

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.1155 of 2011

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

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



1. Surendran Nair S/o Late Gopalan Nair, age 54 years, Stenographer Gde I, 506 Army Base Workshop, Jabalpur, M.P.-482005
2. K.A. Thomas S/o Late KO Abraham, Age: 51 years, Stenographer Gde II, 506 Army Base Workshop, Jabalpur (MP)-482005
3. Shri Mahendra Prasad, S/o Shri Yamuna Prasad, Age: 52 years, Stenographer Gde II, 506 Army Base Workshop, Jabalpur (MP)-482005

-Applicants

(By Advocate **-Shri P. Shankaran Nair**)

V e r s u s

1. The Union of India, through the Secretary, Ministry of Defence, South Block, DHQ, PO, New Delhi, Pin 110011
2. The Secretary, Ministry of Personnel Public Grievances and Pensions, Department of Personnel & Training, Shastri Bhawan, New Delhi-110001
3. The Director General of EME (Civ) Integrated Headquarters Ministry of Defence (Army) DHQ, PO, New Delhi, Pin 110011
4. The Commandant, 506 Army Base Workshop, Jabalpur (MP)-482005

- Respondents

(By Advocate **-Shri Varun Nathan proxy counsel for Smt. Kanak Gaharwar**)

(Date of reserving the order:-22.07.2019)

O R D E R

By Ramesh Singh Thakur, JM:-

The brief facts of the case are that the applicants were appointed as Stenographer Gr. C (re-designated as Gr. III) in the pay scale of Rs. 330-560, which was revised to Rs. 1200-560 on 1.01.1986 and to Rs. 4000-6000 from 01.01.1996.



2. The applicant No.1 was subsequently promoted to Stenographer Gr. III on 29.07.2000 and to Stenographer Gr. I on 01.04.2006. Similarly applicant No.2 and 3 were promoted to Stenographer Gr. II on 01.09.2000 and 04.08.2006 respectively. Ministry of Finance issued instructions vide O.M. dated 06.02.1989 to up-grade the Stenographers Gr. III to Gr. II in those cases where the officers in a scale of pay lower than JAG have been allowed the revised scale of JAG. Copy of the order is annexed as Annexure A-3.

3. Accordingly, the officers posted under respondent No.4 were entitled to Stenographic Assistance i.e.



Stenographer Gr. II, Stenographer Gr. I and Sr. P.A. Since the said benefits were not extended by the respondents, some of the affected employees filed O.A. No. 1226/1999 before the PB of the Tribunal, New Delhi and the same was allowed vide order dated 22.11.2000. The said order was finally implemented by the respondents vide letter dated 03.03.2008 but the same was made applicable only to those applicants who were before the PB of This Tribunal when the policy in nature has been up-held by various benches of the Tribunal and it is an order in rem and not in personum. The applicants have made the representations on 31.03.2008 followed by the reminder on 08.04.2009 (Annexure A-4 and A-5) to grant them similar benefits as granted to others. However, despite passing three years, the respondent No.3 in consultation with respondent No.1 has not passed any order either rejecting or accepting the claim of applicants.



4. Similar was also adjudicated by this Tribunal also in O.A. No. 795/1999 and the same was allowed vide order dated 25.06.1998(Annexure A-6) and implemented by respondent No.1. Those Stenographers were promoted to Steno Gr. II, subsequently to Steno Gr.I and Sr. P.A. as a consequence of implementation of the Tribunal's order. However as per recruitment rules the post of Stenographer II is a promotional post, copy of SRO dated 21.09.2004 is annexed as Annexure A-7.

5. The respondents did not grant the same benefits to the applicants and even not considered their representations. The respondents ignored the provisions of the recruitment rules and promoted the applicants in O.A. No. 1226/1999 ignoring the claim of applicants herein for promotion being seniors to some of those applicants and also in contrary to the recruitment rules. Because of the unjust and arbitrary action of the respondents the applicants have been

deprived of the benefits of higher grades and consequential monetary loss in all these years.

6. The respondents have filed their reply to the Original Application.



7. In preliminary submissions to the reply the respondents have urged that the applicants sought the benefits of a higher pay scale on the basis of the decision in O.A. No. 1226/1999 (**Vishwanath Kartha & Others vs. Union of India and others**) decided by the Principal Bench vide order dated 22.11.2000 (Annexure A-3). They sought a direction for grant of similar benefits at par with the applicants in the O.A. No. 1226/1999 with all consequential benefits, wherein the applicants who were stenographers were seeking fixation of their pay and allowances in terms of Ministry of Personnel Public Grievances and Pensions O.M. dated 06.02.1989, relying on the decision in an earlier O.A. No. 729/1992.



