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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 792/89 198
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DATE OF DECISION 3-7-1991

<u>Shri V.M.Radhakanthan</u>	Petitioner
-	Advocate for the Petitioner(s)
Versus	
<u>Union of India & Ors.</u>	Respondent
<u>Shri A.I.Bhatkar.</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. G.Sreedharan Nair, Vice-Chairman,

The Hon'ble Mr. P.S.Chaudhuri, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

Dr

(G. SREEDHARAN NAIR)
VICE-CHAIRMAN.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Original Application No.792/89.

Shri V.M.Radhakanthan,
Stenographer Grade I,
ARMED FORCES MEDICAL COLLEGE,
Pune - 411 040.

... Applicant.

V/s.

1. Secretary,
Ministry of Defence,
South Block,
Government of India,
NEW DELHI - 110 001.
2. The Director
Department of Personnel, Public
Grievance & Pension,
(Department of Personnel & Training)
Govt. of India,
NEW DELHI - 110 001.
3. The Director General
Armed Forces Medical Services
Ministry of Defence
'M' Block,
NEW DELHI - 110 001.

... Respondents.

Coram: Hon'ble Vice-Chairman, Shri G.Sreedharan Nair,
Hon'ble Member(A), Shri P.S.Chaudhuri.

Appearances:-

Applicant in person.
Mr.A.I.Bhatkar for respondents.

JUDGMENT:-

[Per Shri G.Sreedharan Nair, Vice-Chairman] Dated: 3-7-1991

Formerly there were 3 grades of Stenographers in the Ministry of Defence viz. Stenographer Gr.III, Stenographer Gr.II and Stenographer Gr.I. The Fourth Central Pay Commission recommended one more Senior Grade of Stenographer to be attached to Officers of Senior Administrative Grade and equivalent post. The recommendation was accepted by Government, and provision in respect of the same was made in the Civilians in Defence Services (Revised Pay) Rules, 1986 issued on 23.9.1986. As per the rules the Stenographer

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Gr.I was fitted in the revised scale of Rs.1640-2900, and provision was made for the grant of the scale of pay of Rs.2,000-3200 for post of Stenographer attached to Officers of Senior Administrative Grade and equivalent post by suitably upgrading the required number of posts of Stenographers from the lower grades. On 1.3.1988 the Ministry of Personnel issued an O.M. laying down the guide lines in respect of the classification and method of Recruitment for the higher post.

2. The grievance of the applicant, a Stenographer working as Stenographer Gr.I to the Commandant Armed Forces Medical College, Pune is that though the upgradation of the post of Stenographer Gr.I has been made in several Non-Secretariat Organisations and in Subordinate Offices/ Lower formations it has not yet been implemented in the Armed Forces Medical College, Pune. He prays for the creation of the Higher Grade post of Stenographer in the scale of pay of Rs.2,000-3200 and for promoting him w.e.f. October, 1986 on the ground that he is the seniormost Stenographer Gr.I and attached to work with an Official of Senior Administrative Grade/Equivalent post.

3. In the reply filed by the respondents it is contended that the post of Senior Personal Assistant is a Selection post and as such a lower post cannot be equated to the same and hence the prayer of the applicant is not maintainable. There is also the plea that the Court is not to interfere with the opinion and the recommendations of the Expert Bodies like the Pay Commission. It is contended that the pay scale of Rs.2000-3200 prescribed only in respect of posts of Stenographers attached to Officers of Senior Administrative Grade and equivalent posts, and that posts

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held by Defence Service Personnel such as Major General etc. do not fall within the ambit of the same. However, it is admitted that the case for award of enhanced scales to Senior Personal Assistant working under the Commandants and the Deputy Commandants has since been reconsidered by the Ministry of Defence which has agreed to the upgradation subject to a work study in terms of Government letter dated 26.2.1990.

4. The point that arises for determination is whether the post of Stenographer Gr.I attached to the Commandant, Armed Forces Medical College, Pune requires to be placed in the higher grade of Rs.2000-3200.

