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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 335/2002

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SECTION OFFICER (Judl.)

(SEE RULE -4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No : 335/02

Misc. Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant (s) Steral Hyndeh Town (12)

Respondent (s) H. C. I. Town

Advocate for the Applicant (s) B. K. Sharma, S. Sarma

Advocate for the Respondent(s) U. K. Nair, Mrs. U. D. D.,
P. A. S.

Notes of the Registry	Date	Order of the Tribunal
<p>126526164 30.9.02 steps taken along with envelopes 2/10/02</p>	11.10.02	<p>Heard Mr. S. Sarma learned counsel for the applicant. Issue notice of Motion. Returnable by four weeks. List on 15.11.02 for Admission.</p> <p>I C Wadhwa Member</p>
<p>Notice prepared and sent lists for giving the respondent No 1 to 3 by Regd Adm. 6/11/02</p>	15.11.	<p>Due to circuit sitting at Shillong, the case is adjourned to 11.12.2002.</p> <p>On A. K. S.</p> <p>DINO 3054 1556 Dtd 7/11/02</p>

11.12.02

Sum. v/s D/No 3054 & 36
dtd. 7/11/02 *AS*

Heard Mr. S.Sarma, learned counsel, for the applicant and also Mr. A.Deb Roy, learned Sr. C.G.S.C. for the respondents.

The application is admitted. Call for the records.

List on 17.1.2003 for orders.

CC Chaw
Member

mb

17.1.2003. There is no hearing & the case is adjourned to 31.1.2003.

AS

31.1.2003

No. written statement has been filed.

AS
31.1.2003

Four weeks time allowed to the respondents for filing written statement. List it for orders on 7.3.2003.

Vice-Chairman

nkm

7.3.2003. ~~The~~ Court did not sit today, the case is adjourned to 4.4.2003.

AS

4.4.2003

The respondents are yet to file written statement. Further four weeks time is allowed to the respondents to file written statement. List on 9.5.2003 for written statement.

No. written statement has been filed.

AS
8.5.2003

Vice-Chairman

mb

No. written statement
has been filed.

ZS
19.6.03.

9.5.2003 Put up the matter on 20.6.2003 to
enable the respondents to file written
statement, if any. The order is passed on
the prayer made by Mr.A.Deb Roy, learned
Sr.C.G.S.C.


Vice-Chairman

bb

20.6.2003 The respondents are yet to file
written statement though time granted.
Further four weeks time is allowed to
the respondents to file written statement
as a last chance.

Put up again on 4.7.2003 for
written statement.

23.8.03

W/S submitted
by the Respondents:

mb

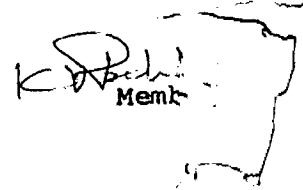
fan
4.7.2003 Written statement has been filed.
The case may now be listed for hearing on
27.8.2003. The applicant may file rejoinder
if any within two weeks from today.


Vice-Chairman

mb

12.9.2003 present: The Hon'ble Mr.K.V.Prahala dan
Administrative Member.

ZS
25.9.03.
On the prayer made by Ms.U.Das, learned
counsel for the applicant, the case is
adjourned and listed on 26.9.2003 again
for hearing.


K.V.Prahala dan
Member

bb

26.9.2003 Adjourned on the prayer of learned counsel for the applicant. List on 31.10.2003 for hearing.

6.10.03

mb

Rejoinder submitted by the applicant to the W/s.

Vice-Chairman

31.10.2003 List the case on 3.12.2003 again for hearing.

Par

bb

Vice-Chairman

3.12.03 No Bench today.
Adjourn to 17.12.03.
B70
by

17.12.2003 Adjourned. List on 19.1.2004 for hearing.

Parashar
Member (A)

The case is ready for hearing.

mb

1.3.2004 Let this case be listed before the next available Division Bench.

Par
12.5.04

Parashar
Member

nkm

29.3.04 List the case before Division Bench.

21.3.04.
Copy of the final order has been sent to the D/Sec. for issuing the same to the applicant as well as to the L.R.C. for the

Parashar
Member (A)

Kumar
Member (J)

13.5.04 Heard counsel for the parties.
Hearing concluded. Order passed separately.

Parashar
Member (A)

Dhankar
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

335 2002.
O.A. / R.A. No. of

13-5-2004.
DATE OF DECISION

Steral Lyngdoh & 12 others. APPLICANT(S).

Shri S. Sarma. ADVOCATE FOR THE
APPLICANT(S).

- VERSUS -

Union of India & Ors. RESPONDENT(S).

Sri A. Deb Roy, Sr.C.G.S.C. ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE SHRI MUKESH KUMAR GUPTA, JUDICIAL MEMBER.

THE HON'BLE SHRI K.V. PRAHLADAN, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgment ? *AA*
2. To be referred to the Reporter or not ? *M*
3. Whether their Lordships wish to see the fair copy of the judgment ? *AA*
4. Whether the judgment is to be circulated to the other Benches ? *NO*

Judgment delivered by Ho'ble Judicial Member.



X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 335 of 2002.

Date of Order : This the 13th Day of May, 2004.

The Hon'ble Shri Mukesh Kumar Gupta, Judicial Member.

The Hon'ble Shri K.V.Prahladan, Administrative Member

1. Steral Lyngdoh,
2. M. Marbaniang (Nargrecia)
3. M. Kharkonger,
4. S.Dilip Kumar Singha,
5. Violet Blah,
6. Joyanti D. Lyngdoh,
7. Ratna Das,
8. Mihir Dey,
9. Dominic D. Khar,
10. M.H.Thabong,
11. Kyrshanbor Myrthong,
12. Swapnabrota Dutta Choudhury
13. Debashish Choudhury

. . . Applicants

All Stenographer Grade-II working in
the North Eastern Council, North Eastern
Council Secretariat, Shillong.

By Advocate Shri S.Sarma.

- Versus -

1. Union of India,
represented by the Secretary to the
Government of India,
Ministry of Home Affairs, New Delhi-1.
2. The Secretary, North Eastern Council,
Shillong-1.
3. The Director,
North Eastern Council,
Government of India,
Ministry of Home Affairs, New Delhi.

. . . Respondents.

By Shri A.Deb Roy, Sr.C.G.S.C.

O R D E R (ERAL)

MUKESH KUMAR GUPTA, MEMBER (J)

¶ This is the second round of litigation. On an earlier occasion the applicants instituted O.A.149/98 seeking parity of pay scale between Stenographer Grade-II of the North Eastern Council with that of other similarly situated Grade II Stenographers in other autonomous statutory bodies.

The said O.A was disposed of vide order dated 20.12.2000 with the direction that NEC Council should consider the grievances of the applicants and pass a speaking order. Pursuant to the said direction NEC Council Secretariat, Shillong once again considered the grievance of the applicants but regretted to accede their request, which was communicated vide order dated 4.8.2001 (Annexure-8), wherein the extract of the decision taken on 1.8.2001 was also conveyed, which is impugned in this present application.

2. The basic contention raised by learned counsel for the applicants is that prior to Third Central Pay Commission Stenographer Grade II worked in the pay scale of Rs.210-530/- which was revised to Rs.425-800/-, which was also the pay scale of Grade II Stenographers of Central Secretariat. The pay scale of Stenographers Grade-II of Central Secretariat was revised to Rs.1640-2600/- which was subsequently revised to Rs.1640-2900/- based on a award of arbitration. It is contended that the applicants are entitled to be placed in similar position vis-a-vis all those who are comparable in nature. Therefore the applicants contends that they are entitled to parity with the Stenographer Grade II working in Central Secretariat as well as other autonomous body. Disparity in the pay scale of Stenographer Grade II of NEC with their counter part with the similar statutory organisation and the Central Government without any justification and has no rational basis, which violates the provisions of Articles 16 and 14 of the Constitution of India. It is further contended that the impugned order dated 4.8.2001 has no bearing in the eyes of law and cannot be sustained in as much as the same is not a speaking order.

3. The nature of work undertaken by them, qualification for appointment are same and similar to those who have been granted better pay scale than the applicants and therefore,

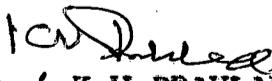
they are entitled to equal pay for equal work.

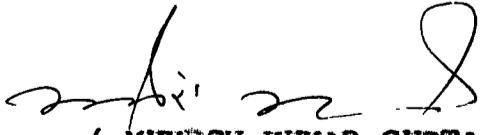
4. The respondents, on the other hand, contested the applicants claim by stating that the demand for absolute parity of pay scale in between the Central Secretariat Stenographers and Stenographers working in the office ~~out~~-side the Secretariat, ~~has~~ not been accepted by the Fifth Central Pay Commission as well as Central Government. The NEC constituted under the Act of Parliament in 1971, as per the amendment of 2002 will have such power as may be delegated to it by the Central Government. It is further contended that the NEC on its own cannot grant parity in the pay scale than what has been recommended and accepted by the Central Government. Further the pay scale of Rs.425-700/- as well as Rs.425-800/- was revised to Rs.1400-2600/- with effect from 1.1.86. The pay scale of Rs.1640-2900/- granted to Central Secretariat Stenographers was based upon the decision rendered by the Principal Bench of the Tribunal on 23.5.99 and was not based on either 4th or 5th C.P.C. recommendation. It is further contended by Shri A. Deb Roy, learned Sr.C.G.S.C that applicants themselves were not aware whether they should claim parity with Stenographer Grade-II working in the autonomous organisation of comparable nature or with the Central Secretariat Stenographers. Further the parity cannot be claimed with the Central Secretariat Stenographers unless there is proper material to establish such comparison, is proved and justified, which is lacking in the present case.

5. We have heard both sides counsel at length and perused the pleadings. On perusal of the impugned communication dated 4.8.2001 ~~ap~~ending the note and the decision taken on 1.8.2001, it is clearly established that different system of recruitment in respect of Stenographers had been the criteria for arriving

the decision by the Ministry of Home Affairs. No material has been placed even before us to draw a comparision between the Central Secretariat Stenographers and the applicants who are working in an autonomous or statutory organisation. It is contended by learned counsel for the respondents that Stenographer Grade-II in NEC is a Group 'C' post, on the other hand, Stenographer Grade 'C' in the Central Secretariat is a Group 'B' post. Not only this, the educational qualification required, nature of duties and functions performed are quite distinctive on the face of it. Successive pay Commission have made distinction between Stenographers working in Central Secretariat and outside the Central Secretariat working in autonomous , statutory bodies. Therefore, it is further contended that the claim of parity cannot be allowed and entertained. The principle of equal pay for equal work is attracted only ^{when} within two sets of employees, which are similarly situated and discharge similar function. It has further been held by the Apex Court repeatedly that it is not the ~~function~~ ^{the} findings of the Court to fix pay scale and this being the matter , which falls within the domain of expert body like Pay Commission.

6. In view of the discussions made herein above we are unable to accept the contention raised by the applicants that the impugned communication dated 4.8.2001, conveying the decision of the NEC dated 1.8.2001, is arbitrary, as contended. The distinction drawn between the Stenographer in the Central Secretariat and those attached to the subordinate offices is a reasonable classification. Accordingly the present O.A. is without any merit, and accordingly fails. No order as to costs.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH
GUWAHATI

O.A. No. 325 of 2002

Steral Lyngdoh & Ors.

... Applicants

- Versus -

Union of India & Ors.

... Respondents

I N D E X

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Filed by : *Alshad Das*
Advocate

12
Filed by
the applicant through
Alsha Das
Advocate
31/10/02

THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
GUWAHATI

(Application under Section 19 of the Central
Administration Tribunal Act, 1985):

D.A. No. 325/02 of 2002

BETWEEN

1. Steral Lyngdoh,
2. M. Marbaniang (Nargrecia),
3. M. Kharkonger,
4. S. Dilip Kumar Singha,
5. Violet Blah,
6. Joyanti D. Lyngdoh,
7. Ratna Das,
8. Mihir Dey,
9. Dominic D. Khar,
10. M.H. Thabong,
11. Kyrshanbor Myrthong,
12. Swapnabrota Dutta Choudhury,
13. Debashish Choudhury,

All Stenographer, Grade-II working in
the North Eastern Council, North Eastern
Council Secretariat, Shillong.

..... Applicant.

- AND -

1. Union of India, represented by the
Secretary to the Government of India,
Ministry of Home Affairs, New Delhi-1.
2. The Secretary, North Eastern Council,
Shillong-1.

3. The Director, North Eastern Council,
Government of India, Ministry of Home
Affairs, New Delhi.

... Respondents

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE :

The present application is directed against the order bearing No. NEC/ADM/45/98 dated 4.8.2001 by which the prayer of the Applicants has been rejected. This application is also directed against the action of the Respondents in not maintaining the parity in pay scale between the Grade-II, Stenographers of North Eastern Council (NEC) with that of other similarly situated grade-II stenographers in other autonomous statutory bodies similar to NEC.

