

(2)

(2)

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1869/92 with OA 2870/92

New Delhi, this 5th April, 1999

Hon'ble Shri T.N. Bhat, Member (J)
Hon'ble Shri S.P. Biswas, Member(A)

OA 1869/92 ✓

1. Hanuman Prasad
 2. Mohinder Prakash
 3. B.K. Jain
 4. C.P. Singh
 5. S.C. Bakshi
 6. Darshan Singh
 7. S.N. Yadav
 8. Puran Mal
 9. Ram Niwash
 10. Smt. Shanti Rehani
 11. Smt. Ved Khanna
 12. Smt. Usha Sharma
 13. Smt. Rukmani V. Kumar
 14. Smt. Ramesh Ahuja
 15. Smt. Harjeet Kaur
 16. Mewa Lal
 17. O.P. Madhra
 18. Smt. Rukmani Sadhya
- (All working as Assistants
working in DG, Anti-Evasion
(Central Excise), R.K. Puram, N. Delhi.. Applicants

OA 2870/1992

1. Gurdev Sandhu
 2. Smt. Veena Grover
 3. Shiv Dayal
 4. Smt. Kalawati
 5. Gardhar Singh
 6. A.J.L. Kindee
 7. S.C. Gupta
 8. Ran Singh
 9. Ram Kumar Sharma
 10. Kailash Chand
 11. S.P. Birani
 12. N.S. Duggal
 13. Birendra Singh
 14. B.R. Mishra
 15. Smt. Motia Kapoor
 16. Mohinder Singh
 17. Phool Singh
 18. H.S. Mongia
 19. Smt. Poonam I. Gaheney
 20. D.P. Singh
 21. Smt. Lata Sharma
 22. Ramesh Chander Sharma
- .. Applicants

(All working as Assistants in
DG, Inspection, Customs & Central
Excise, New Delhi)

(By Shri S.K. Gupta, Advocate)

versus

Union of India, through

1. Secretary
Deptt. of Personnel & Training
North Block, New Delhi
2. Secretary
Department of Revenue
Ministry of Finance
North Block, New Delhi
3. Director General
(Revenue & Intelligence)
D Block, IP Bhavan
New Delhi
4. Director General of Anti Evasion
(Central Excise)
West Block VIII, R.K.Puram
New Delhi
5. Director General
Inspection, Customs & Central
Excise
IP Bhavan, New Delhi .. Respondents

(By Shri K.K. Patel, Advocate)

ORDER

Hon'ble Shri S.P. Biswas

1. The applicants, who are Assistants under Director General, Directorate of Revenue & Intelligence (R-3) and Director General, Directorate of Anti-Evasion (Central Excise) (R-4) are aggrieved since they have been denied, vide Ministry of Finance (Department of Revenue)'s communication dated 7.1.91, revised scale of pay of Rs.1640-2900 demanded by them on the principle of "equal pay for equal work", as has been made applicable to their counterparts (Assistants) working in the Central Secretariat Service(CSS for short). At the moment, applicants are in the scale of pay of Rs.1400-2600.

95

30

21

2. It is the case of the applicants that they were getting the same scale of the post of Assistants in the CSS prior to 31.7.90 as recommended by the Pay Commission. The parities in the pay scale that existed prior to 5th Pay Commission are indicated as under:

	Assistants in CSS	Assistants in DRI and DAE (applicants)
1st Pay Commission	160-450	160-450
2nd Pay Commission	210-530	210-530
3rd Pay Commission	425-800	425-800
4th Pay Commission	1400-2600	1400-2600

The 4th Pay Commission also recommended the same pay scale to the Assistants working in different Ministries/Departments including the Assistants in CSS and the applicants herein on the same ground that recruitment of Assistants is either through open competitive examination or by promotion from the scale of Rs.330-560. The duties of the Assistants working in various Ministries and attached/subordinate offices including the Assistants in CSS and those working under R-3 and R-4 are given in the Manual of Office Procedure. The details in the Manual indicate that the duties and responsibilities of the Assistants in all these

9

22

organisations are identical. Applicants would further claim that besides having similar duties and responsibilities like those of Assistants in CSS, they carry the burden of additional work load unlike their counter-parts in CSS as enumerated below:

✓ "To assist the executive staff in search and seizures and also to assist them in investigation of the cases".

