

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

O.A.No.475/06

Thursday this the 29<sup>th</sup> day of June 2006

**C O R A M :**

**HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN  
HON'BLE MR.K.B.S.RAJAN, JUDICIAL MEMBER**

1. Shri.Muraleedharan Nair.K.,  
Private Secretary, C.A.T.,  
Ernakulam Bench, Kochi – 682 017.
2. Shri.K.Subramanian,  
Private Secretary, C.A.T.,  
Ernakulam Bench, Kochi – 682 017.
3. Shri.T.R.Sivakumar,  
Private Secretary, C.A.T.,  
Ernakulam Bench, Kochi – 682 017.
4. Shri.Ramesan.C.V.,  
Private Secretary, C.A.T.,  
Ernakulam Bench, Kochi – 682 017.
5. Shri.K.K.Jose,  
Private Secretary, C.A.T.,  
Ernakulam Bench, Kochi – 682 017.

...Applicants

(By Advocate Mr.S.Radhakrishnan)

**Versus**

1. Union of India represented by  
the Secretary (Expenditure),  
Ministry of Finance, New Delhi – 110 001.
2. The Secretary,  
Department of Personnel & Training,  
Ministry of Personnel, Public Grievances & Pensions,  
New Delhi.
3. The Principal Registrar,  
Central Administrative Tribunal,  
Principal Bench, New Delhi.

...Respondents

(By Advocate Mr.T.P.M.Ibrahim Khan,SCGSC)

.2.

This application having been heard on 29<sup>th</sup> June 2006 the Tribunal on the same day delivered the following :-

### **ORDER**

#### **HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN**

The applicants herein are Private Secretaries in the Central Administrative Tribunal, Ernakulam Bench drawing the pay scale of Rs.6500-10500/-. They are aggrieved by the nonfeasance on the part of the respondents in not extending the non functional pay scale of Rs.8000-13500/- granted to the Private Secretaries (Grade 'A' and 'B' merged) of Central Secretariat Stenographers Service (CSSS for short) to the Private Secretaries of the C.A.T. They have submitted that prior to the 4<sup>th</sup> Pay Commission there was parity of scales between Stenographer Grade 'C' of C.A.T and Stenographer Grade 'C' of CSSS. But when the revised pay scales of the 4<sup>th</sup> Pay Commission was not extended to the Stenographer Grade 'C' of C.A.T they had approached the Principal Bench of C.A.T in O.A.2865/91 and O.A.529/92. The said O.As were disposed of directing to extend the benefits granted to the Stenographer Grade 'C' of CSSS to the Stenographer Grade 'C' of C.A.T by equating the different grades of Stenographers in CSSS with identical grades in C.A.T. On the implementation of the 5<sup>th</sup> Pay Commission Report, the post of Private Secretary and Senior Personal Assistant of C.A.T have been merged into one grade of Private Secretary and were granted the same scale of pay of Rs.6500-10500/- as existing under CSSS by the Annexure A-3 order dated 10.11.1998. Later the Government had set up a 'Group of Officers' on cadre structure of CSSS and on the basis of the recommendation of that Group the Department of Personnel & Training by O.M dated 24.6.2005

.3.

(Annexure A-4) accepted the recommendation that all regular Private Secretaries Steno Grade 'A' & 'B' (Rs.6500-10500/-) of CSSS, who have completed four years of service in the grade may be placed in the non functional pay scale of Rs.8000-275-13500/-. These benefits have not been extended to the Private Secretaries of the C.A.T and, therefore, the applicants had submitted individual representations (Annexure A-5 to Annexure A-9) through the 3<sup>rd</sup> respondent which have been to the knowledge of the applicants, forwarded to the 2<sup>nd</sup> respondent.

2. When the matter came up today, learned counsel for the applicants stressing the parity of pay scale that had always existed between the various grades of Stenographers of C.A.T and CSSS, also drew our attention to the earlier judgment of the Principal Bench of C.A.T, New Delhi in O.A.2865/91, particularly the observations in Paras 9, 10 & finally 12 holding that the posts were in comparable grades with same classification and pay scales and the method of recruitment being identical cannot be discriminated in the matter of pay scales. The counsel further submitted that since the representations of the applicants have been forwarded to the 1<sup>st</sup> and 2<sup>nd</sup> respondents through proper channel, a direction may be given to the 1<sup>st</sup> and 2<sup>nd</sup> respondents to consider and take a decision on the representations expeditiously.

