

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**



OA No.1502/2004

New Delhi this the 14th day of July, 2005.

Hon'ble Mr. Shanker Raju, Member (Judl)
Hon'ble Mr. S.K. Malhotra, Member (Admnv)

1. N.S. Ravi
2. Ms. B.N. Manjulatha
3. Ms. B.S. Ramamani
4. Om Prakash Mishra
5. Rajiv Thukral
6. Ms. Madhu Bala
7. Ms. Seema Goel
8. Ms. Kanta Suneja
9. Girdhari Lal
10. Ms. Swaran SHarma
11. Ms. Usha
12. Pradeep Kumar
13. Ms. Sunita Soni
14. Sanjay Kumar
15. Amarpal Mann
16. Ms. Sunita Aggarwal
17. Ms. Jaswinder Nigam
18. Raj Kumar
19. Ravi Kalra
20. Ms. Tara
21. Ms. Machula
22. Ms. Shubh Lata Sharma
23. Suresh Bisht
24. Ms. Aruna Goklani
25. Parveen Kakkar
26. Thomas Abraham
27. Ms. Rama Devi Amma
28. Ms. Vasantha Kumari
29. J.L. Verma
30. Ms. L. Mantombai Devi
31. Samuel Masih
32. Ms. Kawaljit Kaur
33. Ms. Nirmal Sharma
34. Ramesh Kumar, Steno.
35. Ms. Gurjit Kaur
36. Kewal Krishan Gudiala
37. Satish Kumar Seth

All working in the Stenographer Grade
With the Sports Authority of India,
Jawaharlal Nehru Stadium,
New Delhi-110 003.

-Applicants

(By Advocate: Shri L.K. Singh)

Versus



1. Union of India
Ministry of Finance
Through its Secretary
North Block,
New Delhi-110 001
2. Union of India
Ministry of Youth Affairs and Sports
Through its Secretary
Shastri Bhawan,
New Delhi-110 001
3. Sports Authority of India
Through its Secretary
Jawahar Lal Nehru Stadium
Lodhi Road Complex,
New Delhi-110 003.

-Respondents

(By Advocate: Shri Arun Bhardwaj)

ORDER

Mr. Shanker Raju, Hon'ble Member (J):

Applicants, who are Stenographers in Sports Authority of India (SAI, for short), have assailed orders dated 15.4.2004, 27.4.2004 and 3.6.2004, whereby pay scale of Rs.1640-2900 (pre-revised) granted and paid to applicants has been withdrawn with recovery. A direction has been sought to quash the orders and also a direction to respondents 1 and 2 to afford an opportunity of hearing to applicants for comparison of their duties with that of Stenographers in Central Secretariat Stenographers Service (CSSS, for short) to arrive at a decision whether they are entitled to the benefit of Rs.1640-2900 (pre-revised) or not?

2. Applicants' service conditions which are not specifically provided in the bye-laws of SAI, Government instructions as well as decisions of the Government applicable to the Central

Government employees shall mutatis mutandis apply to them. The Fourth Central Pay Commission recommended pay scale of Rs.1400-2600 for Stenographers in CSSS w.e.f. 1.1.1986 whereas Rs.1640-2900 for other categories of employees. A case filed by the employees for revision of pay scale of Assistants in CSS in OA-1538/1987 led to an order dated 23.5.1989 directing revised pay scale of Rs.1640-2900 to Grade 'C' Stenographers of CSSS w.e.f. 1.1.1986.

3. A memorandum dated 11.12.1990 issued by the Ministry of Finance clarified that the revision was not applicable to any autonomous body and was exclusively for the Stenographers of CSSS and if any autonomous organization had inadvertently extended the revised pay scale the same may be withdrawn. On the recommendations of the Finance Committee of respondent No.3, pay scale of applicants was revised to Rs.1640-2900 w.e.f. 1.11.1996 with the approval of the Chairman of the Finance Committee. The same was implemented pending approval by the Government of India. Despite stay of the implementation of OM dated 26.12.96 respondent No.3 re-considered the aspect of the pay revision and vide recommendations dated 7.4.97 recommended revision of pay scale to applicants in the pay scale of Rs.1640-2900. Applicants were not granted the revised pay scale from 1.11.96 which led to filing of CWP No.3436/1997 before the High Court of Delhi which has been allowed by the learned Single Judge of the High Court on 16.10.1988. Thereafter LPA No.214/99 was filed which was allowed by order

dated 31.5.2002. Despite the aforesaid order, applicants continued to receive the revised pay scale of Rs.1640-2900.