4. It is also the case of the applicants that as regards method of recruitment, they fall in line with those Assistants in CSS. Assistants in CSS are selected 50% by direct recruitment through open competitive examination and the remaining 50% by promotion from amongst Upper Division Clerks working in the CSS. Whereas Assistants in DRI and DAE i.e. the present applicants are recruited 75% by promotion and 25% by transfer on deputation.

5. Respondents have declined to grant the scale of Rs.1640-2900 to the applicants on grounds of the following:- (a) the Assistants in CSS belong to Group 'B' whereas the applicants herein belong to Group 'C'; (b) Assistants in CSS are appointed through open competitive examination whereas in the case of applicants, it is by promotion from amongst UDCs; (c) revised scale Rs.1640-2900 has been

96

33

prescribed for the Assistants/Stenos in CSS who were previously in the scale of Rs.425-800; (d) revised scale of Rs.1640-2900 is applicable in case where direct recruitment is made through open competitive examination conducted by Staff Selection Commission (SSC for short) and (e) the claim is highly time-barred since the applicants did not approach or had not challenged the OM dated 31.7.90 through which revised scale of pay of Rs.1640-2900 was made applicable to the Assistants and Stenographers in CSS.

6. Determination of the legal issues involved herein need not detain us any longer in the background of the decision of this Tribunal in OA 981/94 decided on 17.3.99. All the issues referred to herein and the position of law on the subject stand examined in the aforesaid OA in paras 5 to 15.

7. The only objection raised by the respondents that needs to be answered is with reference to limitation. It is well settled in law that when the matter relates to fixation of pay, it is a continuing cause of action. This should not be hit by the law of limitation. (see decision of the apex court in the case of **M.R.Gupta Vs. UOI** 1995 (2) ATJ 567. In the light of the law laid down in the aforesaid case, respondents' objection in respect of limitation shall not hold good.

g
/i

2X

8. In the background of the detailed discussions of the issues as decided in the aforementioned OA, the present OAs succeed on merits and are accordingly allowed with the following directions:

- (i) Communication dated 7.1.91 issued by Ministry of Finance (Department of Revenue) shall remain inoperative only to the extent it denies grant of revised pay scale of Rs.1640-2900 to the applicants herein;
- (ii) The benefit of OM dated 31.7.90 issued by DoPT revising the pay scale from Rs.425-800 to Rs.1640-2900 in respect of the Assistants/Stenos Grade C of the CSSS shall be extended to the applicants herein, i.e. applicants shall be eligible for the revised pay scale of Rs.1640-2900 with effect from 1.1.86 subject to the condition that they were in position as Assistants on their promotion to that post on or after 1.1.86;
- (iii) Payment of arrears pursuant to our orders in (ii) above shall be limited to one year prior to the date of filing of these OAs, i.e.

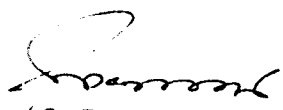
9/

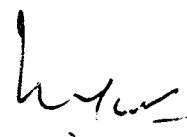
(3)

20.7.92 (in case of OA 1869/92) and
3.11.92 (in case of OA 2870/92).
However, notional fixation of pay in
the revised scale will have effect
from the dates applicants are
holding the post of Assistants after
1.1.86

(iv) Our orders at (ii) and (iii) above
shall be complied with within a
period of three months from the date
of receipt of a certified copy of
this order.

(v) Parties shall bear their own costs.


(S.P. Biewas)
Member(A)


(T.N. Bhat)
Member(J)
5.4.99

/gtv/