

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 257/2002
R.A/C.P No.
E.P/M.A No.

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SECTION OFFICER (Judl.)

Bahita
28/11/17

FORM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 257/2002
Misc Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicants. Smt. Anamma Verghese

-Vs-

Respondant(s) U.O.I. Pors.

Advocate for the Appellant(s) Mr. A. A. Hameed

Advocate for the Respondant(s) CGS.

Notes of the Registry

Date

Order of the Tribunal

9.8.02

Application is admitted. Issue notice on the respondents. Call for the records.

List on 6.9.2002 for written statement and further orders.

1st copy of the order is

for the

Cor-

filed /

for the

vide I

Dated.....

576609
7.8.02

Dy. Registrar

pg

6.9.02

Put up again on 7.10.2002 for orders.

Member

Vice-Chairman

Member

Vice-Chairman

mb

Notices prepared and sent to D. Section for issuing of the same to the respondents through Regd. post with AD.
Vide D.No. 2232 to 2236
Dtd. 20.8.02

34
14.8.02

1.10.02

On the prayer of Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents further four weeks time is allowed to the respondents to file written statement.

List on 12.11.2002 for orders.

K. K. Sharma
Member

[Signature]
Vice-Chairman

mb

12.11.02

List again on 11.12.2002 to enable the respondents to file written statement.

K. K. Sharma
Member

[Signature]
Vice-Chairman

mb

11.12.02

Written statement has been filed. The case may now be listed for hearing on 1.1.2003. The applicant may file rejoinder, if any, within two weeks from today.

K. K. Sharma
Member

[Signature]
Vice-Chairman

mb

1.1.2003

Due to vacation, the case is adjourned to 9/1/2003.

[Signature]
[Signature]

9.1.2003 Present: Hon'ble Mr Justice V.S. Aggarwal, Chairman

Hon'ble Mr K.K. Sharma, Administrative Member

Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs.

K. K. Sharma
Member

V. S. Aggarwal
Chairman

nk

23.9.02
W/S submitted by the respondents.

No written statement has been filed.

[Signature]
30.9.02

No written statement has been filed.

[Signature]
11.11.02

10.12.02

W/S submitted by the respondents.

[Signature]

16-12-02

Rejoinder submitted by the applicant in reply to W/S.

[Signature]

The case is ready for hearing as regular service.

[Signature]
8.1.03

Copy of the judgment has been sent to the office for perusal and one to applicant C.G.S.C.

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / RKA. No. 257 of 2002

DATE OF DECISION .9.1.2003.....
BENCH OF JUDGE

Smt Annama Verghese APPLICANT(S).

Mr A. Ahmed ADVOCATE FOR THE
APPLICANT(S).

- VERSUS -

The Union of India and others RESPONDENT(S).

Mr B.C. Pathak, Addl. C.G.S.C. ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR JUSTICE V.S. AGGARWAL, CHAIRMAN

THE HON'BLE MR K.K. SHARMA, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Ho'ble Chairman

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.257 of 2002

Date of decision: This the 9th day of January 2003

The Hon'ble Mr Justice V.S. Aggarwal, Chairman

The Hon'ble Mr K.K. Sharma, Administrative Member

Smt Annama Verghese

MES No.225300,

Stenographer Grade-II,

Office of the CWE,

Air Force, Borjhar,

Guwahati, Assam.

.....Applicant

By Advocate Mr A. Ahmed.

- versus -

1. The Union of India, represented by
The Secretary to the Government of India,
Ministry of Defence,
New Delhi.

2. The Engineer-in-Chief's Branch,
Army Head Quarter,
Kashmir House, PO-DHQ,
New Delhi.

3. The Chief Engineer,
Eastern Command, Fort William,
Kolkata.

4. The Chief Engineer,
Air Force, Elephant Falls Camp,
Shillong.

5. The Commands Works Engineer,
Air Force, Borjhar,
Guwahati.

.....Respondents

By Advocate, Mr B.C. Pathak, Addl. C.G.S.C.

.....

O R D E R (ORAL)

V.S. AGGARWAL. J. (CHAIRMAN)

By virtue of the present application the applicant (Annama Verghese) seeks a direction to promote her to the post of Stenographer Grade-II retrospectively with effect from 6.1.1977 with all financial benefits from the date her juniors had been promoted.



2. The facts are not in controversy. The applicant had joined as Stenographer Grade-III on 4.12.1971. She was promoted to the post of Stenographer Grade-II with effect from February 1995. Her seniority was affixed from 1.1.1986 and also financial benefit was given from July 1992.

3. The applicant contends that she should be given the benefit of promotion in terms of Government of India O.M. dated 6.2.1989 and should be considered for promotion to the upgraded post of Stenographer Grade-II with retrospective effect from the date as may be found due and proper.

4. The application has been opposed primarily on the ground that though this Tribunal with its Benches at Calcutta and Ernakulam Bench had granted reliefs to certain similarly situated applicants, but the applicant was not a party to that litigation.

5. After hearing Mr A. Ahmed, learned counsel for the applicant and Mr B.C. Pathak, learned Addl. C.G.S.C., at the outset, we reject the contention of the respondents' plea in their written statement and referred to above. The reasons are not far to fetch. Once a benefit has been given to an employee, in that event a model employer like the Union of India should not take shelter under certain technicalities. Irrespective of what has been stated, the law is settled that similarly situated persons must be given the said benefit rather than calling upon each one of them to seek judicial review of the ^{similar} ~~same~~ order.

6. In the case of K.M. Rajan and others Vs. Union of India and others (O.A.No.539 of 1990) decided on 9.9.1991, similarly situated persons had been given the benefit

claimed.....

LS Ag

claimed by the applicant. Similar order has been passed by the Calcutta Bench of the Tribunal in the case of T.N. Mukherjee and others Vs. Union of India and others (O.A.No.699 of 1997) decided on 5.2.1998. In the absence of there being any difference in the facts, we find no reason why the said benefit should be denied to the applicant.

7. However, the applicant had approached the Tribunal after a long delay. In that view of the matter it is directed that the applicant would be entitled to promotion to Stenographer Grade-II with effect from 6.1.1977. Her seniority shall be fixed accordingly. However, keeping in view the delay of the applicant in coming to this Tribunal, it is directed that she shall be given notionally the higher pay scale and increments thereto, but the arrears shall be confined to a period of 38 (thirtyeight) months before the date of filing of this application.

8. With this the application is disposed of. No order as to costs.



(K. K. SHARMA)
ADMINISTRATIVE MEMBER



(V. S. AGGARWAL)
CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. 257 OF 2002.

Smt. Annama Verghese

- Applicant

-Versus-

The Union of India & Others

- Respondents

I N D E X

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Filed by

Advocate.

(ADIC AHMED)

A. Verghese

Filed by
Smt. Annama Verghese, Applicant
Thru J. J. (Adv. AMED) 9
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH AT GAUHATI.

(AN APPLICATION UNDER SECTION 19 OF THE
CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985.)

ORIGINAL APPLICATION NO. 257 OF 2002.

B E T W E E N

Smti. Annama Verghese,
MES No. 225300,
Stenographer Grade-II,
Office of the CWE,
Air Force, Borjhar,
Guwahati-15, Assam.

-Applicant.

-Versus-

- 1] The Union of India,
represented by the Secretary to
the Government of India, Minis-
try of Defence, New Delhi.
- 2] The Engineer-in-Chief's Branch
Army Head Quarter,
Kashmir House, PO-DHQ,
New Delhi-110011.

A. Verghese

- 3] The Chief Engineer,
Eastern Command, Fort William,
Kolkata-21.
- 4] The Chief Engineer,
Air Force, Elephant Falls Camp,
Shillong-9.
- 5] The Commands Works Engineer,
Air Force, Borjhar,
Guwahati-15.

-Respondents.

DETAILS OF THE APPLICATION:

PARTICULARS OF THE ORDER AGAINST
WHICH THE APPLICATION IS MADE:

This application is made against the Order No. 131841/32/898/Engineer/EID dated 13th April 2002 issued by the Respondent No.3 by which the prayer for seniority ~~and promotion~~ of the applicant was rejected ~~and~~ So the applicant prays before this Hon'ble Tribunal for a direction to the Respondents to re-fix her seniority and promotion above her juniors who have been promoted to the post of Stenographer Grade-II with effect from 06-01-1997 with all financial benefits as per Order No. 131841/31/880/Engrs/EID dtd

A. Ughese

04th March 2002 issued by the Respondent No.3.

2) JURISDICTION OF THE TRIBUNAL

The applicants declare that the Subject matter of the instant application is within the jurisdiction of this Hon'ble.

3) LIMITATION

The applicant further declare that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

FACTS OF THE CASE:

4.1 That the applicant is citizen of India and as such, she is entitled to all the rights and privileges guaranteed under the Constitution of India.

4.2 That your applicant begs to state that your applicant was appointed as Stenographer Grade-III on 4th December 1971 and she was promoted to the post of Stenographer Grade-II with effect from February 1995 with seniority from 1st January 1986 and also financial benefit with effect from July 1992 The applicant was also promoted to the post of Stenographer

A. Ushara

Grade-I vide letter No. 131841/31/675/Engrs/EID dated 09th June 1999 and she was posted to Shillong, under the Head Quarter, Chief Engineer, Shillong Zone. But she refused and forgo the said promotion due to medical problem. Accordingly, she was reposted as Stenographer Grade-II under the C W E Air Force, Borjhar, Guwahati in her earlier post. The applicant since joining in the Department has been working very sincerely and honestly and there is no any blemish in her service record. She has satisfied her superior officers.

