of Stenographer Grade I (5500-9000) and Stenographer Grade II (5000-8000) were merged as Stenographer Grade I in PB 2 with Grade Pay Rs.4200/- (6th CPC). The erstwhile Stenographer Grade III (4000-6000) were to be in the revised pay band in PB 1 with Grade Pay Rs.2400/- (6th CPC) and re-designated as Stenographer Grade-II.

4.7 The applicant submitted a representation dated 18.08.2016 (Annexure A-6). The respondents vide their letter dated 19.10.2016 (Annexure A-7) informed the applicant that Integrated Headquarter of MOD (Army) has been requested to examine the feasibility of convening the DPC for filling of the post of Stenographer Grade-I as per the existing Recruitment Rules.

4.8 The respondent department issued a notification dated 10.10.2014 (Annexure A-8), which clarified that the vacancy shall be filled in

accordance with the recruitment rules in force on the date of vacancy, unless rules made subsequently have been expressly given retrospective effect. Since amendment to RRs normally have only prospective effect, the existing vacancies should be filled as per the RRs in force.

4.9 The respondent department has issued SRO 16 on 28.12.2017 (Annexure A-9) Army Stenographers Cadre (Group 'B' Gazetted and Non-Gazetted) Recruitment Rules, 2017 for Senior Private Secretary, Private Secretary and Stenographer Grade - I. These rules provide the posts of Stenographer Grade I would be filled 1/3rd by promotion and 2/3rd by deputation including short term contract. Promotion would be from Stenographer Grade II with 10 years of regular service in the level.

4.10 Provision of filling up 2/3rd posts of Stenographer Grade – I through deputation is illegal, arbitrary and discriminatory. Further, the applicant is entitled for promotion to Stenographer Grade – I since 20.12.2014 as per Recruitment Rules of 2005.

4.11 The applicant again submit a representation dated 12.11.2018 (Annexure A-10) for promotion to Steno Grade I, wherein it was informed that the case has been taken up with IHQ of MOD Army.

5. The applicants in OAs Nos.201/01193/2018 & 201/01194/2018 have prayed for the following reliefs:

“8(i) That the respondents may kindly be directed to grant the promotion to the Applicant on the post of Stenographer Grade-I as per the Recruitment Rules of 2005 along with all other consequential benefits.

8.(ii) The present Original Application may kindly be allowed with costs.

8(iii) That, any other relief, as the Hon’ble Tribunal may deem fit, also be granted to the Applicant”.

5.1 Whereas the applicant in OA No.201/01195/2018 has prayed for the following reliefs:

“8(i) That the respondents may kindly be directed to grant promotion to the Applicant on the post of Stenographer Grade-2 (re-designated as Steno Grade-I w.e.f. 27/02/2013) in the higher pay scale of Rs.5000-8000 (Revised to Pay Band-2 with + Grade Pay Rs.4200/- in 6th CPC) with effect from 20/06/2010 or on occurrence of vacancy in accordance with the Recruitment Rules 2004 in force from 21/09/2004 to 19/12/2011 (i.e. prior to the supersession of these rule vide SRO 86 dated 20/12/2011) along with all consequential benefits.

8(ii) That, present Original Application may kindly be allowed with costs.

8(iii) That, any other relief, as the Hon’ble Court may deem fit also be granted to the Applicant”.

6. The respondents have made the following submissions in their reply:

6.1 The applicant was appointed as Stenographer Grade III w.e.f. 07.07.2004 in the pay scale of 4000-6000 and re-designated as Stenographer Grade-II w.e.f. 20.12.2011 without any change in pay and

allowance as per Part II order dated 30.03.2012 (Annexure R-1) based on SRO 86 dated 20.12.2011 (Annexure R-2) and letter dated 15.03.2012 (Annexure R-3) from IHQ of MOD (Army). Since the applicant was re-designated as Stenographer Garde-II and not promoted as Stenographer Grade II, without any change of pay and allowance, hence he has not been granted the higher pay scale of 5000-8000 as granted to other Stenographers Grade II.

