

Two

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA No.2712/90

New Delhi this the 21st Day of December, 1994.

Sh. N.V. Krishnan, Vice-Chairman (A)  
Sh. C.J. Roy, Member (J)

(10)

1. Sh. Rakesh Kumar, Asstt.
2. Smt. Shashi Kapoor, Steno 'C'
3. Sh. K.C. Sharma, Asstt.
4. Smt. T. Geetha, Asstt.
5. Sh. C.Divakaran, Asstt.
6. Sh. Kailash Chand, Asstt.
7. Sh. Sudarshan Kumar, Steno 'C'
8. Sh. P.P. Kumar, Asstt.
9. Sh. Ved Prakash, Asstt.
10. Sh. Sher Singh, Steno 'C'

...Applicants

(All employees of Central Social Welfare Board,  
'SAMAJ KALYAN BHAVAN', B-12, Tara Crescent,  
Institutional Area, South of I.I.T., New Delhi).

(By Advocate Sh. D.R. Gupta, though none appeared)

Versus

Executive Director,  
Central Social Welfare Board,  
'SAMAJ KALYAN BHAVAN',  
B-12, Tara Crescent,  
Institutional Area,  
South of I.I.T.,  
New Delhi-110 016.

...Respondent

(By Senior Advocate Sh. P.H. Ramchandani, though none  
appeared)

ORDER(ORAL)

Hon'ble Mr. N.V. Krishnan:-

The applicants are employees of the Central Social Welfare Board. Some of them are Assistants and others are Stenographers Grade 'C'. They are aggrieved by the order dated 19.12.90 (Annexure A-1) of the respondent, (i.e., the Executive Director, Central Social Board (hereinafter referred to as Board, for short) by which the earlier circular dated 21.9.90 was withdrawn with immediate effect, in accordance with the OM of the Finance Department dated 11.12.90. They pray that this order should be quashed and the benefit given to them by the earlier order dated 21.9.90 should be restored.

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2. This dispute has arisen in the following circumstances:-

2.1 Following the judgement of this Tribunal in OA-1538/87 (Annexure-3), OM dated 31.7.90<sup>u (P-15)</sup> was issued by the Ministry of Personnel, by which the pay scale of Assistants of the Central Secretariat Service and Grade 'C' Stenographers of the Central Secretariat Stenographer Service was revised to Rs.1640-2900 w.e.f. 1.1.86. It was mentioned therein that the same revised pay scale will also be applicable to Assistants and Stenographers in other Organisations like the Ministry of External Affairs which are not participating in the Central Secretariat Service and the Central Secretariat Stenographers Service.

2.2 Thereupon, it would appear that the employees of the Board brought to its notice this OM dated 31.7.90 of the Department of Personnel.

2.3 Thereupon, circular dated 21.9.90<sup>u (P-14)</sup> was issued extending the benefit of the pay scale of Rs.1640-2900 to Assistants and Stenographers Grade 'C' of the Board from 1.11.86. The arrears due to them on the basis of this circular were disbursed on 17.12.90, as is clear from the reply of the respondents.

2.4 In the meanwhile, the Ministry of Finance issued OM dated 11.12.90<sup>u (P-13)</sup> in which it was directed as follows:-

"It may be stated in this connection that the revision in the scale of pay of Assistants/Stenographers in CSS/CSSS was made with a view to set right, in accordance with the prescribed procedure, an anomaly in the scales of pay as recommended by the 4th Central Pay Commission. Since there is no anomaly as such in the pay scale of

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Assistants/Stenographers in autonomous bodies, the instructions contained in the O.M. dated 31.7.90 of the Department of Personnel & Training are not applicable to any autonomous bodies. In view of the position aforesaid, FAs of all Ministries/Departments of the Government of India are requested to ensure that the instructions contained in the O.M. dated 31.7.90 of the Department of Personnel & Training, which is meant exclusively for Assistants/Stenographers of the CSS/CSSS, are not extended to autonomous organisation etc. under the administrative control of their Ministries/Departments. In case it is found that any of the autonomous organisations have already issued orders extending the pay scale of Rs.1640-2900 to their Assistants/Stenographers inadvertently, they may be asked to take corrective measures to withdraw those orders forthwith. It may also be ensured that the arrears of pay & allowances, if any, paid in this connection, to the employees may be recovered immediately."

2.5 A copy of this OM was received in the Board on 18.12.90 only, before which date the arrears had been disbursed. Therefore, the Board issued the impugned memorandum dated 19.12.90 (Annexure A-1) which reads as under:-

"OFFICE ORDER

F.4-10/86-Admn.

Dated: 19th Dec.1990

Subject: Revision/refixation of pay of Asstt. Gr.II and Stenographer Gr.C in the scale of pay of Rs.1640-2900.

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The office circular of even number dated 21.9.90 extending w.e.f. 1.1.1986 the scale of pay of Rs.1640-60-2600-EB-75-2900 to the Asstt. Gr.II and Stenographer Gr.C who were in the pre revised scale of pay of Rs.425-15-500-EB-25-800, is hereby withdrawn with immediate effect in accordance with the OM No.F.744/IC/90 dated 11th Dec. 1990 of Govt. of India, Ministry of Finance, Department of Expenditure.

sd/-  
( KUSHAL SINGH )  
EXECUTIVE DIRECTOR

All Assistants/Stenographer Gr.C.