Annexure- A is the photocopy of her refusal letter dated 03-10-2000 for promotion to the post of Stenographer Grade-I.

4.3 That your applicant begs to state that as per recruitment rules Minimum service required for promotion to Stenographer Grade-II from Stenographer Grade-III is 5 (five) years.

4.41 That the applicant begs to state that one Sri Tarak Nath Mukhopadhyaya MES No. 232961 and Smti. Ruma Sarkar MES No. 214633 who had joined as Stenographer Grade-III on 30-08-1972 and 8th February 1982 respectively who are junior to the applicant has approached the Kolkata Bench of Hon'ble

A. Verghese

Central Administrative Tribunal, Kolkata Bench for promotion to the post of Stenographer Grade-II from Grade-III on the basis of 5 (five) years service in Stenographer Grade-III. The Original Application was Numbered as O.A. 699/97 before the Hon'ble Central Administrative Tribunal, Kolkata Bench. The Hon'ble Central Administrative Tribunal, Kolkata Bench vide their judgment and order dated 5th February 1998 allowed the above said Original Application. Accordingly, the Respondent No. 3 vide their Order No. 131841/31/880/Engrs/EID 4th March 2002 and Order No. 131841/31/892/ Engrs/EID dated 18th March 2002 have promoted Sri T N Mukhopadhyaya MES No. 232961 and Srimati Ruma Sarkar MES No. 214633 with effect from 06-01-1977 and 08-02-1987 respectively in the Grade of Stenographer Grade-II. The financial benefit of Stenographer Grade-II was also given to the above applicants of the said OA with effect from January 1977 and February 1987. In spite of best effort of your applicant he could not produce the judgment copy of the Hon'ble Central Administrative Tribunal, Kolkata Bench order dated 05-02-1998 passed in O.A. 699/97.

It is also pertinent to mention here that Sri T N Mukhopadhyaya and Smti. Ruma Sarkar opted for clerical cadre post as per

A. Ghose

Appendix-'A' to CEEC, Kolkata letter No. 131841/31/800/Engrs/EID dated 07-08-2001. The clerical cadre who opted Stenographer Grade-III can be considered for O.S.-II only (Now re-designated as Assistant) against 10% panel of promotion to Assistant. Notwithstanding their opinion for post of clerical cadre they have been promoted to the post Stenographer-II with effect from 06-01-1977 and 08-02-1987 respectively.

Annexure-B is the photo copy of the Order No. 131841/31/880/Engrs/EID 4th March 2002.

Annexure-C is the photo copy of the Order No. 131841/31/892/Engrs/EID dated 18th March 2002.

Annexure-D is the photocopy of Appendix 'A' 07-08-2001.

4.5] That your applicant begs to state that immediately after knowing the promotion of the Sri T N Mukhopadhyaya, Sri Shankar Dutta and Smt Ruma Sarkar to the post of Stenographer Grade-II your applicant filed a representation before the Respondent No. 3 on 22-03-2002 stating all the facts and also prayed before the Respondent No. 3 to give her promotion to the post of Stenographer

A. Ughose

Grade-II with effect from 06-01-1977 as given promotion to her juniors in stead of 1st January 1986. But the same was rejected by the Respondent No. 3 by passing a non-speaking and Mechanical Order. In this letter the Respondent No. 3 did not give any reason for not giving the due promotion to the Post of Stenographer Grade-II and the financial benefits with effect from 06-01-1977 to the applicant. Hence, finding no other alternative the applicant has compelled to approach this Hon'ble Tribunal by filing this Original Application for seeking justice.

Annexure-E is the photocopy of representation dated 22-03-2002 submitted by the applicant.

Annexure-F is the photocopy of rejection letter dated 13-04-2002 issued by the Respondent No. 3.

4.6] That the applicant submits that the respondents have deliberately and intentionally discriminated the applicant with regard to promotion of her post as Stenographer Grade-II in due time and as such it is a fit case giving adequate direction by Hon'ble Tribunal to the respondents for promotion and financial benefits to the

A. Veighese

applicant to the posts of Stenographer Grade-II with retrospective effect, i.e. from January 1977.

4.7] That your applicant submits that the action of the respondents particularly respondents No. 3 is mala fide, illegal with a motive behind as such, the applicant has compelled to approach this Hon'ble Tribunal for seeking justice.

4.8] That your applicant submits that the action of the respondents by which the applicant has been deprived of her legitimate rights are arbitrary. It is further stated that the respondents have acted in mala fide intention only to deprive the applicant from her legitimate right.

4.9] That your applicant submits that she has made out a prima facie case against the respondents for not giving the applicant her due promotion in time as Grade-II Stenographer. The principle of balance of convenience lies very much in favour of the applicant.

4.10] That this application is made bona fide and for the ends of justice.

A. Ughese

17

5] GROUNDS FOR RELIEF WITH LEGAL
PROVISIONS:

5.1] For that, the respondents, particularly, the Respondent No.3 rejected the representation of the applicant in a casual and mechanical manner without going to the roots of the case. As such, rejection of representation by the respondent is illegal, arbitrary and mala fide.

5.2] For that, the applicant is a victim of hostile discrimination and thereby the Respondents violated the principle of administrative fair play and Article 14 & 16 of his Constitution of India.

5.3] For that, due to negligence of the Respondents, particularly, Respondent No.3 the applicant has not been promoted in due time and as such, the applicant should be promoted with retrospective effect with financial benefits from 06-01-1977 for Grade-II Stenographer.

5.4] For that, the similarly situated persons has already been given the benefits of promotion to the post of Stenographer Grade-II with retrospective effect as order of the Respondents. Hence, the applicant should be given the benefits of promotion to

A. Ughare

the post of Stenographer Grade-II with financial benefits with effect from 06-01-1977 without approaching this Hon'ble Tribunal.

5.5] For that, being a Central Government Model Employer the Respondents cannot deny the said benefit to the applicant and hence the applicant is entitled for the said benefits and the Respondents cannot deny it.

5.6] For the, in any view of the matter the action of the Respondents are not sustainable in the eye of law.

The applicants crave leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of this instant application.

6] DETAIL OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious remedy available to the applicants except invoking the jurisdiction of this Hon'ble Tribunal. Under section 19 of the Administrative Tribunal Act, 1985.

7] MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT:

A. Ughese

That the applicant further declares that he has not filed any application, Writ petition or suit in respect of the subject matter of the instant application before any other Court. Authority, nor any such application, Writ Petition or suit is pending before any of them.

8] RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicants most respectfully prayed that your Lordship may be pleased to admit this petition records may be called for and after hearing the parties on the cause or causes that may be shown and on perusal of the records grant the following reliefs to the applicant.

8.1] To direct the respondents to promote the applicant to the post of Stenographer Grade-II with retrospective effect i.e., 06-01-1977 with all financial benefits from which date her juniors had been promoted to the post of Stenographer Grade-II with all financial benefits.

8.2] To pass any other order of orders as deem fit and proper by the Hon'ble Tribunal.

8.3] Cost of the application.

9] INTERIM ORDER PRAYED FOR:

A. Verghese

The applicant at this stage do not pray for any interim order, however, if the Hon'ble Tribunal deem fit and proper may pass such order or orders.

10] THIS APPLICATION IS FILED THROUGH
ADVOCATE.

11] PARTICULARS OF I.P.O.

I.P.O. No. : 76576609
Date of Issue : 7.8.2002
Issued from : Guwahati G.P.O.
Payable at : Guwahati G.P.O.

12] LIST OF ENCLOSURES:
As stated above.

A. Veighane

Verification

I, Smti. Annama Verghese, MES No. 225300, Stenographer Grade-II, Office of the CWE, Air Force, Borjhar, Guwahati-15, Assam under the Ministry of Communications the applicant of the instant case do hereby solemnly verify that the statements made in paragraphs to 4.1, 4.3, 4.6 — are true to my knowledge those made in paragraphs 4.2, 4.4, 4.5 — are being matters of records are true to my information derived there from which I believe to be true and those made in paragraph 5 are true to my legal advise and rest are my humble submissions before This Hon'ble Tribunal I have not suppressed any material facts.

I signed this verification on this 7th day of August 2002 at Guwahati.

Annama Verghese
Declarant.

From: MES/ 225300 - 14 -

Smt. A. Verghese, Steno Gde II
C/O CWE(AF)Guwahati
Guwahati-09

ANNEXURE - A W

To : HQs Chief Engineer
Eastern Command
FW Calcutta-21

(Through Proper Channel)

SURRENDER OF PROMOTION FROM STENO GDE II
TO STENO GDE I

Respected Sir,

With due respect and humble submission I beg to submit the following few lines for your consideration please:-

- (a) That Sir, under your HQ letter No. 131841/31/675/Engrs/EID dt 09 Jun '99 I have been promoted and posted to HQ CE Shillong Zone. Due to deferment of Shri SK Bhattacharjee, Steno Gde II upto 31 Dec '2000 my move to CESZ is with-held.
- (b) That Sir, now I am a Diabetic patient and at present I am unable to move anywhere due to my ill health. Medical Certificate is enclosed for reference please.
- (c) Under the above circumstances I even forego my promotion and request your honour to kindly cancel my posting order and allow me to continue my service in CWE(AF)Guwahati. An Undertaking to this effect is also enclosed for necessary action pl.

