

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Common Order in O.A.Nos.593/05, 595/05 & 675/05

Wednesday this the 25 th day of July, 2007.

CORAM:

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

O.A.593/05:

K.Viswanathan,
Assistant Director (Official Language),
Central Institute of Fisheries Nautical &
Engg. Training, Kochi-16. Residing at :
No.31/367, "Keerthi" Janata, Vytalla, Kochi-19. Applicant

(By Advocate Shri.TC Govindaswamy)

Vs.

1. Union of India represented by the
Secretary to the Government of India,
Ministry of Home Affairs,
Department of Official Language,
New Delhi – 110001.
2. The Secretary to the Government of India,
Ministry of Agriculture,
Department of Animal Husbandry and Dairying,
Krishi Bhawan, New Delhi – 110001.
3. The Director,
Central Institute of Fisheries Nautical &
Engg. Training, Kochi-16.
4. Chief Instructor (Crafts & Gear)
Central Institute of Fisheries Nautical &
Engg. Training, Kochi-16. Respondents

(By Advocate Shri. TPM Ibrahim Khan, SCGSC)

O.A.595/05:

Bee-na K Nair,
W/o R.V.Rishikesh,
Junior Hindi Translator ,
Central Institute of Fisheries Nautical &
Engg. Training, Residing at :

Quarters No.3/Type III,
CIFNET Residential Quarters,
Pulleppadi, Kochi. Applicant

(By Advocate Shri.TC Govindaswamy)

Vs.

1. Union of India represented by the Secretary to the Government of India, Ministry of Home Affairs, Department of Official Language, **New Delhi – 110001.**
 2. The Secretary to the Government of India, Ministry of Agriculture, Department of Animal Husbandry and Dairying, Krishi Bhawan, **New Delhi – 110001.**
 3. The Director, Central Institute of Fisheries Nautical & Engg. Training, Kochi-16.
 4. Chief Instructor (Crafts & Gear) Central Institute of Fisheries Nautical & Engg. Training, Kochi-16.

Respondents

(By Advocate Shri. TPM Ibrahim Khan, SCGSC)

O.A.675/05:

P.R.Anandavally Amma,
W/o vijaya Kumar,
Senior Hindi Translator,
Central Institute of Fisheries Nautical &
Engg. Training, Kochi-16, Residing at:
No.30/1504, Harikrishna, Poomnummni
Vytilla, Kochi, Kochi-9.

Applicant

(By Advocate Shri.TC Govindaswamy)

V_{S_1}

1. Union of India represented by the Secretary to the Government of India, Ministry of Home Affairs, Department of Official Language, **New Delhi – 110001.**
 2. The Secretary to the Government of India, Ministry of Agriculture, Department of Animal Husbandry and Dairying, Krishi Bhawan, **New Delhi – 110001.**

3. The Director,
Central Institute of Fisheries Nautical &
Engg. Training, Kochi-16.
4. The Director,
Integrated Fisheries Project,
Ministry of Agriculture, Kochi-16. Respondents

(By Advocate Shri. TPM Ibrahim, SCGSC)

The applications having been heard on 25.7.2007,
the Tribunal on the same day delivered the following.

ORDER

HON 'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

As the issue involved in these three O.As. is one and the same, this common order is passed.

2. The brief facts of the case as given in the synopsis in the three O.As. would be sufficient to have a hang of the issue involved and the same are as under.

O.A.593/2005:

The applicant is presently working as an Assistant Director (Official language) in Group 'B' services under respondents No.3 and 4. He is in the scale of pay of Rs.7500-12000/- In this Application, the Applicant is aggrieved by Annexure A1 Pay Fixation Statement bearing No.1-6/97-Adm. Vol.IV dated 28.7.05 issued by the 4th respondent retrospectively reducing the Applicant's scale of pay to Rs.6500-10500/- with effect from 11.2.2003. Annexure A-1 is stated to be based on an office order bearing No. 1-6/97-Admn. Vol.IV dated 26.7.05 issued by the 3rd respondent. The applicant begs to submit that in terms of Annexure A1 and A2, the applicant's scale of pay has been reduced from Rs.7500-12000/- to Rs.6500-10500/- with



retrospective effect and that too, most arbitrarily and without giving him an opportunity to show cause. In case Annexure A1 and A2 are implemented, substantial prejudice and losses would be caused to the applicant, and hence this humble original application beseeching justice.

