

13

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 16th day of August 2001.

Original Application no. 66 of 1997.

Hon'ble Mr. Justice RRK Trivedi, Vice-Chairman  
Hon'ble Maj Gen KK Srivastava, Administrative Member

Ashok Kumar Gupta, S/o RS Gupta, steno in the office  
of Chief Resident Inspector DGAQA, Ministry of Defence  
C/o HAL Kanpur and Resident of Qrs no. 10 C.R.I. Campus,  
HAL Township, Kanpur Nagar.

... Applicant

C/A Sri OP Gupta

Versus

1. Union of India, through Director General of Aeronautical Quality Assurance (DGAQA), Ministry of Defence, Government of India, 'H' Block, New Delhi.
2. Chief Resident Inspector, DGAQA, Ministry of Defence, C/o HAL Kanpur Nagar.

... Respondents

C/Rs Km. Sadhana Srivastava

O R D E R

Hon'ble Maj Gen KK Srivastava, Member-A.

By means of this OA under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed that the respondents be directed to implement

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the orders and direction for promotion of the applicant as Stenographer Grade II in the pay scale of Rs. 1400-2600 from the date he is entitled i.e. 28.9.1993, and attached as Stenographer with the Officer who is entitled to have Grade II Stenographer as per the letter dated 30.1.1991 (Annexure A-4).

2. Briefly stated the facts of the case are that the applicant was appointed as Stenographer grade III on 27.9.1988 in the pay scale of Rs. 1200 - 2040 in the office of Chief Resident Inspector DGAQA, Ministry of Defence, HAL, Kanpur. As per applicant he is entitled for promotion as Stenographer Grade II in the pay scale of Rs. 1400-2600 w.e.f. 30.1.1990 itself, that is the date on which upgradation under IV Pay Commission was implemented. In any case, since he was attached with an officer in the pay scale of Rs. 4100-5300 who is entitled for Stenographer Grade II, the applicant is entitled for promotion to the higher grade after completion of 5 years of service and he should have been promoted as Stenographer Grade II in the pay scale of Rs. 1400-2600 w.e.f. 28.9.1993 which has not been done. He represented against this on 10.10.1994 but no remedy has been given, giving rise to this OA. The respondents have contested the claim of the applicant.

3. Heard Sri OP Gupta learned counsel for the applicant and Km. Sadhana Srivastava learned counsel for the respondents and perused the records.

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4. Sri OP Gupta learned counsel for the applicant submitted that Headquarter DGAQA has not implemented the decision of the Govt. of India conveyed through Department of Personnel and Training, Office Memorandum (OM) dated 30.1.1991 wherein it has been decided that whenever possible one Stenographer Grade II (in short Steno Gde III) in the pay scale of Rs. 1400 - 2600 may be provided to two officers entitled for a Steno Gde III (Scale Rs. 1200 - 2040) and Steno Gde I (Scale Rs. 1640 - 2900) to functional post in the scale of Rs. 4500 - 5700 and 25% of junior administrative grade posts in the scale of Rs. 3700 - 5000. This decision has been taken to ~~improve~~ <sup>on</sup> the promotional prospects of Stenographers. Even <sup>on</sup> the basis ~~recruitment~~ of 5 years service, for promotion from Steno Gde III to Steno Gde II, is not being adhered to by DGAQA in respect of the applicant. In fact as per basic requirement of 5 years for promotion from Steno Gde III to Steno Gde II, the applicant is entitled for promotion as Steno Gde II since 1993.

5. Sri OP Gupta submitted that on recommendation of 4th Pay Commission entitlement of Officers for Stenographic assistance has <sup>been</sup> revised vide DOPT letter no. 2941/19/ DT D&P/ Admn (c) dated 7.4.1989. Accordingly an officer in the scale of Rs. 3700 - 5000 and above and below Rs. 5900 - 6700 is entitled for Steno Gde II. Since the applicant is attached to an officer entitled for Steno Gde II since January 1994 he is entitled for promotion as Steno Gde II in the scale of Rs. 1400 - 2040 from the date itself irrespective of the fact that he completed qualifying service of 5 years only in 1993. The learned counsel has placed reliance on the judgment

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of Bombay Bench of this Tribunal in OA 1023 of 1993 PM Hari-das & Others Vs. Union of India & Others in which it has been held as under :-

"We direct that the respondents shall extend the benefit of letter dated 6.2.89 to the applicants and upgrade them to the higher scale on the basis of those instructions with effect from 1.1.86 together with consequential benefits."