6.2 The post of Stenographer Grade II (5000-8000) and Stenographer Grade I (5500-9000) were merged and re-designated as Stenographer Grade I in the revised Pay Band 2 with Grade Pay Rs.4200/- vide Part-II order No.70 dated 06.06.2013 (Annexure R-4), which was based on Ministry of Defence letter dated 27.02.2013 (Annexure R-5). The benefit of this merger was not extended to the applicant since he was not drawing pre-revised pay scale (5000-8000).

6.3 The applicant could not be promoted to the post of Stenographer Grade I due to non revision of Recruitment Rules. The revised Recruitment Rules were published vide SRO 15 dated 28.02.2017 (Annexure R-6), wherein only 1/3rd of total posts are to be filled up by promotion and the remaining 2/3rd are to be filled up by deputation/short term contract. To ensure adequate avenue of promotion to the

Stenographer Grade II, it was proposed to IHQ MOD (Army) to fill up the post of Stenographer Grade I through 100% by promotion.

6.4 The Integrated Headquarter informed the Army War College, Mhow on 16.04.2013 (Annexure R-9) that Recruitment Rules for the post of Stenographer Grade I are yet to be notified and promotion from Stenographer Grade-II to Stenographer Grade-I can be held thereafter only. Further, in their letter dated 20.10.2015 (Annexure R-10), asked the Army War College, Mhow to hold the DPC for promotion to Stenographer Grade II to Stenographer Grade I on the basis of SRO 61 dated 07.07.2005.

6.5 Accordingly, DPC proposal for promotion to Stenographer Grade II to Grade I was forwarded on 27.01.2016 (Annexure R-11). In response, the IHQ informed the Army War College, Mhow on 28.07.2016 (Annexure R-12) that the promotion to Stenographer Grade I can only be done after finalisation of DPC for promotion from Private Secretary to Senior Private Secretary. The same was approved on 29.05.2017. However, by that time, the Revised Recruitment Rules of Stenographer Grade I were issued vide SRO 15 dated 28.02.2017, wherein the method of filling up the post was mentioned as 1/3rd by promotion and 2/3rd by deputation including short term contract.

6.6 DOPT has issued Office Memorandum dated 24.11.2011 (Annexure R-15), wherein Model Recruitment Rules for the post of Stenographer Grade I in Non-Secretariat Organisations have been issued, which states in column 10 that the method of recruitment to Stenographer Grade I should be by promotion failing which by deputation.

7. Heard the arguments of the learned counsel of both the parties and perused the pleadings available on record. The arguments were on the lines of the written pleadings.

8. Learned counsel for the applicant submitted that as per the information provided by the respondents in Para 10 of the reply, 07 vacancies of Stenographer Grade-I took place by 14.07.2014. Further, three vacancies have taken place between 16.08.2017 and 01.02.2018 making it a total of 10 vacancies. He submitted that 07 vacancies should be filled up as per the Recruitment Rules in force prior to issue of Recruitment Rules (SRO 15) on 28.02.2017 (Annexure A-9).

FINDINGS

9. The applicants are working as Stenographer Grade III (4000-6000). In terms of SRO 146 dated 21.09.2004 (Annexure A-2), their avenue for promotion was to Stenographer Grade-II (5000-8000) after 08 years of regular service as Stenographer Grade III. Further, in terms of SRO 61 dated 07.07.2005 (Annexure A-3) incumbent of the grade of

Stenographer Grade II (5000-8000) were eligible for promotion as Stenographer Grade I (5500-9000) after 3 years of regular service.

10. The above stated settled position was changed when SRO 86 dated 20.12.2011 (Annexure A-4) was issued for Stenographer Grade - II in which the recruitment by promotion was mentioned as under:

***“Promotion :** Lower Division Clerk with eight years continuous service in the grade after appointment thereto on a regular basis. The same period of service shall also apply in the case of a candidate who has served partly as a Lower Division Clerks or an Upper Division Clerk and partly in equivalent grade.”*

11. It needs to be mentioned that SRO 146 for Stenographer Grade – III mentions filling up of vacancies as under:

***“Promotion :** Lower Division Clerk with eight years continuous service in the grade after appointment thereto on a regular basis. The same period of service shall also apply in the case of a candidate who has served partly as a Lower Division Clerks or an Upper Division Clerk and partly in n equivalent grade.”*

12. It is clear from above that eligibility criteria for promotion to Stenographer Grade – II in SRO 86 and for Stenographer Grade – III in SRO 146 is the same.