O.A.595/05:

The applicant is presently working as a Junior Hindi Translator in Group 'B' (Non-gazetted) services under respondents No.3 and 4. She is in the scale of pay of Rs.5000-9000/-. In this application applicant is aggrieved by Annexure A1 Pay fixation Statement bearing No. 1-6/97- Admn. Vol.IV dated 28.7.05 issued by the 4th respondent retrospectively reducing the applicant's scale of pay to Rs.5000-8000/- with effect from 11.2.2003. Annexure A-1 is stated to be based on an office order bearing No.1-6/97- Admn. Vol.IV dated 26.7.05 issued by the 3rd respondent. The applicant begs to submit that, in terms of Annexure A1 and A2, the applicant's scale of pay has been reduced from Rs.5500-9000/- to Rs. 5000-8000/- with retrospective effect and that too, most arbitrarily and without giving him an opportunity to show cause. In case Annexure A1 and A2 are implemented, substantial prejudice and losses would be caused to the applicant, and hence this humble original application beseeching justice.

O.A.675/05:

The applicant is presently working as a Senior Hindi

Translator (on deputation) under respondent No.3. She is drawing a basic pay of Rs.6900/- in the scale of pay of Rs.6500-10500/. In this application, the applicant is aggrieved by Office Orders Annexure A1 and A2. The applicant begs to submit that in terms of Annexure A1, the applicant's scale of pay has been reduced from Rs.5500-9000/- to Rs. 5000-8000/- with retrospective effect and as a consequence, Annexure A2 has been issued by 3rd respondent whereby applicant's present scale of pay by virtue of her appointment on deputation as Senior Hindi Translator under 3rd respondent has also been reduced from Rs.6500—10500/- to Rs.5500-9000/- with retrospective effect, arbitrarily and without giving the applicant an opportunity to show cause and/or to explain. In case Annexure A1 and A2 are implemented, substantial prejudice and losses would be caused to the applicant, and hence this humble original application beseeching justice.

3. The respondents have contested the O.A. and in their reply their main contention is that the order revising the pay scale of Hindi Translators/Senior Hindi Translators/Assistant Directors are applicable only to Central Secretariat Official Language Service and not extended to the subordinate offices. Para 11 of their reply in O.A.593/05 is extracted below:

The applicant has compared the duties and responsibilities of Departments/Ministries with those who are working in Secretariat Official Language Services as one and the same, which is meaningless as these are issues decided by Competent Authority. Such mis-conceptions are out of his desperate attempt to claim that, he is eligible for higher scale of pay of Rs.7500-12000 as compared to Central Secretariat Official language Services. His attempt to

by

hang on to the Annexure A 10 is also desperate as these are orders applicable to staff of Central Secretariat Official Language Services. Annexure A 11 is only manual regarding use of official language Hindi and has no relevance with scale of pay. Annexure R2 has been issued after comprehensive study made by the Department on the work load in the Central Secretariat and in subordinate offices. The work in the subordinate office cannot be equated with the work in the Central Secretariat, where correspondence from all its subordinate offices are dealt as a whole. The applicant's claims are irrelevant and baseless on the factual basis.

4. The rejoinder and the additional reply have also been filed/exchanged in O.A.593/05, while in other cases reply and rejoinders were exchanged. The contention of the parties, as stated above remains common in all these cases.

5. Counsel for the applicant submitted that the issue is no longer res-integra in as much as the Calcutta Bench of the Tribunal as well the Hyderabad Bench of the Tribunal had considered the issue threadbare and held that the orders revising the pay scale of Hindi Translators/Senior Hindi Translators/Assistant Directors are equally applicable to the subordinate offices as well, and thus allowed the applications.

