

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Applicaton No.257/2012

Monday..... this the 25th day of January 2016

C O R A M :

**HON'BLE Mr.JUSTICE N.K.BALAKRISHNAN, JUDICIAL MEMBER
HON'BLE Mrs.P.GOPINATH, ADMINISTRATIVE MEMBER**

P.Vijayakumar,
S/o.M.Balakrishna Menon,
Assistant Director (Implementation),
Regional Implementation Office,
Department of Official Language,
Ministry of Home Affairs, Kendriya Bhavan,
CSEZ P.O., Cochin – 682 037.
Residing at Sowparnika, Vattekkunnam,
Edappally North, Cochin – 682 024.
Ernakulam District.

...Applicant

(By Advocate Mr.T.C.Govindaswamy)

V e r s u s

1. Union of India
represented by the Secretary to the Government of India,
Ministry of Home Affairs, Department of Official Language,
2nd Floor, Lok Nayak Bhawan, Khan Market,
New Delhi – 110 003.
2. The Secretary to the Government of India,
Ministry of Finance, Department of Expenditure,
(Implementation Cell), New Delhi – 110 001.
3. The Director (Implementation),
Government of India,
Ministry of Home Affairs,
Department of Official Language,
2nd Floor, Lok Nayak Bhawan,
Khan Market, New Delhi – 110 003.

...Respondents

(By Advocate Mr.N.Anilkumar,Sr.PCGC)



This application having been heard on 7th January 2016 this Tribunal on 25th January 2016 delivered the following :

ORDER

HON'BLE Mrs.P.GOPINATH, ADMINISTRATIVE MEMBER

The applicant who is presently working as an Assistant Director (Implementation), Regional Implementation Office, Department of Official Language, Ministry of Home Affairs, in Group A service in PB-3 with GP Rs.5400/- is aggrieved by the denial of equal treatment in the matter of scales of pay vis-a-vis his counter parts in the various subordinate offices of the Central Government, despite specific recommendations of the VI Central Pay Commission. The applicant submits traditionally the Assistant Directors (OL), Hindi Officers etc. of the different subordinate offices of the Central Government were maintaining parity in the matter of scale of pay and educational qualification etc. vis-a-vis the Research Officers (Implementation) of the Regional Implementation Offices of the Department of Official Language. However, on and with effect from 1.1.2006 this parity was upset and the Assistant Director (OL) and the Hindi Officers etc. and other posts carrying identical scales of pay dealing with the implementation of the Official Language with effect from 1.1.2006 were upgraded to Group A posts with the scale of pay of Rs.8000-13500 ie. PB-3 with GP of Rs.5400/-. However, the Research Officers (Implementation) having a supervisory and inspectorial jurisdiction over the above mentioned officers have been singled out for a differential treatment and continued to be placed as Group B Gazetted with GP of Rs.4600/-. The applicant submits the



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respondents going by the recommendations of the VI CPC in paragraph 7.19.68 ought to have considered the cases of the Research Officers (Implementation) and upgraded their scale of pay also with effect from 1.1.2006 with all consequential benefits arising therefrom. Reliefs sought by applicant is to declare that the non feasance on the part of the respondents 1 to 3 to consider and grant the upgraded scale of pay of Rs.8000-13500 (PB-3 + GP of Rs.5400/-) for Research Officers (Implementation) of the Regional Implementation Offices alone is arbitrary and discriminatory and to restore parity in the matter of scales of pay vis-a-vis their equals like Assistant Director (Official Language)/Hindi Officers and other Officers of the Department of Official Language etc. in the different subordinate offices and field offices and grant the applicant the upgraded scale of pay of Rs.8000-13500 (PB-3 + GP of Rs.5400/-) with effect from 1.1.2006 to Research Officer (Implementation).

