

(12) *Dipalit for*
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A. Nos. 673/91, 1101/93 and 1102/93

Proclaimed this, the 30th day of October 1996

Coram: HON'BLE SHRI B.S. HEGDE, MEMBER (J)
HON'BLE SHRI M.R. KOLHATKAR, MEMBER (A)

I. Directorate General of Quality
Assurance Organisation Stenographers'
Association
through its Secretary C.Chandran,
Survey No.15/1, Madhuban,
West Sanghvi,
Pune - 411 027.
(By advocate Shri S.P.Saxena)

.. Applicants in
O.A. 673/91

-versus-

1. The Director General of Quality
Assurance,
Department of Defence Production,
Ministry of Defence,
DHQ PO NEW DELHI - 110 011.
2. The Union of India
through Secretary
Department of Defence Production,
South Block,
New Delhi - 110 011.

.. Respondents in
O.A. 673/91

(By advocate Shri Karkers for Shri P.M.
Pradhan)

II. 1. R.R.Nair
2. Smt.F.V.K.N.Kutty
3. R.Y.Bhogte
4. M.N.Chithambaran
5. Smt.F.Krishnan
6. Smt.L.S.Nair
7. Smt.T.D.Kutty
8. Smt.K.R.Panicker
9. P.H.Gharat
10. B.H.Sarvaiya
11. S.S.Pawar
12. Smt.K.T.Kshirsager
13. Smt.V.K.G.Menon
14. V.Sreenivasan
15. T.T.Jose
16. A.T.George
17. M.S.Kurup
18. S.Bhaskaran

19. T.F.S.Nair
20. C.G.Kutiy
21. C.N.Shetty
22. M.V.Ketkar
23. Z.T.Shah
24. R.K.Naidu
25. P.M.Chitnis
26. Smt.J.R.Chawla
27. Smt.B.B.Nair
28. R.D.Waghmare

All working as Stenographers
Gr.II under H.Q. W.N.C.

(By Advocate Shri A.I.Bhatkar)

.. Applicants in
O.A.1101/93

-versus-

1. Union of India
through
Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. The Chief of the Naval Staff
Naval Headquarters,
D.H.Q. P.O. New Delhi -110 011.
3. The Flag Officer Commanding-in-Chief
H.Q., Western Naval Command,
Shahid Bhagat Singh Road, Fort,
Bombay - 400 001.

(By counsel Shri V.S.Masurkar)

.. Respondents in
O.A.1101/93

III. T.G.Madhavan
Smt.S.M.B.Thampan

3. Smt.Parvathy Gopalkrishnan
4. Smt.N.Soman
5. Smt.Sreedevi Somnathan
6. O.G.Nair
7. Smt.B.Lobo
8. V.D.Lohidasan
9. Smt.Juliet Rodrigicks

10. Smt. Anna Jolly
11. Smt. Lalitha Venkatraman
12. Kum. A. Mahalakshmi
13. V. M. Pense
14. Smt. S. V. Vengurlekar
15. T. K. Nilambaran
16. V. Unnikrishnan
17. H. B. Ashrit
18. Smt. A. G. Menon
19. Smt. Sita Mahadevan
20. Smt. Frema Narayan
21. Smt. A. D. Morajkar
22. A. C. Thomas
23. Smt. F. Viegas
24. Smt. Lissy Francis
25. Smt. Sulekha Ratnakaran
26. Smt. V. Pereira
27. K. N. Subramanian
28. Smt. S. A. Pendse
29. Smt. Suma Sukumar
30. Smt. Devi Janardanan
31. Smt. J. S. Shenoy
32. Smt. Usha Shankaran
33. Smt. S. S. Gadkari
34. Smt. Sujaya Kumaran
35. S. S. Parab
36. Smt. V. G. Mohanan
37. Smt. Mercy Varghese
38. P. S. Poojari
39. T. R. Madhusoodanan
40. J. B. Fernandes
41. Smt. V. P. Rajan
42. Smt. S. J. Sawant
43. Kum. C. L. Kochumary
44. Smt. K. C. Francis
45. H. V. Patil
46. P. M. Thomas
47. Smt. L. M. Nair
48. Kum. R. A. Pinto
49. Smt. J. B. Deshpande
50. S. R. Khukreja
51. Smt. Bela Unnikrishnan

52. Smt. Christy Jayanthi
53. Smt. S.S. Naik
54. P.K. Dhumal
55. R.S. Shetty
56. Smt. J.E. Rodrigues
57. A.N. Raman
58. Smt. V.V. Chelukar
59. Smt. S.S. Rahurkar
60. P.M. Ghumare
61. Smt. S.H. Chavan
62. I.P. Swamy
63. Smt. S.P. Bahmane
64. D.K. Anbhule
65. Smt. A.V. Nair
66. K.P. Krishnan Kutty
67. Smt. V.S. Nair
68. Smt. S.R. Shetty
69. Smt. Mary D'Souza,
70. Smt. E.E. D'Souza,
71. K.P. Harinarayanan
72. Kum. N.M. Figueira
73. Smt. U.U. Patil
74. Smt. R. Evans Kumar

All working as Stenographers Gr. III
in Bombay under H.Q., W.N.C.