Thanking you.

Yours faithfully,

A. Verghese

(Smt. A. VERGHESE)

Steno Gde II

MES/225300 CWE(AF)GUWAHATI

Dated: 30^{Oct} Sep '2000

Advance Copy to:-

HQ Chief Engineer
Eastern Command
FW Calcutta-21

Adv. Copy
1
Adv. Copy

CWE (AF) Boyar

ANNEXURE - B

Guwahati

Purv Kaman Mukhyalaya
HQ Eastern Command
Abhiyanta Shakha
Engineers Branch
Fort William, Kolkata -21

222-2527

131841/31/880 /Engrs/EID

04 Mar 2002

Chief Engineer

Kolkata Zone

Siliguri Zone

Shillong Zone

(AF) Shillong Zone

Civil Engg Cell (OFB) Kolkata

R&B Picket Secunderabad

Comdt ESD Kanakinara

PANEL FOR PROMOTION FROM STENO GRADE III
TO STENO GRADE II

1. On the recommendation of the DPC held at this HQ, Steno Grade III as per Appendix 'A' to this letter have been approved by CE for promotion to the Grade of Steno Gde II.
2. The above panel will be operative upto and including 26 Feb 2003 unless reviewed earlier by the DPC or specifically extended beyond this date by the competent authority.
3. Actual promotion/appointment will be made in order of panel seniority subject to receipt of duty station from EIC(I) section of this HQ.
4. This is in compliance with Hon'ble CAT Kolkata Judgement dated 05 Feb 1998 on OA No 699, 97 in so far as it relates to Srl No 1, 2 & 3 are concerned.

53

(KLS Las)

SAO

SO-2 (Pers) 2001
For Chief Engineer

Copy to :-

1. E-in-C's Branch/EIR(Sub)
2. CDA Patna/Guwahati
3. AAO Pay Cell Kolkata/Siliguri/Shillong
4. All CSWE/GES/AGE(I)

Internal

1. IER, EIR(C), EIC(2), EIC(3) & E7 Section
EIC(I) Section - wrt your ION No 131322/2/Pro/149/Engrs/EIC(I) dated 06-6-2001, please intimate duty station of the individuals mentioned in Appendix 'A'.

Fort William, Kolkata -21

04 Mar 2002

Advocate

CWB AF Bazar

222-2527

Purv Kaman Mukhyalaya
HQ Eastern Command
Abhiyanta Shakha
Engineers Branch
Fort William, Kolkata-21

131841/31/ 892 /Engrs/EID

18 Mar 2002

Chief Engineer
Kolkata Zone
Siliguri Zone
Shillong Zone
A/F Shillong Zone
Civ Engg Cell (OFD) Kolkata
R&D Picket Secunderabad
Comdt ESD Kanakinara

PROMOTION/POSTING : STENO GDE III TO
STENO GDE II

1. Reference this HQ letter No. 131841/31/880/Engrs/EID dt 04-3-2002.
2. The promotion of the following Steno Gde III to Steno Gde II is hereby ordered. They are posted to the Units/Formations as indicated against their names in the interest of state :-

Sl NO	MES No and Name	Transferred		Remarks
		From	To	
01	216457 Shri Sankar Dutta	GE Berhampuri	CWE (AF) Kalaikunda	Promoted wef 06-1-77 as Steno Gde II with all consequential bene- fits in compliance with CAT Kolkata Judge- ment dated 05-2-90 on OA No 699/97.
2	232961 " TN Mukhopadhyay	GE Kolkata Zone	CWE Kolkata	
3	214633 Smt Ruma Sarkar	GE (AF) Bagdogra	GE (AF) Bagdogra	Promoted wef 08-2-87 as Steno Gde II with all consequential bene- fits in compliance with CAT Kolkata judge- ment order dt 05-2-98 on OA No 699/97

(Total three only)

3. Before the above individuals are brought in position against the post of Steno Gde II, please ensure that they are not involved in any disciplinary/SPE cases and there is nothing ~~involved~~ else against the individuals to warrant with-holding the above promotion. This should be indicated in the movement order.

1244 CLK/MS

Advant

- 2 -

4. Move of the individuals will be completed within 30 days from the date of issue of this letter.

5. Any representation against the posting order should be submitted through the receiving unit and no representation against the posting order from the present formation will be entertained.

6. This cancels promotion cum posting order in respect of MES-216457 Shri Sankar Dutta issued vide this HQ letter No 131841/8/2579/Engrs/EID dt 06-5-99, as amended vide No 131841/8/2582/Engrs/EID dt 24-8-99 and 131841/8/2780/Engrs/EID dt 04-9-2000.

Ahman
(Achintya Dass)
Lt Col
SO-1(Pers)
For Chief Engineer

Copy to :-

- 1- E-in-C's Branch,
Army HQ, New Delhi.
2. CDA Patna/Cuwahati.
3. ~~...~~ Kolkata/Siliguri/Shillong
4. All C&WE/CEs/AGE(E)

Internal

EIC(I), EIR, EIR(C) & E7 section

Attended
Advocate

Appendix 'A' to CEEC Calcutta
letter No. 131841/31/ 800
Encls/EID dated 07 Aug' 2001.

LIST OF EXISTING STENOGRAPHERS WHO HAVE EXERCISED FRESH OPTION AS PER HON'BLE
PRINCIPAL BENCH NEW DELHI DIRECTION.

Sr. No.	ESS No and Name	Initial apptt. with date and subsequent apptt.	Initially Opted for	Revised option exercised for	Remarks
1.	203013 Shepar Kumar Dob	Steno-III-15.05.71	Opted for Clerical Cadre	Opted for Clerical Cadre	Option valid in view of Hon'ble CAT PB New Delhi direction.
2. ✓	232951 Tarak Nath Mukhopadhyay	Steno-III-30.08.72	-Ditto-	-Ditto-	-Ditto-
3.	202426 Tarapada Ghosh	Steno-III-02-09-72	-Ditto-	-Ditto-	-Ditto-
4.	229319 R N Madarajan	Steno-III-21-02-77 Steno-II -01-01-85 (Steno Cadre)	Opted for Clerical Cadre	Opted for Clerical Cadre	Initial option holds good.
5.	253301 Namita Mukhopadhyay	Steno-III-22-06-77	Opted for Clerical Cadre	Opted for Clerical Cadre	Option valid in view of Hon'ble CAT PB New Delhi direction.
6.	213491 S K Mitra	Steno-III-30.11-79 Steno-II -01-01-86 (Steno. Cadre)	Failed to exercise option. Clerical Cadre	Failed to exercise option. Clerical Cadre	Initial option holds good.
7. ✓	243399 Shankar Dutta	Steno-III-20-01-81 Steno-II -20-01-86 (Steno Cadre)	Failed to exercise option. Clerical Cadre	Failed to exercise option. Clerical Cadre	Revised option not valid in view of Hon'ble CAT PB New Delhi direction.

Contd.....P/2.....

Advocate

1	2	3	4	5	6
	<u>S/Shri/Smt</u>				
8.	264635 Susant Kumar Bhowmik	Steno-III-06-07-81 Steno-II -06-07-86	(Steno Cadre)	Clerical Cadre	Revised op. valid in v' Hon'ble CA Delhi dire
9.	229205 Anjan Kumar Paul	Steno-III-26-10-81 Steno-II -20-10-86	(Steno Cadre)	-Ditto-	-Ditto-
10.	209499 Rabindra Nath Sahu	Steno-III-13-11-81 Steno-II -13-11-86	(Steno Cadre)	Steno Cadre	Initial opt holds good.
11.	246958 Swapan Kumar Chakraborty	Steno-III-11-01-82 Steno-II -11-01-87	(Steno Cadre)	Failed to exercise option.	-Ditto-
12.	214433 Ruma Sarkar	Steno-III-08-02-82	Opted for Clerical Cadre	Failed to exercise option.	Initial opt holds good.
13.	263317 Animesh Kumar Mazumdar	Steno-III-03-09-82 Steno-II -03-09-87	(Steno Cadre)	Steno Cadre	Initial opt holds good.
14.	A/14690558 Sibani Chakraborty	Steno-III-18-01-83 Steno-II -18-01-88	(Steno Cadre)	Failed to exercise option.	-Ditto-
15.	203542 Ashok Kumar Das	Steno-III-01-02-83 Steno-II -01-02-88	(Steno Cadre)	Steno Cadre	-Ditto-
16.	214359 Uttam Kumar Roy	Steno-III-30-05-80 Steno-II -30-05-80	(Steno Cadre)	Failed to exercise option.	-Ditto-
17.	238891 Tapan Chakraborty	Steno-III-31-05-83	Opted for Clerical Cadre	-Ditto-	-Ditto-
18.	268239 Samir Paul	Steno-III-01-11-83 Steno-II -01-11-88	(Steno Cadre)	Steno Cadre	-Ditto-

Contd.....2/3.....

