

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.518/99

Date of order: 30/3/2011

1. S.Sridharan, Stenographer Grade-I (Adhoc)
2. Chandi Ram, Stenographer, Grade-I
3. K.Ravindran, Stenographer, Grade-II
4. Miss Mary Varghese, Stenographer Grade-II
5. Manohar Bhojwani, Stenographer, Grade-II

All are working in the O/o Salt Commissioner, 2A, Lavan Bhawan, Lavan Marg, Jhalana Doongari, Jaipur.

...Applicants.

Vs.

1. Union of India through the Secretary Mini. of Industry Deptt. of Industrial Policy & Promotion, Udyog Bhawan New Delhi.
2. Salt Commissioner, O/o Salt Commissioner, 2A Lavan Bhawan, Lavan Marg, Jhalana Doongari, Jaipur.

...Respondents.

Mr. Manish Bhandari - Counsel for applicants.

Mr. S.S. Hasan - Counsel for respondents.

CORAM:

Hon'ble Mr. S.K. Agarwal, Judicial Member

Hon'ble Mr. A.P. Nagrath, Administrative Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A filed under Sec.19 of the Administrative Tribunals Act, 1985, the prayer of the applicants is to direct the respondents to give them the same pay scale as is being given to the Stenographers working in the Central Secretariat & Offices attached to the Ministry including the Deptt. of Customs and Central Excise and other such offices alongwith arrears.

2. All the applicants were initially appointed as Stenographer Gr.III and they were promoted to Stenographers Gr.II. At present the applicants are working as Stenographer

Gr.II in the office of Salt Commissioner. It is stated that the applicants are entitled to the pay scales of Stenographer Gr.II as has been provided to the Stenographers working in the Central Secretariat and attached to the Ministry including Customs and Central Excise and other such offices but the same benefit has not been extended to the applicant. It is stated that after the decision in the case of P.K.Sahani Vs. UOI & Ors, which was upheld by the Apex Court, the applicants ought to have been given the same benefit as per circular issued by the Ministry of Personnel, Public Grievances & Pension, Department of Personnel & Training and the recommendations of the Pay Commission. It was obligatory on the part of the respondents to provide the same pay scale as was given to Stenographers Gr.II in the Central Secretariat and Offices attached to the Ministry, incouding the Department of Customs and Central Excise and other such offices. It is also stated that the qualifications and mode of recruitment in the office of Salt Commissioner as well as Central Secretariat is the same. Not only this, the nature of work/functions, duties and responsibilities of Stenographers working in Salt Commissioner Office are the same as in the offices of Central Secretariat and other offices attached to the Ministry, therefore, the applicants are entitled to the same pay scale of Stenographer Gr.II as provided to the Stenographers posted in the Central Secretariat and offices attached to the Ministry including department of Customs and Central Excise and other offices on the principle of equal pay for equal work. Therefore, the applicants filed the O.A for the relief as above.

3. Reply was filed. It is stated in the reply that prior to the recommendations of the V Pay Commission, the Stenographers Gr.II were in the pay scale Rs.425-700 before 1.1.86. This grade was revised to 1400-2300 w.e.f. 1.1.86.



Thereafter this grade was raised as per the award of Board of Arbitration to Rs.1400-2600. It is stated that the office of Salt Commissioner being nonsecretariat office the benefit of OM dated 6.8.99 could not be extended to the Stenographers of Salt Commissioner office. Further the applicant did not support their claim with documents for grant of pay scale Rs.5500-9000 instead of 5000-8000. It is stated that the applicants belong to General Central Service Group-C Ministerial non-gazetted cadre. It is also stated that the mode of recruitment of Stenographers in Salt Commissioner is not at par with that of CSSS cadre Stenographers as they are governed with different set of recruitment rules. It is also stated that it is not the function of the Tribunal to decide the pay scale but it is the function of the government/expert body to decide the pay scale. Therefore, the applicants have no case and the O.A devoid of any merit is liable to be dismissed.