(By Advocate Shri A.I. Bhatker)

.. Applicants in
O.A. 1102/93

-versus-

1. Union of India
through
Secretary, Ministry of Defence
South Block, New Delhi.
2. The Chief of the Naval Staff
Naval Headquarters, D.H.Q. P.C.
New Delhi - 110 011.
3. The Flag Officer Commanding in Chief
H.Q., W.N.C. Shahid Bhagat Singh Road,
Fort, Bombay - 400 001.

By counsel Shri V.S. Desurkar)

.. Respondents in
O.A. 1102/93

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Per M.R.Kolhatkar, Member(A)

C.A.673/91 is by the D.G.Q.A. Organisation Stenographers Association and the respondents are Union of India, Department of Defence Production.

2. O.A.1101/93 and 1102/93 are by Stenographers Gr.II and III respectively working under H.Q., Western Naval Command, Bombay. The respondents in these two latter cases are Union of India, Ministry of Defence and Others. As all three cases raise the common issue of implementation of Department of Personnel and Training O.M. orders viz. No.2803/1/88-Estt(D) dt. 6-2-89 and Ministry of Personnel, P.G. & Pensions Department of Personnel & Training O.M. No.22034/5/87-Estt(D) dt. 30-1-91, they are being disposed of by a common judgment. Where necessary additional relevant facts are noted and suitable directions given.

3. O.A.673/91

The relief claimed in this C.A. is to direct respondents to implement the higher scale of Stenographer Gr.I, Gr.II and Gr.III in respondents' organisation in terms of O.M. dt. 31-1-91 referred to above with retrospective effect i.e. the date of issue of above said O.M.

4. O.M. dt. 6-2-89 prescribed the entitlement of officers for Stenographic assistance in subordinate offices as below :

Level of Stenographic assistance	Scale of officer entitled
1	2
Stenographer Gr.III (Rs.1200-2040)	Rs.3000-4500 and below Rs.3700-5000
Stenographer Gr.II (Rs.1400-2300)	Rs.3700-5000 and above and below Rs.5100-5700

Stenographer Gr.I (Rs.1640-2900)	Rs.5100-5700 and above and below Rs.5900-6700
Sr.P.A. (Rs.2000-3200)	Rs.5900-6700 and above (Officers of Senior Administrative Grade or equivalent posts)

It is laid down in para 2 of the above memorandum that the post of Stenographers Gr.III may be upgraded to Gr.II in those cases where the officers in a scale of pay lower than JAG have been allowed the revised scale of JAG with the approval of Ministry of Finance/Cabinet. O.M. dt. 30-1-91 stated that in order to improve the promotion prospects of Stenographers in the Non-Secretariat/Subordinate Offices it has been decided to take the following measures :

"(a) Under the OM dated 6-2-89 referred to above, stenographic assistance is admissible only to officers at the level of Rs.3000-4500 and above. It has now been decided that where stenographic assistance is presently available to officers below the level of Rs.3000-4500 on functional justification based on recommendation of SIU/IWSU, the existing sanctioned posts of Stenographer for such officers may be retained. In cases where the stenographic support to officers below the level of Rs.3000-4500 is not based on the recommendation of IWSU/SIU, the continuance of the posts of Stenographer may be considered afresh based on a study of the workload by SIU/IWSU. If no justification is found on the basis of such study for the continuation of the post(s), the same may be abolished after it is vacated by the present incumbent.

(b) In order to relieve stagnation in the lowest grade of Stenographers(Gr.III), wherever possible, on functional considerations, one Stenographer Gr.II (Rs.1400-2600) may be provided to two Officers entitled for a Stenographer Gr.III(Rs.1200-2040) each. Such arrangement once made will be final. The implementation of this decision may be suitably phased to ensure that it does not lead to any of the existing Stenographers Gr.III being rendered surplus.

(c) Stenographic assistance at the level of Rs.1640-2900(Gr.I) may also be provided to functional posts in the scale of Rs.4500-5700 and 25% of JAG posts in the scale of Rs.3700-5000 after identifying such posts on the basis of stenographic workload."

