

**CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO.475 OF 1998

Cuttack, this the 19th day of November, 2003

CORAM:

HON'BLE SHRI S.MANICKA VASAGAM, MEMBER(A)

AND

HON'BLE SMT.BHARATI RAY, MEMBER(J)

.....

1. Krupasindhu Patra, son of late K.C.Patra, At-South Eastern Circle Office, Survey of India, P.O. RR Labs, Bhubaneswar 751 013.
2. Bholanath Rout, son of late M.Rout, At South Eastern Circle Office, Survey of India, P.O. RR Labs, Bhubaneswar 751 013
3. Smt.Kalpana Ilira, w/o Sri D.K.Ilira, At-No.10 DO (SEC), Survey of India, P.O. RR Labs, Bhubaneswar 751 013

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Applicants.

Vrs.

1. Union of India, represented through Secretary, Department of Science & Technology, Technology Bhawan, New Mehrauli Road, New Delhi 110 016.
2. The Secretary, Ministry of Personnel & Training, New Delhi.
3. Surveyor General of India, Survey of India, Hathibarkala Estate, Dehradun 248 001.
4. The Director, South Eastern Circle, Survey of India, P.O. RR Labs, Bhubaneswar 751 013

..... Respondents

Advocates for the applicants - M/s S.K.Patnaik & U.C.Mohanty

Advocate for the respondents - Mr.S.B.Jena, ACGSC

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ORDER

S.MANICKA VASAGAM, MEMBER(A)

The applicants, in this Original Application, have come before the Tribunal seeking the following relief:

"It is, therefore, prayed that your Lordships may graciously be pleased to admit the application and direct the respondents to implement OM No.28034/1/88-Estt.(D) dated 6 Feb 1989 of Deptt of Personnel & Training w.e.f. 1.1.86 or at least w.e.f. date of its issue and declare the applicants upgraded as Stenographer Grade II w.e.f. 1.1.86 or 6.2.89

AND

Be further pleased to direct the respondents to give the scale of pay of 1640-2900/- to the applicants with effect from the date they are declared as upgraded as Grade II steno finalized benefit including arrear of pay with interest @ 18% p.a. "

2. Briefly stated the facts of the case are as follows. The applicants are now working as Stenographer Grade II in the Respondent-Department. It is their grievance that they have been denied upgradation and fixation of pay in higher scale commensurate with the Pay Commission Recommendation and Government of India orders. It is stated that the Fourth Pay Commission in its recommendation suggested upgradation of Grade III Stenographers to Grade II in view of stagnation and also for being attached to officers at Senior Administrative Grade level (please see paragraph 11.34 of the Fourth Pay Commission report). The applicants further state that in the Survey of India, there were 45 officers who were entitled to get Stenographers in higher grade as suggested by the Pay Commission. However, there were only 18 Stenographers Grade II available and

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therefore, the Respondents ought to have upgraded the balance number required effective from 1.1.1986 as per the recommendation of the Pay Commission. This was not done immediately, but only on 30.8.1991. This inordinate delay in implementation of the recommendation has placed the applicants on a different level of pay for a long time in spite of the Pay Commission's recommendation and acceptance by the Government. It is also stated that this recommendation of the Pay Commission has been implemented by different Departments from a much earlier date and effective from 1.1.1986. Further it is also stated that higher pay scale of Rs.1640-2900/- was given to Grade II Stenographers in subordinate offices after the decision of the Principal Bench of this Tribunal in OA No.104(A) of 1993 and O.A.No.548 of 1994, dated 18.1.1996. The said decision has also been implemented by the Government.

3. The Respondents have filed detailed reply. The thrust of their reply runs on the following lines. Though the Government had announced, vide letter dated 6.2.1989, the grant of different scales of pay for Stenographers attached to different officers in the subordinate offices, they were eligible to get the higher pay from the date they were promoted or upgraded. This was done only in the year 1991 and the benefits had been given them. In so far as the higher pay scale is concerned, the matter was taken up by the Surveyor General of India with the

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Ministry of Science & Technology, but the request was not agreed to. It is their stand that though the Government had desired in principle to grant upgradation and higher pay scales in 1989, it would not automatically apply to the applicants. This would be linked to the nature of jobs and the work of officers to whom they are attached and responsibilities thrust on them. It is stated that as of now the applicants are getting their pay scale from the date of their upgradation/promotion.