2. JURISDICTION OF THE TRIBUNAL :

The applicants declare that the subject matter in respect of which the application is made is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

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

4. FACTS OF THE CASE :

4.1 That the Applicants are presently holding the post

of Stenographer, Grade-II in the NEC and are seeking a common relief viz. disparity in pay scale vis-a-vis the other similarly situated Grade-II Stenographers of other statutory bodies like NEC. Though the Grade-II Stenographers of NEC are being provided with the pay scale of Rs. 1400-2600/- whereas as, the other Grade-II, Stenographers which include not only the Central Government but also all other statutory bodies similar to NEC are being given the pay scale of Rs. 1640-2900/-. It is pertinent to mention here that the disparity in the pay-scale of Grade-II Stenographers of NEC and that of other similarly situated Grade-II Stenographers of Central Government as well as other statutory bodies like that of NEC started when 4th Pay Commissions recommendation was implemented. Pursuant to the recommendation of the 4th Pay Commission, all other Stenographers Grade-II working with Central Government and also with the other, statutory bodies like NEC, were given revised pay scale of Rs. 1640-2900/-. However, the pay scale of Grade-II, Stenographers of NEC was retained as Rs. 1400-2600/-. Prior to implementation of the recommendation of 4th Pay Commission all the aforementioned Stenographers were drawing the pay scale of 1400-2600/-. Highlighting the grievances the Applicants preferred representations through their association which were followed by the legal notice dated 26.12.97. The NEC authority on receipt of the legal notice intimated the counsel of the Applicants that the power of determination of pay lies with Central Govt. Pursuant to the aforementioned intimation another legal notice was served on Central

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Government ventilating the grievances of the Central Government but same could not evoke any result in positive. Situated thus, the Applicants approached this Hon'ble Tribunal by way of filing OA No. 149/98. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dispose of the said OA directing the NEC authority to examine the grievance of the Applicants and to pass necessary orders. The Applicants enclosing the judgment passed in OA No. 149/98, represented the matter before the NEC authority ventilating their grievance. The NEC authority on receipt of the said representation issued the impugned order dated 4.8.2002 rejecting the claim of the Applicants. The Applicants represented the matter before the authority concerned but same yielded no result in positive. Having no other alternative the Applicants have come before this Hon'ble Tribunal once again through this OA.

4.2 That all the Applicants are citizens of India and as such they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India and laws framed thereunder. The grievances raised by the Applicants in this OA and the relief sought for by them through this application is similar and they pray before this Hon'ble Tribunal to allow them to join together in a single application invoking Rule 4(5)(a) of Central Administrative Tribunal (Procedure) Rules, 1987.

4.3 That the North Eastern Council (NEC) is a statutory

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body created by Act of Parliament i.e. North Eastern Council Act, 1971 (Act of 84 at 1971).

A copy of the North Eastern Council Act 1971 is annexed as Annexure-1.

4.4 That the Grade-II Stenographer in NEC were originally sanctioned the pay scale of Rs. 210-530/- which was at par with the Central Secretariat employees. The aforesaid pay scale was previously prior to implementation of 3rd Pay Commission recommendation. The aforementioned pay scale was thereafter revised to Rs. 425-800/-, which was also the pay scale of Grade-II Stenographers of Central Secretariat. Surprisingly enough, the aforementioned pay scale was never implemented to the recruits who joined NEC after implementation of 3rd Pay Commission recommendation and their pay was fixed in the pay scale of Rs. 425-700/- instead of Rs. 425-800/-.

4.5 That the anomalous situation was therefore cropped up after the commencement of 3rd Pay Commission recommendation inasmuch as the Grade-II Stenographers of the NEC who were there working, were given the pay scale of Rs. 425-800/- i.e. similar to the pay scale of all other Grade-II Stenographers of Central Secretariat, whereas as subsequently appointed Stenographers Grade-II in NEC were given the pay scale at Rs. 425-700/- . Hence among the Grade-II Stenographers, two different classes were created without any intelligible differentia and rational and objective criteria. The sheer absurdity of creation of



these two classes is born out by the fact that both these two classes of Grade-II Stenographers of NEC were not only similarly situated in all respect but also carried out the similar duties and responsibilities. Their qualifications are also same and hence there was no reason for creating two different classes of Stenographers within the NEC.

4.6 That the 4th Pay Commission recommended the pay scale of Rs. 1400-2600/- for the Grade-II Stenographers working in the Central Government offices. Subsequently, the pay scale of Grade-II Stenographers of Central Secretariat was revised to Rs. 1640-2900/- and this revision of pay scale was extended to all the Ministries and departments of Government of India, where the method of recruitment is same and the old pay scale was 425-800/- It is therefore seen that Grade-II Stenographers having pay scale of Rs. 425-800/- who were working in Central Government Service/Offices were given the raised pay scale of Rs. 1640-2900/-. However, the pay scale of Grade-II Stenographers of NEC were given the pay scale of Rs. 1400-2600/- instead of 1640-2900/- to 3rd Pay Commission recommendation.

4.7 That therefore though the status and pay scale of Grade-II Stenographers of NEC was at par with the Central Secretariat till implementation of 4th Pay Commission recommendation. The revised pay scale of Rs. 1640-2900/- per month was not extended to them, on the plea that the method of recruitment is not the same and the NEC Grade-II Stenographers are not participating in

the Central Secretariat Stenographers. However, what is disconcerting is that if NEC as a statutory organisation cannot be equated with the Central Government offices, then in such a situation, it is expected that an appropriate scale of pay suitable to the NEC as a statutory organisation be provided to its Grade-II Stenographers. But that was not to be. Moreover, as seen from the background that since from the very beginning NEC as a statutory organisation was equated and was treated at par with the other Central Government Departments. Its employees are also considered similarly situated and were provided with the pay scale similar to other similarly situated employees of Central Government Departments.

4.8 That the discrimination started to the Grade-II Stenographers of NEC started when the 4th Pay Commission recommendation was implemented. Though all the Grade-II Stenographers were given the benefit of revised pay scale but in Grade-II Stenographers of NEC were given the pay scale of Rs. 1400-2600/- instead of 1640-2900/-, treating them to be other employees at Central Government.

4.9 That it is pertinent to mention here that the corresponding pay of Rs. 425-700/- was revised to Rs. 1400-2600/-. This was the pay scale of Grade-II Stenographers of NEC who joined NEC after the implementation of 3rd Pay Commission recommendation. As stated within the Grade-II Stenographers of NEC there were two sets of Stenographers Grade-II one getting 425-800/- and other getting 425-700/-.

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4.10 That it is noteworthy to mention here that the Grade-II Stenographers of NEC who were getting the pay scale of Rs. 425-800/- after the recommendation of 3rd Pay Commission were given the pay scale of Rs. 1400-2600/- after the recommendation of 4th Pay Commission who were subsequently revised to Rs. 1640-2900/-.

4.11 That on the other hand, the second set of Grade-II were recruited after the implementation of the 3rd Pay Commission recommendation were given the pay scale of Rs. 425-700/-, after recommendation of 4th Pay Commission were given the pay scale of Rs. 1400-2300/- and subsequently revised to Rs. 1400-2600/-. Though, given they ought to have been the pay scale of Rs. 1640/-.

4.12. That the association of the Applicants took up the matter of maintaining parity in the pay scale of Grade-II Stenographers of NEC, vis-a-vis their counterparts working in other statutory organisation including the Central Government. To that effect the aforementioned association submitted number of representations to the authority but same availed no result in positive.

Copies of the representations are annexed as Annexure-2 Colly.

4.13 That being aggrieved, the Applicants through their counsel submitted a legal notice dated 26.12.97, addressing to the Chairman, NEC and to the Secretary NEC in respect of the parity in pay scale with that of the similarly situated employees.

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A copy of the aforementioned legal notice is annexed as Annexure-3.

4.14 That in response to the Annexure-3 legal notice the Respondents vide their letter dated 9.3.98 which was served upon the counsel of Applicants urged that determination of pay scale for the employees of NEC can only be done by Central Government because power of the same is vested only with the Central Government.

A copy of the letter dated 9.3.98 is annexed as Annexure-4.

4.15 That in response to the letter dated 9.3.98, the Applicants then served with another legal notice dated 10.5.98 addressed to the Secretary, Ministry of Home, demanding maintaining parity in pay scale of Grade-II Stenographers of NEC with that of other similarly situated Stenographers of other statutory organisation and Central Secretariat.

A copy of the legal notice dated 10.5.98 is annexed as Annexure-5.

4.16 That it is stated that the pay scale of other statutory organisation like Central Administrative Tribunal, Election Commission, Union Public Service Commission are at par with Central Secretariat. Similarly, the NEC being a statutory organisation was treated at par with the other similarly situated organisation and its employees were given the pay scale similar to other similarly placed employees of other

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statutory organisations.

4.17 That the Applicants ventilating their grievances had to approach this Hon'ble Tribunal by way of filing OA No. 149/98 praying for their parity in pay scale. The Respondents filed their written statement controverting the stand taken by the Applicants. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dispose of the said OA directing the NEC counsel to pass a speaking order taking into consideration the gamut of the mater.

A copy of the judgment and order dated 20.12.2000 passed in OA No. 149/98 is annexed as Annexure-6.

4.18 That the Applicants after passing the aforesaid judgment and on receipt of the same preferred representation to the Secretary, NEC for implementation of the judgment of this Hon'ble Tribunal.

A copy of the representation is annexed herewith as Annexure-7.

4.19 That on receipt of the representation the Secretary, NEC issued individual letters to the Applicants dated 4.8.2001 enclosing a decision dated 1.8.2001 in this regard. In the said order however the Respondents have clarified that the prayer made by the Applicants have been rejected on the ground that NEC is subordinate to Ministry of Home Affairs and the decision will be taken by the Ministry of Home Affairs which will be binding on them.

A copy of the said impugned order dated 4.8.2001

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... is annexed herewith as Annexure-8.

4.20 That the Applicants beg to state that the only contention raised in the impugned order dated 4.8.2001 is that the NEC is a subordinate office of Ministry of Home Affairs and has got no power in case of pay fixation matter. That apart the NEC Secretary in its enclosed decision dated 1.8.2001 has mentioned that the counsel of the Applicants ~~was~~ misled the court making false statement, regarding the status of NEC. During adjudication of the earlier OA No. 149/98, the issue relating to the status of NEC surfaced and the Hon'ble Tribunal after hearing the parties to the proceeding was pleased to hold the NEC being competent to handle pay fixation matter of the Applicants and accordingly a direction has been issued vide its judgment and order dated 20.12.2000 to take an appropriate decision. The judgment was pronounced after hearing the parties to the proceeding and now the Respondents contentions regarding misleading the court is not at all sustainable, rather same is contemptuous in nature.

4.21. That the Applicants beg to state that in the present case Ministry of Home has been made a party Respondents because of the fact that it has been the consistent stand of the NEC authority that the Ministry of Home Affairs is the controlling authority of NEC and as such NEC is not the competent authority to take decision in the matter of parity in pay scale. However, the stand of the Applicants is that the NEC is an independent statutory body and same is not controlled

the
by Ministry of Home Affairs. It is also the stand of
the Applicants that under law, NEC is wholly competent
to take decision in regard to the cause of action
raised by the Applicants in this OA and it does not
require any permission from the Ministry of Home
Affairs. Now in view of the judgment and order dated
20.12.2000 passed in OA No. 149/98, the matter relating
to authority of NEC is quite clear and thus NEC
authority now cannot raise the issue of taking decision
by Ministry of Home Affairs. The NEC authority in the
name of its status now shifting the burden to Ministry
of Home Affairs without looking at the real issue
involved in the case. In the impugned communication,
the NEC authority have failed to take into
consideration the issue involved and under the fact
situation of the case they ought to have referred the
matter to Ministry of Home Affairs. On the other hand
the Ministry of Home Affairs inspite of repeated
communications have not clarified the point regarding
status of NEC.

4.22 That the Applicants beg to state that the
Department of Personnel and training in the year 1994
suggested NEC to chose one set of pay scale for the
whole organisation. There cannot be mixture of two sets
of Rules in a single organisation. However, in the
present case it is seen that NEC neither has adopted
the prescribed pay scale nor they have accepted the
suggestion of Department of Personnel and Training and
down graded the pay scales of the Applicants without
there being any reasonable clarification as to why such

pay scale has been adopted. The law guiding the field however does not permit such action of adoption of two sets of Rules in a single organisation that too without any clarification. The Applicants instead of repeating the contentions raised in the earlier proceeding pray before this Hon'ble Tribunal to rely and refer upon the contentions raised in the OA No. 149/98 and its rejoined at the time of hearing of this case.

4.23 That the Applicants have filed this application bonafide and to secure ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the pay scales in other statutory organisation like Central Administrative Tribunal, Election Commission, Union Public Service Commission etc. are at par with the Central Secretariat. Similarly, the NEC being a statutory organisation was treated at par with other similarly situated organisation and its employees were given the pay scales similar to the other similarly placed employees of other statutory organisation. It was only with the recommendation of the 4th Pay Commission that this disparity in the pay scale of Grade-II Stenographers of NEC with that of Grade-II Stenographers of other statutory organisations including the Central Government, started. The disparity in the pay scale of Grade-II Stenographers of NEC with their counterparts in other similarly situated statutory organisations and Central Government, is without any justifiable rationale basis.



5.2 For that the Grade-II Stenographers of NEC who till the recommendation of 3rd Pay Commission were treated with the acceptance of recommendation of 4th Pay Commission and the same was without any rational or sound or cogent reasons. It is, therefore, submitted the treatment which is being meted out to the Grade-II Stenographers of NEC is without any intelligible differentia and the same is in violation of Article 14 and 16 of the Constitution inasmuch as likes are not being treated alike.