3. Accordingly, in the interest of justice, we direct the 1<sup>st</sup> and 2<sup>nd</sup> respondents to consider the representations of the applicants in the light of the averments in the O.A as well as the legal questions considered in the earlier judgment referred to therein and communicate a decision to the

.4.


applicants within a period of three months from the date of receipt of a copy of this order. For facility of consideration, we direct that the O.A copies may be forwarded to the respondents so that it can be considered as a supplement to the representations. No order as to costs.

(Dated the 29<sup>th</sup> day of June 2006)



**K.B.S.RAJAN**  
**JUDICIAL MEMBER**

asp



**SATHI NAIR**  
**VICE CHAIRMAN**

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

Miscellaneous Application No. 854 of 2007

i n

Original Application No. 475/06

*Thursday*., this the 28<sup>th</sup> day of February, 2008

**C O R A M :**

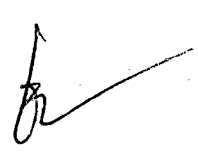
**HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN  
HON'BLE MR.K.B.S.RAJAN, JUDICIAL MEMBER**

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Private Secretary, C.A.T.,  
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2. Shri.K.Subramanian, /  
Private Secretary, C.A.T.,  
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5. Shri.K.K.Jose,  
Private Secretary, C.A.T.,  
Ernakulam Bench, Kochi – 682 017.

... Applicants  
(Applicants in O.A.)

(By Advocate Mr.S.Radhakrishnan)

**Versus**

1. Dr. Sanjiv Mishra,  
The Secretary (Expenditure),  
Ministry of Finance, New Delhi – 110 001.
  2. Mr. L.K. Joshy,  
The Secretary,  
Department of Personnel & Training,  
Ministry of Personnel, Public Grievances & Pensions,  
New Delhi.
- 

3. Mr. R.N. Panda,  
The Principal Registrar,  
Central Administrative Tribunal,  
Principal Bench, New Delhi. ... Respondents  
(Respondents in OA)

(By Advocate Mr.T.P.M.Ibrahim Khan,SCGSC)

This M.A. having been heard on 17.01.2008, the Tribunal on 28.02.08 delivered the following :-

**ORDER**  
**HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER**

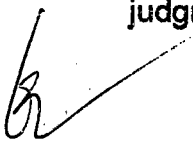
Vide order dated 6-11-2007 in C.P. No 5/2007 in O.A. No. 475/06, the Tribunal had observed as under:-

"33. Lastly, the decision taken by the respondents to refer the matter to sixth Pay Commission was taken as early as in October, 2006 vide Annexure A-2 of the Contempt Petition. It is not exactly known as to what were the particulars that were provided by the respondents before the Sixth Pay Commission. It is not clear as to whether the fact of various court cases and a few decisions of the CAT have also been brought to the notice of the Sixth Pay Commission. When the Tribunal has ordered for consideration and take a decision, vide order dated 29<sup>th</sup> June, 2006, the same should be complied with in spirit and extent. If the case has been referred to the Sixth Pay Commission in a half baked manner, without reference to the case of the applicants, or if the matter has not been properly pursued with the Pay Commission, then, the compliance claimed by the respondents has to be branded only as a 'dubious compliance' and not in intent and spirit. Thus, the responsibility of the respondents is not over by mere issue of order dated 12<sup>th</sup> October, 2006 addressed to the counsel for the applicants but it extends beyond the same. The respondents should satisfy the Tribunal as to the manner in which the case has been taken up with the Sixth Pay Commission. In fact, the applicants are also entitled to know the details of reference to Pay Commission.

34. Though, this contempt petition could well be kept pending till the above information is provided, in the interest of justice, this Tribunal feels that the petition could well, from this stage, be treated as an execution application, so as to relieve the respondents from certain amount of anxiety. Thus, notices on contempt are discharged but the respondents shall furnish the details of reference to the Sixth pay Commission, either by way of an affidavit by an officer at appropriate level or by filing the copies of very reference, with copy to the counsel for the applicants. This shall be completed within a period of six weeks from the date of communication of this order. Registry to give a new Misc. Application Number to this CP. List on 2.1.2008."



2. The purpose of the above direction, - "The respondents should satisfy the Tribunal as to the manner in which the case has been taken up with the Sixth Central Pay Commission" - was meant to know the extent of seriousness with which the Respondents had proceeded with the matter in referring the case to the Sixth Central Pay Commission. For, in their initial reply vide communication dated 19<sup>th</sup> October, 2006, addressed to the counsel for the applicants it was stated, "the matter has been considered in consultation with the Establishment Division of this Department and the Ministry of Finance (Department of Expenditure) and the view has been taken that the issue needs to be considered by the Sixth Central Pay Commission for taking holistic view in the matter. Accordingly the matter will be referred to the Sixth Central Pay Commission by the Central Administrative Tribunal along with its other issues." The above communication was endorsed to the Principal Registrar, C.A.T. for taking further action in the matter. This was also separately intimated by another communication dated 31<sup>st</sup> October, 2006 by the DOPT to the Principal Registrar, C.A.T., The Principal Bench had, by communication dated 7<sup>th</sup> December, 2006 addressed to the Registrars of all Outlying Benches and called for consolidated proposal duly examined at the Bench level along with supporting materials. It is not exactly known as to what the response from the outlying Benches to the above communication was. There has been no reference in the Affidavits filed by the DOPT in March, 2007 in regard to the further action taken in referring the matter to the Sixth Pay Commission. Hence expressing dis-satisfaction over the so called compliance by the respondents, this Tribunal had again directed the respondents to comply with the direction in letter and spirit and to file a comprehensive affidavit indicating the action taken, also, taking note of the judgments of the Principal Bench of this Tribunal in OA No. 377/06 dated 1-5-07



in identical matter. This direction resulted in the filing of affidavits by the Secretary, DOPT and Secretary, Ministry of Finance (Dept of Expenditure) in August, 2007. Here the most surprising part is that there was not much of reference as to when the matter was taken up with the Sixth Central Pay Commission, but both the Ministries had tried to defend themselves stating that the functional responsibilities of the Private Secretaries and Stenographers are not akin to those in the other Central Secretariat Services! A thorough and total somersault, in complete derogation of the earlier decision to take up the matter with the Pay Commission. When the shallowness in the action taken by the respondents and inconsistencies in their stand had been brought out in the comprehensive order dated 7<sup>th</sup> November, 2007 and the departments were, in strict terms, directed to make available the details furnished by them to the Pay Commission, vide counsel statement, a few documents have been filed by the respondents. Perusal of the same only reflects that there has been only piecemeal action, without proper co-ordination and in the entire action so far taken, only lack of comprehension is manifest.

3. To defend their case, the DOPT and the Ministry of Finance had in their Affidavit filed in August, 2007 in symphonic tone stated that the functional responsibilities of the Private Secretaries in CAT are not comparable to their counterparts in the C.S.S.S. When the above defence was projected, perhaps the Ministry was not aware that the Principal Bench had taken up the matter with the Sixth Central Pay Commission in respect of its staff members, vide letter dated 19<sup>th</sup> July, 2007 by the Principal Registrar. In the said consolidated proposal embracing cases of various posts right from Principal Registrar, all that had been furnished in respect of revision of Pay Scales to Private Secretaries at par with their counterpart in the C.S.S.S. is as under:-