Handwritten signatures and initials at the bottom left corner.

1	2	3	4	5	6
	<u>S/Shri/Smt</u>				
19.	266015 Mary Benjamin Lama	Steno-III-28.11.83 Now Assistant Asstt-	Clerical Cadre	-	
20.	266016 Gautam Kumar Kayal	Steno-III-28-11-83 Steno-II -28-11-88 (Steno Cadre)	Clerical Cadre	Revised option not valid in view of Hon'ble C.A. PS New Delhi direction.	
21.	266016 Parbati Das	Steno-III-16-04-84 Now Assistant-07-05-99	Clerical Cadre	-	
22.	229344 Upal Kumar Mazumdar	Steno-III-31-05-84 Opted for Clerical Cadre	Clerical Cadre	Initial option holds good.	
23.	204922 Alok Kumar Basu	Steno-III-20-09-8 Steno-II -20-09-89 Steno Cadre	Steno Cadre	-Ditto-	
24.	229207 Rabintra Chandra Das	Steno-III-12-10-84 Steno-II -12-10-89 (Steno Cadre)	Failed to exercise option.	Initial option holds good.	
25.	268386 Tushar Kanti Ghosh	Steno-III-15-04-85 Steno-II -15-04-90 (Steno Cadre)	-Ditto-	-Ditto-	
26.	246958 Ram Krishna Das	Steno-III-18-08-86 Steno-II -18-08-91 (Steno Cadre)	Steno Cadre	-Ditto-	
27.	266015 Chaitali Chakraborty	Steno-III-30-07-87	Clerical Cadre	-Ditto-	
28.	209479 Ashok Kumar	Steno-III-20-08-87 Steno-II -20-08-92 (Steno Cadre)	Failed to exercise option.	-Ditto-	
29.	264693 Saswati Das	Steno-III-06-11-87 Steno-II -06-11-92 (Steno Cadre)	-Ditto-	-Ditto-	

Contd.....2/4

Attest
[Signature]

29

-21-

1	2	3	4	5	6
S/Sri/Smt					
30.229499 Milon Paul	Steno-III-09-11-87 Steno-II-09-11-92	Steno Cadre	Clerical Cadre	Revised option is valid in view of Hon'ble CAT PE & Delhi direction.	
31.254694 Ranjit Achikari	Steno-III-12-11-87 Steno-II-12-11-92	Steno Cadre	Clerical Cadre	-Ditto-	
32.132575 Sujit Kumar Roy	Steno-III-11-11-87	Steno Cadre	Failed to exercise option.	Initial option holds good	
33.229872 Swapna Chanda	Steno-III-22-02-88	Steno Cadre	Clerical Cadre	Revised option is valid in view of Hon'ble CAT PE & Delhi direction.	
34.243778 Gitanjali Nath	Steno-III-26-02-88	Steno Cadre	Clerical Cadre	-Ditto-	
35.254540 Panna Lal Mandy	Steno-III-01-03-88	Steno Cadre	Steno Cadre	Initial option holds good	
36.206375 Apurba Saha	Steno-III-11-03-88	Steno Cadre	Steno Cadre		
37.208377 Biplab Kumar Basak	Steno-III-16-03-88	Steno Cadre	Steno Cadre	-Ditto-	
38.264595 Jacinta Pyngrope	Steno-III-10-04-88	Steno Cadre	Failed to exercise option.	-Ditto-	
39.209923 Konapala Lippal Rao	Steno-III-12-02-90	Steno Cadre	Steno Cadre	-Ditto-	

Continued..... 2/5.....

Advent
Advent

02

-22-

(3)

S/Shri/Sat
40. 256032 Bhagyashree
Sanyal

Steno-III-21-03-90
Steno-II-21-03-95

41. 270578 Sani Das

Steno C dre

Clerical Cadre

42. 249551 Jayanta Kumar
Maiti

Steno-III-05-05-90 Steno Cadre
Steno-III-03-01-96 Steno Cadre

Clerical Cadre

43. 2/4425319 Kamal Chandra
Gurung

Steno-III-09-02-96 Steno Cadre
Steno Cadre

Steno Cadre

Steno Cadre

-Ditto-

Station : Kolkata

Dated : 07 Aug '2001.

(PARMANAND)
SE
SO I (Pers) B.

Handwritten signature and initials.

-23-

ANNEXURE - E

ANNEXURE - E

(3)

31

From: MES/225300

Smt. ANNAMA VERGHESE

Steno Gde II

C, O CWB (AF) GUWAHATI

GUWAHATI (ASSAM)

To : HQ Chief Engineer
Eastern Command
Engrs Branch
FW KOLKATA-21

(Through Proper Channel)

JUNIORS PROMOTED FROM STENO GDE III TO STENO GDE II

Respected Sir,

With due respect I hereby submit the following few lines for your information and sympathetic consideration please:-

(a) That Sir, I was appointed as Steno Gde III wef 04.12.1971. After 23 years of service I was promoted to Steno Gde II wef Jun '95 vide your letter No 131841/31/343/Engrs/E1D dt 10.2.95 giving Notional Seniority wef 01.1.1988 vide your letter 13184/1/31/463/Engrs/E1D dt 10.1.97.

(b) It is now seen that the following individuals who are junior to me have been promoted to Steno Gde II wef 06 Jan '1977 whereas I was given promotion/seniority wef 01.1.1986. In this connection kindly refer your letter No 131841/31/680/Engrs/E1D dt 04 Mar '2002:-

(a) MES/232961 Shri TN Mukherjee, - Promoted wef 06.1.77
Steno Gde III

(b) MES/216457 Shri Sankar Dutta, - -do-
Steno Gde III

2. I therefore request your goodself to kindly look into the case and give me promotion as Steno Gde II wef 06 Jan '1977 as given to the above individuals who are Junior to me instead of 01.1.86.

Thanking you.

Yours faithfully,

A. Verghe

(Smt. ANNAMA VERGHESE)
STENO Gde II
MES/225300

Dated: 22 Mar '2002

Advance copy to:-

HQ CE Eastern Command
Engrs Branch
FW KOLKATA-21

- Due to mental strain, because of promotion of my juniors as advance copy of my application is submitted herewith for which I may please be excused.

CTC

Sukumar Das
Sukumar Das)
Adm Offr
For CWB (AF) GUWAHATI

Advocate

Tele: 222-2527

HQ Eastern Command
Engineers Branch
Fort William, KOLKATA-21

131841/32/898/Engrs/E1D

13 Apr '2002

CE A/F Shillong Zone

PROMOTION FROM STENO GDE III TO GDE II

1. Reference CWE(AF)Guwahati letter No 1010/1366/E1D dated 30 Mar '2002.

2. Application dated 22 Mar '2002 in respect of MES-225300 Smt Annama Verghese, Steno Gde II of CWE(AF) Guwahati requesting promotion in comparison with Shri TN Mukhopadhyay and Shri Shankar Dutta has been examined in this HQ. The following comments are offered:-

- a) Shri Shankar Dutta and Shri TN Mukhopadhyay, Steno Grade III both the clerical optee whose date of appointment in the grade of Stenographer wef 18.12.68 and 30.8.72 respectively have been promoted to Steno Gde II based on the Hon'ble CAT Kolkata Judgement order dated 05.2.98 and implementation order accorded vide Govt. of India. Min of Def letter No 98237/6124/E1C/legal(A)/2/CAT/D(Works) dated 14.1.2002, whereas the date of appointment of Smt. Annama Verghese as Steno Gde III is 04.12.71 and retained her own line of promotion on the introduction of 3 grade structure she was promoted to Steno Gde II with antedated seniority and subsequently promoted to Steno Gde I with antedated seniority but she has refused her promotion of Steno Gde I which was accepted vide this HQ letter No 131841/31/801/Engrs/E1D dt 31.8.2001.

3. In view of above, the benefit extended to Shri Sankar Dutta and Shri TN Mukhopadhyay as per Govt of India sanction accorded vide Min of Def letter cited above based on CAT judgement cannot be extended/compared with general cases.