5.3 For that it is submitted that if it is being considered necessary not to unnecessarily equate NEC with that of Central Government departments then it is high time to maintain status and dignity of this statutory organisation. The same can only be done if appropriate pay scales are laid down for its employees in terms of the status and independence of NEC and the nature and duties and responsibilities carried out by its employees. In this connection, one must not lose sight of the fact that the Grade-II Stenographers employed here has a same qualification and the same capacity to work and they carry out the same duties and responsibilities which their counterparts do in other organisations. Hence equality of treatment must be meted out to them in conformity with Articles 14 and 16 of the Constitution of India.

5.4 For that the Grade-II Stenographers of NEC are similarly situated like other Grade-II Stenographers of independent autonomous bodies including the Central

Government. The nature of work is the same. Qualification required for appointment is the same. They undertake similar nature of work. Therefore, in view of the established principle of equal pay for equal work all the Grade-II Stenographers of Central Government and other statutory organisations like NEC should be given equal pay scale and there must not be any discrimination.

5.5 For that disparity in the pay scale of Grade-II Stenographers of NEC vis-a-vis counterparts in other statutory organisations including the Central Government is contrary to the established principles of service jurisprudence.

5.6 For that the impugned order dated 4.8.2001 issued by the Respondents bears no meaning at all and same is not at all sustainable in the eye of law and liable to be set aside and quashed.

5.7 For that the impugned order dated 4.8.2001 is violative of the judgment and order dated 20.12.2000 passed in OA No. 149/98 and same is not a speaking order and as such same is liable to be set aside and quashed.

5.8 For that in any view of the matter the action/inaction on the part of the Respondents are not sustainable in the eye of law and same are liable to be set aside and quashed.

The Applicants craves leave of this Hon'ble Tribunal to advance more grounds both legal as well as

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factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicants declare that they have no other alternative and efficacious remedy except by way of filing this application. He is seeking urgent and immediate relief.

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

The applicants further declare that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above, the applicants pray that this application be admitted, records be called for and notice be issued to the respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs :

8.1 To set aside and quash the impugned order dated 4.8.2001 with a further direction towards the Respondents to grant the Applicants (Stenographers Grade-II of NEC) the pay scale of Rs. 1640-2900/- per

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month with effect from 1.1.86 with all consequential benefits.

8.2 Cost of the application.

8.3 Any other relief/reliefs to which the Applicant is entitled to under the facts and circumstances of the case and as may deemed fit and proper considering the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR :

During the pendency of the OA the Applicants do not pray for any interim order.

10.

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

- i) I.P.O. No. : 76576164
- ii) Date : 30/9/02
- iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

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VERIFICATION

I Shri Steral Lyndoh, son of I. Lyndoh, aged about 42 years at present working as Grade-II, Stenographer, N.B.C, Shillong, do hereby solemnly affirm and verify that I am the applicant in this instant application and conversant with the facts and circumstances of the case. I am competent to verify this case and the statements made in paragraphs 2,3,42, 420-423, 5&12 are true to my knowledge ; those made in paragraphs 1,41,43-449, are true to my information derived from records and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 30th day of September 2002.

Steral Lyndoh

THE NORTH EASTERN COUNCIL ACT, 1971

(Act No. 84 of 1971)

An Act

to provide for the setting up of a Council for the North-Eastern areas of India to be called the North-Eastern Council and for matters connected therewith.

Be it enacted by Parliament in the Twenty-second year of the Republic of India as follows:

1. Short title and commencement—(1) This Act may be called the North-Eastern Council Act, 1971:

(2) It shall come into force on such date, being a date not earlier than the day appointed under clause (b) of section 2 of the North-Eastern Areas (Re-organisation) Act, 1971, as the Central Government may, by notification in the official Gazette, appoint.

2. Definitions—In this Act unless the context otherwise requires,

(a) "Council" means the North-Eastern Council set up under section 3;

(b) "North-eastern area" means the area comprising the States of Assam, Manipur, Meghalaya, Nagaland and Tripura and the Union Territories of Arunachal Pradesh and Mizoram; and

(c) "State" include the Union Territories of Arunachal Pradesh and Mizoram.

3. Setting up and composition of the North-Eastern Council.

Amendment I (1) There shall be a Council to be called the North-Eastern Council which shall consist of the following members, namely:

(a) The person or persons for the time being holding the office of the Governor of States or the office of Administrator of the Union Territories in the North-eastern area;

(b) The Chief Ministers of the States of Assam, Manipur, Meghalaya, Nagaland and Tripura and of the Union Territory of Mizoram; and

(c) One of the Counsellors to the Administrators of the Union Territory of Arunachal Pradesh appointed under section 18 of the North-East Frontier Agency (Administration) Supplementary Regulation, 1971, to be nominated by the Administration:

Provided that if there is no Council of Ministers in any State referred to in clause (b) or in the Union Territory referred to in that clause; the President may nominate not more than one person to represent such State or Union Territory in the Council for so long as there is no Council of Ministers in such State or Union Territory.

Attested
Kumar
Advocate

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Kumar
Advocate

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Kumar
Advocate.

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(2) Notwithstanding anything contained in sub-section (1), the President may, if he deems it necessary so to do, nominate a Union Minister to be a member of the Council.

(3) One of the members of the Council to be nominated by the President shall be the Chairman of the Council.

(4) The President may, if he deems it necessary so to do, nominate another member of the Council to act as Vice-Chairman of the Council.

4. Functions of the Council: (1). The Council shall be an advisory body and may discuss any matter in which some or all of the States represented in that Council, or the Union and one or more of the States represented in that Council, have a common interest and advise the Central Government and the Government and the Government of each State concerned, as to the action to be taken on any such matter; and in particular, may discuss and make recommendations with regard to :

- (i) any matter of common interest in the field of economic and social planning;
- (ii) any matter concerning inter-State transport and communications;
- (iii) any matter relating to power or flood control projects of common interest.

(2) For securing the balanced development of the North-Eastern area, the Council shall forward proposals:

- (a) formulating for the States represented in the Council a unified and co-ordinated regional plan (which will be in addition to the State Plan) in regard to matters of common importance to that area;
- (b) regarding the priorities of the projects and schemes included in the regional plan and the stages in which the regional plan may be implemented; and
- (c) regarding the location of the projects and schemes included in the regional plan, to the Central Government for its consideration.

(3) The Council shall -

- (a) review, from time to time, the implementation of the projects and schemes included in the regional plan and recommend measures for effecting co-ordination among the Governments of the States concerned in the matter of implementation of such projects and schemes;
- (b) where a project or scheme is intended to benefit two or more States, recommend the manner in which:
 - (i) such project or scheme may be executed or implemented and managed or maintained; or
 - (ii) the benefits therefrom may be shared, or
 - (iii) the expenditure thereon may be incurred;
- (c) on a review of progress of the expenditure,

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Attested
V. D. D.
Advocate.

recommend to the Central Government the quantum of financial assistance to be given, from time to time, to the State or States entrusted with the execution or implementation of any project or scheme included in the regional plan;

(d) recommend to the Government of the State concerned or to the Central Government the undertaking of necessary surveys and investigation of projects in any State represented in the Council to facilitate consideration of the feasibility of including new projects in the regional plan.

(4) The Council shall review from time to time the measures taken by the States represented in the Council for the maintenance of Security and public order therein and recommend to the Governments of the States concerned further measures necessary in this regard.

5. Meetings of the Council - (1) The Council shall meet at such time as the Chairman of the Council may appoint in this behalf and shall, subject to the other provisions of this section, observe such rules of procedure in regard to transaction of business at its meetings as it may lay down from time to time.

(2) The Chairman or in his absence the Vice-Chairman, if any, or in the absence of both the Chairman and the Vice-Chairman, any other member chosen by the members present from amongst themselves, shall preside at a meeting of the Council.

(3) The proceedings of every meeting of the Council shall be forwarded to the Central Government and also to the Government of each State represented on the Council.

6. Nomination of Certain Officers to attend the meeting of the Council.

In order to assist the Council in the discharge of its functions, each of the Ministers of the Central Government dealing with matters relating to Defence, Finance, Home Affairs and Planning shall nominate an officer to attend the meetings of the Council.

7. Officers and Staff of the Council.

(1) The Council shall have a Secretarial staff consisting of a Secretary, a Planning Adviser, a Financial Adviser and a Security Adviser and such other officers and employees as the Central Government may, by order, determine.

(2) The Secretarial staff of the Council shall function under the direction, supervision and control of the Chairman of the Council.

(3) The office of the Council shall be located at such place as may be determined by the Council.

(4) The Administrative expenses of the said office, including the salaries and allowances payable to, or in

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Advocate

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Advocate.

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respect of members of the Secretariat Staff of the Council, shall be borne by the Central Government out of the moneys provided by Parliament for the purpose.

8. Repeal - The North-Eastern Council Act, 1970 (26 of 1970) is hereby repealed.

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THE GOVERNMENT OF UNION TERRITORIES (AMENDMENT) ACT, 1975.
(Act 29 of 1975)

Amendment of Act 64 of 1971 14. In the North Eastern Council Act, 1971, in section 3, in sub-section(1)

(a) in clause (b), for the words " and of the Union Territory of Mizoram", the words "and of the Union Territories of Arunachal Pradesh and Mizoram" shall be substituted;

(b) clause (c) shall be omitted;

(c) in the proviso; for the words, brackets and letter " in any State referred to in clause (b) or in the Union Territory referred to in that clause", the words brackets and letter "in any State or Union Territory referred to in clause (b)" shall be substituted.

Repeal of Regulation 4 of 1971 15. As from the commencement of the principal Act, in the union territory of Arunachal Pradesh, the North-East Frontier Agency (Administration) Supplementary Regulation, 1971 shall stand repealed.

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Attested
W. S.
Advocate

APPENDIX 'A'

RULES OF PROCEDURE

NORTH EASTERN COUNCIL

In exercise of the powers conferred by sub-section (1) of Section 5 of the North Eastern Council Act, 1971 (Act 84 of 1971), the North Eastern Council hereby makes the following rules, namely : -

Short Title

1. These rules may be called the North Eastern Council Rules of procedure.
2. In these Rules, unless the context otherwise requires : -
 - (1) "Act" means the North Eastern Council Act, 1971.
 - (2) "Chairman" means the Chairman of the Council.
 - (3) "Committee" means a Committee appointed by the Council.
 - (4) "Council" means the North Eastern Council established under Section 3 of the Act.
 - (5) "Meeting" means a meeting of the Council.
 - (6) "Member" means a member of the Council.
 - (7) "Secretary" means the Secretary of the Council.
 - (8) "Vice-Chairman" means the Vice-Chairman of the Council.

Place of meeting

3. The Council shall, unless otherwise determined by the Chairman, ordinarily meet at Shillong.

Date, Place & time of meeting of the Council.

4. The Council shall meet on such date, place and time as the Chairman may from time to time fix.

Matters for Consideration.

5. (1) Matters shall be brought before a meeting only by direction of the Chairman whose decision on the question whether any matter falls within the purview of the Council or not shall be final.

- (2) A member who wished to bring any matter for consideration at a meeting shall specify it in a memorandum indicating the salient facts and the points for consideration and send the memorandum to the Secretary who shall obtain the Chairman's direction thereon.

6. The agenda of the meeting shall be prepared with the approval of the Chairman.

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Attested

Manu
Advocate

Attested

W.S. S.

Advocate.

Attested

Manu
Advocate

Notice of meeting..

7. At least 21 days' notice shall ordinarily be given for any meeting, but in cases of urgency a meeting may be called at such shorter notice as the Chairman may consider sufficient.

Intimation of details as to meeting.

8. The Secretary shall inform every member of the place, date and time fixed for the meeting and shall also send him a copy of the Agenda for the meeting together with such explanatory notes as he may deem necessary indicating the salient facts of each case, the points for consideration and views, if any, of the members or the Governments or the Administrations concerned and any other papers that may be necessary for the consideration of each case included in the Agenda.

Quorum

9. The quorum to constitute a meeting of the Council shall be five of whom not less than four members shall be from among those specified in clauses (b) and (c) of Sub-section (1) of Section 3 of the Act.

9.A If a convened meeting of the Council cannot be held for want of quorum, as prescribed in Rule 9, the meeting shall be adjourned to a later date under the direction of the Chairman and such a meeting shall be known as an adjourned meeting. No quorum will be necessary for an adjourned meeting.

9.B. In the case of some emergent items and/or in case of items to be decided by the Chairman, the Chairman may direct the Secretary to circulate a proposal or proposals to the Members for ascertaining their views. The Secretary shall in such cases send to each Member a copy of the proposal/s under consideration alongwith such explanatory notes and other documents as he may deem necessary, indicating the salient facts of the proposal/s. Each Member shall in such case(s) convey to the Chairman his views on the proposal(s) within two weeks of the receipt of the proposal(s). The Chairman may, after consideration of the views of the Members so received, and after further correspondence with the Members, if necessary, take

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Attested
V. S. A.
Advocate.

decision(s) in accordance with the consensus of the views received from the Members, but he shall place the matter before a meeting of the Council, if there is no consensus. Any decision(s) so taken by the Chairman on the basis of the consensus of views received by him from the Members on proposal(s), referred to them, as above, shall be deemed to be the formal view(s) and recommendation(s) of the Council, as, if passed at a meeting of the Council and all concerned will be informed of the decision(s) by the Secretariat.

