

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

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No. O.A. 524 of 2018

Date of order : 08.04.2021

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Smt. Maya Rani Das, wife of Shri Bankim Chandra Das, aged about 56 years, working as Deputy Director (O.L.), CCO & CCA in the office of the Principal Chief Commissioner, CGST and CX, Kolkata Zone, GST Bhawan, 180, Shanti Pally, Rajdanga Main Road, Kolkata- 700 107 and residing at 15, Jeevan Krishna Chatterjee Road, Sodepur, Kolkata- 700 110.

..... Applicant.

-Versus-

1. Union of India, Service through the Secretary, Ministry of Finance, Department of Revenue, Having its office at North Block, New Delhi – 110 001.
2. The Secretary, Ministry of Finance, Department of Expenditure, Implementation Cell, North Block, New Delhi – 110 001.
3. The Chairman, Central Board of Excise & Customs, Govt. of India, Dept. of Revenue, Ministry of Finance, North Block, New Delhi- 110 001.
4. The Principal Chief Commissioner of Income Tax, West Bengal & Sikkim, Aayakar Bhawan, P-7, Chowringhee Square, Kolkata- 700 069.
5. The Principal Chief Commissioner, CGST & Central Excise, Kolkata Zone, Govt. of India, Dept. of Revenue, Ministry of Finance, GST Bhawan, 180, Shanti Pally, Rajdanga Main Road, Kolkata- 700 107.

..... Respondents.

For the Applicant : Mr. P.C. Das, Counsel
Ms. T. Maity, Counsel

For the Respondents : Mr. A. Roy, Counsel

O R D E R (Oral)

Per Ms. Bidisha Banerjee, Judicial Member:

Ld. Counsel for both sides are present and were heard.

2. The applicant has assailed the order dated 27.03.2018, issued by the Joint Commissioner, CGST & CX, Kolkata North Commissionerate vide which her request for pre revised upgraded pay scale of Rs. 7,500-12,000/- to the Post of Asstt. Director (O/L), has been rejected.

3. The grievance of the applicant in a nut shell is as under:

That although in terms of the letter dated 14.7.2003 of the Ministry of Finance, Department of Expenditure granted extension of higher pay scale of Rs. 5,500-9,000/-, Rs. 6,500-10,500/- and Rs. 7,500-12,000/- exclusively to the Junior Hindi Translators, Senior Hindi Translators and Assistant Directors respectively of CSOLS w.e.f. 1.1.96, by virtue of the decision in O.A. No. 912 of 2004, the Sr. Hindi Translators of subordinate offices too have been extended the benefits of higher pay scale, yet her claim seeking parity with the applicant in **O.A. No. 912 of 2004** namely **Dhananjay Singh** for higher scale (upgraded pay scale) has been rejected vide impugned order dated 27.03.2018 (Annexure A-16) extracted infra. The impugned order dated 27.03.2018 is extracted hereunder for clarity :-

"Sub: Request for granting pre revised upgraded pay scale of Rs. 7500-12000/- to the Post of Asstt. Director (O/L), in the case of Smt. Maya Rani Das, Dy. Director (O/L)- reg.

Please refer your representation dated 28.07.2017 on the subject mentioned above and also refer O.A. No. 350/1700 of 2017, Maya Rani Das & Ors. Vs. UOI.

In the Para-III of your representation dated 28.07.2017 you have mentioned that in the Central Secretariat Official Language Services (CSOLS) the Pay Scale has been upgraded vide OM No. F. No. 70/11/2000-IC dated 14.07.2003 where in the pay scale of Assistant Director (O/L) was placed in the pay scale of Rs. 7,500-12,000/- and you have also stated that the scale was approved notionally w.e.f. 01.01.1996 and benefit allowed w.e.f. 11.02.2003. In this connection it is to mentioned here that the pay scale was awarded to the staff belongs to Central Secretariat Official Language Services (CSOLS) and can not be extended to similarly designated post elsewhere.

This office intimated the fact before the competent authority but no such order has been received by which the pay scale of CSOLS can be extended to the similarly placed officer in the subordinated offices.

In view of the above your request for granting pay scale of CSOLS can not be exceeded to.

Thanking you."

Yours faithfully,
 [VISHWANATH]
 Joint Commissioner
 CGST & CX
 Kolkata North Commissionerate

4. Ld. Counsel at hearing would vociferously contend that the respondents are arbitrarily depriving the applicant of the benefit of the judgement in O.A. No. 912 of 2004 in **Dhananjay Singh** (supra), a Junior Hindi Translator in a Central Excise Commissionerate i.e. a subordinate office and a non-CSOLS and thereby creating a class within a class.

