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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.2906/2004
M.A. NO.618/2005
M.A. NO.1482/2005

This the 4th day of August, 2005.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

1. Smt. Sunita Guglani,
Stenographer Grade-II
Wife of K.K.Guglani,
R/O A-341, Sarita Vihar,
Delhi-110044.
2. Smt. Sushila Ahuja,
Stenographer Grade-II
Sife of Ashok Ahuja,
R/O A-11 C, MIG Flats,
Mayapuri, Delhi-110064. Applicants

(By Shri Ashwani Bhardwaj, Advocate)

versus

1. Union of India through
Ministry of Finance through
Additional Director General,
Directorate of Data Management,
Central Excise & Customs,
DLF Centre, G.K.-II,
New Delhi-110048.
2. Deputy Director, H.O.O.,
Directorate of Data Management,
Central Excise & Customs,
DLF Centre, G.K.-II,
New Delhi-110048. Respondents

(By Shri N.S.Dalal, Advocate)

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, Vice-Chairman (A):

Applicants have challenged Annexures A-1 and A-2 dated 1.12.2004
whereby they have respectively been granted financial upgradation under the



Assured Career Progression (ACP) Scheme in scale Rs.5500-9000 on the ground that the next hierarchical grade of Stenographer Grade-II is Stenographer Grade-I, i.e., Rs.5500-9000. As such, respondents have directed recovery of excess payment to applicants due to the alleged erroneous fixation of pay in scale Rs.6500-10500.

2. The learned counsel of applicants contended that the ACP Scheme provides that financial upgradation has to be in the next higher grade in accordance with the existing hierarchy in a cadre/category of posts without creating new posts for the purpose. Thus, he maintained that any change in the cadre in future would not affect financial upgradations already granted to the employees under the ACP Scheme. He pointed out that the existing hierarchy of applicants' post provides for the next post of Senior PA in scale Rs.6500-10500 and as such benefit given to applicants under the ACP Scheme is valid and not erroneous. Referring to Annexure A-6 dated 19.7.2001, the learned counsel stated that cadre restructuring effected vide these orders would apply prospectively to the new incumbents and cannot be applied retrospectively to the old incumbents like applicants who had already been given benefits of the ACP Scheme. According to applicants there is no sanctioned post of Stenographer Grade-I with respondents and no person is working as such. Lastly, he submitted that the impugned orders have been issued in gross violation of principles of natural justice as not even a show cause notice has been issued to applicants.

3. The learned counsel of respondents stated that the promotion channel of Stenographers in non-Secretariat organizations like the Directorate in which applicants work is laid down as Stenographer Grade-III (Rs.4000-6000), Stenographer Grade-II (Rs.5000-8000), Stenographer Grade-I (Rs.5500-9000) and Senior PA (Rs.6500-10500). He maintained that the ACP Scheme is totally de-linked with the existence of sanctioned posts. The post of Stenographer Gr.-I in scale Rs.5500-9000 was in existence even at the time of promulgation of the

ACP Scheme in 1999. However, the sole incumbent of the post of Stenographer Grade-I in the Directorate of S&I, now known as Directorate of Data Management, was granted the upgraded scale of Rs.2000-3200 (pre-revised, corresponding to the normal replacement scale of Rs.6500-10500) on the basis of recommendations of the 4th Pay Commission. The scale of Rs.2000-3200 was given to Stenographers attached to the officers of Senior Administrative Grade and equivalent posts by suitably upgrading required number of posts of Stenographers from the lower grade. These posts in the new higher scales were to be filled by promotion as per normal procedure. Since there was only one post of Senior Administrative Grade officer in the Directorate, seniormost incumbent in the post of Stenographer Grade-I was promoted and given the scale of Rs.2000-3200 (pre-revised). However, the designation of the incumbent was not changed. Only one Stenographer Grade-I could have been given promotion to the upgraded scale as there was only one Senior Administrative Grade officer in the Directorate of Data Management. This position has continued till the present date. The 5th Pay Commission recommended placement of all Stenographers Grade-II in pay scale Rs.1600-2660. The Pay Commission stated that the next available grade of Stenographers in non-Secretariat offices is Rs.1640-2900 (Stenographer Grade-I) and did not recommend any change in the existing pay scale of Stenographer Grade-I. In the cadre restructuring announced in July, 2001, Directorate of Data Management was given one post of Sr. PA corresponding to one post of SAG level officer. As applicants were given the scale of Rs.6500-10500 in the grade of Sr.PA erroneously, the error has been set right by providing them the scale of Rs.550-9000.