6. Calcutta Bench in O.A. No.912/04 in Dhananjay Singh Vs. Central Excise, has held as under:

“After considering the facts and circumstances of the case and in view of the findings and observations made by the Hon'ble Apex Court in the case of Randhir Singh (supra) and judgement of Principal Bench as stated above, we are of the opinion that the impugned Office Memorandum dated 29.3.04 issued by the respondents is illegal, arbitrary and against the Articles 14 and 16 of the Constitution of India. We also find that the applicant is entitled to

the benefit of Ministry of Finance O.M.dated 14.7.2003 since he is similarly circumstanced and doing identical duties and responsibilities like the Hindi Translators working in CSOLS. We are also convinced with the submissions and contentions of the learned counsel for the applicant that the respondents did not make a classification between Delhi based Hindu Translators of CSOLS and others outside Delhi for implementation of higher pay scales, which view had already been taken by the Principal Bench while adjudicating the matter in O.A.No.157/90 and CCP No.212/93. Having heard both the parties we have seen a lot of force in the arguments and submissions made by the learned counsel for the applicant.

11. In the result for the forgoing reasons and discussions and in view of the observations and findings of Hon'ble Apex Court and the Principal Bench, CAT, the impugned Office Memorandum dated 29.3.04 is hereby quashed and set aside and we direct the respondents to extend the benefit of the Ministry of Finance O.M.dated 14.7.003 to the applicant and we further direct the respondents to remove that anomalous position and grant the pay scale of Rs.5500-9000/- to the Junior Hindi Translator, within a period of 3 months from the date of receipt of this order.”

Calcutta Bench has also passed an identical order in O.A.753/04.

7. The Hyderabad Bench recently by its order dated 4.6.07 in O.A.363/05 considered in extenso the legal issues and taking into account the aforesaid order of the Calcutta Bench, allowed the O.A.in so far as the extension of the revision of pay scale to the case of the applicant therein who has been serving in the Fisheries Survey of India.

8. It will be appropriate to extract the relevant portions from the above order and the same are as under:

“underlined portion in para 2,5,9 etc. of 363/05”

“ The applicant in that case was appointed as Hindi Translator (Central Civil Services, Group-C, Non-Gazetted, Non-Ministerial) through central Employment Exchange and posted as Zonal Base of Fishery Survey of India, Visakhapatnam with effect from 4.2.99. The applicant is a Master Degree holder in English. He is drawing the pay scale of Rs. 5000-150-8000. The grievance of the applicant is that the scale of pay of Junior Hindi Translator and Senior Hindi Translator were upgraded from 5000-150-8000 to 5500-175-9000 and from Rs.5500-175-9000 to that of Rs.6500-200-10500 respectively in respect of those who are working in Central Secretariat Official Language Service by Office Order No. 13/6/2002- OL (Services) dated 2.4.2004 with effect from 1.1.96 and for actual payment with effect from 11.2.2003. The said upgradation is made applicable only to those Hindi Translators who are working in the Central Secretariat Official Language Service (CSOLS), and denied such upgradation to the Junior Hindi Translators and Senior Hindi Translators working in other departments and subordinate offices though they are discharging the same duties and held same responsibilities.

Xxx xxxxxx xxxxxx xxxxx xxx

For the above said reasons, the applicant wants not only upgradation of pay but also prayed for treating him as Senior Hindi Translator whose salary is upgraded to 6500-10500.

xxxxxx xxxxxxxxxxxx xxxx xxxxxxxxxxxx
xxxxxx xxxxxxxxxxxxxxxxxxxx xxxxxxxxxx xxxxxxxxxxxx

The applicant filed photostat copies of the orders passed by the 'Division Bench of CAT, Calcutta, in Dhananjay Singh Vs. Central Excise and Rajesh Kumar Gond vs. Director of Official Language dated 9.11.2006 and also a decision Meghnath Das & others Vs. CPWD dated 28.9.2006. ((in O.A.753/04)) He also relied upon the decision of Division Bench of CAT, Gauhati Bench in Shri Hiranmoy Sen Vs. Union of India and others wherein it is held that no appeal having been filed the decision of the CAT would become final.

G

The dispute is:

- i) Whether the applicant is entitled for the benefits of upgradation of pay scales on par with the Hindi Translators, both Junior and Senior, working in the Central Secretariat Official Language Service?