4. Rejoinder has also been filed reiterating the facts as stated in the O.A.
5. Heard the counsel for the parties and also perused the whole record.
6. The learned counsel for the applicant vehemently argued that Hon'ble Supreme Court as well as High Courts and different Tribunals have laid down the law relating to the subject and held in so many cases that the applicants are entitled to the scale of pay as are given to the Stenographers in the Central Secretariate & Offices attached to the Ministry including the Deptt. of Customs & Central Excise and other such offices. On the other hand, the learned counsel for the respondents argued that it is not the function of the Court/Tribunal to decide the scales of pay but is the function of the Pay Commission and the Government, therefore, this



Tribunal shoul not interfere in the matter of pay scales.

6. We have given anxious consideration to the rival contentions of both the parties and also perused the whole record.

7. Hon'ble Supreme Court in long chain of decisions, laid down the law. In Delhi Vet.Assn. Vs. UOI, 1984(3) SCC 1, Secretary/Finance Vs. West Bengal Regn.Assn. & Ors Vs. H.N.Bhowal, 1994(27) ATC 524 and the Principal Bench of the Tribunal, New Delhi in P.K.Sehgal & Ors. Vs. UOI & Ors, decided on 28.9.98, have laid down the parameters/factors to be considered while evolving appropriate pay scale for a group or class of employees. The law/principles that need not be probed into simultaneously before granting such reliefs are as under:

"A (i) Method of recruitment:

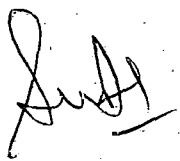
(ii) Educational qualifications - minimum educational qualification including technical one required;

(iii) Nature of duties - both qualitatively and quantitatively;

(v) Heirarchy of service in a given cadre providing chances for promotion - both horizontal and verticale prospects of advancements: and

(vi) Public dealings, arduous nature of job, experience and fatigue involved and training required and the degree of skill required.

B. In the case of Randhir Singh Vs. UOI & Ors, AIR 1982 SC 877, the apex court has held as below:


"It is well known that there can be and there are different grades in a service with varying qualifications for entry into a particular grade, the higher grade often being a promotion avenue for officers of the lower grade. The higher qualification of the grade, which may be either academic qualifications or experience based on length of service, reasonably sustain the classification of the officers into two grades with different scales of pay."

(C) The principle laid down in Randhir Singh's (supra) case has been reiterated in the case of Mewa Ram Kanojia Vs. AIIMS & Ors, ATJ 1989 (1) 654 in the following words:

"The doctrine of equal pay for equal work is not abstract one, it is open to the State to prescribe different scales of pay for different posts having regard to educational qualifications, duties and responsibilities of the post. The principle of equal pay for equal work is applicable when employees holding the same rank perform similar functions and discharge similar duties and responsibilities are treated differently. The application of the doctrine would arise where employees are equal in every respect but they are denied equality in matters relating to the scale of pay."

(D) While dealing with parity of pay scale in the case of State of UP & Ors. Vs. J.P. Chaurasia & Ors, 1989 SC (L&S) 71, the apex court relied on the earlier decisions including Randhir Singh (supra) and Bhagwan Das Vs. State of Haryana 1987 (4) SCC 634 and observed as under:

"The quantity of work may be the same but quality may be different that cannot be determined by relying upon in different averments in affidavits of interested parties. The equation of posts of equation of pay must be left to the executive government. It must be determined by expert bodies like Pay Commission. They would be the best judge to evaluate the nature of duties and responsibilities of posts. If there is any such determination by a Commission or Committee, the Court should not try to tinker with such equivalence unless it is shown that it was made with extraneous consideration.

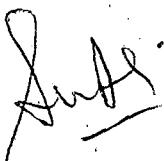
8. These principles have been again reiterated by the apex Court recently in ICAR Vs. A.N. Lahiri, 1997(2) SCALE 699, Union of India & Ors Vs. M.C. Roy, 1997(3) SCALE 648, Associate Bank Officers Assn. Vs. State Bank of India, JT 1997 (8) SC 442 and Shri S. Sahu etc. Vs. CSIR, 1998(1) ATJ 182.