4. We have considered the respective contentions of parties and also perused the material on record.

5. Admittedly, the revised scales of pay of the relevant grades as per the 5th Pay Commission's recommendations are as follows:

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	Pre-revised Pay Scale	Revised Pay Scale
Stenographer Gr.III	Rs.1200-2040/-	Rs.4000-100-6000/-
Stenographer Gr.II	Rs.1400-2300/- Rs.1400-2600/- (merged and placed in Rs.1600-2660/-)	Rs.5000-150-8000/-
Stenographer Gr.I Sr.P.A.	Rs.1640-2900/- Rs.2000-3200/-	Rs.5500-175-9000/- Rs.6500-200-10500/-

6. In the cadre restructuring announced in July, 2001 on 19.7.2001 (Annexure A-6) Directorate of Data Management was given one post of Sr. PA in scale Rs.6500-200-10500 corresponding to one post of SAG level officer. As such, in Annexure-I attached with Annexure A-6 the scale of Rs.5500-9000 and the post of Stenographer Grade-I have not been mentioned. In letter F.No.22-Confl.DSI/99/103 dated 8.3.2001 issued by Directorate of Statistics & Intelligence, Central Excise & Customs, it has been stated, "Similarly, in this Directorate, the next grade in hierarchy of Steno Gr.II (Rs.5000-8000) is Steno Grade-I (6500-10,500). Though, there is a scale of Rs.5500-9000 in the hierarchy, but as that does not exist in our office, Steno Gr.II were given the scale of 6500-10,500 under the ACP Scheme."

7. It has been pointed out on behalf of applicants that vide Annexure A-7 dated 22.12.2004 applicants' senior one Smt. Naresh Malhotra who was placed in the higher scale in July, 1992 [Rs.2000-3200 (pre-revised)/Rs.6500-10500 (Revised)] is still working in the scale of Rs.6500-10500 though re-designated as Private Secretary in the same scale. It appears that although the 5th Pay Commission had recommended the scale of Rs.1640-2900 (pre-revised)/Rs.5500-9000 (revised) for the post of Stenographer Grade-I, the hierarchy in the cadre/category of posts was not amended accordingly. Thus, the existing hierarchy of applicants' post clearly provides for the next post of Sr.PA in the scale Rs.6500-10500. Smt. Naresh Malhotra had been placed in the higher scale of Rs.6500-10500 on re-designation of the post of Stenographer Grade-I as



Private Secretary w.e.f. 6.6.2001. It is stated that she would retire in 2009. The learned counsel of applicants contended that till such time that this post continues in the hierarchy of the cadre, applicants would be entitled to financial upgradation under the ACP Scheme in scale Rs.6500-10500. May be this post ceases in 2009 when the present incumbent Smt. Naresh Malhotra retires. Then respondents may have reason to withdraw the scale of Rs.6500-10500 under the ACP Scheme from applicants.

8. Respondents have also not been able to deny that no show cause notice was issued to applicants for withdrawing the benefit of financial upgradations to applicants in scale Rs.6500-10500 and consequential placement in the lower scale of Rs.5500-9000 and recovery of excess payment.

9. We are in agreement with the learned counsel of applicants that the existing hierarchy of applicants' posts provides for the next post of Sr.PA in scale Rs.6500-10500. As such they would be entitled for financial upgradation under the ACP Scheme in Rs.6500-10500. The cadre restructuring done in July, 2001 would apply prospectively to the new incumbents and not to applicants retro- respectively. At present there is no sanctioned post of Stenographer Grade-I with respondents and no person is stated to be working on that. Thus, it has to be accepted that in the hierarchy of the cadre the post of Stenographer Grade-I in scale Rs.5500-9000 does not exist. The next post to the post of Stenographer Grade-II is Sr.PA (Private Secretary) in scale Rs.6500-10500. Thus, as long as there is no hierarchical change indicating an intermediate post of Stenographer Grade-I in scale Rs.5500-9000, applicants would continue to enjoy benefit of financial upgradation in scale Rs.6500-10500 under the ACP Scheme. It is also observed that respondents have violated principles of natural justice and not issued any show cause notice prior to issuance of the impugned Annexures A-1 and A-2.



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10. Having regard to the discussion made and reasons stated above, Annexures A-1 and A-2 are quashed and set aside and applicants are held entitled to grant of financial upgradation in scale Rs.6500-10500 as before, with consequential benefits.

11. OA is allowed in the above terms.

12. MA Nos.618/2005 and 1482/2005 also stand disposed of.

S. Raju
(Shanker Raju)
Member (J)

V. Majotra
(V. K. Majotra)
Vice-Chairman (A)

4.8.05

/as/