4. By an order dated 15.4.2004 the pay scale has been withdrawn with direction to recover the amount paid.

5. Learned counsel for applicants assails the orders on the ground that the orders passed by the respondents, withdrawing the pay scale and ordering recovery is unilateral without affording applicants an opportunity to show cause. It is stated that the earlier grant of pay scale was with the approval of respondent No.3 followed by sanction w.e.f. 1.11.96, withdrawal is not in accordance with law.

6. Learned counsel for applicant further states that interpretation accorded to the High Court order dated 31.5.2002 is not in its true letter and spirit as the High Court in its order has vehemently stressed upon the fact that for want of any data for comparability of duties of employees of autonomous bodies with that of their counter parts in Central Government and as no study has been made and for non-placement of material the matter had been adjudicated. In this view of the matter it is stated that before issuing the impugned orders it was obligatory on the part of respondents 1 and 2 to issue directions to respondent 3 to give a detailed analyses of the nature of work carried out to substantiate its recommendations with an opportunity to show cause.

7. In so far as recovery is concerned, referring to the decision of the Apex Court in **P.H. Reddy v. NTRD**, JT 2002 (2) SC 483

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as well as decision of the coordinate Bench in OA-2502/2004 in **Rajesh Kumar v. Union of India**, it is contended that recovery has been set aside.

8. On the other hand, learned counsel for respondents vehemently opposed the contentions and stated that in the wake of finding of the High Court in LPA and the fact that this Tribunal has been observed not to act as an expert committee and once a decision has been taken without the sanction of Government, pay scales recommended by the Central Pay Commission are not mutatis mutandis applicable to the employees of the autonomous bodies, OA is not maintainable.

9. It is further stated that in the light of the finding of the High Court that in the event of any departure by autonomous body a prior approval of the Central Government with a view to fulfill the statutory requirement is obligatory and as before grant of pay scale no approval of the Central Government has been sought, an erroneous order passed by the respondents whereby applicants are not entitled to the pay scale recovery proposed is legally justifiable.

10. We have carefully considered the rival contentions of the parties and perused the material on record.


11. In so far as recovery on account of erroneous revision of pay is concerned, a conscious decision has been taken by the respondents much before the LPA was decided by the High Court of Delhi. To accord pay scale to applicants no fault, fraud or misrepresentation is attributable to them in respect of grant of

revision of pay scale. Accordingly, having regard to the decision of the Apex Court in **P.H. Reddy** (supra) as well as decision of the coordinate Bench in **Rajesh Kumar** (supra) we set aside that part of the impugned orders which directed recovery from applicants.

12. As regards entitlement of the pay scale admissible to Grade 'C' Stenographers of CSSS, we are fortified in our view which is supported by the fact that grant of pay scale of Rs.1640-2900 to the Stenographers of SAI by the Chairman of the Finance Committee in the light of an order dated 26.12.96 passed by the Government of India where payment has been kept in abeyance till approval by the Central Government. There is no approval by the Central Government. As such the decision of the High Court applies mutatis mutandis to the present case and decision to withdraw the pay scale cannot be found fault with. In so far as the plea that the order of the High Court has not been interpreted in its true letter and spirit and the observation of the High Court regarding comparability of duties and functions of the post and for the purposes of attached pay scale with that of their counter parts in Central Government and CSSS is concerned, it is the prerogative of the Government whether to extend the benefit to the autonomous bodies regarding admissibility of pay scale applicable to Central Government employee. The Government at its discretion to afford an opportunity to applicants to compare the nature of work and duties of Stenographers in SAI with that of their counter parts in CSSS to ascertain whether they were entitled

for the pay scale or not. No positive direction can be issued in this regard.

13. In the result, for the foregoing reasons, OA is partly allowed. Relief of quashing the impugned orders and direction to respondent No.1 to afford hearing to applicants regarding comparison of their work and duties is turned down. However, recovery ordered against applicants is set aside. If any amount is recovered from them, the same shall be refunded to them. No costs.


(S.K. Malhotra)
Member (A)


(Shanker Raju)
Member (J)

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