

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 623/96

Date of Decision: 23.9.96

Manohar R. Amesur

Petitioner/s

Shri G.K. Masand.

Advocate for the
Petitioner/s

V/s.

Union of India and others

Respondent/s

Shri R.R. Shetty for
Shri R.K. Shetty.

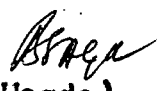
Advocate for the
Respondent/s

CORAM:

Hon'ble Shri B.S. Hegde, Member (J)

Hon'ble Shri

- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to other Benches of the Tribunal ?


(B.S. Hegde)
Member(J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH 'GULESTAN' BUILDING No.6
PRESCOT ROAD, BOMBAY:1

Original Application No. 623/96

23rd the 10th day of September 1996.

CORAM: Hon'ble Shri B.S. Hegde, Member (J)

Manohar R. Amesur
Stenographer Grade III
Station Headquarters,
No.25 Equipment Depot,
Air Force Station,
Devlali (South) - 422 501.
residing at 100, Rest Camp
Road, Devlali Camp - 422 401.

... Applicant.

By Advocate Shri G.K. Masand.

V/s.

Union of India through
Secretary,
Ministry of Defence,
South Block,
New Delhi - 110 011.

The Chief of Air Staff,
Air Headquarters,
Vayu Bhavan,
New Delhi - 110 011.

Air Officer Commanding-in-Chief,
HQ Maintenance Command, IAF
Vayusena Nagar,
Nagpur - 440 007.

Air Officer Commanding,
No. 25 Equipment Depot
Air Force Station,
Devlali - 422 501.

... Respondents.

By Advocate Shri R.R. Shetty for
Shri R.K. Shetty.

O R D E R

¶ Per Shri B.S. Hegde, Member(J) ¶

In this O.A. the applicant challenges
the transfer order on promotion issued on 30.5.96
by which the applicant has been transferred from
Devlali to Nagpur from Stenographer Grade III to II.

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2. The applicant has been working as Stenographer Grade III since 1973. The applicant's contention is that he is entitled to be promoted to the post of Stenographer Grade II with effect from 6.1.77, but the same has not been given to him. In this connection he draws my attention that in Indian Navy, similarly situated persons have been given promotion in 1978. Accordingly, he should be considered for promotion to Stenographer Grade I with effect from 11.4.86. He has been working with the Air Officer Commanding at Devlali, which status requires posting of a Senior Personal Assistant as per O.M. dated 6.2.89. The Officer Commanding was of the rank of Air Commodore and was drawing the pay of Rs. 6300/-. As per the decision of the Government of India, Ministry of Defence Officers drawing in the pay scale of Rs. 5900-6700 are entitled for Senior Personal Assistant. He further submits that he has already filed O.A. 913/95 wherein he has sought the relief of promotion to higher grade I Stenographer/Senior Personal Assistant. Though he made representation on 19.6.96, the same has not been replied.

3. The respondents in their reply denied the various contentions of the applicant and urged that the O.M. dated 1977 and 1989 which was relied by the applicant are not concerned with the case of the applicant, which are actually applicable to Civilian Officers. It is further stated, throughout, the applicant has been working as Stenographer Grade III only and has now been promoted as Stenographer Grade II and posted at Nagpur on the basis of the results of the Departmental Promotion Committee, as the post of Stenographer Grade II has to be filled up on the basis of the seniority-cum-merit. The applicant who is a Stenographer in the office

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of the Respondent No.4 is actually offering stenographic assistance to Service Officers and is, therefore, not entitled to DOP&T Circulars dated 6.1.77 and 6.2.89 respectively. The applicant is governed by Ministry of Defence O.M. dated 1.5.81 and 19.11.93 governing authorisation of stenographers in the lower formation of Defence Establishments according to their ranks. The applicant all through has been offering stenographic assistance only to Service Officers, in that event of the matter the applicant is not entitled to the benefits which are granted under O.M. dated 6.1.77. The respondents further submit that the demand of the applicant in O.A. 913/95 is a separate litigation before the Tribunal and in case the applicant succeeds the applicant is bound to be granted all the reliefs that he is praying for and therefore, there is no merit in this trying to club his transfer on promotion to his prayers in O.A.913/95. It is not disputed that the applicant has been working with respondent No.4 whose pay scale is Rs. 5900 -6700. It is also not in dispute that on the basis of O.M. dated 6.2.89 and on the basis of the 4th Pay Commission, the entitlement of officers for Stenographic Assistance in subordinate offices has been revised and also directed that the post of Stenographer Grade III be upgraded to Grade II. As per the aforesaid O.M. the applicant is entitled to claim Stenographer Grade I/ Senior Personnel Assistant from that date.

4. Heard Shri G.K. Masand, counsel for the applicant and Shri R.K. Shetty, counsel for the respondents.




5. During the course of hearing the learned counsel for the applicant has drawn my attention to the decision of the Ernakulam Bench as well as the Bombay Bench in O.A. 1023/93, P.M. Haridas & Ors. V/s. Union of India and Ors. wherein the Tribunal after considering the rival contention of the parties allowed the petition and directed the respondents to grant the benefit of the letter of the DOP with effect from 1.1.86, all consequential reliefs including arrears of pay except that the actual payment of arrears on the basis of pay fixation with effect from 1.1.86 shall be restricted to the period of one year before filing of the petition. It is true, though the applicant has been working with the officer who is drawing higher pay scale of Rs. 5900-6700, but the applicant was drawing the pay of Stenographer Grade III however on the recommendation of the DPC, along others he was promoted to grade II and transferred from Deonali to Nagpur. Therefore, in case, the applicant succeeds in O.A. 913/95, he is bound to be granted all the reliefs that he is praying for and therefore, he cannot club his non-promotion to Grade I with effect from 1.1.86 with the present transfer order-cum- promotion. Admittedly, he has never worked in the post of Senior Personnel Assistant and throughout he was working as Grade III, though he has been working with the senior ranking officer who is entitled to have higher grade stenographer i.e. Senior Personnel Assistant.

6. In the facts and circumstances of the case, in case the applicant is not inclined to go on transfer on promotion the only alternative for him is to forgo the promotion order issued by the respondents on 30.5.96 and await the outcome of O.A. 913/95 which is pending before the Tribunal and his not opting for

promotion to grade II should be given in writing.

7. In the circumstances, I hereby, direct the respondents not to give effect to the transfer-cum promotion order dated 30.5.96 in so far as the applicant is concerned. The applicant be allowed to remain at Deovlali till the disposal of O.A. 913/95. Accordingly, the O.A., 623/96 is disposed of with the above direction. I am not going into the merit of the promotion which he claims in the other O.A. 913/95 at this stage. No order as to costs.


(B.S. Hegde)
Member (J)

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