It would thus be seen that the O.M. dt. 6-2-89 prescribed the entitlement of the officers for stenographic assistance and the subsequent O.M. dt.30-1-91 took further measures mainly with a view to relieve the stagnation of the stenographers in various grades. As these measures are enumerated and are self explanatory it is not necessary to go into the implications **any further.**

5. The applicants who are stationed at Aundh have made several representations to the respondents to implement the above mentioned Govt. instructions in their organisation but they received no reply. Hence they were required to file the O.A.

6. Respondents have opposed the O.A. stating that the Ministry of Personnel instructions are by way of guidelines for various Ministries and the

cadre review proposal involving upgradation has already been under consideration and that in any case the matter involves policy decision and therefore the Tribunal is not competent to give any relief.

7. At the stage of arguments it came out that the matter is no longer ~~re-integra~~. In G. Chacko & Ors. vs. U.O.I., O.A. 336/92, decided on 23-4-93 by Ernakulam Bench similar question with regard to the Stenographers came up for consideration and the Tribunal gave a direction ^{as} to the further steps in the light of the agreement that was reached. ~~between the parties~~. The agreement that was reached is reproduced in para 5 of the judgment as below :

"(i) Service officers in subordinate formations of the Defence Ministry will be entitled to stenographic assistance as per DOPT orders dated 6-2-89 provided the officer is already availing of stenographic assistance.

(ii) Upgradation of pay scales of Stenographers from Rs.1640-2900 to Rs.2000-3200, in various defence establishments would require no work study as it had been done in organisations like Air Hqrs. and DRDO and that such upgradation would be done in consultation with Ministry of Finance.

(iii) Information may be collected from various organisations under the Ministry of Defence regarding the strength of Stenographers in various grades so as to examine whether there will be any

anomalous situation if certain number of posts of Stenographers were upgraded as mentioned above. The information collected will be sent to DOPT for their advice. "

The applicants in that O.A. were Stenographers of the Cochin Zone of Military Engineering Service and the O.A. was disposed of directing the respondents to finalise the issue on the basis of agreed formula within six months.

8. The matter had also come up before **this Bench of the** Tribunal in S.J.Vaidya vs. U.O.I.(O.A.729/92) and P.A.Haridas vs. U.O.I.(O.A.1023/93) decided on 8-8-95.

It was brought to our notice that SLP against the judgment in S.J.Vaidya's case was rejected on 4-2-96.

The Tribunal took the view that since the matter was already covered the Tribunal was bound by the decision in that case(G.Chacko's case) as well as in the case of O.A.792/86(V.M.Radhakanthan vs. U.C.I.) in which it was held that no distinction can be made for stenographic assistance merely because the post was held by the defence service personnel.

9. At the stage of the arguments the counsel for the respondents have also brought to our notice the O.M. dt. 15-7-1996 issued by the Ministry of Defence Production on the subject of Upgradation of Stenographer posts in DGQA stating that 39 posts of Stenographer Gr.II should be upgraded to the post of Stenographer Gr. I in DGQA organisation.

10. We have considered the matter and we are of the view that the issue is no longer res-integra especially in the light of the judgment in S.Chacko's case. Apparently consequent on the formula referred to in that judgment the D.G.A has decided to upgrade 39 posts of Stenographers Gr.II to corresponding posts of Stenographer Gr.I. The learned counsel for the applicants submitted that the issue is ~~not only~~ that of implementation of the order dt. 15-7-1996 in relation to upgradation of 39 posts of Stenographer Gr.II to corresponding posts of Stenographer Gr.I but there was also a further issue of ensuring that a similar relief is given to the stenographers in the lower level viz. upgrading requisite number of stenographer Gr.III posts to corresponding number of Stenographer Gr.II post.

11. The learned counsel for the applicants also submitted that there is a further issue regarding the date from which effect should be given to the orders of upgradation. According to the C.A. the relief is claimed from the date of issue of Department of Personnel order dt. 30-1-91. The counsel for the applicant however would contend ~~that~~ ^{at argument stage} these orders are in liberalisation of the earlier orders dt. 6-2-89 and **those** orders in **terms** were by way of implementation of the 4th Pay Commission whose recommendations came into effect from 1-1-1986. He would therefore urge that the effect of upgradation should be from 1-1-86. He also refers to the decision in S.J.Vaidya's case where the Tribunal had granted the benefit of the letter w.e.f.1-1-86

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but the arrears were restricted to one year prior to the date of filing of the O.A.

