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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.202/93.

Date of order : 17.12.96.

Between

- | | |
|-------------------------|------------------------------------|
| 1. K.K.Satyanarayana | 52. S.V.G.K.Murthy |
| 2. E.Anthony | 53. N.Veerabhadra Rao |
| 3. Ch.V.Rama Mohana Rao | 54. T.Subhadra |
| 4. G.Krishna Murthy | 55. N.V.L.N.Murthy |
| 5. A.Baby | 56. U.R.Narasinga Rao |
| 6. K.Prasada Rao | 57. S.V.Sambasiva Rao |
| 7. Margaret Lobo | 58. N.H.Ramam |
| 8. P.Lakshmi Kumari | 59. Ch.Narayana Murthy |
| 9. S.Appa Rao | 60. P.Madhava Rao |
| 10. P.Appa Rao | 61. C.Ramasundaran |
| 11. P.L.Narasimham | 62. B.Malleswara Rao |
| 12. Mohd. Younis | 63. G.Aridas |
| 13. S.V.V.S. Murthy | 64. G.Vahini |
| 14. Ch.Satyanarayana | 65. K.Satyanarayana |
| 15. F.S.Christic | 66. B.Kameswara Rao |
| 16. A.Appa Rao | 67. Ch.Hemalatha |
| 17. B.Fasiha | 68. V.V.Ratnachary |
| 18. G.Appa Rao | 69. D.Gowri Naidu |
| 19. S.Indira Kumari | 70. S.Swaminathan |
| 20. A.S.Kameswari | 71. D.Ananda Rao |
| 21. Smt. Lakshmi | 72. M.Parvathi |
| 22. P.Mohana Rao | 73. A.S.Acharyulu |
| 23. P.M.S.Sambhu | 74. M.Adinarayana |
| 24. M.Appala Raju | 75. L.Appa Rao |
| 25. I.Yerakayya | 76. V.V.Ramanamurthy |
| 26. Y.Surya Rao | 77. A.Ranganayakulu |
| 27. S.Vijaya Bhaskaram | 78. P.Suseela |
| 28. R.Sanyasi Rao | 79. P.Manohar |
| 29. G.V.V.Narasimha Rao | 80. N.Vidyanath |
| 30. P.Narayana Murthy | 81. S.Siva Rama Krishna |
| 31. G.Brahmaramba | 82. M.J.S.Ch.Jeevan |
| 32. P.V.Radha Rani | 83. A.S.R.Murthy |
| 33. A.Ramachandran | 84. K.Sarada Devi |
| 34. P.Gajapathi Raju | 85. C.Maheswari |
| 35. K.P.Saradhi | 86. C.Suneel Kumar |
| 36. P.V.Gopala Krishna | 87. I.V.Seetaram |
| 37. B.Ramana | 88. T.Narayana Reddy |
| 38. B.J.M.P.R.Patnaik | 89. Ch.V.Sarada |
| 39. S.Dharma Rao | 90. M.Kondala Rao |
| 40. E.A.Swamy | 91. Mrs. Salma |
| 41. K.Krishna Mohan | 92. Ch.Chinni Krishna |
| 42. A.H.H.N.Panth | 93. G.Srinivasa Rao |
| 43. G.Ramesh Kumar | 94. K.Krishna Kumari |
| 44. C.L.N.Prasad | 95. T.K.S.Nair |
| 45. C.H.Gangaramayya | 96. N.S.Prakasa Rao |
| 46. B.Suryanarayana | 97. A.Suryanarayana |
| 47. M.Venkata Rao | 98. P.V.N.Surya Rao |
| 48. A.Bangarayya | 99. Noorjahan Begum |
| 49. Md. Khader Baba | 100. K.Sita |
| 50. T.V.B.Raju | 101. N.V.N.Murty |
| 51. K.Sivaprasad | 102. K.Jagannadharao .. Applicants |

And

1. Union of India, Reptd. by the
Secretary, Min. of Defence,
New Delhi-110011.
2. The Chief of Naval Staff,
Naval Headquarters,
New Delhi-110011.