5. Per contra, Ld. Counsel for the respondents would invite our attention to the clarification vide O.M. dated 29.3.2004 issued by the Department of Expenditure (Implementation) Cell to extracted that said upgraded scales apply exclusively to the posts in CSOLS. The clarification reads thus:

".....it has come to notice of this Department that these pay scales have been extended to similarly designated posts in some organizations outside the CSOLS. It is clarified that the upgraded pay scales approved by the Government are specific to the posts in CSOLS and cannot be extended to similarly designated posts elsewhere. All the concerned departments who have extended these scales unilaterally and unauthorisedly to such posts are directed to withdraw these scales and place these posts in the otherwise applicable pay scales. It is further directed that responsibility for this lapse may be fixed."

6. Be that as it may, it is an admitted position that such upgradation was allowed to some Jr. Hindi Translators and Asst. Directors (OL) in Central Excise Commissionerate i.e. to the non-CSOLS, on the strength of the decisions in O.A. No. 912 of 2004, WPCT No. 28 of 2007, Civil Appeal (SC) No. 1119 of 2013, vide order dated 23.6.2017 as contained in Annexure A-11.



7. It also transpires from the position enumerated supra, that the benefits of the OM dated 14.07.2003 (supra) issued by Department of Expenditure is to be uniformly applied to even non-CSOLS, by virtue of order of CAT in OA. 912/2004, affirmed in **WPCT No.728 of 2007** where Hon'ble High Court opined thus:

"When we find that challenge against the fact finding of the learned Tribunal is not substantiated by any evidence, we cannot upset the same on the question of similarity. Rather, on the other hand, we find there are documents and materials placed before the learned Tribunal that the nature of the duties performed by all the Hindi Translators are same and identical.

Moreover, the learned Tribunal has followed earlier judgment on the same point rendered by the Principal Bench of the Central Administrative Tribunal.

We do not find any logic or any basis to classify the Hindi Translators in CSOLS in order to give them a special benefit when at the time of appointment there was no such indication. Therefore, the benefit given to the Hindi Translators of CSOLS should also be given to the similarly placed persons of the same cadre in any part of the country.

Mr. Mukherjee, then contends that it is a policy decision and such decision should not be interfered with or disturbed by the learned Tribunal or by the court of law. It is true that policy decision is not interfered with by the learned Tribunal or by the court of law but such a decision must be a rational one and should be immune from the vices of discrimination; as discrimination amongst the equally placed and circumstanced person is throttled down by Article 14 of the Constitution of India. We, therefore, do not find any wrong in the judgment and conclusion of the learned Tribunal. We, thus, dismiss this application, however, without any order as to costs. Consequently, we affirm the judgment and order of the learned Tribunal."



A bare perusal of the above further exemplifies that the issue is no more res-integra that Junior/Senior Hindi Translators/Asst. Director other than the CSOLS in Central Govt. offices i.e. the non-CSOLS are equally entitled to the upgraded scales as par with identical post holders in CSOLS, and that such policy as devised by Department of Expenditure "is uniformly applicable across the country".

The Hon'ble High Courts' order was further affirmed in Civil Appeal No. 1119 of 2013 in the following manner:

"The respondent in this appeal was working as a Junior Hindi Translator in the office of the Commissioner of Central Excise-I, Kolkata. He claimed parity of pay with the Junior Translators who were working in the Central Secretariat. In his case also, what we find is that there is no functional distinction as far as the work of these translators is concerned. Therefore, we do not take a different view. The civil appeal is dismissed. There will be no order as to costs. Interim orders will stand vacated."

8. Such orders have been taken into account in the earlier application of Maya Rani Das, in OA. 1700/2017. The order passed therein is as under:

"2.....That on 3.11.1995 while she was functioning as Junior Hindi Translator in the office of the Chief Controller of Explosives, East Circle, Calcutta she was appointed as Sr. Hindi Translator in the Office of Chief Commissioner of Income Tax on transfer basis against temporary vacancy. After that she was appointed as Assistant Director (Official Language) in the Department of Collectorate of Central Excise, Calcutta vide order dated 31.3.1997. She was also promoted as Dy. Director (Official Language) on 11.8.2009. On 14.7.2003 vide memo No. 70/11/2000-IC dated 14.7.2003 and Memo No. F. No. 70/5/2003-IC dated 29.3.2004, Ministry of Finance, Department of Expenditure (Implementation Cell) suddenly upgraded the pay scale of Junior Hindi Translator, Sr. Hindi Translator and Assistant Director (OL) working in the Central Secretariat Official Language Service depriving the officials of the subordinate offices. Two similarly circumstanced persons filed O.A.s bearing No. 778/2015 and O.A. 779/2015 before the Tribunal which was disposed of vide order dated 6.12.2016. Subsequently the Hon'ble High Court and the Hon'ble Supreme Court in various judgments held that the claims of the applicants therein be disposed of in accordance with the office memorandum dated 29.3.2004 read with Civil Appeal No. 17419/09. The applicant preferred various representations the latest one being on 28.7.2017, which is still pending consideration.

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6. Accordingly, without going into the merits of the case, I dispose of the present O.A. by directing the respondent authorities to consider and dispose of the representation dated 28.7.2017, as preferred by the applicant, by passing a reasoned and speaking order within a period of 4 months from the date of receipt of a copy of this order taking into consideration the observations made by the Hon'ble High Court and the Hon'ble Supreme Court. The decision so arrived at shall be communicated to the applicant forthwith. It is made clear that if the applicant is found to be eligible for her entitlements then the said benefit be extended to her within a period of three months thereafter."