Sri OP Gupta has also argued that since the applicant has been working in post tenable by Steno Gde II he is entitled for the pay and allowances in the scale of Rs. 1400 - 2600. He has relied upon the decision of Ernakulam Bench of this Tribunal which has held in O.A. 737 of 1997 V. Ramadas Vs. Union of India & Others (1998) 38 ATC 63 as under :-

"We find considerable force in this argument. It is not in dispute that the applicant had a valid driving licence and that he has been put to work as a Driver continuously with effect from 17.9.1982. Having taken the duties of a Driver we have no hesitation to say that the respondents are bound to pay him the wages attached to the post of a Driver."

6. Sri OP Gupta further submitted that great injustice has been done with the cadre of stenographers as 127 posts of Stenographers including 34 in Steno Gde II are justified after the cadre review of the Defence aeronautical ~~RA~~ service in 1996 but only 41 posts including 15 as Steno Gde II are sanctioned which is an admitted fact by DGAQA vide their letter dated 25 August 1995 (Annexure A-1) to RA). Therefore, the impugned order

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dated 30.11.1994 (Annexure 1) needs to be quashed and order of DOP&T dated 30.1.1991 be implemented to improve the promotional prospects of stenographer in non/<sup>Secretariat</sup> subordinate offices.

7. Miss. Sadhana Srivastava, the learned counsel for the respondents while contesting the claim of the applicant submitted that mere issue of DO P&T letter dated 30.1.1991 does not entitle promotion automatically to any individual. The decision of Government of India as per DO P&T letter dated 30.1.1991 was implemented and the cadre structure of Stenographer was revised . 41 sanctioned posts of Stenographer were distributed into 8 posts in Steno Gde I (Scale 1640 -2900) against nil, 15 posts in Steno Gde II (Scale Rs. 1400 - 2600) against 14 and 18 posts in Steno Gde III (Scale Rs. 1200 - 2040) against 27 posts. Km. Sadhana Srivastava, further submitted that the petitioner is not entitled for the pay of Steno Gde II and he has to wait for his turn for promotion to the grade of Steno Gde II as eight senior officials to the applicant have still not been promoted as Steno Gde II for want of vacancies.

8. We have considered the submissions of the learned counsel for the parties and perused the records. In our view the respondents have implemented DO P&T OM dated 30.1.1991 issued after the recommendations of the IVth Pay Commission. which is evidently clear from Ministry of Defence letter dated 30.11.1994 (Annexure A-1) giving the revised distribution of stenographers as below

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below :-

Scale of Stenographers	No of existing posts in Field Establishments of DTD&P(A)	Revised authorisation in terms of DOP&Ts OM of 30.01.1991
Steno Grade -I (Rs. 1640 - 2900)	NIL	08
Steno Grade -II (Rs. 1400 - 2600)	14	15
Steno Grade - III (Rs. 1200 - 2040)	27	18
(Establishment-wise distribution will be made by DTD&P(A) HQ)		

This has further been revised vide Ministry of Defence letter dated 18.04.2000 (Annexure SA-2) as under :-

Scale of Stenographer	No of existing posts in Field Establishment of DGAQA	Revised authorisation in terms of Min of Def OM No. 11(4)/99/D (Civ-I) dt 14th Sep 1999
Steno Gde -I (Rs. 5500 - 9000)	08	08
Steno Gde - II (Rs. 5000 - 8600)	15	16
Steno Gde - III (Rs. 4000 - 6000)	18	17
(Establishment-wise distribution will be made by <sup>DA</sup> DGAQA)		

9. As per recruitment rules 5 years qualifying service is the criteria for promotion from Steno Gde III to Steno Gde II. This has to be effected through Departmental Promotion Committee on availability of vacancies. One cannot claim promotion only on the ground that he completed 5 years of service. We find substance in the submission of learned counsel for the respondents that the applicant <sup>has</sup> placed at sl no. 9 of the seniority list of Steno Gde III of DGAQA and he has to wait for his turn for promotion to

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Steno Gde II.