2. The respondents in the reply submit that the Regional Implementation Offices were established as subordinate/attached offices under the Department of Official Language in 1980 to implement the Official Language Policy of the Union in various Central Government Ministries/Departments/Offices/Public Sector Undertakings and Banks in accordance with the Official Language Act, 1963 and Official Language Rules, 1976 made thereunder. The post of Research Officer (Implementation) has historical parity in respect of pay scale for the post of

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Assistant Director (OL), Central Secretariat Official Language Service, Assistant Directors in Central Hindi Training Institute/Hindi Teaching Scheme and Translation/Training Officer of Central Translation Bureau, Assistant Director (OL) and Hindi Officers in various subordinate offices of Central Government. For all these posts minimum educational qualifications required for recruitment and nature of work and duties are comparable. All these posts were classified as Group B Gazetted before 5th Pay Commission and were in same pay scale of Rs.2000-3500. After implementation of the recommendations of 5th Pay Commission pay scale of the post of Assistant Director (OL), CSOLS got upgraded from Rs.6500-200-10500 to Rs.7500-250-12000 because the pay scale of analogous/identical posts of Assistant Director in Central Hindi Training Institute/Hindi Teaching Scheme and Translation/Training Officer in Central Translation Bureau were upgraded by the 5th Pay Commission to that of Rs.7500-250-12000. Whereas the posts of Research Officer (Implementation) and Assistant Director (OL) and Hindi Officers in various subordinate offices of Central Government were given normal replacement pay scale of Rs.6500-200-10500. VI CPC in its report observed the following while making its recommendations :

“Department of Official Language : 7.19.67 Department of Official Language was established in 1975 to implement various constitutional provisions relating to Official Language Rules, 1976 and official Languages Act, 1963. The Department is headed by a Secretary. Three subordinate offices function under this Department, namely, Central Hindi Training Institute (CHTI), Central Translation Bureau (CTB) and Regional Implementation Offices.”



Central Secretariat Official Language Service (CSOL) was established in 1981 as a service in the secretariat of Department of Official Language. The 5th CPC had recommended higher pay scales for certain posts in CHTI and CTB. These scales subsequently were extended to analogous posts in CSOLS also and the posts of Junior Hindi Translator, Senior Hindi Translator and Assistant Director (Official Languages) were placed in the higher pay scales of Rs.5500-9000, Rs.6500-10500 and Rs.7500-12000 respectively. In the revised scheme of running pay bands, scales of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500 are being merged. This will place posts of Junior and Senior Hindi Translators in an identical scale even though these are feeder and promotion posts. A demand seeking identical pay scales has been made by similarly designated posts existing outside the CSOLS cadre in various subordinate offices. The demand will be automatically addressed once parity is given between field and secretariat offices. No separate recommendation is, therefore, necessary on this account.

The Government accordingly notified the following revised pay structure for the CSOLS :

Designations	Recommended Pay Scale	Corresponding Pay Band & Grade Pay	
		Pay Band	Grade Pay (in Rs.)
Junior Translator	6500-10500	PB-2	4200



Sr. Translator	7450-11500	PB-2	4600
Asstt. Director (OL)	8000-13500	PB-3	5400
Dy.Director (OL)	10000-15200	PB-3	6600
Jt.Director (OL)	12000-16500	PB-3	7600
Director (OL)	14300-18300	PB-4	8700

3. After implementation of the above recommendations of 6th CPC various departments/subordinate offices took up their case individually for grant of the upgraded scale of pay of Rs.8000-13500/- (PB-3 GP 5400) at par with that of Assistant Director (OL), CSOLS with the Government of India.

4. After examining the case Government of India has allowed upgraded scale of pay of 8000-13500/- (PB-3, GP 5400/-) to Hindi Officers, Assistant Directors (OL) in various sub ordinate offices, Assistant Directors (Language) and Assistant Director (Hindi Typing/Shorthand) of CHTI, Training cum Translation Officers of Central Translation Bureau in the following offices.

