

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
~~JODHPUR/BENCH/JODHPUR~~  
JAPUR BENCH JAIPUR

O.A. No. 22/2000  
~~TA/Nb.~~

199

DATE OF DECISION 15.4.2004

SUDHEER CHAND SRIVASTAV

Petitioner

MR. SHAILESH KUMAR SHARMA

Advocate for the Petitioner (s)

Versus

UCI & OTHERS

Respondent

MR. VIJAY SINGH BRIEF HOLDER FOR

Advocate for the Respondent (s)

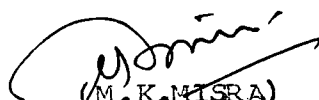
MR. BHANWAR BAGRI


CORAM :

The Hon'ble Mr. J.K. KAUSHIK, JUDICIAL MEMBER

The Hon'ble Mr. M.K. MISRA, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Nb*
2. To be referred to the Reporter or not ? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *yes*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *yes*

  
(M.K. MISRA)  
Adm. Member

  
(J.K. KAUSHIK)  
Jud l. Member

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 22/2000  
DATE OF DECISION : THIS THE 15TH DAY OF APRIL, 2004.

**Hon'ble Mr. J. K. Kaushik, Judicial Member**  
**Hon'ble Mr. M.K. Misra, Administrative Member**

Sudheer Chand Shrivastav S/o Shri Bhawati Prasad Shrivastav,  
aged about 33 years, resident of 3/76, Malviya Nagar, Jaipur  
Presently working as Stenographer Grade II in the office of  
Commissioner of Customs NCR Building, Statue Circle, C  
Scheme, Jaipur.

.....Applicant.

[By Advocate Mr. Shailesh Kumar Sharma, for applicant]

**Versus**

1. The Union of India through the Revenue Secretary,  
Government of India, North Block, New Delhi.
2. The Chairman, Central Board of Excise and Customs,  
North Block, New Delhi.
3. The Commissioner (Cadre Control Unit)  
Central Excise Commissionerate, Jaipur I,  
NCR Building, Statue Circle, C Scheme,  
Jaipur.

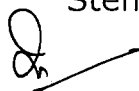
.....Respondents.

[By Advocate Mr. Vijay Singh, Adv. brief holder for  
Mr. Bhanwar Bagri, for respondents]

**ORDER**

**[BY J.K.KAUSHIK, JUDICIAL MEMBER]**

Shri Sudhir Chand Shrivastava, was initially appointed to  
the post of Stenographer-III in pay scale of Rs. 1200-2040 on  
dated 13.5.1991 and subsequently promoted to the post of  
Stenographer Grade-II w.e.f 29.10.97, in Custom and Central



Excise Department. He was placed on the pay scale of Rs. 1400-40-1600-50-2300-EB-60-2600. On the basis of Office Memorandum dated 31.7.1990 of the department of Personnel and Training, with concurrence of Ministry of Finance, department of Expenditure, revised the scale of pay of Stenographer Grade 'C' in Central Secretariat Stenographer service to Rs. 1640-60-2600-EB-75-2900 with effect from 1.1.1986. The Stenographers Grade-II in subordinate offices were placed in the same pay scales of Rs. 1400-2600 w.e.f. 1.1.1986. The view of Union of India was that Stenographer Grade-II is not in comparable grade with Stenographer Grade 'C' in Central Secretariat. According to it, services in Stenographer Grade 'C' in the Central Secretariat belong to Grade 'B' whereas Stenographers Grade-II in other departments of Government of India are classified as Grade C (Ministerial).

2. A case was filed by S/SHRI P. K. Sehgal & Ors., reported as 1999-(002)-SLJCAT -0331-DEL, by the Stenographer Grade II, employed in the office of Directorate General of Inspection, Custom and Central Excise, New Delhi, challenging mainly the order dated 31.7.90 issued by the department of Personnel & Training ('DOPT' for short), Grade "C" Stenographers of the Central Secretariat Stenographers Service ('CSSS' for short) as well as Assistants of Central Secretariat Service ('ACSS' for short) have been given a scale of pay of Rs. 1640-2900 with effect from 1.1.1986. The same came to be allowed and the respondents were directed to consider applying revised scale of pay of Rs. 1640-2900 to the applicants therein on the same

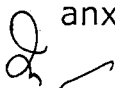


basis as Steno Grade 'C' of CSSS. But, the aforesaid scale has been denied to the applicants therein. The claim of the applicant is primarily based on the ratio laid down in the said judgment.

