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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. O.A.192/ 1986.
T.A. No.

DATE OF DECISION April 26, 1988.

Shri O.P. Sharma **Petitioner**

Shri K.M. Sharma **Advocate for the Petitioner(s)**

Versus

Union of India **Respondent**


Mrs. Raj Kumari Chopra **Advocate for the Respondent(s)**

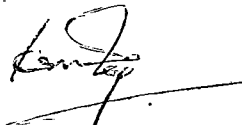
CORAM :

The Hon'ble Mr. Justice K. Madhava Reddy, Chairman.

The Hon'ble Mr. Kaushal Kumar, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether to be circulated to other Benches? *No*


(KAUSHAL KUMAR)
MEMBER (A)
26.4.1988.


(K. MADHAVA REDDY)
CHAIRMAN
26.4.88.

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 192/1986.

DATE OF DECISION: April 26, 1988.

Shri O.P. Sharma Applicant.
V/s.
Union of India Respondent.

CORAM: Hon'ble Mr. Justice K. Madhava Reddy, Chairman.
Hon'ble Mr. Kaushal Kumar, Member (A).


For the applicant Shri K.M. Sharma,
Counsel.
For the respondent Mrs. Raj Kumari Chopra,
Counsel.

(Judgment of the Bench delivered by
Hon'ble Mr. Kaushal Kumar, Member)

JUDGMENT

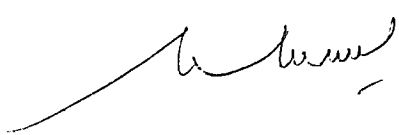
The applicant, who was appointed against an ex-cadre post of Stenographer Gr. II in the pay scale of Rs.425-700 in the Department of Company Affairs, Ministry of Industry and Company Affairs, New Delhi, on 5.2.1972, and has been holding the post since then, feeling aggrieved by denial of any promotional avenues for him, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, seeking a direction to the respondents for releasing the posts of Senior P.A.s in Grade 'B' of the Central Secretariat Stenographers Service attached to Member, Company Law Board (Headquarter), Director of Inspection & Investigation and Additional Director of Inspection & Investigation in the Department of Company Affairs at New Delhi from the CSSS and for their being filled up by promotion of ex-cadre Stenographers like the applicant in the Department.

2. The post held by the applicant is one of the five ex-cadre posts of Stenographers Gr. II in the




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Department of Company Affairs in the pay scale of Rs.425 - 700. The comparable post of Stenographer Gr. 'C' included in the cadre of Central Secretariat Stenographers Service (for short CSSS) carried the pay scale of Rs.425 - 800. After implementation of the recommendations of the Fourth Pay Commission, the two grades now stand revised to Rs.1400 - 2300 and Rs.1400 - 2600 respectively. The case of the applicant is that originally at the time of creation of these posts of ex-cadre Stenographers, they were attached to Director of Inspection & Investigation, Additional Director of Inspection & Investigation and other officers of the Inspection Wing in the Company Law Board. The Department of Company Affairs consists of a regular secretariat comprising the hierarchy of Secretary, Additional Secretary, Joint Secretaries, Directors, Deputy Secretaries, Under Secretaries etc., like any other Ministry / Department, besides an Inspection Wing, referred to above and the Company Law Board. Besides the incumbents of the ex-cadre posts of Stenographers Gr. II, there are other Stenographers belonging to CSSS, who are attached to various officers and the postings are interchangeable. Later on, consequent upon the amendment of the Companies Act, three posts of Members of the Company Law Board were also created along with three posts of Senior P.A. in Grade 'B' of the CSSS in the pay scale of Rs.650-1040 instead of upgrading the ex-cadre posts of Stenographer in the pay scale of Rs.425 - 700. The encadrement of the posts in the CSSS had adversely affected the interests of the ex-cadre Stenographers including the applicant. It is contended that this was done behind the back of ex-cadre Stenographer and is in utter violation of the rules of natural justice.



One post of Private Secretary to Public Trustee in the pay scale of Rs. 650 - 960 had been reserved for promotion from amongst the ex-cadre Stenographers. The applicant was also offered the post of Private Secretary to Public Trustee at Bombay in the higher scale of Rs. 650 - 960, but he did not join the said post.

3. The case of the respondents is that since the ex-cadre posts of Stenographer Gr. II carried the lower scale of Rs. 425 - 700 and since they are isolated posts which fact the applicant was fully aware of at the time of his appointment, these posts cannot be included in the regular cadre of CSSS and even though the applicant has no legal right for promotion as such since he was appointed against an ex-cadre or isolated post, the Department had still made efforts to alleviate the stagnation by providing some promotional avenues when they were asked to exercise their option for being considered as Senior P.A. attached to the Members of the Company Law Board at Bombay and Calcutta. It is further stated in the counter-affidavit that it was decided to exclude one post of Senior P.A. (temporarily from the purview of Grade 'B' of CSSS) attached to the Member of the Company Law Board at Delhi to provide another avenue of promotion to Stenographers Grade II (Ex-cadre) and even action for framing the Recruitment Rules for this post was initiated. However, the proposal was not agreed to by the Union Public Service Commission on the ground that since ex-cadre Stenographers of Gr. II had one avenue of promotion to the post of Private Secretary to Public Trustee, a second channel of promotion could not be provided to the same category. After implementation of the recommendations of the Fourth Pay Commission, the revised scales corresponding to Rs. 650 - 960 and



Rs.650 - 1040 are Rs.2000 - 3200 and Rs.2000 - 3500 respectively.