The follow up implementation order dated 22.02.2018 (A-14) reads as under:

"To

The Pr. Chief Commissioner of CGST,
Kolkata Zone
GST Bhawan, 2nd Floor, 180, Shanti Pally,
R. B. Connector, Kolkata- 700 007.

Subject: The order dated 16.01.2018 of Hon'ble CAT, Kolkata Bench in OA No. 350/01700/2017 filed by Smt. Maya Rani Das, Dy. Director (O.L.) vs. UOI & Ors- reg.

Sir,

I am directed to refer to your letter C. No. I (10) 14/Law/Pr. CCO/CGST & CEx/KOL/17/1374 dated 12.01.2018 and letter dated 02.02.2018 received from Sh. P.C. Das, Advocate on the subject mentioned above.

2. The issue raised in the instant OA is for grant of up-graded pay scale of 7500-12000 to the post of Asstt. Director (OL) in the case of Smt. Maya Rani Das. The applicant is claiming benefit on the basis of Dhananjay Singh case and other similar cases.
3. Department of Expenditure vide their O.M. No. 70/11/2000-IC dated 14.07.2003 extended higher pay scales of Rs. 5500-9000/-, Rs. 6500-10,500/- and Rs. 7500-12,000- to Jr. Hindi Translator, Sr. Hindi Translator and Assistant Director of Central Secretariat Official

Language Services (CSOLS) w.e.f.1.1.1996 (notionally) with actual payments in the higher pay scales w.e.f.11.2.2003, Department of Expenditure vide their O.M. F. No. 70/5/2003-IC dated 29.3.2004 clarified that upgraded pay scales approved by the Government are specific to the posts of CSOLS and cannot be extended to similarly designated posts elsewhere.

4. Shri Dhananjay Singh, then Jr. Hindi Translator, filed an O.A. No. 912/04 before the Hon'ble CAT, Kolkata Bench, challenging the Department of Expenditure's OM No. 70/5/2003-IC dated 29.3.2004 and pleaded for grant of the same pay scale to non-CSOLS officials vis-à-vis CSOLS officials and remove disparity between those working in Secretariat of Official Language and others working outside the Secretariat. Hon'ble CAT, Kolkata Bench vide its order dated 9.11.2004 in OA No. 912/04 quashed and set aside the OM dated 29.03.2004 issued by Department of Expenditure. The orders of the Hon'ble CAT, Kolkata were upheld by the Hon'ble High Court of Calcutta as well as by Hon'ble Supreme Court. After dismissal of the SLP filed by this Department, the orders of Hon'ble CAT, Calcutta Bench's dated 9.11.2006 passed in OA. 912/2004 filed by Shri Dhananjay Singh attained finality.
5. Department of Expenditure is the nodal Department for regulation of pay of Junior/Senior Hindi Translators/Asstt. Dir. In the Central Government. The policy devised by the Department of Expenditure is uniformly applicable across the country. Therefore, Department of Expenditure was apprised of the orders of the Apex Court in Civil Appeal No. 1119 of 2013 (UOI & Ors. Vs. Dhananjay Singh). The Department of Expenditure, after examining the issue, agreed to implement the live orders of CAT/Court, which are due for implementation, in the case of applicants/petitioners to avoid Contempt (copy enclosed).
6. You are requested to dispose of the representation dated 28.07.2017 submitted by Smt. Maya Rani Das (OA No. 350/01700/2017) by passing a reasoned order on the basis of Department of Expenditure's advice dated 29.7.2015. The action taken in the matter may be furnished to the Board.

Encl:

As above.

Yours faithfully,

(M. K. Gupta)
Under Secretary to the Govt. of India
Tel No. 011-23095528."

9. As implementation of the order in OA. 1700/2017 in the light of order in OA. 912/2004 in **Dhananjay Singh (supra)** to the Junior/Senior Hindi Translators and Asst. Directors of subordinate offices on par with Junior/Senior Hindi Translators and Asst. Director of CSOLS lies in the domain of the Department of Expenditure and the matter has been already referred to them, we would dispose of the O.A. by quashing the order dated 27.03.2018 (Annexure A-16 of the OA) and direct the respondent authorities to forward the grievance of the applicant

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with proper inputs to the Department of Expenditure and appropriately liaise with the Department of Expenditure so that the matter is expedited and a decision is taken by the Department of Expenditure as expeditiously as possible preferably within six months from the date of receipt of a copy of this order and while doing so the respondents shall also refer to the decision passed by this Tribunal in O.A. No. 617 of 2011 dated 23.11.2016, the OAs decisions referred to supra on the subject.

10. Accordingly, the O.A. stands disposed of. No costs.


(Dr. Nandita Chatterjee)
Administrative Member


(Bidisha Banerjee)
Judicial Member

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