13. Perusal of SRO 86 dated 20.12.2011 (Annexure A-4) indicates that there is no mention about Stenographer Grade III. The respondent department has issued Part II order dated 30.03.2012 (page 31, Annexure A-4) wherein Stenographer Grade III have been re-designated as Stenographer Grade-II with no change in pay band and Grade Pay. This

letter makes a reference to letter dated 15.03.2012 of IHQ (Annexure R-3), which states that the post of Stenographer Grade III are now required to be re-designated as Stenographer Grade II. It has not been clarified that under which authority this re-designation has taken place and how old grades of Stenographer Grade – III have been retained while re-designating them as Stenographer Grade – II. Also, nothing has been mentioned about status of posts of Stenographer Grade – III.

14. We find it shocking that the cadre of Stenographer Grade III, which had its own Recruitment Rules and vacancies were being filled up through selection till December 2011 have been left in the lurch by the respondent department.

15. There is no document on record to spell out the career path of Stenographer Grade III, who have already been appointed prior to 20.12.2011. Re-designating them as Stenographer Grade II but retaining the old scale at 4000-6000 creates a very anomalous situation, wherein in the same designation of Stenographer Grade II, some people are working in 4000-6000 and some are working in 5000-8000. It is also noted that even after a lapse of eight years from 20.12.2011, no instructions have been issued regarding the avenue of promotion of Stenographer Grade III.

16. We have considered the matter.

17. It is noted that Shri Harish Kushwaha (applicant in OA 1195/2018) had completed eight years of regular service as Stenographer Grade III when SRO 86 dated 20.12.2011 was issued. However, he was not been considered for promotion to Stenographer Grade II as it was stated that there were no vacancy.

18. Prior to issue of SRO 86 on 20.12.2011, the avenue of promotion from Stenographer Grade III to Grade II to Grade I and further to PS and SPS was well defined. Persons from clerical grade on promotion or direct recruitee to Stenographer Grade – III had reasonable expectations to move up the heirarchy upto Gazetted grade. However, issue of SRO 86 on 20.12.2011 left a gap as far as career advancement of Stenographer Grade – III is concerned. Since the respondent department has failed to protect the interest of those who were working as Stenographer Grade III, it would only be in fitness of thing that we provide the relief to the applicants, who have been forgotten by the department.

19. As noted above, the eligibility criteria for being promoted as Stenographer Grade – III in SRO 146 was in no way inferior to the same for Stenographer Grade II in SRO 86.

20. The ends of justice would be met if the Stenographer Grade III are promoted to Stenographer Grade II (5000-8000) after they complete eight years of regular service therein as was the case prior to the issue of SRO

86 on 20.12.2011. However, in case eight years are completed before 20.12.2011, the promotion would be from the date of vacancy or 20.12.2011, whichever is earlier. Also, they would be entitled to consequential benefits like merger to Stenographer Grade – I as per scheme dated 27.02.2013 (Annexure A-5).

21. It is also directed that all the posts of Stenographer Grade I, which have fallen vacant prior to issue of SRO 16 dated 28.02.2017 (Annexure A-9) should be filled up as per the rules prevalent at that time, as is the stand already taken by the respondents vide letter dated 10.10.2014 (Annexure A-8).

22. To avoid further piecemeal litigation, these orders are to be implemented in rem. The applicants in these OAs are to be given financial benefits from the date three years prior to the date of filing of these OAs. For other similarly situated persons, the financial benefit will accrue from the date of pronouncement of this order. These orders should be implemented within 90 days from the date of communication of the order.

23 Accordingly, the Original Applications are allowed. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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