

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 557 of 2009

Thursday, this the 29th day of September, 2011

CORAM:

**HON'BLE Mr. JUSTICE P.R. RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

1. M.P. Sivakumar, aged 38 years, S/o. C.P. Sethumadhavan, Stenographer Grade I, Regional Passport Office, Cochin, residing at "Quarter No. III/7, Plot No. 1, RPO residential quarters, Panampilly Nagar, Cochin 35.
2. P.K. Somandadhan, aged 53 years, S/o. Late Krishna Kurup, Stenographer Grade I, Passport Office, Kozhikode, residing at 'Thanal House', Pidakoli Parambil, Edakkad PO, Near CVN Kalari, Kozhikode.
3. Smt. S. Sheelaja, aged 34 years, D/o. C. Karunakaran Nair, Stenographer Grade I, Passport Office, Trivandrum, residing at "Shivarang" CRP Pallipuram PO, Trivandrum. Applicants

(By Advocate – Mr. Shafik M.A.)

V e r s u s

1. Union of India, represented by Secretary, Ministry of Ministry of External Affairs, New Delhi.
2. The Secretary to Government of India, Department of Expenditure, Ministry of Finance, New Delhi.
3. The Joint Secretary (CPV) and Chief Passport Officer, PV Division, Ministry of External Affairs, New Delhi. Respondents.

(By Advocate – Mr. George Joseph, ACGSC)

This application having been heard on 20.09.2011, the Tribunal on 29.09.11 delivered the following:

ORDER**HON'BLE MR. K GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

This O.A has been filed by the applicants for a direction to the respondents to take immediate action to grant the applicants and their cadre of Stenographers Grade-I the Grade Pay of Rs. 4600/- with effect from 01.01.2006 with all consequential benefits.

2. The applicants are presently working as Stenographers Grade-I in the Regional Passport Office at Cochin, Passport Office, Kozhikode and Passport Office, Trivandrum respectively. They have made representations to grant them the Grade Pay of Rs. 4600/- as in the case of Superintendents and Senior Hindi Translators in the Central Passport Organization (CPO). The Ministry of External Affairs had recommended for upgradation of the pay scale of Stenographer Grade-I from the pre-revised scale of Rs. 5500-9000 to the revised pay band of PB-2 in the scale of Rs. 9300-34900 with the Grade Pay of Rs. 4600/- on par with the Superintendent of the CPO. However, the Ministry of Finance has not agreed to the proposal as per Annexure A-1 order. Hence the O.A.

3. The applicants submit that the Superintendent and the Stenographer Grade-I in the CPO are Class-II (Group-B) Gazetted Officers in the Selection Grade as per the CPO Recruitment Rules. The Stenographer Grade-I has been always on par with the Superintendent of the CPO, both in functional requirements and in scale of pay. Recruited through a centralised selection body for Government service, as Stenographers in a same selection



procedure, they were made to draw less salary than their subordinates who have opted to be Delhi based in Central Secretariat Stenographers' Service (CSSS). However, they were having parity with the Superintendents in the CPO, which is now being disturbed. With the entry into Grade-I as per the new restructuring made as per Annexure A-3 the cadres of Stenographers come to an end. Earlier, they were also promoted to the level of posts available for Superintendents for promotion. The first applicant who is aged only 38 years, and who became Grade-I in the year 2006, will be completing 25 years in the same grade and will be languishing in the same post for the next 22 years. In the case of Hindi Translators of the same organization who are not even Gazetted officers with lesser duties and responsibilities are already granted their request for upgradation to the Grade Pay of Rs. 4600/-, the very basis of which itself is applicable to the applicants.

4. The respondents contested the O.A. In their reply statement it was submitted that there was no specific recommendation in the case of Stenographers of the CPO in the VI Central Pay Commission Report as in the case of the Superintendents of the CPO for upgradation of the pay scale to the pay band of Rs. 9300-34800 with Grade Pay of Rs. 4600/-. The post of Stenographer Grade-I and the Superintendent in the CPO belong to different cadres and their duties and responsibilities are also different. There was no conscious pay parity between the posts of Stenographers and Superintendents in the CPO. The VI CPC had recommended the revised pay structure for the common category of Stenographers working in Central Government offices outside the Secretariat, like the CPO. In **Hiranmony vs. Union of India**, in Civil Appeal No. 7232 of 2003, the Apex Court has

1

observed *"To give an illustration, if post A and post B have been carrying the same pay scales, merely because the pay scale of post A has been increased that by itself cannot result in increase in the pay scale of Post B to the same level. It is entirely on the Government and the authorities to fix the pay scales and to decide whether the pay scale of Post B should be increased or not. The judiciary must exercise self restraint and not encroach into the executive or legislative domain."*

The Pay Commission being an expert body, the pay scales granted by it through specific recommendations cannot be questioned. Therefore, the O.A should be dismissed.