12. We have considered the matter. We are disposing off the OA mainly in terms of the judgment of the Ernakulam Bench in G.Chacko's case which was also followed by S.J.Vaidya. The judgment in Chacko's case did not say anything about retrospective effect. In any case the orders as in the present case are required to be given effect ^{to} from the date of ~~their~~ issue and the benefit of those orders is required to be given from the date the posts are created and the posts are filled in after subjecting the eligible employees to a process of selection. The general proposition that because ^{the recommendations} of the 4th Pay Commission were effective from 1-1-86, therefore the upgradation should also be effective from 1-1-86 is difficult to accept.

13. In the light of the above discussion we dispose of the OAs by giving following directions. Respondents are directed to implement the orders relating to upgradation of 39 posts of Stenographers Gr.II to corresponding Stenographers Gr.I dt. 15-7-96 within three months from the date of communication of this order unless already implemented. Respondents are further directed to work out the vacancies in the Stenographers Gr.II consequent on upgradation of Stenographers Gr.II ~~to~~ corresponding number of Stenographers Gr.II by upgrading requisite number of ~~posts of~~ of Stenographers Gr.III to Gr.II. Action in regard to the latter aspect should be completed within six months from the date of

communication of the order. It goes without saying that the eligibility of the members of the applicant organisation for getting higher pay scale in the light of these directions will also be decided within the above time frame. There will be no order as to costs.

14.

O.A.1101/93 and O.A. 1102/93

As observed earlier these OAs refer to 27 Gr.II and 74 Gr.III stenographers working in H.Q., Western Naval Command and they have challenged the communication dt. 13-8-1993 and communication dt. 28-7-93 stating that the representation for implementation of the Personnel Department O.A. dt. 30-1-91 is under process. For the reasons mentioned ⁱⁿ our orders relating to O.A.673/91 we direct that respondents should implement the Ministry of Personnel memorandum dt. 6-2-89 read with subsequent memorandum dt. 30-1-91 in terms of the agreed formula referred to in Chacko's judgment so far as it relates to Stenographers Gr.II and III working under the respondents in these O.A.'s. Since there is no indication as to the stage of processing of the formula referred to in Chacko's judgment in relation to the organisation in which applicants are working we direct that action to work out the posts in Stenographers Gr.II to be upgraded to Stenographer Gr.I and the posts in Stenographer Gr.III to be upgraded to Stenographer Gr.II and further action to fill those posts should be taken within a period six months from the date of receipt of the order. It goes without saying that the applicants' eligibility for getting higher pay scale would also be

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decided within the above time frame..

15. O.A.s are disposed of in terms of these directions and there will be no order as to costs.

(M.R.KOLHATKAR)
Member(A)

(B.S.HESDE)
Member(J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GULESTAN BLDG. NO. 6, PRESCOT RD, 4TH FLR,

MUMBAI - 400 001.

REVIEW PETITION NO. 118/96 in OA-1101/93

DATED THIS 18th DAY OF DECEMBER, 1996.

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

Hon'ble Shri M.R. Kolhatkar, Member (A).

Union of India, Through Flag Officer Commanding-in-Chief, Western Naval Command, SBS Road, Mumbai - 400 001. and two others.	<input checked="" type="checkbox"/> PETITIONERS (ORIGINAL RESPONDENTS)
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v/s.

R.R. Nair and Others All working as Stenographers in the Offices of WNC.	<input checked="" type="checkbox"/> Respondents (Original Applicants)
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ORDER BY CIRCULATION

Per Shri M.R. Kolhatkar, Member (A)

In this OA, the review petitioner/Original respondents has sought a review of our order dated 30/10/96 which was passed in common with OA-673/91 and OA-1102/93. The main ground for review is that there is an error apparent on the face of the record in the order to the extent that respondents had filed an additional written statement on 2/11/95 which went to the root of the matter and the same was not considered by the Tribunal while passing the order.

2. In this additional written statement, it was stated that the Officers of the respondents are eligible for Stenographic Assistance as per rank and not as per payscale as in the case of Civilian Officers. Therefore the order passed on basis of Chacko's judgement ~~can~~ ^{can} not be implemented.

3. The presumption of the respondents that the

additional written statement was not taken into account by the Tribunal before passing its order is quite unwarranted. We have considered all pleadings and passed our orders. We have also taken into account the fact that Ministry of Personnel orders are in the nature of guidelines and every department is to implement those orders, according to the scheme followed by the department. But we had also taken note of the fact that Chacko's case was decided on the basis of agreement reached between the parties in relation to modalities of implementation of the DOPT orders in the Defence Ministry.

4. In our view therefore the RP is misconceived and also does not fulfill requirement of rules under order 47 of CPC. The same is therefore dismissed by circulation as provided in rules.

M. R. Kolhatkar

(M. R. KOLHATKAR)
MEMBER (A)

B. S. Hegde

(B. S. HEGDE)
MEMBER (J)

abp.