Invitation to Ministers and others.

10. The Chairman may invite a Minister or a Deputy Minister of the Union or of the State/UT or a member of the Planning Commission to attend any meeting and to take part in the discussions. The invitation will be issued by the Secretary on behalf of the Chairman.

Invitation to outsiders as observers

11. The Chairman may invite any person to attend any meeting or a part of a meeting as observer or to participate in the discussions. The invitation will be issued by the Secretary on behalf of the Chairman.

Officers to attend.

12. Besides the nominees of the Ministries of the Central Government indicated in Section 6 of the Act, any officer of a Government/Administration whose presence may be considered necessary by the Chairman for the consideration of any matter before the Council may be required to attend a meeting thereof.

Record of discussions

13. The Secretary shall keep a record of the discussions and circulate a draft copy of the proceedings of a meeting to the members and the nominees of the Central Government indicated in section 6 of the Act with the request that any changes therein may be suggested within one week of the receipt of the draft copy.

Minutes of the Meeting

14. (1) The proceedings of the meeting shall be finalised after considering any changes suggested under Rule 19 and shall form part of the record of the Council.

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Kanai
Advocate

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Kanai
Advocate

Attested
C. S. Kanai
Advocate.

38 (2) A copy of the proceedings of every meeting shall be forwarded to :

(i) The Chairman,

(ii) Every Member,

(iii) the Central Govt through the Union Ministry of Home Affairs; and

(iv) the Government/Administration of each State/Union Territory represented on the Council through the Chief Secretary of the State/Union Territory.

(v) the nominees of the Central Government indicated in Section 6 of the Act.

proceedings to 15. The Proceedings of a meeting shall, unless be secret, otherwise directed by the Chairman, be SECRET.

Supply of information to the Council. 16. The Secretary, shall subject to such direction as the Chairman may give from time to time, be competent to call upon the Government/Administrations of the member States/Union Territories to supply such information and documents as may be required to enable the Council to discharge its functions conveniently.

Action taken on the Council's recommendations to be reported 17. (1) the Secretary, shall subject to such directions as the Chairman may give from time to time, ascertain from the Governments and Administrations concerned the action taken on the Council's recommendations.

(2) for purpose of Sub-rule (1) the Secretary may undertake all necessary correspondence and shall prepare a quarterly summary indicating the action taken by the Governments and Administrations and send a copy thereof to the Chairman, every member, the Central Government through the Union Ministry of Home Affairs, the Governments/Administrations of the member States/Union Territories, and the nominees of the Central Government indicated in Section 6 of the Act.

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Attested
R. D. Dev
Advocate

Chairman:
The Chairman may give such general or special directions as he may consider necessary for the orderly and prompt disposal of the business of the Council.

Appointment of Committee(s):

18. The Chairman may give such general or special directions as he may consider necessary for the orderly and prompt disposal of the business of the Council.

19. The Council may direct the appointing of a Committee or Committees consisting of member or members of the Council and such other persons as the Council may determine to deal with specific questions, the terms of reference of which shall be laid down by the Council.

Resolution of the Council appointing a Committee.

20. (1) The Resolution by which a Committee is appointed shall specify -

(i) the names of the members of the Committee including the Convener;

(ii) the function or functions of the Committee; and

(iii) the time limit, if any, within which the Committee shall make a report of performing any other functions.

(2) Where the Chairman or the Vice-Chairman is appointed as member of a Committee, he shall act as its Convener.

(3) If the Convener of a Committee is unable to attend any meeting thereof, any other member chosen by the members present from amongst themselves shall preside at the meeting of the Committee.

21. The quorum to constitute a meeting of a Committee shall be, as near as may be, one third of its membership, but shall not be less than two.

22. (1) A Committee shall meet as frequently as may be necessary at a place and time as directed by the Convener and shall make a report to the Council within the specified time limit;

Provided that where no time limit has been specified, the Committee shall make a report within three months from the date of its appointment,

Attested
K. Venkateswaran
Advocate

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Attested
W. D. Wood
Advocate

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K. Venkateswaran
Advocate

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Providing further that the Chairman may at any time, on a request being made, direct that the time for the presentation of a report by the Committee be extended to a date specified by him.

(2) The report of a Committee may be interim or final and the Committee may seek from the Council such clarification in regard to its functions as may be necessary.

(3) The report shall be signed by the Convener of the Committee or, in his absence, by any member thereof, so authorised by the Committee and shall be given to the Secretary of the Council.

Consideration of Committee's Report. 23. As soon as may be after a Committee's report has been received, it shall, unless otherwise directed by the Chairman, be placed for consideration at the next meeting of the Council.

Power to give directions to a Committee. 24. The Chairman may give such directions as he may consider necessary for regulating the procedure of a Committee.

(As amended up-to-date)

Baidya/
12.2.1992.

Attested
A. D. B.
Advocate.

VERN COUNCIL SECRETARIAT EMPLOYEES ASSOCIATION

Ex-Taxation Building
Shillong-793001

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ANNEXURE- 2/10/72
Date: 17th August 72

To

The Secretary
North Eastern Council
SHILLONG.

Subject: PARITY OF PAY SCALES OF ASSISTANTS AND STENOGRAPHER
(GRADE II) IN NEC SECRETARIAT AND CENTRAL SECRETARIAT/
MINISTRIES/DEPARTMENTS OF THE GOVERNMENT OF INDIA.

Sir,

I have the honour to enclose a note on the above subject for favour of your kind perusal and favourable action.

That Sir, due to non-implementation of the enhanced scale of pay of Assistants and Steno Graphers (Grade II) in this Council Secretariat a great injustice has been done to the staff of NEC.

I, therefore, fervently request your honour to kindly use your good offices to convince the Ministry of Home Affairs for extending the scale of pay of Rs 1640/- to 2900/- to all Assistants and Stenographers (Grade II) of this Council Secretariat w.e.f. 1.1.1986 as done for other offices of Central Secretariat/Ministry/Departments of the Government of India.

You are further requested to take up the matters with the Ministry of Home Affairs in your ensuing visit to New Delhi.

g this finding with RCHA?
Thanking you.

Yours faithfully,

B.B. CHETTRI

(B.B. CHETTRI)
PRESIDENT
N.E.C.S.E. ASSOCIATION
SHILLONG.

Attested
Kumar
Advocate

Attested
Kumar
Advocate

Attested
Advocate

ANNEXURE-2 (b)

MINISTRY OF HOME AFFAIRS

GOVERNMENT OF INDIA

मंत्रालय

MINISTRY OF HOME AFFAIRS

NORTH BLOCK
NEW DELHI - 110 001

March 26, 1994.

26/3/1994

Dear Shri

The North Eastern Council is a statutory body functioning under the administrative control of M.H.A. The Council plays a pivotal role in the all round development of the North Eastern Region on an area basis. It has an officer of the rank of Secretary to the Government of India as its Secretary who has under him Advisers and Directors together with the supporting staff.

2. Unfortunately a number of the key posts in the Secretariat are lying vacant, and this, besides affecting the functioning of the Secretariat, is also providing a hindrance for planning, formulating and implementing projects for the overall development of the North Eastern Area.

3. Given this the Home Secretary with the approval of the Home Minister has proposed that a High Level Committee chaired by the Special Secretary, MHA should be set up for examining the staffing pattern of the North Eastern Council and also for reviewing the total requirement of high level Officers in the North Eastern Council. The Committee comprises Secretary, NEC, Establishment Officer, Ministry of Personnel and Joint Secretary(NE), Ministry of Home Affairs.

4. If this proposal is acceptable, the Committee can hold its initial meeting in the next month itself, as the problem is a pressing one.

Yours sincerely,

Sd/-

(R.K. Ahoja)

Shri N.R. Ranganathan,
Secretary,
Dept. of Personnel & Training,
NEW DELHI.

Copy to : Secretary, N.E.C., for information.
Shillong.

Recd. -
(R.K. Ahoja)

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Advocate

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Advocate

COUNCIL SECRETARIAT EMPLOYEES ASSOCIATION

Ex Taxation Building
Shillong-793001

doh
1 Secretary
NECSEA/3/95

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March 21, 1995

ANNEXURE-2 (Copy)

To

Mrs. Margaret Alva
Hon'ble Minister
Personnel, Public Grievances & Pensions
New Delhi - 110 001

Respected Madam,

I am aware, Madam, of your very busy schedule in various important matters but the situation as it stands has forced me to bring the matter to your kind notice, as the members of our Association belonging to Grade-II Stenographers have been discriminated against and isolated from the mainstream in the matter of granting them the legitimate scale of pay of Rs. 1640-2900/- from 01.04.1986. The point at issue is submitted below for your kind intervention and retrieving the confidence of the members so that they can devote whole heartedly in serving the Administration.

Madam, North-Eastern Council (NEC) is a Statutory Organisation created by an Act of Parliament in 1972. The pay scale of Stenographer Grade-II in NEC Secretariat was originally sanctioned in the grade of Rs. 210-530/- at par with the Central Secretariat pattern of pay scales prior to implementation of the Third Pay Commission's Recommendations. On the recommendation of the Third Pay Commission, this pay scale was revised to Rs. 425-800/- for the Central Secretariat. The same pay scale was also prescribed for the Stenographer Grade-II of NEC Secretariat but the same was restricted to the then present incumbents only. The Stenographers Grade-II appointed thereafter were given the scale of Rs. 425-700/- the reason not known to us. Madam will easily understand the discriminatory action in providing two different pay scales for doing the duties of the same nature and responsibilities in the same organisation.

Madam, the Fourth Central Pay Commission had recommended a pay scale of Rs. 1400-2600/- for the Stenographer Grade-II who are working in the Central Government Offices whether it is a Secretariat, an attached office or subordinate organisation etc. Afterwards the pay scale of Central Secretariat was revised to Rs. 1640-2900/- and this revision was extended to all other Ministries/Departments of the Government of India, but the same was denied to the Stenographers Grade-II of the North-Eastern Council Secretariat, Shillong.

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Attested
Manu
Advocate

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W. D. Sen
Advocate

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Manu
Advocate

North Eastern Council Secretariat Employees Association

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Page-2

Ex-Taxation Building
Shillong-793001

Madam, this NEC Secretariat is a Statutory Body under the Ministry of Home Affairs headed by an Officer in the rank of Secretary to the Government of India. Therefore, this Secretariat can never be considered as an attached/subordinate/non-Secretariat body and it can only be an organisation at the status of the Central Secretariat/Ministries/Departments. The present pay scale of Rs. 1400-2600/- available to the Stenographer Grade-II of NEC Secretariat is for attached/subordinate/non-Secretariat body level organisation.

Madam, the Organisation outside the Secretariat are either attached or subordinate offices under the Government of India vide Sub-Para 11.32 of Para-III of Chapter-II of the Recommendations of the Fourth Central Pay Commission. NEC Secretariat cannot be equated with attached or subordinate office as it is a parallel body of the Central Secretariat created under an Act of Parliament. Stenographers of the NEC Secretariat are also linked with the officers having the same status of the Central Secretariat. The only corollary, therefore, follows that Stenographers of the NEC Secretariat are to get the same scale of pay and privileges of those of their counterpart in the Central Secretariat/Ministries.

I, therefore, bring the above points of facts to your goodself and await eagerly to get a favourable reply from your end extending justice to the members of our Association by providing the pay scale of Rs. 1640-2900/- to the Stenographers Grade-II, and I along with the members of our Association shall treasure your benevolent action for all time to come.

Yours faithfully,

(J.S. Lyngdoh)
General Secretary

Copy to :

The Secretary, North-Eastern Council, Shillong for kind information and necessary action please. This has a reference to our Memorandum submitted to him vide letter dated 19th August, 1992.

(J.S. Lyngdoh)
General Secretary

Attested
Monoi
Advocate

Shanti Deb
13/9/92

Attested
Monoi
Advocate

Attested
Monoi
Advocate.

NORTH EASTERN COUNCIL SECRETARIAT
EMPLOYEES' ASSOCIATION
Ex-Taxation Building
Shillong - 793 001

No. NICSEA/97/1
21st March, 1997.

To

Shri Mata Prasad,
Hon'ble Chairman, NEC &
Governor of Arunachal Pradesh,
Itanagar 791 111.

Respected Sir,

I am aware of your very busy schedule in various important matters but the situation as it stands has forced me to bring the matter to your kind notice, as the members of our Association belonging to Grade-II Stenographers have been discriminated against and isolated from the mainstream in the matter of granting them the legitimate scale of pay of Rs. 1640-2900/- from 01.04.1986. The matter was taken up with the concerned authorities time and again but nothing has been done so far in this regard thereby denying the genuine claim and depriving the Stenographers Grade-II of the NEC Secretariat from their legitimate pay scale. The matter was also taken up with the then Hon'ble Minister, Personnel, Public Grievance & Pensions etc. Smt Margaret Alva in the year 1995. But I am sorry to mention here that nothing has been made known to us so far about the fate of the letter. This type of inaction or silence to our representation/memoranda in the part of the Government has created a feeling among the members of this Association that we being geographically located in the most backward and remote part of the country have no right to address our genuine grievances to the highest authorities at Delhi. The point of issue is submitted below for your kind intervention and retrieving the confidence of the members so that they can devote whole heartedly in serving the Administration.