4. The learned counsel for the applicants strenuously argued that the field office of Survey of India at Bhubaneswar had recommended that the Stenographers attached to the Directors and Deputy Directors should get the revised scale effective from 1.1.1986, vide letter dated 1.8.1996. However, this was not accepted by the headquarters office. Further what was intended by the Pay Commission was not promotion per se, but only upgradation of the post and revision of pay scale. As could be seen this was done on 30.8.1991, viz., both upgradation as well as revision of pay scale (see Annexures 5 and 6). Thus, there was no big exercise involved in implementing the decision of the Government. It was also pointed out by the learned counsel that the decision of the Principal Bench of this Tribunal, cited above, was implemented by the Government, vide



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order dated 2.2.1996. Therefore, it was submitted that the case of the applicants may be viewed on par with others, applying the ratio of the decision referred to above.

5. The learned Additional Standing Counsel for the Respondents reiterated the averments made in the reply affidavit.

6. It is not in dispute that the Fourth Pay Commission recommended upgradation of Grade III Stenographers to Grade II level in respect of those who are attached to senior officers as mentioned in the recommendation. Further, it is also not in dispute that the Fifth Pay Commission in paragraph 46.31 has also taken note of difference of opinion in so far as the grade of pay and allowances for the Stenographers is concerned. The relevant portion is extracted below:



“The pay scale of Assistants in the Central Secretariat Services (CSS) and Stenographers in the CSS were revised by the Govt. on 31.7.90, effective from 1.1.86. Some of the Assistants/Crime Assistants and Stenographers Grade II working in the CBI, Directorate of Income Tax (Investigation) and Directorate of Field Publicity filed a number of petitions before the Principal Bench of the C.A.T. seeking benefit of the orders dt.31.7.90. Rejecting the contention of the Union of India that Stenographers Grade II and Assistants in the non-secretariat officers could not be compared with stenographers Grade C of CSS and Assistants of CSS because of different classification, method of recruitment, nature of duties and responsibilities and eligibility for promotion to higher grade, the CAT directed the Union of India to place the petitioners in the pay scale of Rs.1640-2900/-. The judgment of the CAT has been implemented.”

Q.E.

7. Thus it is very clear that the Pay Commission has all along been of the view that the Stenographer Grade III post with certain limitations should be upgraded to that of Grade II and given the revised pay scale. However, it took some time for the Government to mull over the issue and ultimately orders were issued in February 1989. Thereafter implementation also was not uniform. On the other hand, some Departments implemented these orders giving effect to from 1.1.1986 and some from a later date. In the instant case, the applicants got the benefit with effect from 30.8.1991. This will go to show that it is only an administrative procedural matter which has taken time and not any technical issue. To give effect to the order with effect from 1.1.1986 all that is required is to create some supernumerary posts and grant the benefit to the applicants which could have solved the problem. This was not done and no definite reason has been adduced for not doing so. The fact that duties and responsibilities, creation of posts, etc., were required to be looked into is not an acceptable answer in this case. It is very clear that all that was required to be done was to upgrade the existing number of posts and give them the revised pay scale. There was no need to look into the duties and responsibilities aspect in so far as this case is concerned. Therefore, this argument put forward by the Respondents must fail.


J.E.

8. Coming to the aspect of the revised enhanced pay scale, viz., Rs.1640-2900/-, a coordinate Bench of this Tribunal has already gone into this aspect of the matter wherein comparison was made between officers working in the Field Publicity in the Ministry of I & B and the officers working in C.B.I. along with those who were working in the Central Secretariate Service. It was held that no discrimination is possible and all of them deserve to be given the same scale of pay, viz., Rs.1640-2900/-. This order of the Tribunal was implemented, as mentioned earlier. Added to this, the Fifth Pay Commission also expressed the divergence of practices in so far as the pay scale of Stenographer Grade II is concerned. Therefore, armed with the decision of a coordinate Bench of this Tribunal, the applicants are fully justified in demanding similar treatment for them also on the same lines. More so in view of the fact that the same has already been implemented by the Government; we fully agree with their demands.

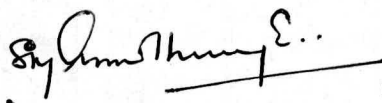
9. In view of the discussion above, the Original Application deserves to be allowed. Accordingly, we hold the view that the ends of justice would be met if the following directions are issued. The Respondents are directed to consider the case of the applicants for implementing the decision of the letter dated

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6.2.1989 in respect of upgrading the applicants to the post of Stenographer Grade II with effect from 1.1.1986. The Respondents are also directed to consider the case of the applicants for giving them the pay scale of Rs.1640-2900/- from 1.1.1986. However, we make it clear that any pay fixation arising out of such consideration will be only notional with effect from 1.1.1986 and the applicants are entitled to draw arrears of pay only from 1.9.1998, i.e., the date of filing of this Original Application. This exercise shall be completed within three months from the date of receipt of copy of the order. No costs.


Bharati Ray.
(BHARATI RAY)

MEMBER(JUDICIAL)


(S. MANICKA VASAGAM) 19.11.03.

MEMBER(ADMINISTRATIVE)

AN/PS