9. In Para 18 of their order dated 19.1.96 in O. As No. 144A/98, 985/998 and 548/94, the Tribunal has observed as under:



"This part of OM has been examined by the various Benches of the Tribunal. Assistants and Stenographers Grade C working in the department of Central Administrative Tribunal Border Security Force, Indo Tibetan Border Police, Central Industrial Security Force and Bureau of Police and Research Development of CSS and Stenographers Grade C of CSSS by the Tribunal. It is also worthwhile mentioning that there was no provision for direct recruitment to the post of Assistants in Central Administrative Tribunal."

10. Not only this but the Stenographers Gr.C of CAT were granted the revised pay scales of Rs.1640-2900 in the case of S.R.Dheer & Ors. Vs. UOI & Ors, ATR 1993(1) CAT 480.
11. The applicants in O.A No.985/93 are Assistants in the office of DG/Income-Tax (Investigation) were also allowed the revised pay scale.
12. The Hon'ble High Court of Delhi has also allowed the revised pay scale of Rs.1640-2900 to the Assistants and Stenographers of the National Book Trust, India, in the case of Deepankar Gupta in CWP No.4842/96 on the principle of 'equal pay for equal work.'
13. In O.A No.352/91, P.C.Garg & Ors Vs. UOI & Anr, decided on 9.8.94, this Tribunal has allowed the applicants the pay scale Rs.1640-2900, who were working as Assistants in the office of Salt Commissioner, Jaipur.
14. In O.A No.313/97, S.I Malhotra & Ors Vs. UOI & Anr, decided on 5.7.99, this Tribunal allowed the pay scale of 1640-2900 to the applicants who were working as Assistant in the office of Salt Commissioner, Jaipur.
15. In O.A No.361/97, Chander Bhan Vs. UOI & Anr decided on 18.1.2000, this Tribunal has allowed the applicants the pay scale Rs.1640-2900, who was working as Assistant in the office of Salt Commissioner, Jaipur.
16. In view of the settled legal position and facts and circumstances of this case and it has been the view of the Apex Court/High Court/Tribunal to allow the pay scale Rs.1640-2900 even to the Assistants of Salt Commissioner's office.



Jaipur, there is no reason why the pay scale Rs.1640-2900 should not be granted to the Stenographers Gr.II at par with the pay scale granted to the Stenographers Gr.II of Central Secretariat & Offices attached to the Ministry including the Department of Customs & Central Excise and other such offices.

17. The contention of the counsel for the respondents that the Tribunal should not grant pay scale as it is the work of the Govt/Pay Commission, does not hold good in this case as the Pay Commission has already recommended the pay scales to Stenographers Gr.II of Central Secretariat & Offices attached to the Ministry including the Department of Customs & Central Excise and other such Offices but the same has not been granted to the applicants. Therefore, in this case the Tribunal is not undertaking the work to grant the pay scale but only consider why it was not granted to the applicants. The applicants in this case claim equal treatment at par with the Stenographers working in the Central Secretariat & Offices attached to the Ministry including the Department of Customs & Central Excise and other such offices. The Assistants of Salt Commissioner's office, have been equated with the Assistants of Central Secretariate and Offices attached to the Ministry including the Department of Customs & Central Excise and other such offices then why the Stenographers Gr.II working in the office of Salt Commissioner, Jaipur have not equated with the Stenographers in the Central Secretariat and Offices attached to the Ministry including the Department of Customs and Central Excise and other such offices.

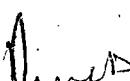
18. Therefore, in view of the settled legal position and facts and circumstances of this case, we are of the considered view that the applicants are entitled to the relief sought for.

19. We, therefore, allow the O.A and direct the respondents

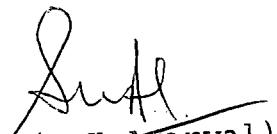


to grant the revised scale of pay of Rs.1640-2900 to the applicants on the same basis as Steno Gr.C of CCSS notionally w.e.f. 1.1.1986 but the payment of arrears would be limited to one year prior to the date of filing of this O.A. The whole exercise shall be completed within a period of 3 months from the date of receipt of a certified copy of this order.

20. There shall be no order as to costs.


(A.P. Nagrath)

Member (A).


(S.K. Agarwal)

Member (J).