A Hested
Menon
Advocate

A Hested
Menon
Advocate

1. *Alested*
Menon
Advocate.

Sir, North Eastern Council (NEC) is a Statutory Organisation created by an Act of Parliament in 1972. The pay scale of Stenographer Grade-II in NEC Secretariat was originally sanctioned in the grade of Rs. 210-530/- at par with the Central Secretariat pattern of pay scales prior to implementation of the Third Pay Commission's Recommendations. On recommendation of the Third Pay Commission, this pay scale was revised to Rs. 425-800/- for the Central Secretariat. The same pay scale was also prescribed for the Stenographer Grade-II of NEC Secretariat but the same was restricted to the then present incumbents only. The Stenographers Grade-II appointed thereafter were given the scale of Rs. 425-700/- for the reason not known to us. Sir will easily understand the discriminatory action in providing two different pay scales for doing the duties of the same nature and responsibilities in the same organisation.

Sir, the Fourth Central Pay Commission had recommended a pay scale of Rs. 1400-2600/- for the Stenographer Grade-II who are working in the Central Government Offices whether it is Secretariat, an attached office or Subordinate Organisation etc. Afterwards, the pay scale of Central Secretariat was revised to Rs. 1640-2900/- and this revision was extended to all other Ministries/Departments of the Government of India, but the same was denied to the Stenographers Grade-II of the North Eastern Council Secretariat.

Sir, this NEC Secretariat is a Statutory Body under the Ministry of Home Affairs headed by an officer in the rank of Secretary to the Government of India. Therefore, this Secretariat can never be considered as an attached/subordinate/non-Secretariat Body and it can only be an organisation at the status of the Central Secretariat/Ministries/Departments. The present pay scale of Rs. 1400-2600/- available to the Stenographer Grade-II of NEC Secretariat is for attached/subordinate/non-Secretariat Body level organisation (this scale can not be provided to a Secretariat level organisation).

Sir, the Organisation outside the Secretariat are either attached or subordinate offices under the Government of India vide Sub-para 11.32 of Para-III of Chapter-II or the Recommendations of the Fourth Central Pay Commission. NEC Secretariat can not be equated with attached or subordinate office

Attested
Manu
Advocate

Attested
Manu
Advocate.

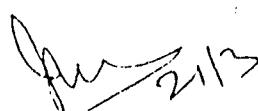
Attested
Manu
Advocate

as it is a parallel body of the Central Secretariat created under Act of Parliament. Stenographers of the NEC Secretariat are also linked with the officers having the same status of the Central Secretariat. The only corollary, therefore, follows that the Stenographers of the NEC Secretariat are to get the same scale of pay and privileges of those or their counterpart in the Central Secretariat/Ministries.

I, therefore, bring the above points of facts to your goodself and await eagerly to get a favourable reply from your end extending justice to the Members or our Association by providing the pay scale of Rs. 1640-2900/- to the Stenographers Grade-II, and I along with the Members of our Association shall treasure your benevolent action for all time to come.

We sincerely hope that your honour will be very kind enough to consider our prayer sympathetically so that we shall not feel deprived of any more being working in an organisation located in the remote corner of the country.

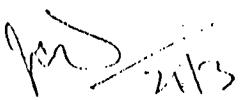
Yours faithfully,


(J.S. Lyngdoh)
General Secretary
NEC Secretariat Employees' Association, Shillong

N.O.O

Copy to :

The Secretary, North-Eastern Council, Govt. of India, MHA,
Shillong, for kind information and necessary action please.


(J.S. Lyngdoh)
General Secretary

8) c.

Attested
Lewin
Advocate

Attested
Weller
Advocate

Attested
Lewin
Advocate

Durgasnabor

(Near Kamakhya Gate)
Nar Narayan Path
P. O. Bharatnagar
Guwahati-781009

Date
26-12-97

LEGAL NOTICE

1. The Chairman, North Eastern Council -& Governor of A.P.
Shri Mata Prasad, Shillong-1. Meghalaya 791111
2. The Secretary, North Eastern Council
- Shri T. Ringle, Shillong-1.

Sub : Parity in pay scales of Stenographer, Grade-II with that of similarly situated Stenographers of other organisations and Central Secretariat.

Sir,

I, on behalf of my clients i.e. Grade-II Stenographers working in the North Eastern Council viz., (1) Ramendra Narayan Adhyapak, (2) Steral Lyngdoh, (3) M. Marbaniang (Nargrecia), (4) M. Kharkongor, (5) S. Dilip Kumar Singha, (6) Violet Blah, (7) Joyanti D. Lyngdoh, (8) Ratna Das, (9) Mihir Dey, (10) Dominic D. Khar (11) M.H. Thabong, (12) Kyrshanbor Myrthong, (13) Swapnabrota Dutta Chaudhuri, (14) Debasish Choudhury and (15) Bijon Kumar Chakraborty, serve upon you the following notice :

1. That all my abovenamed clients are presently working as Stenographer, Grade-II in the North Eastern Council. Before stating the grievances of my clients necessitating and resulting in the sending of the present notice to you it would be appropriate to give the background of their problems so as to present their problems in correct and proper perspective.

Attested
Henoi
Advocate

Attested

Henoi
Advocate.

Attested
Henoi
Advocate

BACKGROUND OF THE CASE

2. That the North Eastern Council is a statutory organisation created by an Act of Parliament in 1972. The pay scales of Stenographer, Grade-II in NEC was originally sanctioned in the grade of Rs.210-530/- per month at par with the Central Secretariat employees. This was the position prior to implementation of the 3rd Pay Commission recommendation. After the recommendation of the 3rd Pay Commission the pay scale was revised to Rs. 425-800/- per month for the Stenographer, Grade-II of Central Secretariat. The same pay scale was also prescribed for the Grade-II Stenographers of the NEC. However, the advantage and benefit of the revised pay scale was only given to those Grade-II Stenographers of NEC who were then working as such. The Grade-II Stenographers of NEC appointed subsequently were given the pay scale of Rs. 425-700/- per month and not the pay scale of Rs. 425-800/-.

3. That the anomalous situation therefore was created after the implementation of the recommendations of the 3rd Pay Commission inasmuch as the Grade-II Stenographers of the NEC who were then working were given the pay scale of Rs.425-800/- whereas the subsequently appointed Stenographers were given the pay scale of Rs.425-700/- . Hence among the Grade-II Stenographers two different classes were created without any intelligible differentia and the rational and objective criteria. The sheer absurdity of creation of these two classes is borne out by the fact that both the Grade-II Stenographers of North Eastern Council were not only similarly situated in all respects but also carried out the similar duties and responsibilities. Their qualification was

Attested
K. Venai
Advocate

NEC
NEC
Advocate

also the same. Hence there was no reason for creating these two different classes of Stenographers within the NEC.

4. Be that as it may the 4th Pay Commission recommended a pay scale of Rs.1400-2600/- per month for the Grade-II Stenographers working in the Central Government offices. Subsequently, the pay scale of Central Secretariat was revised to Rs.1640-2900/- per month and this revision of pay scale was extended to all the Ministries and Departments of the Government of India where the method of recruitment is same and the old pay scale was Rs.425-800/-. It is, therefore, seen that all those employees of Central Government services/offices whose old pay scale was Rs.425-800/- were given the revised pay scale of Rs.1640-2900/- per month. However, the Grade-II Stenographers who were earlier provided with the pay scale of Rs. 424-800/- per month pursuant to the recommendation of the 3rd Pay Commission were given the pay scale of Rs.1400-2600/- only and they were deprived of the revised pay scale of Rs.1640-2900/-.

THE PRESENT CASE :

5. That therefore though the status and pay scale of Grade-II Stenographers of NEC was at par with the Central Secretariat till implementation of the 4th Pay Commission recommendation, the revised pay scale of Rs.1640-2900/- per month was not extended to them on the plea that the method of recruitment is not the same and the NEC Grade-II Stenographers are not participating in the Central Secretariat Stenographers service. However, what is disconcerting is that if NEC as a statutory organisation cannot be equated with other Central Government officers,

A. Husted
Khurji
Advocate

Advocate
Khurji
Advocate

then in such a situation, it is expected that an appropriate scale of pay suitable to the NEC as a statutory organisation be provided to its Grade-II Stenographers. But that was not to be. Moreover, as seen from the background that since the very beginning NEC as statutory organisation was equated and was treated at par with other Central Government Departments. Its employees also were considered similarly situated and were provided with the pay scales similar to the other similarly situated employees of Central Government departments.

6. However, the discrimination against the Grade-II Stenographers started when the pay scale recommended by the 4th Pay Commission of Rs.1400-2600/- was revised to Rs.1640-2900/-. Though all the employees of Central Government were given the benefit of this revised pay scale, but the Grade-II Stenographers of NEC who hitherto were treated at par with the other employees of Central Government and were given the pay scale of Rs.1400-2600/- were deprived of the benefit of revised pay scale of Rs.1640-290/-.

7. That it is pertinent to mention that the pre-revised scale of Rs.1400-2600/- per month was Rs. 425-700/-. This was the scale which the Grade-II Stenographers of NEC got after the recommendation of 3rd Pay Commission reference to which has already been made above in the context of creation of two different classes between the similarly situated Grade-II Stenographers.

8. It is being made clear that those who got the pay scale of Rs. 425-800/- per month after the recommendation of the 3rd Pay Commission were given the pay scale of Rs. 1400-

affested
Khalid
Advocate

Arrested
W.S.C.
Advocate

2600/- after the recommendation of the 4th Pay Commission which was subsequently revised to Rs.1640-2900/- per month.

9. That in sharp contrast the Grade-II Stenographers who are the recommendation of the 3rd Pay Commission were given the pay scale of Rs. 425-700/- per month got after the recommendation of the 4th Pay Commission the pay scale of Rs.1400-2300/- per month subsequently revised to Rs.1400-2600/- per month. Though they ought to have been given the pay scale of Rs. 1640-2900/-.

10. It is submitted that the pay scales in other statutory organisation like Central Administrative Tribunal, Election Commission, Union Public service Commissioner are at par with the Central Secretariat. Similarly the NEC being a statutory organisation was treated at par with other similarly situated organisations and its employees were given the pay scales similar to the other similarly placed employees of other statutory organisation.

11. It is strange that the Grade-II Stenographers of NEC who till the recommendation of 3rd Pay Commission were treated at par, started getting discriminatory treatment without any rationale or sound or cogent reason. It is submitted that the treatment which is being meted out to the Grade-II Stenographers of NEC is without any intelligible differentia and the same is in violation of Articles 14 and 16 of the Constitution inasmuch as likes are not being treated alike.

12. It is submitted that if it is being considered necessary not to unnecessarily equate NEC with that of Central Government departments then it is high time to

Attested
Kanwar
Advocate

Attested
Vijay

SN maintain status and dignity of this statutory organisation. The same can only be done if appropriate pay scales are laid down for its employees in terms of the status and independence of NEC and the nature and duties of responsibilities carried out by its employees. In this connection, one must not lose sight of the fact that the Grade-II Stenographers employed here have a same qualification and the same capacity to work and they carry out the same duties and responsibilities which their counterparts do in other organisations. Hence equality of treatment must be meted out to them in conformity with Articles 14 and 16 of the Constitution of India.

I, therefore, call upon you to take appropriate decision in regard to giving Grade-II Stenographers the pay scale of Rs.1640/-2900/- per month which is at par with other similarly situated Stenographers of other organisations. Failure to take appropriate decision in this regard within the reasonable time would be treated as refusal to redress of the grievance of my clients and in such an event, my clients would be free to approach the appropriate legal forum for the redressal of their grievances.

Thanking you,

Yours sincerely,

front
(B. Mehta)
Advocate.

*Amesha
V. Mehta
Advocate*

*Amesha
V. Mehta
Advocate*

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
NORTH EASTERN COUNCIL SECRETARIAT
SHILLONG - 793 001

NO. NEC/ADM/21/91

Dated the 9th March, 1998

To

✓ Shri B. Mehta,
Advocate,
Guwahati High Court & Central
Administrative Tribunal,
Guwahati,
Narayan Path, P.O. Bharalumukh,
Guwahati - 781 009

Sub:

Parity in pay scale of Stenographers Gr.II
with that of similar situated Stenographers
of other Organisations & Central Sectt.

Sir,

I am directed to refer to your legal Notice
dated 26.12.1997 on the subject mentioned above and to
state as follows:

1. Statute of North Eastern Council: It is true that the North Eastern Council Sectt. is a statutory Organisation set up by an Act of Parliament in 1971, Section 7 of the North Eastern Council Act, 1971 provides that the Council shall have a secretarial staff consisting of a Secretary, Planning Adviser, Financial Adviser, Security Adviser and such other Officers and employees as the Central Govt. may, by order, determine. However there was no details in the Act regarding nature and categories/pay scale of various posts in the North Eastern Council Sectt. As such the power of creation of posts and determination of pay scale for each category of employees rest with the Central Govt. As such the North Eastern Council has no power to sanction for creation of different posts as well as creating higher pay scale to each employees.