8. It is further submitted by the replying respondents that the applicants have filed the instant O.A. on the basis of order dated 22.11.2000 passed in O.A. No. 1226/1999. They submitted representations only on 31.03.2008 (Annexure A-4) i.e. after a lapse of more than seven years. The applicants have approached this Tribunal only on 30.11.2011 i.e. after a lapse of 11 years. As regards subsequent representation/reminder dated 08.04.2009 (Annexure A-5) it is submitted that it is a settled principles of law that subsequent representation does not extend the period of limitation.

9. The grounds raised by the applicants for such an inordinate delay in filling the O.A. are not tenable. The applicants have not come before this Tribunal within the stipulated period of limitation as envisaged under Section 21 of the Administrative Tribunals Act 1985.

10. The respondents further submitted that with regard to O.M. dated 06.02.1989 it only seeks to lay down the grades of stenographers to be attached to different



levels of officers in subordinate offices. They further clarified that it does not imply that an officer in a particular scale is automatically entitled to a full-time stenographer of the corresponding scale. It has been further clarified that the O.M. dated 06.02.1989 generally applies to offices and posts in which the work carried out is of administrative nature. The functional requirement of stenographers in Base workshops are entirely different and the provisions of DOP&T O.M. dated 06.02.1989 are not applicable since no post of steno is linked to the nature of job and quantum of work of the officers determined by the work study.

11. As regards the order dated 25.06.1998 passed by this Tribunal in O.A. No. 795/1995, it is submitted that the matter pertains to Military Engineering Services ('MES') Dept. the upgraded pay scale as made applicable to MES cannot be made applicable to Steno in EME since the functional requirement of steno in EME are entirely different to that of MES. They also



deal with civil authorities for execution of work. The work entrusted to the applicants is quite different as compared to other civil administrative officers. Thus, the applicants are not similarly situated and hence cannot claim parity. Therefore the same pay scale cannot be equated.

12. We have heard the learned counsel for both the parties and carefully perused the pleadings and the documents annexed therewith.

13. From the pleadings it is clear that the applicant is seeking the entitlement of Stenographer Assistance on the ground that the similarly situated persons have been granted in O.A. No. 1226/1999.

14. On the other side, the respondents have clearly spelt out in their reply that Original Application No. 1226/1999 (**Vishwanath Kartha & Others vs. Union of India and others**) decided by the Principal Bench vide order dated 22.11.2000 (Annexure A-3), is not applicable. A clear stand taken by the respondent



department is that the nature of work of administrative unit and the functional requirement of stenographers in Base workshops are entirely different and the provisions of DOP&T O.M. dated 06.02.1989 are not applicable. Number of post of steno is linked to the nature of job and quantum of work of the officers determined by the work study.

15. It has been specifically submitted by the respondents department that the applicant had filed the Original Application on the basis of 1226/1999 and submitted representation on 31.03.2008 i.e. after a lapse of more than seven years. The applicant has approached the Tribunal only on 30.11.2011 i.e. after a lapse of 11 years. The subsequent representation/reminder dated 08.04.2009 (Annexure A-5) does not extend the period of limitation.

16. From the reply and the arguments done by the counsel for the respondents are agreed to the extent

that repeated representation does not extend the limitation period for filing the Original Application.

17. From the pleadings it is itself clear that Original Application No. 1226/1999 was dated 22.11.2000 and the applicant made representation on 31.03.2008 and ultimately approached the Tribunal on 30.11.2011. Admittedly the applicant has approached this Tribunal after a lapse of 11 years. We also agrees to the submission put forth by the counsel for the respondents that O.M. dated 06.02.1989 laid down the grades of stenographers to be attached to different levels of officers in subordinate offices and it does not imply that an officer in a particular scale is automatically entitled to a full-time stenographer of the corresponding scale. It is also clarified that O.M. dated 06.02.1989 generally applies to offices and posts in which the work carried out is of administrative nature. The functional requirement of stenographers in Base workshops are



entirely different and in our view the provisions of DOP&T O.M. dated 06.02.1989 are not applicable.



18. Regarding the Original Application No.795/1995 is concerned, the matter pertains to Military Engineering Services ('MES') Dept. whereby the department has upgraded the scale as made applicable to MES and the same cannot be made applicable to others.

19. So in our view this will not help the applicants in any way with a fact that MES deals with civil authorities for execution of work. The work entrusted to the applicants is quite different as compare to other civil administrative officers. Moreover, it is the prerogative of the employees to have such administrative structure as per their requirement. So the applicants are not similarly situated and does not deserve for any relief.

20. Resultantly, this Original Application is dismissed. No order as to costs.

(Ramesh Singh Thakur)
Judicial Member
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(Navin Tandon)
Administrative Member