(a) Order No.F.No.1/1/2008-IC dated 27th November, 2008 issued by Ministry of Finance, Department of Expenditure Implementation Cell Applicable to similarly designated Official Language posts that exist in various subordinate offices outside CSOLS.

(b) Order No.AN/XIV/14162/VIth CPC/Circular Vol.I dated 12.12.2008. Issues by O/o.the Controller General of Defence Accounts. Applicable to the posts designated as Hindi Officers.

(c) Order No.A-11011/29/2008-Est.I dated 8th December 2008 issued by Films Division, M/o.I&B extending PB-3 scale with 5400 Grade Pay to Hindi Officer posts.



(d) Order No.13011/24/2008-OL (P&C) dated 13th September 2010 issued by Department of Official Language, MHA granting upgraded pay scale of Rs.8000-13500/- (PB-3, GP-5400/-) to 34 posts of Training cum Translation Officers of CTB.

5. The applicant who is presently working as an Assistant Director (Implementation), Regional Implementation Office, Department of OL, MHA, in Group A service with PB-3 + GP of Rs.5400/- was initially appointed on deputation basis as Research Officer (Implementation) and subsequently he was absorbed in the cadre of Research Officer (Implementation) with effect from 5.6.2000. As per Recruitment Rules Research Officer (Implementation) are appointed on absorption/deputation basis through UPSC. Persons from the cadre of Sr.Hindi Translator/Jr.Hindi Translator and Hindi Pradhyapak in the then 5th CPC pay scale of Rs.5500-9000 with 3 years service and Jr. Hindi Translator in the then 5th CPC pay scale of Rs.5000-8000 with 8 years of service would apply and were considered for appointment to the post of Research Officer (Implementation) and also for the post of Assistant Director (OL) and Hindi Officers and some other identical cadre.

6. The applicant who is Research Officer Implementation in the Regional Implementation Offices in PB-2 with GP 4600/- is seeking parity of pay scale with Assistant Director (OL), Assistant Director (Language), Assistant Director (Type/Shorthand) in PB-3 with GP 5400. The Regional Implementation Offices were established as Subordinate/Attached offices under the Department of Official Language in 1980. The V CPC gave an

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upgraded scale of Rs.7500-250-12000 to Assistant Director (OL)/Assistant Director (CHTI)/Assistant Director Hindi Teaching Scheme and the post of Research Officer Implementation and Hindi Officer were given replacement scale of Rs.6500-10500. The point to be noted is that the applicant did not challenge the different pay scales granted by V CPC to Assistant Director and Research Officer (Implementation). The VI CPC which amalgamated various pay scales into four Pay Bands thereby bringing a wider pay distinction in pay bands brings the applicant to the Tribunal for redressing the grievance. The respondents point out that there is a distinction in field and secretariat offices and a further categorization as subordinate offices which also cover the field offices.

7. A proposal was taken up for granting Research Officer (Implementation) the scale of 7500-12000/- with GP 4800/- at par with Research Officer (Headquarters). The proposals were not agreed to on the following grounds :

- (i) grant of same pay scale to Assistant Director and Research Officer which was a feeder grade to Assistant Director would create an anomaly.
- (ii) VI CPC had made no recommendation for upgradation and placed Research Officer (Implementation) in the normal replacement scale.
- (iii) The vertical pay structure in regional implementation offices of Research Officer with GP Rs.4600/-, Assistant Director with GP Rs.5400/- and Deputy Director with GP Rs.6600/- is rational and no change is necessitated which will disturb this vertical heirarchy.