Copy to: I.F.A. for information and necessary action.  
P&AO for information and necessary action.

sd/-  
DEPUTY DIRECTOR (ESTT.)"

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2.6 It is noted that there is no order of recovery, unless it is implicit in the endorsement of that order. It is then that the applicants filed this OA immediately thereafter on 20.12.90 for the following directions:-

"8.1 to set aside the order O.O. No.F-4-10/86-Admn dated 19.12.90 in terms of Ministry of Finance, Office Memorandum No.F.No.744/IC/90 dated 11th December, 1990 withdrawing the orders revising the pay scales of the Assistants and Stenographers Grade 'C' equivalent to their counterparts in the Central Secretariat Services and to recover the arrears of pay and allowance, if any paid, in this connection to the employees of Central Social Welfare Board;"

7. When this matter came up for admission on 21.12.90 an ad-interim order was given that no recovery shall be effected from the salary of the applicants till the next date of hearing and this interim direction is continued until further orders.

8. The respondent filed a reply in which the averments made, as mentioned above, have not been contested. In paras 4.2, 4.5 and 4.6 it is stated as follows:-

"Para 4.2 It is submitted that the Central Social Welfare Board is a Company registered under the Company's Act, 1953. The administration of the affairs of the Board is vested in an Executive Committee. All proposals relating to emoluments, adoption of pay-scales, allowances and revision thereof in respect of posts whose maximum salary exceeds Rs.4500/- are subject to the decision of the government of the Union. It is submitted that the administration of the affairs of Central Social Welfare Board including adoption of pay scales, emoluments, allowances and revision thereof in respect of posts whose maximum pay does not exceed Rs.4500/- is vested in the Executive Committee of the Board. It is further submitted that the pay scale of Rs.1640-2900 was extended to the Assistants Grade-II and Stenographers Grade 'C' of the CSWB who were in the pre-revised scale of Rs.425-800 by interpretation of the O.M. dated 31-7-1990 of the Ministry of Personnel.

Para 4.5 In reply to para 4.5 of the O.A. it is stated that the issue is not of equal pay for equal work but about the admissibility of the revised scale to autonomous bodies on the basis of the O.M. dated 11-12-1990. The competent authority to revise the scale i.e. the Executive Committee of the Board had not approved the proposal for adoption of the revised scale since the proposal had not gone to them.

Para 4.6 As long as the approval of the competent authority has not been obtained the respondents are forced to apply the O.M. issued by the Ministry of Finance under which autonomous bodies are denied of the benefit of revision."

This has been reiterated in para 5.1 of the reply as follows:-

"5.1 It is submitted that the Executive Committee of the CSWB is the competent authority to decide on revision of the scale and in this case the proposal has not been placed before the Executive Committee."

4. The applicants have reiterated their claim in the rejoinder.

5. We have carefully considered the pleadings and the rival contentions.

6. The circular dated 21.9.90 was issued on an interpretation of the circular of the Department of Personnel dated 31.7.90. It is not clear by whom the decision was taken. However, on receipt of the Ministry of Finance circular dated 11.12.90, the Board immediately withdrew the earlier circular. In the light of what has been stated in para 4.5 of the reply, it would appear that the matter ought to have been considered by the Executive Committee of the Board in the first instance before the order dated 21.9.90 was issued.

7. In the circumstances, we are of the view that the proper order that should be issued in this case is to direct the Executive Committee of the Board to consider the matter and pass appropriate orders. In so far as recovery of arrears is concerned, we notice that no recovery has been ordered by the Annexure-1 order. The recovery, if at all required to be made, shall not be order<sup>ed</sup> until a final decision is taken by the Board after considering the matter.

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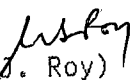
9. For these reasons we dispose of this OA with the following directions:-

i) The respondent - Central Social Welfare Board - shall place before the competent authority the judgement of the Tribunal in OA-1538/87 (Annexure-3) as well as the OM dated 31.7.90 of the Ministry of Personnel revising the pay scales of Assistants and Stenographers Grade 'C' of the Central Secretariat, as well as the office memorandum dated 11.12.90 of the Ministry of Finance and consider whether the Assistants and Stenographers Grade 'C' of the Board should be given the benefit of the revised pay scale of Rs.1640-2900 and if so with effect from what date. The impugned order dated 19.12.90 will finally abide by any such decision that may be taken by the respondents.

ii) We further direct that until a decision is taken as directed in (i) above, the recovery, if any ordered, shall remain stayed and the respondent shall take a fresh decision in this regard while taking a decision, as mentioned in (i) above.

iii) The above directions shall be carried out within four months from the date of receipt of this order.

iv) Needless to say, if still aggrieved, it is open to the applicants to seek such legal remedies as may be advised.

  
(C.D. Roy)  
Member(J)

'Sanju'

  
(N.V. Krishnan)  
Vice-Chairman(A)