5. In the rejoinder, it was submitted that the Grade-I Stenographers in the CPO are also discharging the duties of protocol earmarked for Passport Officer as and when required. The respondents not only maintained the the pay parity between Grade-I Stenographers and Superintendents but also extended the Group-B status to the applicants as in the case of Superintendents in the CPO as per Recruitment Rules at Annexure A-4. The Junior Hindi Translator is an entry cadre and also non-gazetted post and equivalent to the post of Assistant in the CPO. However, the Grade-I Stenographers of the CPO are equivalent to the Superintendents in terms of pay scale and status. The Ministry of External Affairs had submitted a proposal to upgrade the existing 6 posts of Steno Grade-I for maintaining pay parity either between the Stenographers working in CSSS or at least with that of Superintendents in the CPO. There is no justification for discrimination between Field and Secretariat Stenographers. The applicants are also recruited through an open All India Competitive Examination conducted by the Staff Selection Commission followed by stenography test, like PAs of Central

L

Secretariat who are being granted the Grade Pay of Rs. 4600/-.

6. We have heard Mr. Shafik M.A., learned counsel for the applicants and Mr. George Joseph, learned ACGSC appearing for the respondents, and perused the records.

7. The VI CPC had recommended to grant the revised pay scale to certain common categories of staff, when the pay scales of 3 posts are merged, with the Grade Pay of RS. 4600/- to those in the scale of Rs. 5500-9000, as per clause (ii) of Section 1 of Part B. The relevant part of the aforesaid recommendation reads as under :

"On account of merger of pre-revised Pay Scales of Rs. 5000-8000, Rs. 5500-9000 and Rs. 6500-10500, some posts which presently constitute feeder and promotion grades will come to lie in an identical grade. The specific recommendations about some categories of these posts made by the Pay commission are included Section II of part B. As regards other posts, the posts in these three pay scales should be merged. In case it is not feasible to merge the posts in these pay scales on functional considerations, the posts in the scale of Rs. 5000-8000 and Rs. 5500-9000 should be merged, with the post in the scale of Rs. 6500-10500 being upgraded to the next higher grade in PB-2, i.e. to the grade pay of Rs. 4600 corresponding to the pre-revised pay scale of Rs. 7450-11500. In case a post already exists in the scale of Rs. 7450-11500, the post being upgraded from the scale of Rs. 6500-10500 should be merged with the post in the scale of Rs. 7450-11500."

8. The External Affairs Ministry had recommended the case of the applicants for upgradation of the pre-revised pay scale of Rs. 5500-9000 to the revised pay band PB-2 (Rs. 9300-34800) with the Grade Pay of Rs. 4600/- as under :



"Upgradation of the post of Stenographer Grade-I (pre-revised pay scale of Rs. 5500-9000) Group B Gazetted/Upgradation of grade pay of Steno Grade II to Rs. 4600/-"

There are only six posts of Stenographers Grade-I in the CPO. The 6th PC has merged the feeder grade of Stenographer Grade-II with Stenographer Grade-I and given grade pay of Rs. 4200 to the combined post. This means that the promotion earned by Stenographer Grade-I after rendering the prescribed qualifying service in the post of Stenographer Grade-II has been nullified. Since there is no higher promotion post in the Stenos' cadre in CPO, these six incumbents are stuck and bewildered. The 6th PC has also recommended merger of the general cadre and the Stenos' cadre. Accordingly, to provide promotional avenues to the tiny Stenos' cadre in CPO, it is proposed to grant Superintendent's grade pay to the existing six incumbents of Steno Grade-I, both posts being Group B Gazetted and were in analogous pay scale prior to 6th PC. For the purpose of promotion to the next higher grade in the general cadre – APO (to be re-designated Deputy PO), the existing Steno Grade-I will be given roster points on pro-rata basis with reference to the sanctioned strength of Superintendent and Steno Grade I. For this purpose, Steno Grade I, who were in that Grade as on 1.1.2006, will be placed enbloc at the bottom of Superintendents as on 1.1.2006. However, in future Steno Gr II will not be promoted to the post of Steno Grade I.