| 1 | 2   | 3   | 4  |
|---|---|---|--|
| 5 | Section Officers/<br>Court Officers/<br>Private<br>Secretaries<br>(Rs.6500-10500) | Grant of non-<br>functional pay scale<br>of Rs.8000/3500<br>akin to Section<br>Officers of CSS and<br>Private Secretaries<br>of CSSS  | On the recommendations of 4 <sup>th</sup> CPC, while granting the scale of Rs. 1640-2900 to Assistants and Stenographers Grade 'C' in CSS/CSSS cadre, the same was extended to Assistant/Court Masters of CAT, even though as per the directions of Hon'ble Court. Similarly, 1 post of PPS and 16 posts of PS attached to Hon'ble Vice Chairmen in CAT were upgraded to the post of Sr. PPS in the scale of Rs. 12000-16500 and PPS in the scale of Rs. 10000-15200 respectively by amending the Recruitment Rules of staff in CAT to bring at par with the Rules governing recruitment to the corresponding posts in the Central Secretariat. With the approval of Hon'ble the Chairman, representation of the staff of CAT for pay parity with CSS / CSSS were sent to DOPT for consideration, but it was relied that the matter may be referred to 6 <sup>th</sup> CPC to have a holistic view even though the recommendations of 5 <sup>th</sup> CPC has been implemented in some departments. The issue was agitated in the Court of Law by certain staff of CAT and while disposing of the application, directions have been given to Govt. to reconsider the matter afresh and to issue a speaking and reasoned order. When the functional requirement are being identical, one cannot be treated differential, which would be an infraction to the principles of 'equal pay for equal work' and is an integral part of the Directive Principles enshrined under Article 39(d) of Constitution. Hence, the Commission may recommend revision of the scales of pay of CAT staff and subsequent revisions of pay scales made to the Central Secretariat staff is, mutatis mutandis applicable to CAT staff by the 6 <sup>th</sup> CPC. |
| 6 | Assistant/Court<br>Masters - Steno<br>'C' (Rs.5500-<br>9000)                      | Upgradation of pay<br>scales of Assistants<br>and Court Masters /<br>Steno Grade 'C'<br>from 5500-9000 to<br>6500-10500 akin to<br>Assistants and Steno<br>Gr.'C' (PA) of<br>CSS/CSSS |  |

4. The above does not reflect as to the background of the case and there has been no reference to the decisions by the Tribunal. Nor was a copy of the same filed before the Tribunal for perusal. When the Tribunal in its order dated 6<sup>th</sup>



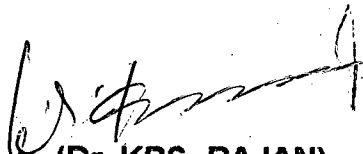
November, 2007 observed that if the matter has not been properly pursued with the Pay Commission, then, the compliance claimed by the respondents has to be branded only as a 'dubious compliance' and not in intent and spirit, as reflected in para 33 and 34 of the order, the DOPT came out of its inertia and seems to have referred the matter to the Principal Bench and the latter, in response to the DOPT letter dated 6<sup>th</sup> December, 2007 furnishes a copy of orders of the Principal Bench in another connected OA No. 377/2006 and CP No. 405/2003 and referring to the aforesaid paragraphs 33 and 34 of the order of this Tribunal, the Principal Bench had requested the DOPT to forward the same to the Sixth Pay Commission. Letter dated 17<sup>th</sup> December, 2007 refers. And, the DOPT at the level of Under Secretary simply forwarded the same to the Secretary, Sixth Central Pay Commission, vide letter dated 24<sup>th</sup> December, 2007. There has been no reference even at this juncture to inform the Sixth Central Pay Commission about the claims of the applicants, of court cases and the deliberations thereof as contained in the respective orders of the Tribunal, much less the recommendations and other details in support of such recommendations. Action taken by the DOPT in forwarding the materials received from the Principal Bench is just mechanical. Thus, what action ought to have been taken as early as in October, 2006, when the counsel for the applicants was informed that it was decided to refer the matter to the Sixth Central Pay Commission to have a 'holistic view', has not so far been taken, and what action has taken place is in piecemeal, disjoint and mechanical, without due application of mind. DOPT ought to have been more serious in the matter.

5. The Pay Commission is stated to be in its final stage of furnishing its recommendations. It is not exactly clear whether the time is up by now in making a concrete and comprehensive proposal, tracing the history of the entire

case, annexing the connected decisions of the Tribunal, and furnishing the justifications etc., to the Sixth Central Pay Commission and if it is not all up, the Secretary, DOPT should, without any further loss of time, preferably personally handle the matter or at least monitor the matter, and try to persuade the Sixth Central Pay Commission to consider the case of the applicants and other similarly situated. The Principal Registrar, C.A.T. shall make available all the relevant materials to the Secretary and have due interaction with the DOPT at a senior level. A copy of such proposal made shall be filed before the next date of hearing.

6. List on 9<sup>th</sup> April, 2008.

(Dated, the 28<sup>th</sup> February, 2008)

  
(Dr. KBS RAJAN)  
JUDICIAL MEMBER

  
(SATHI NAIR)  
VICE CHAIRMAN

cvt.