2. Parity of Pay Scales: It is true that there is parity in pay scale of Assistants and Stenographers Gr.II of North Eastern Council Sectt. as compared to similar posts in the Central Sectt. and other Organisations participating in the Central Sectt. Service. The 4th pay Commission had recommended pay scale of Rs. 1400-2600/- for Assistants & Stenographers in the Central Ministries/Deptts. of Govt. of India and this pay scale has already been granted to the Stenographers

Attested
Kumar
Advocate

Subhash
Kumar
Advocate

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- 43 -

Gr.II. However the pay scale of Asstt. and Stenographers in the Central Sectt. has been further revised to Rs.1640-2900/- w.e.f. 1.1.1996 consequent on the decision of the Central Administrative Tribunal, Principal Bench, N.Delhi in OA.No. 1538/87 dated 23.5.1989 vide Deptt. of Personnel & Training OM No.2/1/90-CS.IV dated 31.7.1990. The NEC Sectt. sent the proposal for granting this same pay scale to Asstt/Stenographer Gr.II of NEC Sectt. but this pay scale has not been granted to the Asstt. and Stenographers Gr.II of NEC Sectt. so far, mainly on the ground that the method of recruitment in NEC Sectt. was not through open Competitive Examination, which is the requirement as per OM dated 31.7.1990. However the matter has been taken up again with the Ministry of Home Affairs being the Administrative Ministry concerned of North Eastern Council Sectt. and a final decision in this regard has not been received so far.

As stated earlier the North Eastern Council Sectt. has no power to grant higher pay scale. it is not in a position to sanction the pay scale of Rs.1640-2900/- to the Asstt. and Stenographers w.e.f. 1.1.1996 without the concurrence of the Administrative Ministry concerned i.e. the Ministry of Home Affairs.

Yours faithfully,

(L.Chuaungo)
Deputy Secretary

Memo NO. NEC/ADM/21/91

Dated the 9th March, 1998

Copy to;

1. Dy. Secretary to the Governor of Arunachal Pradesh & Chairman, NEC with reference to his letter NO. G/NEC/98/1581 dated 12.1.1998.
2. The General Secretary, NEC Sectt. Employees Association, Shillong for information.
3. Shri N.D.George, Director(NEC), Govt.of India, Ministry of Home Affairs, N.Delhi - 1 with reference to his office letter of even No. dated 16.12.1997.

1/3. Office Copy

(L.Chuaungo)
Deputy Secretary

Attested
for
Advocate

Arrested
N.Don
Advocate.

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ANNEXURE-5

By Regd. Post with A.D.

C/o. Shri B.K. Sharma,
Advocate, Gauhati High Court
Santipur Main Branch Road,
Guwahati-781009
Tele : 520397

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- 44 -

Date.....

10-05-98

LEGAL NOTICE

1. The Secretary, Ministry of Home,
Government of India, New Delhi.
2. The Director, North Eastern Council
Government of India, Ministry of Home
Affairs, New Delhi.

Sub : Parity in pay scales of Stenographers, Grade-II
with that of similarly situated Stenographers
of other organisations and Central
Secretariat.

Sir,

I, on behalf of my clients i.e. Grade-II Stenographers
working in the North Eastern Council viz., (1) Ramendra
Narayan Adhyapak, (2) Seraj Lyngdoh, (3) H. Harbantlang
(Nargrecia), (4) M. Kharakongor, (5) S. Dilip Kumar Singh,
(6) Violet Diah, (7) Joyanti D. Lyngdoh, (8) Ratna Das, (9)
Mihir Dey, (10) Dominic D. Khan (11) M.H. Thabong, (12)
Kyrhanbor Myrthong, (13) Sumonbora Dutta Choudhury, (14)
Debasish Choudhury and (15) Dijon Kumar Chakraborty, serve
upon you the following notice :

1. That all my abovenamed clients are presently working as
Stenographers, Grade-II in the North Eastern Council. Before
stating the grievances of my clients necessitating and
resulting in the sending of the present notice to you it
would be appropriate to give the background of their
problems so as to present their problems in correct and
proper perspective.

Durgasarabor (Near Kamakhya Gate), Narayan Path, P.O. Bharatnukh, Guwahati-781009

Attested
for
Advocate

Yours
for
Advocate

Attested
for
Advocate

BACKGROUND OF THE CASE

2. That the North Eastern Council is a statutory organisation created by an Act of Parliament in 1972. The pay scales of Stenographer, Grade-II in NEC was originally sanctioned in the grade of Rs.210-530/- per month at par with the Central Secretariat employees. This was the position prior to implementation of the 3rd Pay Commission recommendation. After the recommendation of the 3rd Pay Commission the pay scale was revised to Rs. 425-800/- per month for the Stenographer, Grade-II of Central Secretariat. The same pay scale was also prescribed for the Grade-II Stenographers of the NEC. However, the advantage and benefit of the revised pay scale was only given to those Grade-II Stenographers of NEC who were then working as such. The Grade-II Stenographers of NEC appointed subsequently were given the pay scale of Rs. 425-700/- per month and not the pay scale of Rs. 425-800/-.

3. That the anomalous situation therefore was created after the implementation of the recommendations of the 3rd Pay Commission inasmuch as the Grade-II Stenographers of the NEC who were then working were given the pay scale of Rs.425-800/- whereas the subsequently appointed Stenographers were given the pay scale of Rs.425-700/-. Hence among the Grade-II Stenographers two different classes were created without any intelligible differentia and the rational and objective criteria. The sheer absurdity of creation of these two classes is borne out by the fact that both the Grade-II Stenographers of North Eastern Council were not only similarly situated in all respects but also carried out the similar duties and responsibilities. Their qualification was

ested
lana.
Advocate

Attested
W.D.
Advocate.

also the same. Hence there was no reason for creating these two different classes of Stenographers within the NEC.

4. Be that as it may the 4th Pay Commission recommended a pay scale of Rs.1400-2600/- per month for the Grade-II Stenographers working in the Central Government offices. Subsequently, the pay scale of Central Secretariat was revised to Rs.1640-2900/- per month and this revision of pay scale was extended to all the Ministries and Departments of the Government of India where the method of recruitment is same and the old pay scale was Rs.1425-3000/- It is, therefore, seen that all those employees of Central Government services/offices whose old pay scale was Rs.1425-3000/- were given the revised pay scale of Rs.1640-2900/- per month. However, the Grade-II Stenographers who were earlier provided with the pay scale of Rs. 1424-1600/- per month pursuant to the recommendation of the 3rd Pay Commission were given the pay scale of Rs.1400-2600/- only and they were deprived of the revised pay scale of Rs.1640-2900/-

THE PRESENT CASE :

5. That therefore though the status and pay scale of Grade-II Stenographers of NEC was at par with the Central Secretariat till implementation of the 4th Pay Commission recommendation, the revised pay scale of Rs.1640-2900/- per month was not extended to them on the plea that the method of recruitment is not the same and the NEC Grade-II Stenographers are not participating in the Central Secretariat Stenographers service. However, what is disconcerting is that if NEC as a statutory organisation cannot be equated with other Central Government offices,

A. H. Soled
Lalaji
Advocate

Advocate
N. S. Sen
Advocate.

Then in such a situation, it is expected that an appropriate scale of pay suitable to the NEC as a statutory organisation be provided to its Grade-II Stenographers. But that was not to be. Moreover, as seen from the background that since the very beginning NEC as statutory organisation was equated and was treated at par with other Central Government Departments. The employees also were considered similarly situated and were provided with the pay scales similar to the other similarly situated employees of Central Government departments.

6. However, the discrimination against the Grade-II Stenographers started when the pay scale recommended by the 4th Pay Commission of Rs.1400-2600/- was revised to Rs.1640-2900/-. Though all the employees of Central Government were given the benefit of this revised pay scale, but the Grade-II Stenographers of NEC who hitherto were treated at par with the other employees of Central Government and were given the pay scale of Rs.1400-2600/- were deprived of the benefit of revised pay scale of Rs.1640-2900/-.

7. That it is pertinent to mention that the pre-revised scale of Rs.1400-2600/- per month was Rs. 425-700/-. This was the scale which the Grade-II Stenographers of NEC got after the recommendation of 3rd Pay Commission reference, to which has already been made above in the context of creation of two different classes between the similarly situated Grade-II Stenographers.

8. It is being made clear that those who got the pay scale of Rs. 425-800/- per month after the recommendation of the 3rd Pay Commission were given the pay scale of Rs. 1400-

Attested
Jawar
Advocate

Attested
Jawar
Advocate.

2600/- after the recommendation of the 4th Pay Commission which was subsequently revised to Rs.1640-2900/- per month.

9. That in sharp contrast the Grade-II Stenographers who are the recommendation of the 3rd Pay Commission were given the pay scale of Rs. 425-700/- per month got after the recommendation of the 4th Pay Commission the pay scale of Rs.1400-2300/- per month subsequently revised to Rs.1400-2600/- per month, though they ought to have been given the pay scale of Rs. 1640-2900/-.

10. It is submitted that the pay scales in other statutory organisation like Central Administrative Tribunal, Election Commission, Union Public Service Commissioner are at par with the Central Secretariat. Similarly the NEC being a statutory organisation was treated at par with other similarly situated organisations and its employees were given the pay scales similar to the other similarly placed employees of other statutory organisation.

11. It is strange that the Grade-II Stenographers of NEC who till the recommendation of 3rd Pay Commission were treated at par, started getting discriminatory treatment without any rationale or sound or cogent reason. It is submitted that the treatment which is being meted out to the Grade-II Stenographers of NEC is without any intelligible differentia and the same is in violation of Articles 14 and 16 of the Constitution inasmuch as others are not being treated alike.

12. It is submitted that if it is being considered necessary not to unnecessarily equate NEC with that of Central Government departments then it is high time to

Attested
Lalaji
Advocate

Attested
W.D. Verma
Advocate

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maintain status and dignity of this statutory organisation. The same can only be done if appropriate pay scales are laid down for its employees in terms of the status, and independence of NEC and the nature and duties of responsibilities carried out by its employees. In this connection, one must not lose sight of the fact that the Grade-II Stenographer employed here has a same qualification and the same capacity to work and they carry out the same duties and responsibilities which their counterparts do in other organisations. Hence equality of treatment must be meted out to them in conformity with Articles 14 and 16 of the Constitution of India.

13. I had also served a legal notice dated 26.12.97 to the Chairman, North Eastern Council and the Secretary, North Eastern Council agitating the similar grievance of my clients. However, vide letter No. NEC/ADM/21/91 dated 9.3.98, the Deputy Secretary, North Eastern Council, Shillong intimated that though the pay scales of Assistant and Stenographers in the Central Secretariat has been further revised to Rs. 1640-2700/- with effect from 1.1.96 consequent on the decision of the Central Administrative Tribunal, Principal Bench, New Delhi in O.A. no. 1358/87 dated 23.5.89 vide Department of Personnel & Training O.M. No. 2/1/90-CS.IV dated 31.7.90 and the NEC Secretariat also sent the proposal for granting the same pay scale to Assistant/Stenographer Grade-II of NEC Secretariat, but this pay scale was not granted to the Assistant and Stenographer Grade-II of NEC Secretariat, mainly on the ground that the method of recruit in NEC Secretariat was not through open competitive examination which was the requirement as per

Attested
for
Advocate

Attested
R.Das
Advocate.

O.M. dated 31/7/90. In the letter, it was also stated that the matter was taken up again with the Ministry of Home Affairs, but a final decision in this regard has not been achieved so far. In the letter, it was categorically stated that the North Eastern Council has no power to grant higher pay scale and it is not in a position to sanction the pay scale of Rs. 1640-2900/- to the Assistants and Stenographers with effect from 1.1.96 without the concurrence of the Administrative machinery i.e., the Ministry of Home Affairs.

I, therefore, call upon you to take appropriate decision in regard to giving Grade-II Stenographers the pay scale of Rs. 1640-2900/- per month which is at par with other similarly situated Stenographers of other organisations. Failure to take appropriate decision in this regard within the reasonable time would be treated as refusal to redress, of the grievance of my clients and in such an event, my clients would be free to approach the appropriate legal forum for the redressal of their grievances.

Thanking you,

Yours sincerely,



(D. Mehta)
Advocate.

Attested
for
Advocate.

AC
WDM

ANNEXURE - 6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.149 of 1998.

Date of Order: This the 20th Day of December

HON'BLE MR.JUSTICE D.N.CHOUDHURY, VICE-CHAIRMAN
HON'BLE MR.M.P.SINGH, ADMINISTRATIVE MEMBER.

1. Sternal Lyngdoh & 12 others.

All Stenographers, Grade II working in the
North Eastern Council, North Eastern Council
Secretariat, Shillong.

... Applicants.

By Advocate Mr.B.K.Sharma, Mr.S.Sarma, Mr.U.K.Nair.

-vs-

Union of India & Ors.

... Respondents.

O R D E R.

D.N.Chowdhury, J.Vice-Chairman:

The pay parity of Stenographer Grade II of the North Eastern Council with that of other similarly situated Grade II Stenographers in other autonomous statutory bodies similar to the North Eastern Council is the issue raised in this application.

