

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH, CALCUTTA.

O.A.NO.: 571 of 1996.

DATE OF DECISION : 27-JUNE-2001.

1. The Geological Survey of India Stenographer's Welfare Association [Government Registered], through its General Secretary, Shri M. Alam, having its office at 27, Jawaharlal Nehru Road, Calcutta-700 016.
2. Shri Ninrajan Chattopadhyay, son of Late Bibhuti Bhushan Chattopadhyay, date of birth being May 26, 1944, working as Stenographer Gr.II in the Headquarters of the Eastern Region of Geological Survey of India at C.G.O.Complex, Salt Lake, Calcutta 700 064, permanently residing at IC 564, Salt Lake, Calcutta 700 091.
3. Shri R.N.Raul, son of Late G.B.Raul, date of birth being January 02, 1957, working for gain as Stenographer Gr.II in Central Geophysics Division, Geological Survey of India Central Headquarters [C.Hq.] at 15, Kyd. Street, Calcutta-700 016, and permanent residing at KB 635, Sector-III, Salt Lake, Calcutta-700 091. ....APPLICANTS.

By Advocate :- Shri J.K.Biswas.  
Shri S.K.Mitra.

vs.

1. The Union of India, service through the Secretary to the Government of India, Ministry of Mines, Shastri Bhavan, New Delhi-110 001.
2. The Secretary to the Government of India, Ministry of Finance, Department of Expenditure, North Block, New Delhi-110 001.
3. The Secretary to the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, North Block, New Delhi-110 001.
4. The Director General, Geological Survey of India, 27, Jawaharlal Nehru Road, Calcutta-700 016.
5. The Deputy Director General [P], Geological Survey of India, 27, Jawaharlal Nehru Road, Calcutta-700 016. ....RESPONDENTS.

By Advocate :- Mr. M.S.Banerjee.

C O R A M

HON'BLE MR. JUSTICE S.NARAYAN, VICE-CHAIRMAN.  
HON'BLE MR. L.R.K.PRASAD, MEMBER [ADMINISTRATIVE].

O R D E R

JUSTICE S.NARAYAN, V.C.:- The applicant no.1, being the Geological Survey of India Stenographer's Welfare Association [through its General Secretary] and two others [applicants no.2 & 3], presently working as Stenographer Gr.II in the office of the Geological Survey of India, prayed for a declaration that the Stenographer Gr.II working in the Geological Survey of India were entitled to the benefit of pay-scale of

Rs. 1640-2900/- w.e.f. January 1, 1986, in terms of award dated, August 18, 1989 [Annexure-A/4], passed by the Board of Arbitration, O.M. dated, May 4, 1990 [Annexure-A/5], O.M. dated, July 31, 1990 [Annexure-A/6], and O.M. dated, January 3, 1991 [Annexure-A/7], of the Government of India. By such a declaration, the applicants demanded for parity in the scales of pay of Stenographers of Sub-Ordinate Offices and the Central Secretariate. Whereas, the Stenographers in Sub-Ordinate offices had been placed in the scale of Rs.1400-40-1600-50-2300-EB-60-2600/- w.e.f. January 1, 1986, the Stenographers in Gr.'C' of Central Secretariate Stenographer's Service had been provided scale of Rs.1640-80-2500-EB-75-2900/- w.e.f January 1, 1986.

2. In regard to the dispute raised in the instant O.A., it is worthy of notice that the question of fitment of staff/officers in a particular group, or the demand of higher pay-scale, either on the ground of parity or on higher responsibility, is very often raised and the controversy is sought to be resolved either by referring the matter to a Board of Arbitration or Pay Revision Commission and at times, the dispute is also brought for adjudication in a Court of Law. Thus, a pertinent question arises as to what could be the scope for a judicial interference in the matter when an issue is dragged to a Court or Tribunal. Therefore, it has first to be determined as to what is the scope of scrutiny in the matter by a Court of Law. Here, it would be apt to refer first to the scope of scrutiny before it is needed to go into the question before this Tribunal.

3. Therefore, at the very outset, we would hasten to recite certain binding observations of the Hon'ble Supreme Court on the above issue. Very recently, the Hon'ble Supreme Court while deciding the Civil Appeal No. 3032 of 2000, arising out of SLP [C] No. 15394 of 1999 [Dy. Director General of GSI & Anr. Vs. R.Yadaiah & Ors.], made observation in the following terms :

" Ordinarily the Courts or Tribunal should not go into the question of fitment of the officers in a particular group or a pay-scale thereto and leave the matter to discretion and

expertise of the special Commission like, Pay Commission, unless the Courts find on material produced that there is some apparent error."

[Emphasis Ours]

4. In the same case [supra], the Hon'ble Supreme Court while dealing an identical matter further observed that the Full Bench of the Calcutta had taken correct approach in the matter and the Cuttack Bench was not justified in granting the relief sought for and further, that the Tribunal at Hyderabad was in error in granting relief sought for following the earlier decision of the Cuttack Bench in OA No. 177 of 1994 and not noticing the subsequent Full Bench order of the Calcutta Bench of the CAT. Be it also recorded here that the Full Bench of this Tribunal at Calcutta by an order dated, 3rd January, 1995, passed in O.A. No. 142 of 1991, in the case of GSI Employees Association & Ors. Vs. Union of India & Ors., reported in 1994-96 AT[Full Bench] Judgments P.306, took a decision in no uncertain terms that since the 5th Pay Commission had already been constituted, it will be fit and proper that the case of the applicants for granting them minimum pay-scale of Group 'C' employees, which had been claimed for a pretty long time, be examined by the said Commission.