Sd/-(KLS Das)
SAO
SO-2(Pers)
for Chief Engineer

Copy to:-

CWE(AF) Guwahati

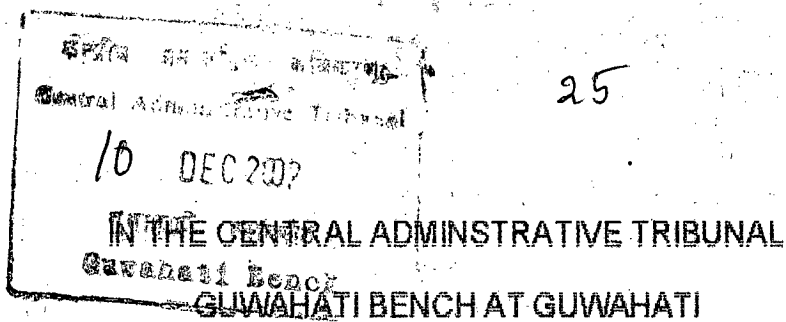
CTC

(Suk) (17/05)

Adm Offr

for CWE (AF) GUWAHATI

Atty Cl
Advocate



OA NO 257/2002

Smt Annama Verghese

.....Applicant

-Vs-

Union of India & Ors

.....Respondents

(Written Statements submitted by the Respondents)

The written statements of the respondents are as follows :-

1. That a copy of the OA 257/2002 (referred to as the "application") has been served on the respondents. The respondents have gone through the same and understood the contents thereof.
2. That the statements made in the application which are not specifically admitted by the respondents are hereby denied.
3. That the respondents have no comments to offer to the statements made in para 1,2,3,4.1 & 4.2 of the application.
4. That with regard to the statements made in para 4.3, the respondents state that as per recruitment rules minimum 5 years service is required in the grade of Stenographer Gde-III for promotion to Stenographer Grade-II is correct but promotion is granted based on seniority subject to availability of vacancy.
5. That with regard to the statements made in para 4.4, the respondents state that MES-216457 Shri Sankar Dutta, MES-232961 Shri T N Mukhopadhyay and MES-214633 Smt Ruma Sarkar have been promoted from Stenographer Gde-III to Stenographer Gde - II vide CE EC Kolkata letter No 131541/31/892/Engrs/EID dated 15 Mar 2002 strictly as per direction of Hon'ble CAT Kolkata Hence vide order dated 05-2-98 in OA No 699/97, and as per Govt of India, Min of Defence sanction letter No PC-90237/6124/E1C(Legal-A/2/CAT/E(Works) dt 14 Jan 02, copy attached as (R-1). As per direction of Hon'ble CAT Kolkata Bench, benefit should be given to the instant applicants only. Since Smt Annama Verghese is not an applicant of the OA No 699/97, she is not entitled for the benefit granted to the applicants of the said OA as mentioned above.

Filed by
B. C. Pith k
9/12/02
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati

It is agreed that as per existing rules Stenographer who have opted for clerical cadre for promotion in clerical line they should be promoted to OS Gde II (now Assistant) but the above mentioned applicants have been promoted to Stenographer Gde-II strictly in compliance with direction of Hon'ble CAT Kolkata Bench.

6. That with regard to the statements made in para 4.5, the respondents state that the representation dated 22.3.2002 submitted by Smt Annama Verghese has been replied vide CEEC Kolkata letter No 131841/32/898/Engrs/E1 D dated 13 Apr 2002 (R-2) stating the reason for non-consideration of her case.

Her 2nd representation dated 06 May 2002 has also been forwarded to E-In-C's Branch for decision. Decision given vide E-in-C's Branch letter No 41271/PA/E1R(Sub) dt 31 Jul 2002 (Copy attached as (R-3) has been communicated to her through CE(AF) Shillong vide this office letter No. 131841/31/933/Engrs/EID dt 10.8.02 (R-4) . Therefore contention of the applicant totally incorrect and misleading .

7. That with regard to the statement made in para 4.6, the respondents state that the judgment dt 5.2.98 given by the Hon'ble CAT kolkata in OA No. 699/97 is applicable only to applicants or that OA and not to the personnel other than the applicant. Since Smt Annama Verghese is not in applicant of aforesaid OA she is not entitled for the benefit sought for.

8. That with regard to the statements made in para 4.7 and 4.8, the respondents state that the statements are totally incorrect and misleading and hence denied. The respondent No. 3 has acted strictly as per direction of Hon'ble CAT Kolkata Bench and Govt Order as mentioned above.

9. That with regard to the statements made in para 4.9 and 4.10, the respondents state that the applicant has been promoted to Steno Gde -II wef Feb 95 alongwith others with antedated seniority from 01.1.86 based on availability of vacancy as per existing Govt Orders. No injustice has been done by the Department.

10. That with regard to the statements made in para 5, the respondents state that the applicant has been promoted to Steno Gde-II wef Feb 95 alongwith similarly situated persons strictly as per Govt orders in vogue as per availability of vacancies without any mala fide intention. Promotion with retrospective effect from 06-1-77 have been given only to the applicants of OA No 699/97 and not to the persons other than the applicants of that OA.

11. That the respondents have no comments to offer to the statements made in para 6 and 7 of the application.

12. That with regard to the statements made in para 8 and under the facts and circumstances of the case, the applicant is not entitled to any relief as prayed for.

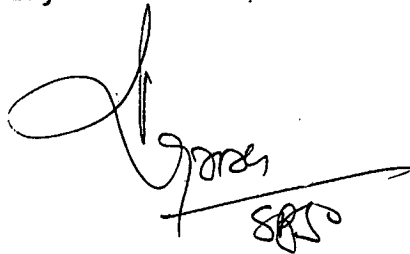
As already stated above that as Smt Annama Verghese is not an applicant of OA No 699/97 as she is not entitled for promotion to Steno Gde II with the retrospective effect from 07-1-77 which is applicable only to the applicants of that OA as per direction of Hon'ble CAT Kolkata Bench, Hence relief sought for should not be granted to her.

In the premises aforesaid it is, therefore prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records, shall also be pleased to dismiss the application with cost.

VERIFICATION

I, Shri P K Grover, presently working as the SBSO being competent and duly authorized to sign this verification, do hereby solemnly affirm and state that the statements made in para 1 to 4, 7 to 11 are true to my knowledge and belief, these made in para 5 and 6 being matter of records are true to my information derived therefore and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 04 th day of December, 2002 at Guwahati.



Deponent

-28-

4

Annexure-R-1 36

PC-90237/6124/EIC(Legal-A)/2 /CAT/D(Work)
 Government of India
 Ministry of Defence
 New Delhi 14 January 2002

The Chief of the Army Staff
 New Delhi

IMPLEMENTATION OF HON'BLE CAT CALCUTTA JUDGEMENT
 DATED 5 FEB 98 IN CA 699/97 FILED BY SHRI TARAK
 NATH MUKHERJEE AND OTHERS

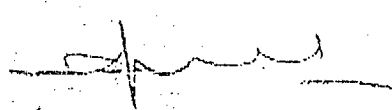
Sir,

I am directed to refer the judgement dated 05 Feb 98 delivered by the Hon'ble CAT Calcutta in CA 699/97 filed by Shri Tarak Nath Mukherjee and others to convey the sanction of the President of India for implementation of the directives contained in the above cited judgement. Accordingly the applicants are entitled for the promotion as stenographers vide-II (Rs. 425-700) reviewed Rs. 210-425 (pre revised) as on 6 Jan 1977 and as per relevant instructions and orders valid on that date with all consequential benefits, on the basis of judgement passed by Ernakulam and Guwahati Bench of the Tribunal vide judgement dated 9-9-91 in OA No. 539/90 and judgement dated 5-1-95 in OA No. 129/93 respectively.

2. The expenditure thereof would be accounted under "Charged Expenditure" for which sanction will be issued separately duly audited.

3. This issues with the concurrence of Defence(Fin) vide their U.O. No. 2072-W-I dated 3-12-2001.

Yours faithfully



(BP Sharma)

Deputy Secretary to the Govt of India

Copy to :-

1. Army HQrs, E-in-C's Br, New Delhi
2. DFA/AG/PB
3. CCDA, RK Puram, New Delhi
4. CDA, Calcutta - Ink signed copy.
5. CDA(Funds) Meerut - Ink signed copy.

5
COPY
Tele: 222-2527

Annexure R2
~~Annexure - D F (4)~~
HQ Eastern Command
Engineers Branch
Fort William, KOLKATA-21
R-2
37

131841/32/898/Engrs/E1D

13 Apr'2002

CE A/F Shillong Zone

PROMOTION FROM STENO GDE III TO GDE II

1. Reference CWE(AF)Guwahati letter No 1010/1366/E1D dated 30 Mar'2002.

2. Application dated 22 Mar'2002 in respect of MES-225300 Smt Annama Verghese, Steno Gde II of CWE(AF) Guwahati requesting promotion in comparison with Shri TN Mukhopadhyay and Shri Shankar Dutta has been examined in this HQ. The following comments are offered:-

- a) Shri Shankar Dutta and Shri TN Mukhopadhyay, Steno Grade III both the clerical optee whose date of appointment in the grade of Stenographer wef 18.12.68 and 30.8.72 respectively have been promoted to Steno Gde II based on the Hon'ble CAT Kolkata Judgement order dated 05.2.98 and implementation order accorded vide Govt. of India. Min of Def letter No 98237/6124/E1C/legal(A)/2/CAT/D(Works) dated 14.1.2002, whereas the date of appointment of Smt. Annama Verghese as Steno Gde III is 04.12.71 and retained her own line of promotion on the introduction of 3 grade structure she was promoted to Steno Gde II with antdated seniority and subsequently promoted to Steno Gde I with antdated seniority but she has refused her promotion of Steno Gde I which was accepted vide this HQ letter No 131841/31/501/Engrs/E1D dt 31.8.2001.

3. In view of above, the benefit extended to Shri Sankar Dutta and Shri TN Mukhopadhyay as per Govt of India sanction accorded vide Min of Def letter cited above based on CAT judgement cannot be extended/compared with general cases.