The applicants moved the respondents authority for granting the pay scale like other statutory bodies as a part of the Central Secretariat Service. The respondents, after receipt of the representation, was not inclined to accept the prayer on the ground that their proposal for granting the same scale to the Stenographers Gr.II of NEC Secretariat was taken up with the Ministry of Home Affairs and the Ministry regretted its inability to agree to the proposal. The case was again taken up but the Ministry did not entertain the proposal. Mr.B.K.Sharma learned Senior Counsel submitted that the NEC itself is/was the competent

contd/-

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N.D.
Proposed

authority to decide the issue, Ministry of Home Affairs is only the nodal agency for the NEC but NEC is not a part of the Ministry and referred to a communication from the said Ministry to the NEC dated 26.8.2000. Mr.A.Deb Roy, learned Senior learned Govt. Standing Counsel on the other hand submitted that the merits of the claim was itself examined by all concerned therefore there is no scope for further reconsideration. Mr.Sarma the learned Sr.Counsel for the applicant however submitted that the applicants may be provided an opportunity to ~~purse~~ the matter with the administration under whom they are serving, in view of the development as indicated the Home Ministry letter. The submission of Mr. Sarmah is reasonable.

For the above reasons we are of the view that the ends of justice will be met if the NEC Council is directed to consider the grievances of these applicants by passing a speaking order and accordingly, the council is directed to look into the grievance of the applicant and pass a reasoned order with utmost despatch.

The application stands disposed of, there shall, however be no order as to costs.

Sd/ VICE CHAIRMAN
Sd/MEMBER (Adm)

Certified to be true Copy

মানসিক সহিতিপ্র

27/12/2000
Signature

Section Officer (P)

মানসিক সহিতিপ্র প্রক্ষেপ বিভাগ
Central Administrative Tribunal

কেন্দ্রীয় প্রশাসন বিভাগ
Guwahati Bench, Guwahati-8

পূর্ণবী মাসিক, পূর্ণবী

11/12/2000
Signature

Witnessed
U.D.
Advocate

To

The Secretary,
North Eastern Council,
Shillong.

Sub : Restoration of Pay Scales of Stenographers Gr.II – OA No. 149/98.

Ref : Verdict of the Central Administrative Tribunal, Guwahati dated 20.12.2000.

Sir,

With reference to the above, I have the honour to bring the following to your kind notice for favour of sympathetic consideration please.

That Sir, since inception of NEC, the employees of the NEC Secretariat were enjoying the pay scales at par with the Central Secretariat/other Statutory Bodies. It is only after implementation of the Fourth Central Pay Commission Recommendations, the Stenographers Gr.II and some other categories of staff were provided with the pay scales of Subordinate/Attached offices of Government of India without assigning any justifiable reason nor any notification were issued for this downgrading of pay scales, which was totally discriminatory. On the other hand for all other posts the Central Secretariat pattern pay scales were allowed to continue, thereby creating a division by adopting two sets of pay scales of Central Secretariat/Statutory Bodies and Attached/Subordinate offices.

2. That Sir, it may here be pointed out that as I understand, as per Rules an Organisation can not adopt a mixture of different sets of pay scales as the pay scales are always determined by the status of the Organisation viz. Central Secretariat, Statutory Bodies, Attached or Subordinate offices of the Government of India. Further, the status of NEC Secretariat remained same as was at the time of inception but the pay scale of Stenographers Gr.II had however, been downgraded from Rs. 425 – 800/- p.m. to 425 – 700/- p.m. arbitrarily in utter violation of all established norms.

3. That Sir, even in all probability, an Organisation headed by a Secretary to the Government of India can not be equated with a Directorate or Subordinate office and therefore this down gradation of pay scales were totally illegitimate and beyond any logic keeping in view that all other posts were allowed to continue in the Central Secretariat pattern pay scales.

4. That Sir, the matter was taken up time and again with the NEC Administration for favour of restoration of original pay scales (pre - Fourth Central Pay Commission status of Rs. 425-800/- p.m.), but of no avail. This genuine appeal had been turned down on the pretext that the Ministry of Home Affairs which stated to have been the Administrative Ministry for NEC who did not concede our demand. In this context it also merit mention here that in the NEC Act, 1971 there is no mention about any role of the Ministry of Home Affairs to play as an Administrative Ministry nor any amendment in this regard was passed by the Parliament subsequently.

5. That Sir, finding no other alternative we the Stenographers Gr.II had to approach the Hon'ble Central Administrative Tribunal, Guwahati by way of filing OA No. 149/98 for justice. In the aforesaid OA we prayed for the following relief namely -

- a) To direct the respondents towards restoration of pre-Fourth Central Pay Commission revised status / scale and corresponding revision thereof;
- a) Fixation of pay in the pay scale of Rs. 1640-2900/- p.m. with effect from 1st January, 1986.

6. That Sir, the Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dispose of the said OA vide its order dated 20.12.2000 (a copy of the said order is enclosed for ready reference).

7. That Sir, the Hon'ble Tribunal vide its order dated 20.12.2000 was pleased to take into consideration the subsequent developments and very clearly mentioned the position/ status of the NEC as well as termed the Ministry of Home Affairs as 'Nodal Agency' only. The Hon'ble Tribunal has also taken into account the communication dated 26.8.2000 issued in that respect.

8. That Sir, finally the Hon'ble Tribunal in view of the facts referred to the above has shifted the entire power to your honour for fixing the pay scales of Stenographers Gr.II of NEC since the NEC is an independent body in view of what has been stated in the order dated 26.8.2000.

Under the above circumstances, I pray your honour to kindly consider my case for restoration of the original and appropriate pay scale of Rs. 1640-2900/- p.m. with effect from 1st January, 1986 with all consequential benefits, in accordance with the judgement of the Hon'ble Tribunal on the said OA.

Encl: Copy of Order dated 20.12.2000 passed by the
Central Admn.Tribunal, Guwahati Bench
Guwahati

Yours faithfully,

Dated: Shillong
The _____ February, 2001

()
Stenographer Grade-II
NEC Secretariat, Shillong

Attested
N. M. M.
Advocate.

GOVERNMENT OF INDIA
NORTH EASTERN COUNCIL SECRETARIAT
SHILLONG : 793 001

NO. NEC/ADM/45/98

Dated, the 1st August, 2001.

To

Shri .../.../...
.../.../...

Subject: Pay parity of Stenographer Grade-II of the Secretariat with that of the Grade-C Stenographer of Central Secretariat Stenographer.

Sir,

Please refer to your representation dated 23. 2. 2001 to the Secretary, NEC in pursuance of the decision of the Central Administrative Tribunal, Guwahati dated 20.12.2000. The Secretary has examined your representation and come to the conclusion that it is not possible to provide relief to you as prayed for by you. Extract of his decision dated 1.8.2001 in file No. NEC/ADM/45/98 is enclosed.

Yours faithfully,

Chuun

(L. Chuaungo)
Deputy Secretary

++++

*Arrested
...
Advocate*

I have perused the records and the applications of the concerned Stenographers who have requested for parity in the Grade II level. I have also perused the order of the Central Administrative Tribunal, Guwahati Bench dtd. 27.12.2000 as per the certified copy.

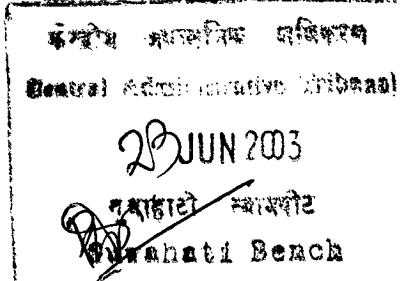
Following my discussion with the MHA on 17th July 2001 and the copy of the list of offices which I obtained from MHA at P. 203-205c, it is clear that the NEC is classified as a subordinate office of the MHA. It is also pertinent to point out that the Budget of the NEC is included in the overall budget of the MHA. In all our official dealings we have approached other Ministries through the MHA invariably. The above facts categorically refute the contention of Shri B K Sharma, the learned Senior Counsel for the applicant that the NEC was the appropriate authority since NEC is not a part of the Home Ministry. He has tried to mislead the Court by his contention that NEC is not a part of the Ministry drawing attention to the communication dtd. 26.8.2000 from MHA. This only referred to the discontinuance of the use of the term "Ministry of Home Affairs" on the letter-heads of the correspondence of the NEC and number plates of NEC vehicles. It does not change the status of the NEC as a subordinate office of the MHA.

Such being the cases, case of the applicant stenographers has to be referred to the MHA whose decision is binding of the NEC. The MHA has valid grounds in coming to its decision in view of the different systems of recruitment in respect of the stenographers under consideration and those under the normal cadres in Govt of India. The NEC is therefore not in a position to provide any relief to the applicant stenographers without the approval of MHA.

pw
(H W T Syiem)
Secretary
1.08.2001

Deputy Secretary

*Attos
C. S. S.
Advocate.*



Filed by

Case No 226/03
(A. DEB ROY)
Sr. C. G. S. C
C. A. T. Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

O.A. NO. 335 OF 2002

Shri S. Lyngdoh & Others.

..... Applicants.

- Vs -

Union of India & Others.

..... Respondents.

- And -

In the matter of :

Written Statement submitted by the
respondents.

The humble respondents beg to submit the para-wise
written statement as follows :

1. That with regard to the statement made in para 1, of the application, the respondents beg to state that the NEC Secretariat has been treated as an sub-ordinate office of the Govt. of India under the administrative control of MHA, now under the administrative control of D/O DONER. As has been recommended by the 4th Pay Commission and the 5th Pay Commission, the Govt. of India have also prescribed a separate pay scale for the office staff working in organization outside the Central Secretariat Services.

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2. That with regard to para 2 and 3, of the application the respondents beg to offer no comments.

3. That with regard to the statement made in para 4.1, of the application the respondents beg to state that the demand for absolute parity of pay scale in between the Central Secretariat Stenographers service and Stenographers working in offices outside the Central Secretariat has not been accepted by the 5th Pay Commission as well as Central Govt. The Government of India have prescribed a pay scale of Rs. 1640-2900/- to the Central Secretariat Stenographer Service on the basis of order dated 23.5.1989 passed by the Hon'ble Central Administrative Tribunal Principal Bench, New Delhi in OA No. 1538/87. The Stenographer Grade-II of NEC Secretariat have again demanded this pay scale in this case. As the matter has already been examined at the Ministry's level on the basis of the comments and recommendations of the Vth Pay Commission, the demand of higher & pay scale could not be acceded to by the Central Government who is the competent authority to determine the pay scale of various posts under NEC Secretariat under Section 7 of the NEC Act 1971. It is reiterated that the North Eastern Council Secretariat comprising the Secretary, Planning Adviser, Financial Adviser and other officers and staff have no authority to grant pay scales higher than that approved and already sanctioned by the Central Government.

4. That with regard to para 4.2, 4.3 and 4.4, of the application the respondents beg to offer no comments.

-3-

5. That with regard to the statement made in para 4.5, of the application the respondents beg to state that all the Stenographer Grade-II have been given an uniform pay scale of Rs. 1400-2600/- w.e.f. 1.1.1986. The North Eastern Council Secretariat have no power to grant higher pay scale without ~~the~~ ^{the} sanction of the Central Government.

6. That with regard to paras 4.6, 4.7 and 4.8, of the application the respondents stand by their comments at para 4 and 5 above.

7. That with regard to the statement made in para 4.9, of the application, the respondents beg to state that the pay scale of Rs. 425-700/- and Rs. 425 - 800/- have been replaced to Rs. 1400- 2600/-. The pay scale of Rs. 1640-2900/- was granted to the Central Secretariat Stenographers service only and the demand for absolute parity of pay scale has not been accepted by the Central Govt. as stated in para 4 and 5 of their comments above.

8. That with regard to para 4.10 and 4.11, of the application the respondents beg to stand by their comments in para 4, 5 and 7 above.

9. That with regard to the statement made in para 4.12, of the application the respondents beg to state that the petitioners have already approached the Hon'ble CAT earlier in O.A. No. 149 of 1998 wherein an order dated 20.12.2000 was passed by the Hon'ble CAT directing the respondents to consider the grievances of the

-4-

applicant and pass a reason order. In compliance with this order the Secretary, NEC considered the application and had categorily denied the contention that the NEC was the competent authority to grant higher pay scale and all the applicants have already been intimated of the fact that the NEC was not in a position to sanction higher pay scale of Rs. 1640 -2900/- . In this context a copy of NEC's Secretariat letter No. NEC/ADM/45/98 dated 4.8.2001 conveying the decision of Secretary dated 01.05.2002 is enclosed at Annexure - 'A' & 'B'.

10. That with regard to ~~para~~ 4.13, 4.14 and 4.15, of the application the respondents beg to offer no comments.
11. That with regard to the statement made in para 4.16, of the application the respondents stand by their comments at para 4~~0~~, ~~0~~5, ~~0~~7 and ~~0~~9.
12. That with regard to the statement made in para 4.17, of the application the respondents stand by their comments at para ~~0~~9 above.
13. That with regard to para 4.18, of the application, the respondents beg to offer no comment.
14. That with regard to the statement made in para 4.19, of the application the respondents beg to state that the NEC has no power to grant higher pay scale of Rs. 1640-2900/- to the Steno-II of NEC Secretariat.