12 Point No.(i):

It has to be seen whether the Junior Hindi Translator working in subordinate offices are entitled for the pay scales on par with the Junior Hindi Translators working in CSOLS. This is not for the first time such dispute arose between the Hindi Staff working in subordinate offices and the staff working in the Hindi Secretariat at New Delhi. As seen from the orders passed in O.A. 753/2004 in Meghnath Das & Others vs. CPWD on the file of CAT, Calcutta Bench, similar dispute was raised before the Principal Bench, CAT New Delhi as long back as in the year 1989 itself in O.A. 1310/1989 in V.K. Sharma and others Vs. Union of India and others. The Principal Bench decided the said dispute in its judgement dated 24.9.91 holding that, the respondents therein should grant the scale of Rs.1640-2900 and Rs.1400-2600 to the Senior and Junior Translators respectively in Armed forces Headquarters of the Ministry of Defence with effect from 1.1.86 with all consequential benefits of pay fixation, arrears plus ancillary allowances etc. relying upon the decision of the Supreme Court in Randhir Singh Vs. Union of India 1982 SC (L&S) wherein the Supreme Court observed that where all the relevant considerations are the same, persons holding identical posts must not be treated differently in the matter of their pay merely because they belong to different departments. The said decision of the Principal Bench was followed by the Calcutta Bench in Meghnath Das & Others Vs. CPWD in O.A. 157/90 dated 10.1.92 which held as follows:

9. In the result for the foregoing reasons and discussions and in view of the observations and findings of Hon'ble Apex Court and the Principal Bench, CAT the impugned Office Memorandum dated 29.3.2004 is hereby quashed and set aside and we direct the respondents to extend the benefit of the Ministry of Finance O.M.dated 14.7.2003 to the applicants and we further direct the respondents to remove the anomalous position and

9

grant the pay scale of Rs. 5500-9000 and Rs.6500-10500/- to the Junior and Senior Hindi Translators respectively, within a period of 3 months from the date of receipt of this order.

17. In the result, the O.A. is partly allowed declaring that the applicant who is a Hindi Translator which post is re-designated as Junior Hindi Translator is entitled for pay scale of Rs.5500-9000 on par with the Junior Hindi Translator in CSOLS from the date on which the said benefit of upgradation has been extended to the Junior Hindi Translators working in the Central Secretariat Official language Service.

9. The above orders relate to the case of Hindi Translators/Senior Hindi Translators while the case of the applicant in the 3rd O.A. relates to revision of pay scale in respect of Assistant Director. Nevertheless, the principle adopted being the same, coupled with the fact that the main order of the Ministry of Finance has been extended to the case of the applicants in the aforesaid O.As, there is no impediment in passing identical orders in respect of the Assistant Directors as well

10. In view of the above, all the O.As. are allowed. It is declared that the applicants in O.A. No.593/05, is entitled to the revision of pay scale of Rs.5500-9000 w.e.f.1.1.96 as Junior Hindi Translator, pay scale of 6500-10500 w.e.f 11.11.96 as Sr.Hindi Translator and 7500-12000 w.e.f. 31.1.2003. The applicant is entitled to arrears of pay in respect of the post of Hindi Officers/Assistant Director (OL) while the pay revision of Jr. Hindi Translator and Sr.Hindi Translator would be notional. Similarly the applicant in O.A.595/05 is entitled to 5500-9000 notionally w.e.f. 24.9.01 with monetary benefits payable from 11.2.2003. Again the applicant in O.A.675/05 is entitled to revision of pay scale of Rs.5500-9000 notionally w.e.f. 1.1.96 with monetary benefit being available from 11.2.2003. This applicant is also entitled to continue on deputation as Sr. Hindi Translator in

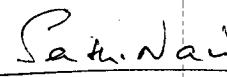
the scale of pay of Rs.6500-10500 w.e.f. 3.9.2004 so long as she continues to be holding the same post of deputation under the 3rd respondent and would be entitled to consequential benefits including payment of arrears, if any.

11. It is made clear that, if by any chance, the applicants were paid higher pay scale earlier and on adjustment if any, recovery has to be made, there shall be no recovery in regard to overpayment, as the same has not been on the basis of any mis-statement made by the applicant. In the case of Purushothaman Lal Das Vs. State of Bihar (2006) 11 SCC 492 which followed the decision of the Apex Court in the case of Sahib Ram Vs. State of Haryana 1995 (supp) 1 SCC 18 would be applicable in respect of non-recovery of over-payment if made. No costs.

Dated the 25th July 2007.



DR.K.B.S.RAJAN
JUDICIAL MEMBER



SATHI NAIR
VICE CHAIRMAN