3. The Flag Officer Commanding-In-Chief,
Headquarters, Eastern Naval Command,
Visakhapatnam-530014.
4. Secretary, Min. of Personnel,
Public Grievances & Pensions,
Patel Bhavan (Dept. of Personnel & Trg.),
Sansad Marg,
New Delhi-110011.

.. Respondents

Counsel for the Applicants	.. S. Shri/Sitaramaswamy for Shri G. Ramachandra Rao
Counsel for the Respondents	.. Shri V. Rajeswara Rao, Addl. CGSC

C O R A M

Hon'ble Shri Justice M.G. Chaudhari : Vice-Chairman

Hon'ble Shri H. Rajendra Prasad : Member(A)

Order

(Per Hon'ble Shri Justice M.G. Chaudhari : Vice-Chairman)

This is an omnibus petition filed by 102 applicants seeking a direction to the respondents to implement the decision of the Govt. of India contained in O.M. dated 6.1.77 and O.M. dated 6.2.89 issued by the Ministry of Personnel, Public Grievances & Pensions, Govt. of India. All the applicants are stenographers working in various offices under the Eastern Naval Command, Visakhapatnam. Their grievance is that the respondents have not implemented the above decisions of the Govt. of India which were based on the recommendations of the III Pay Commission and have not given the benefit of upgradation of the posts of stenographers and corresponding higher scales to the applicants. The applicants, however, have not cared to give details of the individual entitlement of the different applicants and the scale in which they claim upgradation. The question raised is, therefore, only academic and no individual grievance has been projected. It is also stated by the learned counsel for the applicants that all the applicants are not from the same scale of pay or grade uniformly but they fall in different categories. No details, however, are furnished.

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2. The O.A. was filed on 3.3.93. However, earlier thereto a decision was rendered by the Ernakulam Bench of the Central Administrative Tribunal in O.A.No.539/90 on 9.9.91 precisely dealing with a similar grievance of Stenographers Grade III working under the Southern Naval Command, Cochin. As on the date on which the instant O.A. was filed the grievance could be understood as requiring the respondents to act consistently with the aforesaid decision. During the pendency of the instant application, 2 O.As - O.A.No.729/92 and O.A.No.1023/92 - were decided by the Bombay Bench of the Central Administrative Tribunal on 8.8.95. That also covers to a large extent the grounds urged by the applicants in the instant case. The applicants in those cases were Stenographers Grade III under the Commandant, A.C.Centre and School, Ahmednagar. Similar question arose in O.A.No.39/92 of this Bench which was decided by the learned Single Member(A) who followed the decision of the Jaipur Bench of the Central Administrative Tribunal in O.A.No.123/93. In the light of these decisions the position about the meaning and scope of the impugned O.Ms has been squarely established. It necessarily follows therefrom that the respondents in the instant case would have to act consistently with those decisions. Since the O.A. was filed way back in 1993 it would be presumptuous to say that by this time the respondents have not taken steps consistently with those two decisions. Moreover, in the absence of any individual grievance being made by any of the applicants reiterating that the respondents should correctly implement the O.Ms would be purely academic and even redundant exercise. In the counter filed by the respondents it is stated that the decisions of the Govt. of India were implemented and the contention that those were not being implemented raised by the applicants was not correct. However, that was the position on 19.11.93 when that counter was prepared.

3. The purport of the abovementioned decision may now be noticed. Before the Ernakulam Bench the claim of the 16 applicants who were working as Stenographers Grade III was that they should be declared to be entitled to the benefit of the higher scale of Rs.425-700 (Rs.1400-2300 (Revised)) with retrospective effect in accordance with the orders dated 6.1.77 and 23.2.89. While analysing the theme of the said orders it was held as follows:-

(a) O.M. dated 6.1.77 unequivocally states that a decision has been taken to upgrade the posts of Stenographers attached to the officers drawing the pay of Rs.1500-2000 and above, to the scale of Rs.425-700.

(b) The above pre-supposes that the posts of Stenographers had been attached to some officers in the scale of Rs.1500-2000 and above for good reasons and taking into account the nature of work discharged by such officers and the norms on the basis of which such officers were given stenographic assistance.