5. Normally it is for the Administration to consider the question whether the post of Stenographer Gr.I attached to the Commandant is to be upgraded in view of the recommendation of the IVth Central Pay Commission and the issuance of the Civilians in Defence Services (Revised Pay) Rules, 1986. Based on the recommendation of the Pay Commission the rules provide for the scale of pay of Rs.2000-3200 for posts of Stenographers attached to Officers of Senior Administrative Grade and equivalent posts by suitably upgrading the required number of posts of Stenographers from the lower grades. It is not in dispute that the Commandant of the Medical College is an Officer in the rank of Lieutenant General on the scale of pay of Rs.7300-7600. Hence he is an Officer of the Senior Administrative Grade or at any rate an Officer holding an equivalent post for the purpose of the rules. In this context reference may be made to the O.M. dated 6.2.1989 issued by the Ministry of Personnel which provides that Officers in the scale of pay of Rs.5900-6700 are eligible for Stenographic Assistance of a Senior Personal Assistant in the Grade of Rs.2000-3200. The

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^{put forward}
contention ~~goes on to say~~ in the reply filed by the respondents ~~that with~~ the expression "Senior Administrative Grade" can only include in its ambit posts in the Civil Administration and cannot include posts held by Defence Service Personnel cannot be accepted. It is not in dispute that the functions of the Commandant of the Armed Forces Medical College, Pune are Administrative in nature. As such merely because the post is held by a Defence Service Personnel no distinction can be made with respect to his entitlement for Stenographic Assistance in the level of Senior Personal Assistant in the grade of Rs.2000-3200. The applicant has made a reference in the application to certain other organisation/establishments under the Ministry of Defence wherein such upgradation has been made in the case of Stenographer Gr.I. Besides, it is admitted in the reply that by the order dt. 23.2.1989 enhanced stenographic assistance has been authorised to Subordinate Offices under the Defence Ministry and that the case for award of the enhanced scale to the Stenographers working under Commandants and Deputy Commandants has been agreed to, subject to a work study by the Study Unit in terms of Government letter dt. 26.2.1990. However, no decision has yet been taken. In view of these circumstances we have to hold that interference is called for. It is on record that from the year 1986 onwards the applicant has been pursuing this matter. Ofcourse, the Government servant has no inherent right to urge that the post that he is holding should be upgraded. But when it emerges that on the recommendation of an Expert Body like the Pay Commission upgradation of certain

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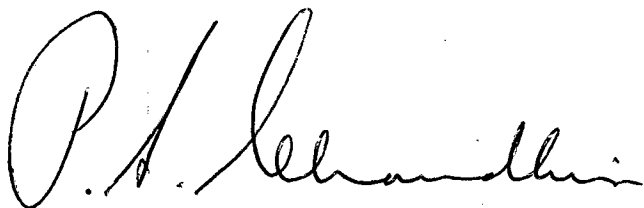
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posts of Stenographer Gr.I was laid down under the statutory rules, ^{was made,} so long as it is not established that there is no valid reason for not making the upgradation, the right of the holder of the post for a due consideration of the matter cannot be brushed aside.

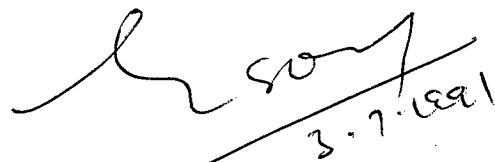
6. In the result we hereby direct the respondents to ^{with due regard to what is stated above} consider in its proper perspective, the question of upgrading the post of Stenographer attached to the Commandant, Armed Forces Medical College, Pune to the Grade of Rs.2000-3200 and to arrive at a decision within a month of receipt of copy of this order. In case the decision is in the affirmative, respondents shall fill up the post without delay, in accordance with the rules.

7. The application is disposed of as above.



(P.S. CHAUDHURI)
MEMBER (A)

3-7-1991



3-7-1991

(G. SREEDHARAN NAIR)
VICE-CHAIRMAN.