

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA 426/90

Date of decision: 07.04.1992.

Shri O.P. Nag

..Applicant

Vs.

Union of India through the
Secretary, Min. of Home
Affairs and Another

..Respondents

For the Applicant

..Shri M.K. Gupta,
Counsel

For the Respondents

..Shri P.P. Khurana,
Counsel

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

The applicant, who is working as Private
Secretary (PS) in the Ministry of Home Affairs, New
Delhi, filed this application under Section 19 of the
Administrative Tribunals Act, 1985, praying for the
following reliefs:-

- (i) The respondents be directed to restore to him
the pay benefit sanctioned to him on his promotion from
Grade 'B' to Grade 'A'; and

(Signature)

(ii) They be directed to fix his pay at Rs.2900/-, corresponding to Rs.1040/-(pre-revised) drawn by him with effect from 30.5.1986.

2. We have heard the learned counsel of both parties and have carefully considered the matter. The applicant was working as Grade 'B' Stenographer of the Central Secretariat Stenographers Service (CSSS) in the Ministry of Communications in 1986. His name was included in the select list for Stenographer Grade 'A' 1985. He was nominated by the Department of Personnel & Training to the cadre of Ministry of Home Affairs. On his promotion to Grade 'A' in the Ministry of Home Affairs on 30.5.86, he was posted as Private Secretary to the Chairman, Staff Selection Commission. He claims that the said post carries duties and responsibilities of greater importance than that attached to the post held by him as Grade 'B' and, therefore, his pay was rightly raised from Rs.960/- to Rs.1040/-(pre-revised). Subsequently on 13.9.86, the notification on the Revised Pay Rules based on the 4th Pay Commissions report was issued and all the changes were brought about with retrospective effect from 1.1.1986. One of the changes made was the merger of Grades 'A' and 'B' of the CSSS and this too was given effect ^{to} ~~from~~ 1.1.1986. Under the revised pay rules, his pay was fixed at Rs.2750/-, corresponding to Rs.960/-(pre-revised) drawn by him on 1.1.1986 as Grade 'B' and was not raised to Rs.2900/- corresponding to Rs.1040/-(pre-revised) drawn by him with effect from 30.5.86 as Grade 'A'. That constitutes his grievance.

3. The applicant has stated that one Ms. R.K. Kewlani, who was also like him joined the Ministry of Home Affairs in August, 1986 on nomination from 1985 Grade 'A' select list. She was junior to him in Grade 'C', Grade 'B' and in the erstwhile Grade 'A' and throughout she drew lesser pay than him. On joining Ministry of Home Affairs as Grade 'A' in August, 1986, her pay was fixed at Rs.1,000/- (pre-revised) and that of the applicant ~~xxx~~ was fixed at Rs.1040/- (pre-revised) on 30.5.86 which in the revised pay scale would have been Rs.2825/- and Rs.2900/- respectively. However, under the revised pay scales her pay had been fixed at Rs.2825/- whereas that of the applicant at Rs.2750. He has alleged that this amounts to discrimination.

4. The respondents have stated in their counter-affidavit that the applicant had exercised an option on 6.11.86 electing the revised scale w.e.f. 1.1.1986. They have annexed to the counter-affidavit a copy of the option exercised by him (vide page 31 of the paper book). They have stated that Ms. Kewlani was drawing more pay than the applicant by virtue of her having served in Grade 'A' of CSSS on ad hoc basis from a date prior to 1.1.1986 whereas the applicant never served in Grade 'A' of CSSS prior to 1.1.1986. They have, therefore, submitted that there was no discrimination as alleged. According to them, the pay of the applicant as well as Ms. Kewlani has been fixed correctly and in accordance with the revised pay rules.

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5. The applicant, however, has submitted that the rules should have been relaxed in his case to avoid hardship.

6. We do not see any substance in the contention raised by the applicant. It may be stated that prior to 1.1.1986, the scales of pay of Grade 'B' and Grade 'A' were Rs.650-1040 and Rs.650-1200 respectively. The recommendations of the 4th Pay Commission were accepted and implemented by the Government, according to which, the Grades of Stenographer Grade 'A' and Grade 'B' were merged to a common pay scale of Rs.2000-3500. Grade 'B' Stenographers who were holding the post in the pre-revised pay scale of Rs.650-1040 automatically came over to the new grade of Rs.2000-3500.

7. The erstwhile Grade 'A', Grade 'B', Grade 'C' and Grade 'D' of CSSS were decentralised grades and members of the service were allotted to different cadres. The cadre controlling authorities were empowered to order appointment on ad hoc basis to a temporary vacancy in Grade 'A' of CSSS from Grade 'B' of CSSS if the person had rendered not less than 3 years in the Grade with reference to the cadre-wise seniority in case an officer included in the select list for Grade 'A' was not available or could not for any reason be appointed to such a vacancy. There were instances where in a particular cadre, a Grade 'B' Stenographer who was otherwise junior to a Grade 'B' Stenographer allotted to a different cadre was appointed to Grade 'A' on ad hoc basis within his own

cadre whereas the latter could not get such an appointment for want of vacancy in his own cadre in Grade 'A'. In such a situation, a junior on appointment to Grade 'A' on ad hoc basis would get more pay than his senior allotted to other cadre in Grade 'B', ^{who} could not get such an ad hoc appointment to Grade 'A'. Promotions were centralised only for the purpose of regular appointment to Grade 'A' and the Department of Personnel were empowered to allocate a Grade 'B' officer ~~of~~ a particular cadre to another cadre for regular appointment to Grade 'A' if there was no regular vacancy in Grade 'A' available in his own cadre but he was otherwise senior.

8. In the instant case, the applicant having opted for the benefit under the revised pay rules, cannot contend that some persons who had been appointed on ad hoc basis to Grade 'A' were receiving higher pay. The applicant has not challenged the validity of the CCS(Revised Pay)Rules, 1986. It is not as if he ~~has~~ monetarily suffered on account of switching over to the revised pay scale. He has stated in his rejoinder-affidavit that in the pre-revised scale he would have got Rs.2739/- but in the revised scale he was given Rs.2750/-. The overall benefit for him is only Rs.11/-. (vide page 34 of the paper book). This in itself will not be a cause for challenge.

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9. The applicant has prayed that the rules should be relaxed in his case in order to avoid hardship. In our opinion, no mandamus can be issued to the respondents either to relax the rules in his case or to amend the rules, as prayed for by the applicant.

10. In the light of the foregoing, we see no merit in the present application and the same is dismissed.

There will be no order as to costs.

B. N. Dhoniyal
(B. N. DHOUNIYAL)
MEMBER (A)

Onward
7/4/82
(P. K. KARTHA)
VICE CHAIRMAN (J)

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