5. Thus, if we proceed on the line of observations made by the Hon'ble Supreme Court while approving the stand taken by the Full Bench of this Tribunal from Calcutta Bench, we are of the considered opinion that an identical issue has been raised in the instant case and, accordingly, it would be expedient and appropriate as well not to lay hands for judicial interference instead, a reference be made to the <sup>Pay</sup> Anomaly Committee which has been already constituted subsequent to the scale accepted and provided by the Central Government pursuant to the report of the 5th Pay Commission.

6. In order to abide by the guideline of the Hon'ble Supreme Court in the instant case as well, we have taken note of certain features of the stand taken by the applicants therein. On behalf of the

applicants, much emphasis was put on the award dated, 8th August, 1989, of the Board of Arbitration [JCM], Ministry of Labour, Govt. of India, in Civil Appeal Reference No. 2 of 1986. This reference was made to resolve the demand for parity in the scale of Stenographers in the Sub-Ordinate Offices and the Central Secretariate. It was determined in the award that the Stenographers in the Sub-Ordinate Offices in the existing scale of Rs.1400-40-1600-EB-50-2300/- shall be placed in the scale of Rs.1400-40-1600-50-2300-EB-60-2600/-. The award, however, further determined that in all other respects the claim of the staff side shall stand rejected. The award, therefore, did not determine the issue of parity on principle, rather, it simply provided a particular scale of Rs.1400-2600/- which was implemented in the case of Stenographers Gr.II in Sub-Ordinate Offices by issuance of office memo dated, 4th May, 1990, by the Ministry of Finance, Govt. of India, vide Annexure-A/5.

7. While a scale of Rs.1400-2600/- was provided to the Stenographers in the Sub-Ordinate Offices by the memo dated, 4th May, 1990 [Annexure-A/5], pursuant to the award [Annexure-A/4], the demand of higher scale, as laid by the Assistant grade of Central Secretariate Service and Grade 'C' Stenographers of Central Secretariate Stenographer's Service, was acceded to by the office memo dated, 31st July, 1990, of the Ministry of Personnel, Public Grievances and Pension in terms of order dated, 23rd May, 1989, in O.A. No. 1538 of 1987, passed by the Principal Bench, New Delhi of this Tribunal. By this order, Annexure-A/6, the Stenographers of Central Secretariate were provided with scale of Rs.1640-2900/- and certain clarification in this regard was further made by O.M. dated, 3rd January, 1991 [Annexure-A/7], of the said Ministry.

8. It was thus, obvious, that since a better scale was provided to the Stenographers of the Central Secretariate, the present applicants also were tempted to claim the same scale. It was further significant to note that the two different scales given to the two classes i.e., One to the Stenographers of the Central Secretariate and

the other to the Stenographers of Sub-Ordinate Offices, were given on the basis of their respective claim, examined by different forum. Whereas, the Stenographers in sub-ordinate offices were given the scale of Rs.1400-2600/- w.e.f. 1st January, 1986, on the basis of the aforesaid award [Annexure-A/4], the other scale, being Rs.1640-2900/-, was provided to the Stenographers of Central Secretariate in terms of the order dated, 23rd May, 1989, of the Principal Bench of this Tribunal, as referred to above.

9. In any view of the matter, now, when the pay-scale of applicants and that of the Stenographers of Central Secretariate have since been revised upon the report of the 5th Pay Revision Commission and have been implemented as well, all earlier scales stand superseded and the matter now needs to be examined in its entirety, togetherwith the present context. Quite peculiarly, what was urged on behalf of the present applicants is that a decision be taken in the instant O.A. only in context of the award [Annexure-A/4] and the O.M. dated, 31st July, 1990 [Annexure-A/6]. Meaning thereby, that the relief be confined only for the period from 1st January, 1986, till the implementation of report of 5th Pay Revision Commission i.e., 1st January, 1986. We are unable to concur with this view for the reason that the matter, as to parity, has to be examined in its entirety in context of present context as well. Here, it would not be out of place to mention, as submitted on behalf of the respondents, that the 5th Pay Revision Commission has already expressed its opinion with regard to the claim of parity and has negatived the claim. That being as such, the proper course would be to raise the issue only before the Anomaly Committee already constituted to deal with the anomalies, as raised by and on behalf of the employees.

10. Lastly, we may refer to the certain decisions made by one or the other Bench of this Tribunal at different points of time, which were very much relied upon by and on behalf of the applicants. One of such decision was made very recently by the Jaipur Bench of this Tribunal as per order dated, 20th April, 2001, in O.A. No.383 of 1996



[V.Varughese Vs. Union of India & Ors.] Yet another was <sup>from</sup> Guwahati Bench of this Tribunal, as per order dated, 25th May, 2000, passed in O.A. No.151 of 1991 [Tarit Ranjan Das Vs. Union of India & Ors.]. By these orders, the scales of Rs.1640-2900/- have been provided to the grade to which the applicants of the present case belong. With all humbleness, we find it difficult to concur with the stand taken in these orders and, instead, we have preferred to place reliance on the guideline, as given by the Hon'ble Supreme Court in Civil Appeal No.3032 of 2000, up-holding the order of the Full Bench of this Tribunal [Calcutta Bench], as already discussed above.

11. In the result, this O.A. is disposed of with a direction that <sup>a</sup> reference, in regard to the dispute raised in the instant O.A., be made to the Pay Anamoly Committee already constituted after the report of the 5th Pay Revision Commission. A copy of the application in the instant O.A. would be treated as a representation on behalf of the applicants for due consideration by the Pay Anamoly Committee which would pass an appropriate reasoned order with <sup>i.e., preferably, within six months hence.</sup> utmost expedition. There shall be no order as to costs.

*skj*  
27/6/01  
[L.R.K.PRASAD]  
MEMBER[A]

*Surya*  
27/6/01  
[S.NARAYAN]  
VICE-CHAIRMAN