Sd/-(KLS Das)
SAO
SO-2(Pers)
for Chief Engineer

Copy to:-

CWE(AF Guwahati

CTC

Sukumar Das
(Sukumar Das)
Adm Offr
for CWB (AF) GUWAHATI

30- Annexure - R-3

Tele: 3019687

Coord & (Pers) Directorate/EIR(Sub)
Engineer-in-Chief's Branch
Army Headquarters
DHO PO, New Delhi-110011

41271/PA/EIR(Sub)

31 Jul 2002

Chief Engineer
Eastern Command
Kolkata.REVIEW OF EFFECTIVE DATE OF PROMOTION
FROM STENO GRADE III TO STENO GRADE II

1. Reference your letter No 131841/31/918/Engrs/SID
dated 19 Jun 2002.

2. As per Govt of India, MOD letter No. PC 802337/6124/
E.C (Legal-A)/2/CAT/D (Works) dated 14 Jan 02 Smt Annamma
Varchesa is not an applicant with CAT Kolkata Judgement
Order dated 5-2-98 on OA No 699/97. Hence she is not entitled
for the benefits as given to the applicants. The individual
may please be intimated accordingly.

(AK Mukherjee)
AO II
SO-3/EIR(Sub)
for Engineer-in-Chief

BR 918

FR 933

7
31-
Annex - R-4
/COPY/
Tele No : 222-2527

Purv Kaman Mukhyalaya
HQ Eastern Command
Abhiyanta Shakha
Engineers Branch
Fort William, Kolkata - 21

131841/31/933/Engrs/EID

10 Aug 2002

Chief Engineer (A/E)
Shillong Zone

REVIEW OF EFFECTIVE DATE OF PROMOTION
FROM STENO GRADE III TO STENO GRADE II

1. Reference your letter No. 81400/ADM/1035/EID dt 29 May 2002.
2. As per Govt of India, Min of Def letter No PC-902337/6124/EIC(Legal-A)/2/CAT/D (Works) dated 14 Jan 2002 Smt. Annamma Varghese is not an applicant with CAT Kolkata Judge-ment order dated 05.02.98 on OA No 699/97. Hence she is not entitled for the benefits as given to the applicants as intimated by E-in-C's Branch vide their letter No. 41271/PA/EIR(Sub) dated 31.07.2002.
3. The individual may please be informed accordingly.

Sd/- x x x x x
(KIS Das)
SAO
SO-2 (Pers)
For Chief Engineer

/COPY/

Tela : AF/2356

HQ Chief Engineer (AF)
Shillong Zone
Elephant Falls Camp
Nonglyer Post
Shillong - 793 009

81400/ADM/1102/EID

Aug 12002

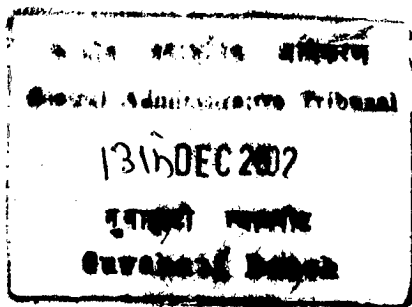
CWE (AF) Berjar

REVIEW OF EFFECTIVE DATE OF PROMOTION
FROM STENO GRADE III TO STENO GRADE III

1. Ref your letter No. 1010/236/EIE dt 03 May 2002 and further to this HQ letter No. 81400/ADM/1035/EID dt 29 May 2002.
2. In this connection a copy of CEEC Kolkata letter No. 131841/31/933/Engns/EID dt 10 Aug 2002 addressed to this HQ is enclosed for your ref and further action.
3. Please inform the indvl accordingly.

Encl : One.

(James M.I.)
Capt
SO-III (Pers)
for Chief Engineer (AF)



-1- 32-

Filed by 10
Applicant
Admitted
Through
J. L. Verghese
C. A. Ahmed

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI.

ORIGINAL APPLICATION NO. 257 OF 2002.

B E T W E E N

Smt. Annama Verghese - Applicant

-AND-

The Union of India & Ors.

-Respondents.

IN THE MATTER OF:

Rejoinder submitted by the applicant
against written statement filed by
the Respondents.

The humble applicant above named
filed the rejoinder as follows:

- 1] That with regard to paragraph No. 1 to 3
of the Written Statement the applicant begs to
state that he has no comment to offer.

2] That with regard to the statements made in paragraph No. 4 of the Written statement the applicant begs to state that it is not true that the applicant was not granted promotion on the basis of seniority subject to availability of vacancy. But the junior persons, namely, MES 232961 Sri Tarak Nath Mukhopadhyaya, MES 214633 Smti. Ruma Sarkar, have been promoted to the post of Stenographer Grade-II by suppressing the legitimate claim of the applicant.

4] That with regard to the statements made in paragraphs No. 5, 6, 7, 8, 9, 10, 11 and 12 of the written statements the applicant begs to state that the same are not correct. It is a settled principle of law that when similarly situated persons have been granted relief by the court of law than other persons who are similarly situated are also entitle for the same benefit without approaching court of law. But in the instant case the Respondents have stated in their written statement that the instant applicant is not an applicant of Q.A. No. 699 of 1997 of Kolkata Bench, Kolkata, as such, she is not entitled for the relief granted to the similarly situated persons. Moreover, the applicant of O.A. No. 699 of 1997 of Kolkata Bench, Kolkata are juniors to the applicant. For kind reference of this Hon'ble Tribunal the applicant annexed herewith a type

Ans

✓

copy of Judgment and order dated 05-02-1998 passed by the Hon'ble Tribunal, Kolkata Bench, Kolkata in O.A. No. 699 of 1997. The applicant also annexed the other similar judgments and orders passed by the Hon'ble Central Administrative Tribunal, Ernakulam Bench and this Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati in other analogous cases.

In view of the above, the written statements submitted by the Respondents are not correct and also misleading to the Hon'ble Tribunal. The applicant begs to state that the applicant is entitled for promotion to the post Stenographer Grade-II with retrospective effect, i.e. 06-01-1977 with all financial benefits from which date the juniors were promoted to the post of Stenographer Grade-II with all financial benefits.

Rep

- 4 -

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2

VERIFICATION

I, Srimati Annama Verghese, MES No. 225300 Stenographer Grade-II, Office of the C.W.E. Air Force, Borjhar, Guwahati-15, Assam do hereby solemnly verify that the statements made in the above paragraphs No.1 to 4 are true to my knowledge, belief and information.

And I sign this verification today on this the 13th day of December, 2002 at Guwahati.


Declarant.

O.A. NO 699 of 97

- 5 -

35-

ANNEXURE - 6

Present: Hon'ble Dr.B.C. Sarma, Administrative Member
 Hon'ble Mr. D.Purkayastha, Judicial Member
 TN Mukherjee & Others

Versus

Union of India & Others(Defence)

For the applicants : Mr. RK De, Counsel

For the respondents : Ms K.Banerjee, Counsel

Heard on 5.2.98Order on 5.2.98ORDERB.C.Sarma, AM

Three applicants have jointly filed this application with the prayer that a direction be issued on the respondents to upgrade the posts of Stenographer Gde III held by them in terms of Govt. of India O.M. No dated 6.2.89 and to consider the promotion of the applicants and to upgrade the posts to Stenographer Gde II with retrospective effect from the date as may be found due and proper. The applicants contend that they were initially appointed as Stenographer Gde III, the applicant No 1 on 30.8.72, the applicant No 2 on 18.12.68 and the applicant No 3 on 13.8.82. The applicants also contend that they have opted for promotion in clerical cadre, the applicant No 1 on 24.7.75, applicant No 2 on 31.7.75 and applicant No 3 on Jan'1988. But despite the said options nothing has been done by the respondents. Meanwhile the recruitment rules have been changed. Ernakulam Bench of the Tribunal OA No 539 of 98 by judgement dated 9.9.91 had decided the respondents should consider the case of the applicants for promotion as Stenographer Gde II. Similar judgement was passed by Guwahati Bench of the Tribunal in OA 129 of 93 dated 5.12.93. The applicants now pray that their case should be considered on similar line.

2. The case has been opposed by the respondents by filing a reply. The respondents averred that the applicant's case for promotion to the post of Stenographer Gde II was not considered since the applicants opted for clerical cadre for the purpose of promotion. But at the same time the respondents have also averred that Army HQs has agreed that fresh orders are likely to be issued by Min of Defence in compliance of the judgement of the Hon'ble Appex Court dt 17.2.97 and necessary action will be taken.

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3. We have heard the submission of Id Counsel for both the parties and produced records. We note that the respondents have received an order issued by the Hon'ble Appex Court on 17.2.97. But the details have not been given. When Ms Kanika Bannerjee was asked about the case in which this order was passed, she could not make any submission. It is their submission that on the basis of the signal received from E-in-C's Branch, AArmy HQs New Delhi the reply has been drafted. Whatever that May be, we note that the reply has not been signed by any person on behalf of the respondents. Therefore it has to be ignored. Ms Bannerjee made submission that the matter has been considered on the basis of the judgements passed by the Ernakulam Bench and Guwahati Bench of the Tribune, If that be so, the present application can also be dispersed off.

4. In view of the above position we dispose of the application of the respondents with a direction that within the period of three months from the date of communication of this order the respondents shall give benefit to the instant applicants on the basis of the judgement passed by Ernakulam and Guwahati Bench of the Tribunal.