4. After the arguments were heard in this case, a petition for amendment was filed. In the amended petition, the plea of 'Equal pay for Equal work' has been raised. It is contended that the applicant joined the Department of Company Affairs in 1972 and for the last 15 years or so, he has been working with officers of the level of Director / Joint Secretary, who are entitled to the services of Senior P.A. in Grade 'B' in the revised scale of Rs.2000 - 3500 and, therefore, he is also entitled to the said pay scale.

5. It is pointed out in the counter-affidavit that the post of ex-cadre Stenographer held by the petitioner is not only lower in status as well as in scale of pay as compared to the post of even Grade 'C' Stenographers of Central Secretariat Stenographers Service, but the appointing authority is also different inasmuch as in the case of ex-cadre posts of Stenographer, the appointing authority is Director whereas in the case of Grade 'C' posts of CSSS, the appointing authority is the President of India. The mode of recruitment is also different inasmuch as for the ex-cadre posts, the same can be filled up by transfer / deputation of Upper Division Clerks / Lower Division Clerks of CSCS or Steno-typists failing which by direct recruitment by the Department, whereas in the case of Grade 'C' Stenographers of CSSS, the Recruitment Rules provide either for promotion of Grade 'D' Stenographers of CSSS or direct recruitment through UPSC. Further the ex-cadre posts of Stenographers belong to the General Central Service which is not an organised service, whereas the CSSS is an organised service. It is also pointed out in the letter dated 21st September,



1984 addressed by the Director, Department of Company Affairs to the Director, Fourth Pay Commission that three posts of Grade 'B' Stenographers attached to Members, Company Law Board were available for promoting the ex-cadre Stenographers.

6. The doctrine of 'Equal pay for Equal work' as enshrined in Article 39(d) of the Constitution is applicable with reference to the nature of work attached to a post and duties and responsibilities required to be carried out by the incumbent thereof. In the present case, the applicant seeks to invoke the said doctrine by virtue of his having been attached to senior officers of the rank of Director / Joint Secretary. Such an attachment to senior officers is through sheer coincidence, option or volition of the applicant and not with reference to the designation of the post as such held by him. It is quite possible that persons in the ex-cadre category of Stenographers senior to the applicant might not be attached to senior officers of the rank of Director / Joint Secretary entitled to services of Grade 'B' Stenographers. It would thus be unfair to deny the benefit of upgradation to them while extending the benefit to the applicant merely because he happens to be attached to a senior officer. It is not as if all the incumbents of the posts of ex-cadre Stenographers in the Company Law Board are required to perform the same duties and shoulder the same responsibilities as enjoined for Grade 'B' of the CSSS.

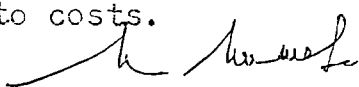
7. An individual cannot be a judge of his own performance nor can he assess the volume of work or the quality of work he does to equate himself with an official in the higher grade - may be in the same line of promotion. Each grade in a Service prescribes with it the modes of

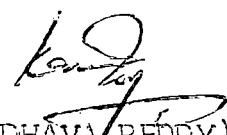
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appointment to that grade, which are not personal to an individual. An individual can claim a particular scale of pay only when he is appointed in that scale of pay by the appropriate appointing authority. It is only by virtue of the fact that some of the duties in different grades of Stenographers overlap that an individual is allowed to continue with a particular officer - may be senior or junior to an officer with whom he may normally be posted. Such postings are purely an internal and coincidental arrangement and do not confer on an individual the right to claim a higher scale. If on occasions, public interest demands a stenographer in the senior scale to work with a junior officer, he cannot be downgraded by virtue of his posting with a junior officer. Thus a mere posting with a senior officer does not place an individual in a better position at the cost of others who may be much senior to or more qualified than the particular person.

8. In the circumstances of the case, we do not see any merit in the contention of the applicant that he is entitled to upgradation of his pay scale on the basis of the doctrine of 'Equal pay for Equal work'. While the applicant has no legal right for upgradation as claimed by him and the petition is liable to be dismissed, the respondents should consider the case of the applicant and other similarly placed Stenographers purely on the ground of hardship caused by stagnation. With this observation, the application is dismissed with no order as to costs.


(KAUSHAL KUMAR)
MEMBER (A)
26.4.1988.


(K. MADHAVA REDDY)
CHAIRMAN.
26.4.88.