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

Miscellaneous Application No. 854 of 2007

**i n**

Original Application No. 475/06

*Thursday*....., this the 26<sup>th</sup> day of June, 2008

**C O R A M :**

**HON'BLE MR.K.B.S.RAJAN, JUDICIAL MEMBER**

**HON'BLE DR. K.S. SUGATHAN, ADMINISTRATIVE MEMBER**

1. Shri.Muraleedharan Nair.K.,  
Private Secretary, C.A.T.,  
Ernakulam Bench, Kochi – 682 017.
2. Shri.K.Subramanian,  
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... Applicants  
(Applicants in O.A.)

(By Advocate Mr.S.Radhakrishnan)

**Versus**

1. Dr. Sanjiv Mishra,  
The Secretary (Expenditure),  
Ministry of Finance, New Delhi – 110 001.

*on*

2. Mr. L.K. Joshy,  
The Secretary,  
Department of Personnel & Training,  
Ministry of Personnel, Public Grievances & Pensions,  
New Delhi.

3. Mr. R.N. Panda,  
The Principal Registrar,  
Central Administrative Tribunal,  
Principal Bench, New Delhi.

... Respondents  
(Respondents in OA)

(By Advocate Mr.T.P.M.Ibrahim Khan, SCGSC)

This M.A. having been finally heard on 20.06.08, the Tribunal on 26.06.08 delivered the following :-

**ORDER**  
**HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER**

The CPC No. 5/2007 had, vide order dated 06-11-2007, been converted as Rule 24 M.A. for execution and further action taken.

2. Records would reveal that the Private Secretaries of Central Administrative Tribunal (C.A.T.) had, under the Vth Pay Commission Recommendations been treated at par with their counterpart in the C.S.S./CSSS Cadre and accordingly the pay scale afforded to them has been made available to the Private Secretaries of C.A.T. as well with effect from 01-01-1996. Again, vide Annexure R-1 to the Counsel statement dated 21<sup>st</sup> April 2008; filed on 16<sup>th</sup> June 2008, the VI Pay Commission has also confirmed the parity between the two. This means that there is absolutely no question of different

*[Handwritten signature]*

pay scales for the posts of Private Secretaries of CSS/CSSS on the one hand and the C.A.T. on the other. As such, when for the Private Secretaries of C.S.S./CSSS the Government had introduced non functional pay scale of Rs 8,000 – 13,500, subject to fulfilment of certain conditions attached thereto, the same non functional pay scale is expected to be extended to the Private Secretaries of C.A.T. from the very same date and subject to similar conditions. Otherwise, it would amount to derailment by the Government from the finding of the Pay Commission, which is not permissible. Perhaps, the reservation of the respondents earlier in extending the non functional pay scale of Rs. 8000-13500 to the Private Secretaries of C.A.T. was on account of the apprehension that the VI Pay Commission may or may not confirm the parity between the two sets of Private Secretaries. Now that in clear terms, parity has been confirmed by the VI Pay Commission, there should be no impediment for the respondents to pass suitable orders extending the pay scale of Rs. 8000-13500 from the date the Private Secretaries of the Central Secretariat Services/CSSS have been granted, subject no doubt, to the fulfilment of the requisite conditions attached thereto. Once due orders are passed in this regard, that would be the complete compliance of the order of this Tribunal.


3. It is a matter of record that such a situation in respect of Section Officers of the CBI has also been recently set right by the Principal Bench in OA No. 377/06 by its order dated 01-05-2007, which has been upheld by the Delhi

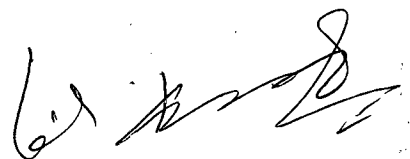
High Court in Civil Writ Petition No. 7475 of 2007 and CM No. 14234 of 2007  
vide order dated 10<sup>th</sup> October, 2007.

4. The respondents may therefore take immediate action and work out the higher pay / pay scale available to all the Private Secretaries of Central Administrative Tribunal (C.A.T) and make available the arrears of pay and allowances arising out of such fixation of pay.

5. With the above directions, the M.A. is finally disposed of.

(Dated, the 26<sup>th</sup> June, 2008)

  
(Dr. K.S. SUGATHAN)  
ADMINISTRATIVE MEMBER

  
(Dr. K B S RAJAN)  
JUDICIAL MEMBER

cvt.