5. No order is passed as to costs.

Sd/- xxxxxxxxxxxxxxxx

Attended
Admitted

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.129 of 1993

Date of decision : This the 5th day of December 1995

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

The Hon'ble Shri G.L. Sanglyne, Member (Administrative)

1. Shri Kodumonchira Nanoo Nadarajan
2. Shri Susanta Kumar Bhowmik
3. Shri R.C. Das
4. Shri Ramkrishna Das
5. Shri Ashok Kumar Bhattacharjya
6. Smt Saswati Das
7. Shri Ranjit Adhikari
8. Shri Panna Lal Nandy
9. Smt Jacinta Pyngrope
10. Shri Sujit Kumar Roy
11. Miss Gitanjali Nath
12. Shri Alok Kumar Basu

.....Applicants

The applicant Nos.1,5,7 & 12 are working as Stenographer Grade III in the office of the Chief Engineer (Air Force), Shillong Zone, Shillong.

The applicant Nos.2,3,4,6,8 & 9 are working as Stenographer Grade II in the office of the Chief Engineer, S.E. Falls, Shillong.

The applicant No.10 is working as Stenographer Grade III in the Office of the Commandar Works Engineer, Tezpur.

The applicant No.11 is working as Stenographer Grade III in the Office of the Garrison Engineer, Silchar.

By Advocate Shri M. Chanda,

versus

1. Union of India
Through the Secretary,
Ministry of Defence,
New Delhi.
2. Engineer-in-chief,
Army Headquarters, D.H.Q.,
New Delhi.
3. Adjutant General,
AG's Branch, Army H.Q.,
New Delhi.
4. Chief Engineer,
H.Q. Eastern Command, Fort Williams,
Calcutta.
5. Chief Engineer (AF),
Shillong Zone, Elephant Falls Camp,
Shillong.
6. Chief Engineer,
S.E. Falls, Shillong.
7. C.W.E. Tezpur,
Tezpur.
8. Garrison Engineer,
Marimpur Cantt.,



Attester
Q.S. Advocate

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ORDER

CHAUDHARI J. V.C.

Mr M. Chanda for the applicants.

Mr A.K. Choudhury, Addl. C.G.S.C., for the respondents.

The twelve applicants were appointed as Stenographer Grade III in the office of the Chief Engineer (Air Force), Shillong Zone, Shillong. In pursuance of the recommendations of the Fourth Central Pay Commission the pay scales were revised and the Government of India issued circulars dated 6.1.1977 vide O.M. dated 6.2.1989 issued by the Ministry of Personnel (Department of Personnel and Training) declaring that the Stenographers attached to the officer drawing salary of Rs.3700-5000 (revised) and above and below Rs.5100-5700 (revised) would be Grade II Stenographers. The applicants contend that under the rules framed by the President of India in exercise of powers under Article 309 of the Constitution of India for the recruitment in post of Grade II Stenographer, namely, "Army (Stenographer Grade II) Recruitment Rules", provide that a Grade III Stenographer who is in regular service for a period of 5 years is entitled to be promoted as Grade II Stenographer. In view of these two provisions the applicants contend that they have become eligible to be upgraded to the post of Stenographer Grade II. They have set out in para 6.vii the details about attachment of the respective applicants with the officers to show that they were working with such officers as ~~that~~ permitted their upgradation in terms of the orders issued on 6.1.1977 and 6.2.1989. They point out that by virtue of the order dated 30.1.1991 issued by the Ministry of Personnel (Department of Personnel and Training) no approval of the Cabinet or Ministry is required for the purpose of upgradation. It is the grievance of the applicants that despite these rules they have neither been upgraded nor they have been paid the scale of pay of Grade II Stenographer. Hence they pray that the respondents may be directed to upgrade them from Grade III to Grade II Stenographers in accordance with the rules framed by the



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Advocate

Government of India from time to time and to pay to them the scale of pay for Grade, II, Stenographers from the date of posting ^{as} of Grade II Stenographers together with arrears from the date of their appointment to that grade. Reliance is placed upon the decision of the Ernakulam Bench of the Central Administrative Tribunal, in O.A.No.539/90 dated 9.9.1991 (Copy at Annexure D).

2. The respondents have stated in the written statement that certain steps were contemplated to be taken in the direction of upgradation and that Recruitment Rules were being framed in right earnest. It has been pointed out that the Chief Engineer, Headquarter Eastern Command, had sought for certain details to enable him to take the necessary action for upgradation and fixation of pay in respect of eligible Stenographers and that owing to an order of stay imposed on holding DPC from July 1984 to January 1993 the promotion of Stenographer III to Grade II could not take place till the stay was lifted. The written statement was declared in November 1993 and as we believe that in view of the decision of the Ernakulam Bench of the Central Administrative Tribunal in O.A.No.539/90 dated 9.9.1991 the respondents having moved in the direction of carrying out the upgradation as indicated in the written statement that must have taken shape by this time. Hence by our interim order dated 21.9.1995 we had directed the respondents to inform us through the appropriate authority under the respondents ^{about} ~~as to~~ the steps as may have been taken by this time consistently with the statements made in the written statement and about the exact position of the applicants in respect of the upgradation and scale of pay as at present. However no such information has been made available to us and, therefore, we are constrained to pass an order on merits.

3. The decision of the Ernakulam Bench in O.A.No.539/90, Annexure-D, shows that similar question was raised and reliance was placed on the same orders, namely, dated 6.1.1977 (and ^{23.2.1984} ~~13.2.1989~~) by the applicants in that case. After examining various aspects of the matter it was held that the O.M. dated 6.1.1977 unequivocally states that a

decision.....



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 - A signature that appears to be "Hastel".
 - A signature that appears to be "Advocate".

decision has been taken to upgrade the posts of Stenographers attached to officers drawing pay of Rs.1500-2000 and above to the scale of Rs.425-700. However, it was further held as follows:

"It presupposes that 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 stenographer assistance. Given the posts of Stenographers attached to such officers, the decision was to allot the pay scale of Rs.425-700 to such posts. The question of any conditionality or norms etc does not arise. However, this does not mean that whosoever Stenographer happens to be attached to that category of officers he would automatically get the higher pay scale of Rs.425-700. It is the posts which are upgraded and not the incumbent 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.425-640."



With the above observations and in the facts and circumstances of the case the respondents were directed to implement the orders dated 6.1.1977 and 23.2.1989 in respect of upgrading the posts of civilian Stenographers attached to officers drawing pay of Rs.1500-2000 and above as on 6.1.1977 to the scale of Rs.425-700 and to consider the applicants (therein) along with other eligible Stenographers for promotion to the upgraded posts in accordance with the Recruitment Rules applicable to the post of Stenographer Grade II (Rs.425-700) revised, Rs.210-425 (pre-revised) as on 6.1.1977 and relevant instructions and orders valid on that date with all consequential benefits. The action in these lines was contemplated to be taken within three months from the date of communication of the order. Since the applicants rely on this decision and as their case is similar we think that all that is necessary to do is to pass similar order and hope that in view of the statements made in the written statement the respondents will not further delay the question of considering the upgradation of the applicants. That question necessarily will involve fixing the date with reference to which each applicant became eligible to be upgraded and the applicants will accordingly be eligible to get all consequential benefits including monetary benefits from the date of upgradation after they are considered and found eligible and are upgraded.

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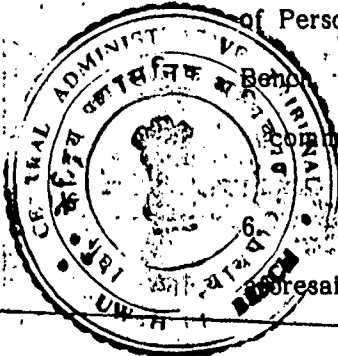
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4. We are aware that we are merely repeating what was done by the Ernakulam Bench as back as in 1991. When that Bench had indicated a time limit the respondents were expected to take the necessary steps relating not only to the applicants in that case, but also in respect of other eligible Stenographers who fell in the category within a reasonable time. Although it has been stated that some time in the year 1993 steps were initiated the respondents have not as yet considered the cases of the applicants save and except perhaps applicant No.1 who it is stated has in the meantime been promoted.

5. Having regard to the above noted circumstances following order is passed:

The respondents are directed to consider the case of each applicant for promotion to the upgraded post of Stenographer Grade II in accordance with the order dated 6.1.1977 vide O.M. dated 6.2.1989 issued by the Government of India (Ministry of Personnel - Department of Personnel and Training) and in the light of the decision of the Ernakulam Bench aforesaid within a period of three months from the date of communication of this order to them.

The original application is partly allowed in terms of the aforesaid order. No order as to costs.



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प्रमाणित प्रतिलिपि

Sd/ VICE CHAIRMAN
Sd/ MEMBER (ADM)

14/11/02
Section Officer (Judicial)
Central Administrative Tribunal
Ernakulam Bench, Cochin

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ERNAKULAM

BENCH

C.A. 2 NO. 539/90

Date of Decision 9.9.1991

K.M. Rajan and 15 others ... Applicants (s)

Mr. M. Girijavallabhas ... Advocate for the
Applicant(s)

- Versus -

The Union of India, represented by Respondent(s)

Ministry of Defence, New Delhi &

Mr. C. Kochunni Nair, AGOSG ... Advocate for the
Respondent (s)

GORAM :

The Hon'ble Mr. S.P. Mukherji, Vice Chairman

The Hon'ble Mr. N. Dharmadan, Judicial Member.