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8. While examining the parity of Research Officer Implementation with Assistant Director (OL) it was also noted that Research Officer Implementation is filled on deputation/absorption basis from officers under the Central Government holding analogous post on regular basis or with 3 years regular service in scale of Rs.5500-9000, or 6 years service in the scale Rs.5000-8000 or 8 years service in the scale Rs.4500-7000. Further there is no provision for direct recruitment to this post in the Recruitment Rules as seen Annexure A-1 document produced and hence the case for parity with Assistant Director is also not justified. Secondly, the Research Officer (Implementation) is the feeder grade for Assistant Director and hence merging the two grades would disturb the vertical relativity and create an anomaly. May be keeping the above circumstances in mind, successive CPC has made no recommendations for merging the post of Research Officer (Implementation) with Assistant Director (Implementation) and merely placed it in the normal replacement pay scale/pay band + grade pay. The thread of respondents' argument is that the relief claimed would create an anomaly not only in the recruitment process of Research Officer (Implementation) vis-a-vis its feeder cadre but also create an anomaly vis-a-vis its own promotional grade of Assistant Director. Pay structure when drawn up or disturbed should provide for vertical upward movement and should also not disturb the upward movement of the feeder grade who would become ineligible on account of upgradation of the post of Research Officer (Implementation) ie. the feeder grade of

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Rs.5500-9000, Rs.5000-8000 and Rs.4500-7000 which are the feeder grade for Rs.6500-10500 would become ineligible when the Research Officer (Implementation) is upgraded to Rs.7500-12000, thereby denying them a chance for promotion.

9. The post of Research Officer (Implementation) in the Headquarters were already in the scale of Assistant Director. The VI CPC merely gave them the replacement scale of Rs.7500-12000. Hence the parity of scales for the post of Research Officer was not a case of historical parity and so this ground does not stand. The applicant's contention is that if Grade Pay of Research Officer (Implementation) is upgraded to Grade Pay of Assistant Director (Implementation), the pay of Assistant Director (Implementation) could be upgraded to next higher PB-3 Rs.10000-15200 + GP Rs.6600/-. This would only create a further anomaly vis-a-vis other posts of Assistant Director who are in GP Rs.5400/- who would thereafter make a claim for parity with Assistant Director (Implementation), thereby making this merry go round ride unending in terms of litigation. Changing the pay scale of the feeder grade to make it equivalent to the promotional grade does not appear to be the appropriate solution. Further, since implementation of Hindi as a national language is a national mandate, these posts exist in all the States in the country and upgrading it in Kerala State alone would be discriminatory as it will create a distinction between members of the same class. The Apex Court in I.Chuba Jamir and others vs. State of Nagaland and others



(2009) 15 SCC 169 had held that merger of posts/cadres is a matter to be addressed by the State Government/Administration and ordinarily it does not warrant any interference by the Court.

10. Promotion is a normal incidence of service. Government as a model employer should provide every cadre an opportunity for advancement. The respondents brings to our notice that Research Officer (Implementation) has an upward career movement as Assistant Director (Implementation), Deputy Director, Joint Director and it is not as if the cadre is denied any avenues for promotion. It is not the mandate of the Tribunal to issue directions to fix pay scales. The applicant nowhere makes out a case that there are no opportunities for promotion and hence this upgradation is crucial to his career advancement.

11. The Apex Court in **State of Haryana and others vs. Charanjit Singh and others (2006) 9 SCC 321** had observed :

“.....The application of the principle “equal pay for equal work” requires considerations of various dimensions of a given job. The accuracy required and the dexterity that the job may entail may differ from job to job. It cannot be judged by the mere volume of work. There may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference. Thus the normal applicability of this principle must be left to be evaluated and determined by an expert body. These are not matters where a writ court can lightly interfere.”

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12. Hence the relief sought for in this O.A is declined. But the applicant can present his case before the VII CPC Anomaly Committee who would consider it on merit from the local/state/national perspective and compare it with other similarly placed cadres for parity purpose and also from the point of view of the promotion ladder which if disturbed is likely to promote dissatisfaction to other levels in the hierarchy.

(Dated this the 25th day of January 2016)


P.GOPINATH
ADMINISTRATIVE MEMBER

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N.K.BALAKRISHNAN
JUDICIAL MEMBER