(c) The question of any conditionality or norms does not arise. However, that does not mean that whichever stenographer happened to be attached to that category of officer he would automatically get the higher scale of Rs.425-700.

(d)
4. It is the posts which are upgraded and not the incumbents of the posts. The entitlement of the stenographer to the higher grade will be determined by his merit and seniority in the cadre of Stenographer Grade III including those who are in the Selection Grade of Rs.425-540.

5. Consistently with the above findings, the respondents were directed to implement the orders dated 6.1.77 and 23.2.89 in respect of upgrading the posts of civilian stenographers attached to officers drawing pay in the scale of Rs.1500-2000 and above as on 6.1.77 in the offices ^{under} Respondent No.3 to the scale of Rs.425-700 and to consider the applicants (in that case) alongwith other eligible stenographers for promotion to the upgraded posts in accordance with the Recruitment Rules applicable to the post of Stenographer Grade III as on 6.1.77 and relevant instructions and orders valid on that date with all consequential benefits.

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6. Before the Bombay Bench the claim of the applicants was for fixation of pay and allowances in the scale of Rs.2000-3200 in the revised scale from 1.9.87 together with arrears of salary and consequential benefits. The applicants were also Stenographer Grade III. Reliance was placed on the O.M. dated 23.2.89 also. In O.A.No.729/92 of the Bombay Bench the fact that the applicant therein was attached to an officer carrying the pay scale of Rs.5900-6700 was not disputed. He was found eligible and was directed to be given the upgradation. The contention raised in that case which is also the submission urged in the instant case was that no distinction could be made with respect to the entitlement for stenographic assistance in the level of Sr. P.A. in the grade of Rs.2000-3200. In that context reference was made by the Bench to the decision in G.Chacko Vs. M.Girija Vallabhan (O.A.No.336/92) decided by the Ernakulam Bench on 23.4.93 and to the decision in O.A.No.792/89 (V.M.Radhakanthan Vs. Secretary, Ministry of Defence & Ors.) of the Bombay Bench decided on 3.7.91 wherein it was held that the expression 'Senior Administrative Grade' does also include the Commandant of the Armed Forces, Medical College, Pune as the functions of that officer are also administrative in nature and merely because the post is held by Defence Service Personnel, no distinction could be made with respect to the entitlement for stenographic assistance in the level of Sr. P.A. in the grade of Rs.2000-3200. That ratio was followed and relief was granted to the applicant in that case. By the same common order, O.A.No.1023/93 which was filed by 61 persons belonging to different grades was disposed of and the respondents were directed to give them the benefit of the O.M. dated 6.2.89 and the applicants therein being upgraded to the higher scale on the basis of those instructions w.e.f. 1.1.86 the actual monetary benefit shall be restricted to the period of one year i.e., 27.7.92 onwards,

6. Shri S.Sitaramaswamy, learned counsel for the applicants urged the following submissions:-

- (1) No distinction can be made between Service Officers and Civilian Officers and the benefit of the abovementioned O.Ms has to be extended uniformly to the eligible applicants.
- (2) Having regard to the scheme envisaged under the O.Ms dated 6.1.77 and 6.2.89, posts of Stenographers Grade I in the scale of Rs.1640-2900 ought to be allotted to officers drawing pay scale of Rs.5100-5700 and above by upgrading posts of Stenographers in the scale of Rs.1400-2600.
- (3) Allotment of Stenographers designated as Sr. P.As in the pay scale of Rs.2000-3200 to officers drawing pay scale of Rs.5900-6700 and above.
- (4) Upgradation of the posts of Stenographers in the scale of Rs.1200-2040 to the scale of Rs.1400-2600 allotting them to officers drawing pay scale of Rs.3700-5000 and to those Service Officers in the integrated scale of Rs.3700-5000 and were drawing basic pay of Rs.3700/-.