There are 12 Stenographers Grade-II who were and are in the pay scale equivalent to that of Assistants. The grade pay of Steno Grade II should be upgraded to Rs. 4600/-, as proposed for Assistant, as has already been implemented in MEA/CSS. They will be given promotion avenue to the post of Superintendent (to be redesignated APO) by providing roster points in a common seniority list of Assistants (to be redesignated Office Superintendent) and Steno Gr II on pro-rata basis with reference to the sanctioned strength of the two posts.

The annual financial implication for this is minimal at Rs. 4.40 lakh only. This proposal should also be implemented from 1.1.2006."

9. The Finance Ministry has not agreed to the aforesaid proposal, vide Annexure A-1 order dated 19.06.2009, which is reproduced as under :



"Sub: Upgradation of the pay of Stenographer Grade-I to that of the Superintendent.

Sir/Madam,

In response to the request received from various Passport Offices on the above mentioned subject, the Ministry had recommended the proposal for upgradation of the pay scale of Stenographer Grade-I from the pre-revised pay scale of Rs. 5500-175-9000 to the revised pay band of PB-2 (Rs.9300-34800) with Grade Pay of Rs. 4600/- at par with Superintendent of CPO. However, the Ministry of Finance has not agreed to the proposal.

2. This may be brought to the notice of all concerned in your office".

This order does not reveal any application of mind. It is not a speaking order. It does not show that the merit of the case of the applicants is considered.

10. It is seen from Annexure A-2 that the duties and functions of Stenographer Grade-I are on par with the Superintendent in the CPO with Passport Signing Authority. In the case of Stenographers of CSSS, the key factors like objectives of the organization, its core functions, duties and responsibilities, hierarchical levels, horizontal and vertical relativities etc. are considered in fixing their pay scales. It would appear that the Stenographer Grade-I in the CPO are distinct from other Stenographers in so far as they discharge functions of the Superintendent of the CPO. The key factors like objectives of the CPO, its core functions, duties and responsibilities, hierarchical levels, horizontal and vertical relativities etc. are also equally applicable to Stenographer Grade-I of the CPO. The Senior Hindi Translators are being granted the Grade Pay of Rs. 4600/-. The



Stenographer Grade-I of the CPO is a Group-B Gazetted post. The Stenographers Grade-1 of the CPO, who became Grade-I after two promotions, cannot be justifiably compared with the Junior Hindi Translators belonging to CSOLS, which is not only an entry cadre but also a non-gazetted post and equivalent to the Assistant in the CPO. It would appear that all the points which make the post of Stenographer Grade-I in the CPO distinct and comparable with the equivalent post in the CSSS and the post of Superintendent in the CPO, are not duly considered by the respondents in the Annexure A-1 order. Hence it is liable to be quashed.

11. As per Annexure A-5, the Senior Hindi Translators belonging to Central Secretariat Official Language Service (CSOLS) were given the grade pay of Rs. 4600/-. It is only fair to compare the applicants with the Senior Hindi Translators and the Superintendents in the CPO. In taking a decision to grant or not to grant the Grade Pay of Rs. 4600/- to the applicants, the following points, inter alia, need to be considered :

- (i) The parity between the Stenographer Grade-I and the Superintendent in the office of the CPO to be maintained;
- (ii) The Superintendent and the Stenographer Grade-I are discharging the same duties and responsibilities in the CPO;
- (iii) The Senior Hindi Translators in the CPO have been granted the Grade Pay of RS. 4600/-;
- (iv) The Assistants and the PAs of CSSS have been granted the Grade Pay of Rs. 4600/-.

L

(v) Making the grade pay of Rs. 4200/- applicable to both Steno Grade-II and Steno Grade-I nullifies the effect of promotion to Steno Grade-I;

(vi) The discrimination between the Field and Central Secretariat Stenographers.

12. Fixing the pay scale is within the domain of the Executive. Vide DOP&T O.M. No. 11/2/2008-JCA dated 12.01.2009, Anomaly Committee was set up to settle the anomalies arising out of the implementation of the VI Pay Commission's recommendations. The Departmental Anomaly Committee will deal with the anomalies pertaining exclusively to the department concerned. We are of the view that the Departmental Anomaly Committee of the External Affairs Ministry can deal with the representations of the applicants. If for any reason, that is not possible, the External Affairs Ministry can move the Government to set up another Committee to consider the representations of the applicants in a fair and objective manner within a period of three months from the date of receipt of a copy of this order. Ordered accordingly.

13. Annexure A-1 order dated 19.06.2009 is set aside.

14. With the above direction, the O.A. is disposed of with no order as to costs.

(Dated, the 29th September, 2011)



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER
cvt.



(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER