

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH : MUMBAI

O.A. NO.411/1999

MUMBAI, THIS 13th DAY OF MARCH 2003

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)  
HON'BLE SHRI SACHIDANANDAN, MEMBER (J)

1. Sh. V W Rajhansa,  
Steno Gr. Iassi,  
School of Artillery, Deolali 422 4011

R/o Flat No. 7, Building No. A1  
Indira Nagar, Nasik 422 009

2. Mrs. A John,  
Steno Gr. Iassi,  
School of Artillery, Deolali 422 4011

R/o 21, Jaikrishna Apartment,  
Rest Camp Road,  
Deopali 422 401

.....Applicant  
(By Ms Supriya Dhaware for Sh. Suresh Kumar  
Advocate)

VERSUS

Union of India through

1. The Secretary, Min. of Defence,  
North Block, New Delhi
2. Director General of Artillery,  
(Arty 3), General Staff Branch,  
Army Headquarters,  
DHQ, PO New Delhi 110011
3. Officer Commanding,  
Mukhyalaya Topkhana School HQrs  
School of Artillery, Deopali 422 401

.....Respondents  
(By R.K. Shetty, Advocate)

O R D E R (ORAL)

Shri Govindan S. Tampi:

The applicants are aggrieved that they had not been promoted as Sr. Personal Asstt (SPA) from 6.2.89, or in any event w.e.f. 19.11.93.

2. Ms Supriya Dhaware for Sh. Suresh Kumar and Sh.,  
R. K. Shetty appeared for the applicants and the respondents respectively.

3. Shri V. W. Rajhans and Smt. A. John are working as Stenographer Grade I in the pay scale of Rs. 1640-2900 w.e.f. 24.6.95 School of Artillery, Deolali where they are employed, is a subordinate office of Ministry of Defence, having on its rolls four officers of the rank of Majors General and above, entitled to have higher Stenographic Assistance Commandant of Respondent No. 3 had proposed on 19.4.93 for upgradation of four posts of Stenographers in the organisation, but only one post was upgraded and converted as Sr. Personal Assistant (SPA), which was unjust and illegal. According to the applicants they are eligible and entitled for promotion to the post of SPA. As in terms of DoPT's notification dated 6.2.89, higher stenographic assistance was permitted for those drawing pay in the scale of Rs. 5900-6700 and above and as Navy had already implemented the above, the applicants under Army should also have been permitted the upgradation of their posts as SPAs and granted the promotion. This was also in tune with Min. of Defence OM dated 19.11.93. Therefore Army HQrs could not have reduced/restricted upgradation of the posts; especially as the respondents No. 3 had explained and justified the upgradation of the posts. The delay in upgradation was squarely due to the respondents and the applicants are being penalised for the respondent's inaction. Hence this OA.

4. Grounds raised in the OA are:

- i) violation of Govt policies laid down in letters dated 6.2.89 and 19.11.93;



- ii) the need for providing stenographic assistance to officers of the rank of Major General and above;
- iii) arbitrary, malafide nature of the respondents' inaction; and
- iv) violation of articles 14 and 16 of the Constitution.

OA should, therefore, be allowed and the applicants be promoted as Sr.PAs w.e.f. 6.2.89 or at least from 19.11.93, with full consequential benefits, is their plea. Ms. Supriya Dhaware, learned proxy counsel for the applicants forcefully reiterates their pleas.

5. Respondents strongly rebut~~s~~ the points raised in the OA. According to them, DoPT's OM 28034/1/88-Estt (D) dated 6.2.89, applied only to Civilian Officers and the letter relevant to the applicants was Defence Ministry's OM No. 1(1)/89 D/(Civ I) dated 19.11.93. However, it does not follow that the Stenographers attached to Defence Officers per se are entitled to be upgraded, in terms of the said letter, unless workload justifies such an upgradation. The applicants have not justified their upgradation, by reason of workload. Ministry's letter No. A/10100/PC-436 dated 17.8.98 had declared that upgradation cannot be permitted unless the workload justifies it. The applicants have not produced the extent of work being turned out by them for examination and analysis. Further the upgradation, which amounts to creation of posts is exclusively for the Govt. to decide, keeping in mind all

the relevant facts including increased financial burden. As the Vth Central Pay Commission, has opined, in creating posts that there has to be a balance between the interest of the Govt and the interest of the employee. Further, the OA was hit by limitation as it was attempting in April, 1998 to challenge on issue which had arisen in 1993. In the respondents' organisation three posts of Stenographers have been sanctioned out of which one has been upgraded to the rank of SPA and the person concerned has been promoted as well. What they are now attempting is to get two more posts of SPA, for which there is no justification on the basis of workload. Applicants do not have any vested right for the above upgradation and promotion and they have not established their case. They also agree that respondent No. 3 had recommended the case of the applicants but it is for the Govt./Ministry to take a decision. The decision taken by the Ministry was to upgrade only one post and therefore the applicants upgradation/promotion cannot be permitted. OA, therefore, has to fail, pleads Sh. Shetty.

6. We have carefully considered the matter. The applicants both of whom are Stenographers Grade I attached to Majors General, in the respondents' Organisation - School of Artillery at Deolali - seek that their posts be upgraded to the rank of SPAs from 6.2.1989, as stenographic assistance was provided by the DoPT w.e.f. 19.11.1993, when the same was proposed by the Defence Ministry. In terms of Ministry of Defence OM dated 19.11.1993, officers of the rank of (Major General/equivalent) in Navy/Air Force or above, are entitled to have the stenographic assistance of the level of SPA. The letter further points out that "The above scales of entitlement will be applicable only in

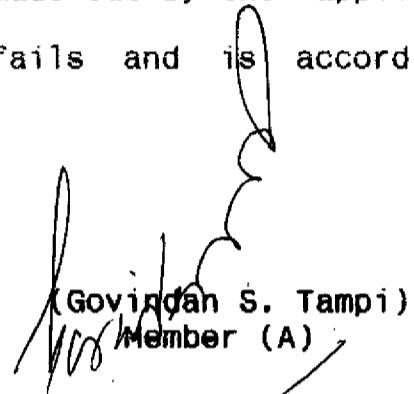
those organisations which have followed the pattern given in the aforesaid Ministry of Defence letter dated 1.5.81.". The applicants state that in the Organisation where they work, they were attached to officers of the rank of Major General and above drawing the pay in the pre-revised scale of Rs.5900-6700/-, they were correctly entitled to upgradation of their posts as SPAs as well as promotion to those posts. On the other hand, the respondents state that the matter is for the Ministry to decide. On examination of the matter, we are convinced that the applicants do not have any case. While it is true that DoP&T in February, 1989 and Defence Ministry in November, 1993 had provided for a higher level of stenographic assistance to the officers of the rank of Major General and above. The same, however, does not automatically follow that every Stenographers working under such officers have to be upgraded/promoted as SPA. As respondents have pointed out correctly in their submissions, the recommendations of the level of stenographic assistance in the above two letters does not per se mean that every post be automatically upgraded and the concerned individuals promoted, as the applicants would like us to believe. It is in fact for the Administration, i.e., the concerned Ministry to examine the issue and decide as to whether the workload in these Organisations does justify creation of such posts. While it is true that the School of Artillery - respondent No.3 have recommended for the creation of the above posts, the Army Headquarters and the Defence Ministry had not agreed to the same. Keeping in mind the workload, the Govt. has decided that only one post attached to the Commandant of School of Artillery be raised to the level of a SPA. The same cannot be called in question. The applicants, unless

they are able to prove to the satisfaction of the Government that their workload justifies upgradation, which they have failed to do, cannot expect the Tribunal to issue directions to the Government to upgrade the posts and consider their promotion against those posts.

7. We are convinced, in the above view of the matter, that no case has been made out by the applicants for any interference. OA fails and is accordingly dismissed. No costs.



(K.V. Sachidanandan)  
Member (J)



(Govindan S. Tampi)  
Member (A)

/sunil/