10. In the letter of Ministry of Personnel and Pension dated 6.2.1989, pursuant to the recommendation of IV Central Pay Commission the scales for stenographic assistance in subordinate <sup>officer's</sup> has been shown as under :-

"Level of Stenographic Assistance	Scale of Officer entitled
1. Stenographer Gr. III (Rs. 1200 - 2040)	Rs. 3000 - 4500 and below Rs. 3700 - 5000
2. Stenographer Gr. II (Rs. 1400 - 2600)	Rs. 3700 - 5000 and above but below Rs. 5100 - 5700
3. Stenographer Gr. I (Rs. 1640 - 2900)	Rs. 5100 - 5700 and above but below Rs. 5900 - 6700
4. Sr. P.A. (Rs. 2000 - 3200)	Rs. 5900-6700 and above (officers of Senior Administrative grade or equivalent Posts)"

It is only on the basis of this letter that the applicant has claimed promotion from Steno Gde III to Gde II as <sup>he is</sup> has attached with an officer in the scale of Rs. 4100-5300.

10. It is an admitted fact that the applicant is attached with an officer in the scale of Rs. 4100 - 5300 but the contention of the applicant that the post of stenographer with such an officer has to be that of ~~steno~~ Gde II in the scale of Rs. 1400-2600 is not correct. In DGAQA there are only 15 sanctioned posts of Steno Gde II and <sup>since</sup> there ~~service~~ are still 8 persons above him to be promoted as Steno Gde II, the applicant cannot be given the promotion or pay benefit in absence of vacancy in Steno Gde II. The facts and circumstances in OA 1023 of 1993 PM Naridas & Others Vs Union of India & Others (supra)

20

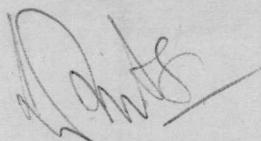
relied upon by the learned counsel for the applicant are different and will not be applicable in the present case. The Bombay Bench of the Tribunal allowed the petition because 19 posts of Steno Gde I Complimentary to posts in the Senior Administrative grade (Rs. 5900 - 6700) were upgraded. Such is not the case in the present OA. DGAQA has <sup>clarified</sup> in their letter dated 25.08.1998 (Annexure A-1 to RA) that the department is authorised with only 41 Steno Gde I, II & III combined together based on the work study report. DOPT have issued instructions that the entitlement of stenographers vide their OM dated 06.02.1989 generally applies to officers and posts in which the work carried out is of administrative nature. In case of officers holding technical and scientific posts etc stenographic assistance has to be provided on the basis of Staff Inspection Unit/Internal Work Study Unit recommendations, <sup>the Government of India</sup> (Ministry of Finance/Department of Expenditure), While vetting the cadre review proposal of Group A Officers of DGAQA have laid down the condition that no additional supporting staff/additional space/ vehicle would be provided for later on. Even the facts and circumstances in V Ramadas Vs. Union of India & Others (supra) relied upon by the learned counsel for the applicant are distinguishable in the present case and, therefore, no similar relief can be given.

11. In view of the facts and circumstances of the case and our observation we are unable to grant any relief to the applicant. He has to wait for this turn

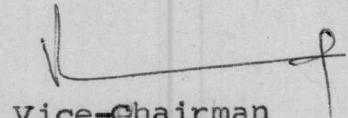
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for promotion from Steno Gde III to Steno Gde II subject to recommendation of Departmental Promotion Committee as per rules. The OA is, therefore, dismissed, being devoid of merit.

12. There shall be no order as to costs.



Member-A



Vice-Chairman

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