JUDGMENT

(Hon'ble Shri S.P. Mukherji, Vice Chairman)

In this joint application dated 29.6.1990 the sixteen applicants who have been working as Stenographer Grade III (Rs. 330-560/Rs. 1200-2040 (Revised) under the Southern Naval Command, Cochin have prayed that they should be declared to be entitled to the benefit of the higher pay 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 at Annexure-A and I respectively

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along with arrears of pay and allowances. They have also prayed that non-implementation of the aforesaid two orders in respect of the applicants should be declared as discriminatory in violation of Article 14 and 16 of the constitution. The brief facts of the case are as follows.

2. According to the applicants, they have put in 22 to 23 years of service and have been working as Stenographer Grade III in the Scale of Rs. 330-560 revised to Rs. 1200-2040 in the office of respondent No. 3. Their claim is based on the order issued by the Govt. of India on 6.1.77 at Annexure-A in para 4 of which it was decided that to the Stenographers attached to officers in the Subordinate Offices drawing pay in the scale of Rs. 1500-60-1800-100-2000 and above may be given the Scale of Rs. ~~1500-60-1800~~ 425-700 which is the revised scale of pay of Stenographers in the Scale of Rs. 210-425. The same order also provided the scale of Rs. 425-640 for Stenographers Grade III in the ~~Rs.~~ scale of Rs. 330-560 with effect from 1.11.73. The grievance of the applicants is that even though they have been working with officers drawing pay in the pre-revised scale of Rs. 1500-2000 and above they have ~~not~~ been given the benefit of the higher scale of Rs. 425-700 (Rs. 1400-2300 (Revised)) as enjoined in the aforesaid order at Annexure-A. On the other hand in the sister organisation of Defence Research and Development

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Organisation, 220 posts of Stenographers in the Scale of Rs. 425-709 were sanctioned in implementation of the Annexure-A Order. The Sanction is at Annexure-C. They had filed an earlier O.A. 21/89 before the Tribunal which was disposed of with the direction to dispose of their representations. In obedience of that order of the Tribunal, the ~~that~~ third respondent has now passed the impugned order dated 17th January 1990 stating that the matter is still under their consideration and is likely to take sometime. Government letter when issued will be forwarded". They have alleged that the respondents had made a false statement in their counter affidavit in reply to their earlier application OA 21/89 in which they had stated that the order dated 6th January 1977 had not been received by them when actually the Naval Headquarter in New Delhi vide Annexure-F dated 9th January 1977 had forwarded the aforesaid order along with the Ministry of Defence's U.O. of 18th March 1977. The contention of the applicants in that the Naval Headquarters have no right to deny the benefit of Annexure-A order granted by the Govt. The applicants have also referred to the communication of the Ministry of Personnel dated 6th February 1989 reiterating the benefits given in Annexure-A order and stated that the benefits of Annexure-L order also have ~~been~~ ^{not} extended.

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to the applicants when the D.R.D.O. has implemented that order also. They have stated that the applicants were all working with officers in the pre-revised scale of Rs. 1500-2000 and above now drawing Rs. 3700-5000 and above and therefore the applicants are entitled to the scale of Rs. 1400-2300 in accordance with the order at Annexure-L.

3. In the counter affidavit the respondents have conceded that the Government of India had accorded sanction for the following :-

(a) Selection Grade to Stenographer Gr. III with effect from 1.11.73 .

(b) Scale of pay of the Rs. 425-700 for Stenographers attached to officers in the Subordinate offices drawing pay scale of Rs. 1500-60-1800-100-2000 and above .

According to them while (a) above has been implemented vide Annexure-R1. implementation of (b) is to be Govern-
ed by the Department of Personnel's letter dated 9th February, 1990 at Annexure- R2 in accordance with which creation and upgradation of posts of Stenographers is not automatic but is to be on the basis of quantum of work handed by the officers. They have also referred to the availability of posts of Stenographers of various grades as recommended by the Vavel standing Establishment

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Committee . On the basis of the norms recommended by that committee Government has been reached for creation of nine points of Stenographer Grade II in the Navy and the matter is pending with the Government. They have further argued that Annexure-A order is only a guideline and the additional posts of Stenographers Grade II are to be created based on the norms applicable to the Navy and the sanction of the Government. The Application could not be given the Selection Grade of Rs. 425-640 with effect from 1.11.73 as they were for junior and not eligible .

4. We have heard the arguments of the learned Counsel for both the parties and gone through the documents carefully. From the department of Personnel's of 6th January 1977 at Annexure-A it is clear that on the basis of the recommendations of the Third pay Commission six pay scales of Stenographers were replaced by two revised scales namely Stenographer Grade-III in the Scale of Rs. 330-560 and Stenographer Grade II in the Scale of Rs. 425-700. Though the Third pay Commission did not recommend a Selection Grade in between Grade III and Grade II, "Keeping in view the meagre promotions prospects in departments other than the Railways" the Government decided that a Selection order of Rs. 425,640 be provided to Grade III with effect from 1.11.73 . The number of

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such posts would be 10% of the permanent posts in the ordinary Grade. Para 4 of the OM with which this case is principally concerned, reads as follows :

"4. According to the Department of Personnel & adm. Reforms' OM No. 1/8/72-Estt (D) dated the 29th June 72, Stenographers in the pre-revised scale of Rs. 210-425 were to be provided for officers whose status was higher than that of a Deputy Secretary to the Govt. of India. This provision came up for consideration in the meeting of the National Council (JCM) held on the 3rd August 73, and the staff side felt that Stenographers in this grade should be allowed to officers of and above the level of Deputy Secretary to the Government. This demand has been examined carefully and has been decided that the scale of Rs. 425-700 (the revised scale of pay for Stenographer is the scale of Rs. 210-425) may be allotted to posts of Stenographers attached to officers in the subordinate offices drawing pay in the scale of Rs. 1500-60-1800-100-2000 and above (emphasis added).

From the above it is clear that provision of Grade II scale of Rs. 425-700 for the posts of Stenographers

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attached to officers in Subordinate offices drawing pay of Rs. 1500-2000 and above was not a guideline but a decision of the Government applicable to all subordinate offices including these in the Naval Commands. The defence Ministry authorised upgradation of 220 posts of SXX Stenographers from Grade III scale of Rs. 330-560 to Grade II scale of Rs. 425-700 in the Defence Research and Development Organisation at Annexure-C in implementation of the order at Annexure-A. The direction of the Ministry of Defence and the Govt. of India cannot be stymied by the Naval formations on the plea that the norms of the Naval standing establishment Committee will have to be followed and that Annexure-A order is only a Guideline. The order of the Ministry of Defence is applicable to all the three wings of the Armed Forces and to their regional formations.) The implementation of the order at Annexure-A dated 6.1.1977 cannot be governed by the orders issued thirteen years later in February and August 1990 in the context of the Fourth pay commission. Para 4 of the O.M. of 6th January, 1977 is clear. It unequivocally states that a decision has been taken to upgrade the posts of Stenographers attached to officers drawing the pay of Rs. 1500-2000 and above, to the scale of Rs. 425-700. to the scale of Rs. 425-700. It presupposes that posts of Stenographers had been attached to some officers in the

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scale of Rs. 1500-2000 and above for good reasons and taking into accounts the nature of work discharged by such officers and the norms on the basis of which such officers were given stenographers assistance. Given the posts of Stenographers attached to such officers, the decision was to allot the pay scale of Rs. 425-700 to such posts. The question of any conditionally or norms etc, does not arise. However, this does not mean that whosoever Stenographer happens to be attached to that category of officers he would automatically get the higher pay scale of Rs. 425-700. It is the posts which are upgraded and not the incumbent 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. 425-640.

5. The impugned order at Annexure-K and the Counter affidavit indicate that the question of providing Stenographers in terms of the order dated 6.1.77 and in accordance with the prescribed norms of the Navy is under consideration of the Government. As stated earlier of prescribed norms have nothing to do with upgradation of the pay scale of Stenographers involved in this case. The learned Council for the respondents indicated that subsequent to the issue of the impugned

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communication dated 17.1.90 at Annexure-K, some posts in the selection Grade of Stenographer have been created and nothing more in pending consideration of the Government in this case .

6. In the facts and circumstances we allow this application to the extent of setting aside the impugned order at Annexure-K and directing the respondents to implement the orders at Annexure-A dated 6.1.77 and at Annexure-L dated 23.2.89 in respect of upgrading the posts of civilians Stenographers attached to officers drawing pay in the scale of Rs. 1500-2000 and above as on 6th January 1977 in the offices under respondent No.3 to the Scale of Rs. 425-700 and to consider the applicants alongwith other eligible Stenographers for promotion to the upgraded posts in accordance with the Recruitment Rules applicable to the post of Stenographer Grade-II (Rs. 425-700) revised Rs. 210-425 (pre-revised) as on 6th January, 1977 and relevant instructions and orders valid on that date , with all consequential benefits. Action on the above lines should be completed within a period of three months from the date of communication of this order. There will be no order as to costs .

sd/
(N. Dharmadan)
Judicial Member

sd/-
(S.P. Mukherji)
Vice chairman

Sealed
Central Administrative Tribunal
Barrakulam Bench

Attended
by
J. K. K. K.