

# CENTRAL ADMINISTRATIVE TRIBUNAL ERNAKULAM BENCH

ORIGINAL APPLICATION No. 415 OF 2008

Dated 18<sup>th</sup> Friday, September, 2009

CORAM:

HON'BLE Mr GEORGE PARACKEN, JUDICIAL MEMBER  
HON'BLE Mr K GEORGE JOSEPH, ADMINISTRATIVE MEMBER

Somanadhan P.K  
Stenographer Grade-I (Group 'B' Gazetted),  
Passport Office, Kozhikode.

.. Applicant

[ By Advocate : Mr. A.Mohammed Mustaque ]

-Versus-

1        The Government of India,  
          Ministry of External Affairs,  
          Represented by Joint Secretary &  
          Chief Passport Officer (CPV-C&Cadre)  
          Patiala House, Tilak Marg New Delhi-110001

2        The Passport Officer  
          Passport Office, Kozhikode.

Respondent

[By Advocate: Mr. Varghese P.Thomas, ACGSC]

The application having been finally heard on 27<sup>th</sup> August, 2009, the  
Tribunal delivered the following:

## ORDER

*(Hon'ble Mr. K. George Joseph, AM)*

In this OA the applicant challenges Annx.A8 order refusing retrospective effect of his promotions as Stenographer Gr.II and Gr.I.

2 Briefly stated, the facts of the case are as follow:

The applicant joined the Central Passport organisation as a Stenographer Gr.III on 16.9.1985. The 5<sup>th</sup> Pay Commission had recommended upgradation of the post of Stenographer from level Grade III to Grade II. This recommendation was accepted by the Government vide Annx.A3 dated 6.8.1999. As per Annx.A5 order dated 17.9.2002 of Govt of India the Stenographer cadre was restructured. Promotion to Grade-II Stenographer was granted to the applicant based on the restructuring vide order datd 20.1.04. He was further promoted as Stenographer Grade-I in 2006. The plea of the applicant is that promotion granted to him on 20.1.04 should be made with retrospective dated i.e 6.8.1999 with all consequential benefits.

3 Although, the department of Personnel & Training had issued orders accepting the recommendation of the 5<sup>th</sup> Pay Commission on 6.8.1999 and the Ministry of External Affairs had issued orders for creation of necessary post on 30.8.1999, orders for restructuring of Stenographer's cadre in CPO were issued only on 17.9.2002. The orders implementing the decision and granting promotion to Grade-II Stenographer was issued only in February 2004. According to the applicant the delay of about 6 years in granting promotions to Grade-II is due to the laxity on the part of the department. The applicant is denied of his legitimate service seniority and pay scale from August 1999 onwards. Therefore, the promotion granted to the applicant should be made with retrospective effect from 6.8.1999 with all consequential benefits. The applicant is aggrieved also by the fact that



the respondents had accorded the benefits of the 5<sup>th</sup> Pay Commission to the Passport Officers with retrospective effect which is denied to the applicant.

4 The respondents contested the plea of the applicant. The applicant was promoted to the post of Assistant w.e.f. 1.11.1999 as per combined seniority of Stenographers and UDCs. However, the applicant requested that he should be continued as Stenographer which was acceded by the Ministry. He was also given financial upgradation under ACP Scheme w.e.f. 9.8.1999. The Recruitment Rules for Stenographers were amended w.e.f. 2.8.2003. After restructuring the Stenographer cadre the DPC met on 12.1.2004 in which the applicant was promoted as Stenographer Grade-II. Another DPC was held on 27.3.2006 and the applicant was promoted as Stenographer Grade-I. Thus the applicant was given promotion in time and as per rules. In the case of Passport Officers, there was only an upgradation of pay scale whereas in the case of Stenographers the cadre was restructured keeping in view the promotion of Stenographers Cadre from Steno Gr.III to Steno Gr.II and from Steno Gr.II to Steno Gr.I. The delay was not because of administrative lapse on the part of the department but due to following the proper procedure which involved consulting DoPT, UPSC and Law Ministry in framing Recruitment Rules.

5 Arguments were heard and documents perused.

6 The recommendation of the 5<sup>th</sup> Pay Commission to restructure the cadre of Stenographers was accepted after due process by the DoPT on 6.8.99. In the Office Memorandum it was clearly mentioned that the actual benefit would however be admissible to the Stenographers from the date of actual upgradation to Grade-II and Grade-I as the case may be. The Recruitment Rules/Service Rules are of statutory nature. For restructuring of the Stenographers cadre, it was necessary to make amendments to the existing Recruitment/Service Rules following the normal procedure which involved furnishing the proposals to the DoPT and the UPSC and



consultation with the Law Ministry. This is a time consuming process. The date of acceptance i.e. 6.8.1999 of the restructuring of Stenographers Cadre cannot be taken as the date of implementation of the recommendations of the 5<sup>th</sup> Pay Commission. The norms laying down the Stenographic assistance to officers of various ranks, the strength, grades, revision of Recruitment Rules in consultation with all concerned departments, will have to be made. Therefore, Annx.A3 order specifically mentioned that the actual benefit would be admissible to the Stenographers from the date of actual upgradation of Stenographer Gr.II and Gr.I, as the case may be. The applicant appears to have made a miscalculation while rejecting the promotion to the post of Assistant in the hope of immediate implementation of the decision of the DoPT to accept the recommendations of the 5<sup>th</sup> Pay Commission concerning Stenographers. On account of the time taken to implement the restructuring of the Stenographers cadre the benefit of promotion to Stenographer Gr.II and Gr.I accrued to the applicant appears to be too little. The applicant assumes that the delay in restructuring the cadre of the Stenographers was due to the laxity of the department but he has not proved the same. The respondents' submission that they were following the proper procedure involving many departments and the UPSC is not effectively met.

7        Revision of Pay scale and restructuring of a cadre are different issues and they cannot be clubbed together as submitted by the respondents. In the case of Passport Officers, there was only revision of pay scale consequent upon the acceptance of the recommendations of the 5<sup>th</sup> Pay Commission. In the case of Stenographers, restructuring of the cadre was also involved which obviously takes time. Therefore, the plea that two different yardsticks were applied in implementing the recommendations of the 5<sup>th</sup> Pay Commission, one to the advantage of the Passport Officers and the other to the disadvantage of Stenographers, violating Article 14 of the Constitution is stretching it too far. None of the grounds for relief is in

accordance with rules. Therefore, the applicant is not entitled to any of the reliefs prayed for in the O.A. The O.A fails.

8 Having said the above, we hold the view that it would have been creditworthy, had the respondents pursued the restructuring of Stenographers Cadre energetically so as not to take nearly five years.

9 In the light of the discussion above, the OA is dismissed. No order as to costs.



(K. George Joseph)  
Administrative Member



(George Paracken)  
Judicial Member

Dated the 18<sup>th</sup> September 2009

kkj