8. The respondents have failed to implement the O.M. by not taking the aforesaid steps. *is his conclusion*

9. In our view, on the question of distinction between Service Officers and Civilian Officers we are not called upon to lay down anything further than what has been held by the Bombay Bench in O.A.No.729/92 with O.A.No.1023/93 (supra). We do not agree with the submission of the learned counsel for the applicants that posts should be allotted to officers in different scales of pay so as to facilitate upgradation of stenographers in different scales attached to such officers whether Civilian or Service Officers. In that respect the decision of the Ernakulam Bench in O.A.No.539/90 (supra) is clear. As stated therein, it is upgradation of the posts and not of the incumbents of the posts. The applicants who are incumbents of the posts in different grades in order to secure higher monetary benefit cannot, as a matter of right, claim that adequate number of posts should be upgraded

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as that is entirely an administrative decision to be taken by the respondents. In fact, in the counter, as the matter stood then, some details have been given as to the upgradation of certain posts that was permissible. In other words, as and when posts are upgraded in which officers to whom stenographic assistance is permissible are created and if ^{any of} all the applicants happen to be attached to such officers then only such applicants can hope to get upgradation of their scale. The factual position in respect of the applicants is not available.

We have, therefore, to conclude by saying that the respondents are required to act consistently with the principles upheld in the decisions of the Ernakulam Bench and the Bombay Bench mentioned above and work out the position of individual applicants in the instant case and to the extent any one of them being found eligible for upgradation either prospectively or retrospectively that ought to be considered by them. That means that the respondents have to implement the O.Ms dated 6.1.77 and 6.2.89 in the light of the decisions of the Tribunal mentioned above ^{and this decision} in respect of the applicants to the extent any of them are found eligible to be dealt with accordingly. The principal ^a grievance of the applicants being that the respondents are not implementing the O.Ms as was made in 1993 thus has to be answered in the above manner.

8. 10. Since, in our view, no question of interpretation of the government orders or ^{any} uniform manner of ^{their} this applicability to different categories of stenographers can be laid down it is an individual matter relating to each applicant, namely as to whether he fits in under the scheme and is entitled to any benefit or not, it is only after such individual grievance has been raised before the respondents and it has been denied wrongly that the Tribunal can deal with it. It is not a question which can be dealt with in common at the instance of various applicants in ^{relation to} the presence of any individual grievance ^{until} depending on the facts applicable to him ^{it} as has been raised before the Tribunal. We would therefore leave it to the

applicants to individually raise their grievance if it still survives and invite a decision from the respondents.

9. In the result, the following order is passed:-

It is left open to the applicants in the instant O.A. to file an individual representation seeking such relief as he may be entitled to claim under the O.Ms dated 6.1.77 and 6.2.89 in the light of the law laid down by the Tribunal in the various judgements mentioned hereinabove ^{and this decision} and invite a decision from the respondents in that respect. Such representation, however, to be filed within a period of two months from today.

If such individual representation ^{from} by any of the applicants herein is received by the Respondent No.3 (Flag Officer Commanding-in-Chief, Headquarters, Eastern Naval Command, Visakhapatnam) within the abovementioned period the same shall be ^{as indicated above} disposed of on merits ~~in the light of this decision~~ and the result intimated to the applicants. We are however making it clear that since all the applicants are stated to be Civilian employees under the Respondent No.3 this direction is given and the question as to whether the Tribunal has jurisdiction to issue such directions in respect of non-Civilian employees working under the Respondents No.1 to 3 ~~can be given or not~~ is not decided in this application and is left open.

In the event of being aggrieved with the decision on individual representation such applicants will be at liberty to adopt such remedies as ^{he} as they may be advised in accordance with the law.

12. The O.A. is disposed of accordingly. No order as to costs.


(H. Rajendra Prasad)
Member(A).


(M.G. Chaudhari)
Vice-Chairman.

Dated: 17.12.1996.
Dictated in Open Court.

br.



24/1/97
(16)

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TYPED BY

CHECKED BY

COMPALED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD
MEMBER (ADMN)

Dated: 17-12-1996

ORDER / JUDGMENT

S.A./R.A/C.A. No.

O.A.No. 202/P3 in

T.A.No. (W.P.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm.

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
बेचन / DESPATCH
17 JAN 1997
हैदराबाद बेंच
HYDERABAD BENCH