3. The respondents have contested the case and have filed an exhaustive reply and countered the facts and grounds enunciated in the Original Application. A Writ Petition has been filed before Delhi High Court against the judgement in P\_K Shukla's case supra and is pending adjudication. It is also pleaded that as per the verdict of Apex Court in case of Union of India and Anr Vs. P V Hariharan and Another, the scope of the Tribunal in case of pay scale has been described holding that only in cases of hostile discrimination, matters could be interfered otherwise not. Certain other judgements have been referred. The O.A. deserves to be dismissed.

4. A rejoinder has also been filed countering the averments made in the reply. The respondents have also filed a reply to rejoinder which not contemplated under the rules and should not have formed part of the pleadings as per Rule 33 of C.A.T. Rules of Practice 1993; rather ought to have returned as per the said rules itself to the respondents. Thus, we refrain to take any cognizance of it.

5. We have heard the learned counsel for the parties and have anxiously considered the pleadings and records of this case. We



find from the records that this case was being adjourned for getting the information regarding the Writ Petition filed in P. K. Shukla's case supra. None of the parties could make available the same so far and wanted further time in the matter. We took judicial notice of a recent judgement of the Apex Court in the similar matter in case of Union of India - Versus Tarit Ranjan Das 2004 SCC (L&S) 160 and apprised to the learned counsel for both the parties. The case was adjourned for few days and has come up again today for remaining arguments.

6. The learned counsel for the applicant has unsuccessfully tried to distinguish the facts of that case with the case in hand on the pretext that the Stenographers of Geological Survey of India were the claimant there whereas in the present case the applicant belongs to Custom and Central Excise. We are not at all impressed with the submissions of learned counsel for the applicant since the claim of applicants therein was based on the pay scale of Stenographers 'C' in Central Secretariat, which is also the case here. Now, we advert to the law laid down by the Apex Court in case of Tarit Ranjan Das' case supra. The relevant paras are extracted as under:-

8. In this case, the Tribunal and High Court seem to have completely lost sight of the fact that the Fifth Pay Commission specifically considered the question and held that there is no question of any equivalence. The Commission observed as follows:

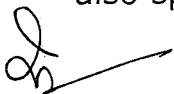
"46.34. We have given our careful consideration to the suggestions made by Associations representing Stenographers in Offices outside the Secretariat in the light of observations made by the Third CPC. The Commission had observed that as a general statement, it was correct to say that the basic nature of a Stenographer's work remained by and large the same whether



he was working with an officer in the Secretariat or with an officer in a subordinate office. The Commission was of the considered view, that the size of the Stenographer's job was very much dependent upon the nature of work entrusted to that officer and that it would not be correct, therefore, to go merely by the status in disregard of the functional requirement. By the very nature of work in the secretariat, the volume of dictation and typing work was expected to be heavier than in a subordinate office, the requirement of secrecy even in civil offices of the secretariat could be very stringent. Considering the differences in the hierarchical structures and in the type of work transacted the Commission was not in favour of adopting a uniform pattern in respect of matter listed in the preceding paragraph. To our mind, the observations of the Third CPC are as relevant today as they were at that point of time and we are not inclined to overlook them totally. In view of the abovementioned distinguishable feature, we do not concede the demand for absolute parity in regard to pay scales between stenographers in officers outside the secretariat and in the secretariat notwithstanding the fact that some petitioner Stenographers Grade II have got other benefit of parity in pay scale through courts. However, pursuing the policy enunciated by the Second CPC that disparity in the pay scale prescribed for stenographers in the Secretariat and the non-secretariat organisations should be reduced as far as possible, we are of the view that Stenographers Grade II should be placed in the existing pay scale of Rs. 1600-2660 instead of Rs. 1400-2300/Rs. 1400-2600.


9. Strangely, the Tribunal in the Review Petition came to hold that the Commission had not based its conclusion on any data. It is trite law that it is not open for any Court to sit in judgment as on appeal over the conclusion of the Commission. Further, the Tribunal and the High Court proceeded as if it was the employer who was to show that there was no equality in the work. On the contrary the person who asserts that there is equality has to prove it. The equality is not based on designation or the nature of work alone. There are several other factors like, responsibilities, reliabilities, experience, confidentially involved, functional need and requirements commensurate with the position in the hierarchy, the qualifications required which are equally relevant."

The review judgement as upheld by the Tribunal was reversed and set aside and the claim of the petitioner therein, came to be turned down. The ratio of the aforesaid judgement squarely covers up on all fours the controversy involved in this case and does remain res integra. The Fifth Pay Commission has also specifically examined the issue and considered all factor. We



have, therefore, absolutely no hesitation in following the same and decide this case on similar lines.

7. The upshot of the aforesaid discussion and law as laid down by the Apex Court, we reach to an inevitable conclusion that this Original Application sans merits and the same stands dismissed accordingly but ~~without~~ any order as to costs.

  
( M.K. Misra )  
Administrative Member

  
( J.K. Kaushik )  
Judicial Member

jrm