-5-

15. That with regard to the statement made in para 4.20, of the application the respondents beg to state that the demand for absolute parity of pay scale ~~✓~~ has not been accepted by the Central Govt. The NEC set up under Section 7 of the NEC Act has no authority to grant higher pay scale without the approval of the Central Govt. Section 7 of the NEC ACT clearly stated that the Council shall have a Secretariat Staff consisting of Secretary, Planning Adviser, Financial Adviser and a Security Adviser and such other officers and employees as the Central Govt. may by order determine. As such, the Central Govt. has been given the full power of creation of posts and determination of pay scales to various category of posts. The contention that NEC as a statutory body has power to decide the matter of granting higher pay scales of Rs. 1640-2900/- is totally wrong and mis-leading. The contention that NEC is competent to handle pay fixation matter is a different issue, it has no connection with question of granting higher pay scale by the competent authority. For example, the Government has sanction of a pay scale of Rs. 5000-8000/- to Steno-II, pay of the incumbent cannot be fixed in the higher pay scale of Rs. 5500-9000/-.

16. That with regard to the statement made in para 4.21, of the application the respondents beg to state that stand by their comments at para 4.1 and 4.5 above. In addition the respondents submit that the higher pay scale of Rs. 1640-2900/- was granted by the Central Govt. on the basis order dated 23.5.99 of the principal Bench, New Delhi and not on the basis of 4th or 5th Pay Commission's recommendation. The respondents further beg

-6-

to state that the Hon'ble CAT, Guwahati Bench in their order dated 20.12.2000 in O.A. No. 149/98 simply directed the NEC to consider the prayer of the applicant for granting higher pay scale and did not asked the NEC to grant higher pay scale of Rs. 1640-2900/- as done by the Principal Bench, New Delhi in the aforesaid case. There is, therefore no point of ~~making~~ making a reference to the Administrative Ministries since they have already decided the matter earlier. In this context a copy of the exchange note of the Ministry of Finance and DOPT/ MHA in O.A. No.149/98 is enclosed at Annexure-'C' for perusal of the Hon'ble CAT.

17. That with regard to the statement made in para 4.22, of the application the respondents beg to stand in the preceeding paragraphs at para 4, 5, 7, 9, 15 and 16 above.

18. That with regard to para 4.23, of the application the respondents beg to offer no comment.

19. That with regard to the statement made in para 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7 and 5.8 of the application the respondents beg to state that in view of the statement made above the applicants are not eligible to get any relief.

20. That with regard to para 6, 7 and 8 of the application the respondents beg to offer no comments.

21. That with regard to the statement made in para 8.1, of the application the respondents stand by their comments in the preceeding paragraphs.

22. That with regard to paras 8.2, 8.3 and 9, of the application the respondents beg to offer no comments.

X

VERIFICATION

I, Shri Rojeen Mathur, presently working as Deputy Secretary, NEC, being duly authorised and competent to sign this verification, do hereby solemnly affirm and state that the statements made in para are true to my knowledge and belief and those made in para being matter of records, are true to my information derived therefrom 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 12 th day of April, 2003.


Deponent.

Deputy Secretary
NEC, Govt of India,
Shillong.

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VERIFICATION

I, Shri Roger Mathur, presently working as Deputy Secretary, NEC, being duly authorised and competent to sign this verification, do hereby solemnly affirm and state that the statements made in para are true to my knowledge and belief and those made in para being matter of records, are true to my information derived therefrom 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 12th day of January, 2003.


Deponent.

Deputy Secretary
NEC, Govt. of India,
Shillong.

29 SEP 2003
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No. 335/2002.

Steral Lyndoh & Ors
--- Applicants
-vs-

Union of India & Ors.
--- Respondents

REJOINDER SUBMITTED BY THE APPLICANT AGAINST THE WS FILED BY
THE RESPONDENTS

1. That the applicants have received a copy of Written Statement and have gone through the same. Save and except the statements which are specifically admitted herein below rests may be treated as total denial. The statements which are not born on record are also denied and the respondents are put to the strictest proof thereof.
2. That with regard to the statement made in para 1 of the Written Statement the applicants while denying the contentions made therein beg to state that since its creation in the year 1971 by an Act of Parliament called "The North Eastern Council Act, 1971" the North Eastern Council have been functioning as a Statutory Organization. The statement of the NEC authorities that "the NEC Secretariat has been treated as an sub-ordinate office of the Govt. of India under the administrative control of D/O DONER" is totally false and intentional as during the last 32 years of existence of NEC no such amendment has ever been passed by the Parliament who are the sole authority in this regard. Moreover, in different occasions, the NEC authorities itself came out with the statement itself came out with the statement that

Filed by 26
the applicants through
Alsha Das
Advocate
26/9/03

the NEC is a Statutory Organization.

Apart from that as per the verdict of Hon'ble Central Administrative Tribunal (CAT), Guwahati dated 20th December, 2000, the concerned Stenographers GR II requested the Secretary, NEC to consider restoration of their original pay scale of Statutory Body status. The Secretary, NEC after perusal of the Court Order expressed his inability vide Note dated 1.8.2001, forwarded to the Stenographers Gr.II concerned by the Deputy Secretary, NEC vide his No. NEC/ADM/45/98 dated 4th August, 2001, to consider the matter and extend the Statutory Body pay scale to the Stenographers. The main points for rejection of the requests are -

(a) Secretary, NEC stated that following his discussion with MHA on 17th July, 2001 and as per a list of offices classified as Subordinate offices of MHA, as he obtained from MHA, the NEC is a Subordinate Office of MHA.

(b) On the decision of Hon'ble Central Administrative, Tribunal, Secretary, NEC stated that the above point categorically refute the contention of Shri B.K.Sharma, the learned Senior Counsel for the applicant that the NEC was the appropriate authority since NEC is not a part of the MHA and Shri Sharma has tried to mislead the Court by his contention that NEC is not a part of the Ministry drawing attention to the communication dated 26.8.2000 from MHA. The Secretary, NEC further stated that this only referred to the discontinuance of use of the term "Ministry of Home Affairs" on the letter-heads of the correspondences of NEC and number plates of NEC vehicles and it does not change the status of the NEC as a Subordinate office of the MHA.

On the (a) above it may be pointed out that following his so called discussion with MHA on 17th July, 2001 and perusal of the so called list of offices classified as Subordinate offices of MHA, Secretary, NEC categorically stated that even after issuance of communication dated 26.8.2000 from MHA, it does not change the status of the NEC as a subordinate office of the MHA.

That, while disagreeing to the requests of Stenographers, Secretary, NEC has deliberately ignored the decision of the Chairman of NEC, approved and vetted by MHA itself, Secondly, this decision/statement of Secretary, NEC is also very much contradictory to the statement of MHA itself that NEC is a Statutory Body and not an Attached/Subordinate/non-Secretariat body, made in connection with Court cases, in a letter vide No.7/13/93. NE.II dated 8.25.1994 addressed to Director, NEC.

Now, after issuance of the latest circular from NEC vide No.NEC/PLAN/II-10/2002 dated 4th March, 2003 by the Deputy Secretary, NEC stating that NEC is a Statutory Body set up independently by an Act of Parliament under the Government of India has its own separate identity, powers & functions to be headed by a Secretary to the Government of India equal in rank and status of any Ministry of Government of India and as such NEC does not form part and parcel of any Ministry in the Government of India. the above statement of Secretary, NEC proved not only false but totally baseless, intentional and misleading. It is also to be seen that in most its communications MHA never stated in line with the

statement of Secretary, NEC, rather they have always supported the stand that NEC is a Statutory Body.

The respondents to shift their burden and to mislead the Hon'ble Tribunal made false statement regarding the Status of the NEC. Following letters would reveal the fact as well as the status of the NEC.

In connection with cases O.A. No.162/93, 170/93, 171/93 and 172/93 the MHA vide letter NO. 7/13/93-NE.II dated 8th February, 1994 addressed to Director, NEC Secretariat, Shillong, informed that "According to the CCS Rules as they are more advantageous and also justifiable in view of NEC's status as a statutory body, and not an attached/subordinate/non-secretariat body."

Vide this same letter NEC was also asked to choose only one set of pay scale for the whole organization as mixture of different sets of pay scales can not be permissible to be adopted in a single organization. But due to the reasons best known to the NEC Administration, they have not taken any action to comply with the suggestions of MHA to restore the pay scale of Stenographer Gr.II by adopting one set of pay scale i.e. of Statutory Body pay scales for all the posts. this is a sheer violation of any norm being practiced in all other offices of the Govt. of India. No clarification was also available from the NEC Administration for continuing of such wrong practices. In fact, it is one of the main reasons for which the NEC Administration have been continuing to deprive the Stenographers Gr.II from their legitimate rights. In all occasions they the NEC Administration either prefer to

remain silent or come out with false and intentional unauthentic information.

It may further be pointed out that the reason for downgrading the pay scale of Stenographer Gr.II only, out of all, all of a sudden, with no proper justification nor following the CCS Rules is remained unanswered since long and yet to be clarified by the NEC Administration.

A copy of the order dated 8.2.94 is annexed herewith and marked as Annexure-1.

In reply to the Pleader Notice, the Deputy Secretary, NEC vide his letter No.NEC/ADM/21/91 dated 9th March 1998 addressed to Shri B.Mehta, Advocate, Guwahati High Court & CAT, Guwahati clearly stated that "It is true that the North Eastern Council Sectt is a Statutory Organisation set up by an Act of Parliament in 1971.....".

A copy of the order dated 9.3.98 is annexed herewith and marked as Annexure-2.

The Chairman, NEC in a letter dated 9.8.2000 addressed to the Union Home Secretary felt that MHA is a nodal Ministry of NEC only and NEC is not a part of MHA. The concept of NEC being functioned as a part of MHA is not correct and accordingly, the addl. Secretary, MHA vide D.O. No.3/5/2000, II dated 26.8.2000 addressed to Chairman, NEC conveyed the MHA's NO OBJECTION to removing Ministry of Home Affairs from the letter head of NEC.

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Accordingly, Deputy Secretary, NEC vide circular No. NEC/ADM/41/2000 dated 9th October, 2000 issued an order to all concerned for blocking out, Govt. of India, Ministry of Home Affairs' from all the documents/ correspondences of NEC.

As per the Act, the Parliament is the only authority for placing NEC under any Ministry or so and there is no mention in the NEC Act, 1971 about NEC is to function under MHA. But on creation of Department of Development of North Eastern Region (DONER), vide circular No. NEC/ADM/41/2000 dated 28th August, 2002 the Deputy Secretary, NEC by canceling the earlier order dated 9.10.2000 introduced a new letter head " Government of India, Department of Development of North Eastern Region, North Eastern Council Secretariat, Shillong-793001" in all NEC letters/documents in view of the transfer of administrative control from MHA to DONER.

A copy of the circular dated 28.8.2002 is annexed herewith and marked as Annexure-3.

It may be pointed out here that while by the circular dated 9th October, 2000 MHA was removed the NEC letter head etc. how does MHA can transfer the administrative power of NEC to newly created DONER.

A copy of the circular dated 9.10.2000 is annexed herewith and marked as Annexure-4.

In compliance with the order of Chairman, NEC Deputy Secretary NEC vide his latest Circular No. NEC/PLAN/II-10/2002 dated 4th March 2003 superseded all previous

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notifications to this effect and requested all concerned to drop the name of the Ministry of DONER from all the letter heads/documents etc. of NEC and clearly stated that "NEC is a statutory body i.e. Council set up independently by an Act of Parliament under the Government of India, has its own separate identity, powers & functions, Secretariat generally headed by the Secretary who is the senior IAS officer equal in rank and status to that of the Secretary in any Ministry under the Government of India and as such North Eastern Council does not form part and parcel of any Ministry in the Government of India"

A copy of the Circular dated 4.3.2003 is annexed herewith and marked as Annexure-5.

From the above points it is very much clear that the NEC authorities time and again deliberately supplied spurious and false information to the Hon'ble Tribunal just to cover up their mistake of unlawfully down gradation of the pay scale of Stenographer GR.II of NEC and used the status of NEC as per their will and wish suiting own interests without bothering to follow the NEC Act, 1971 passed by the Parliament.

Whereas as per the latest circular dated 4th March, 2003 of NEC itself, the NEC has its own separate identity, powers & functions.

From the above two contradictory statement of NEC it is very much clear that actually who is mis-leading the Court.

Further, in this context it may also be pointed out that while the down gradation of the post was done by the NEC itself, did they have the power to do that?

Here in their reply the Fourth & Fifth Pay Commissions' recommendations was mentioned. But there was no specific recommendation of pay scales for the NEC Stenographer GR. II in the reports of the Pay Commissions. The revised scale of the then existing pay scale was only recommended.

Here also the matter was made complicated by referring the recommendations of the pay commissions whereas actually our plea is for restoration of Statutory Body/Central Secretariat pay scales for Stenographers Gr.II who were enjoying the same along with other employees of the organisation prior to controversial unlawful down-gradation.

3. That with regard to the statement made in para 2 and 3 of the Written Statement the applicants while reiterating and reaffirming the statement made above beg to state that the NEC authority being an independent body has got power to look into the matter without there being any clarification from Ministry of Home Affairs. However the respondents to shift their burden placed reliance of the section 7 of the NEC Act, 1971 which is not at all applicable nor there is any mention regarding such power. From the above mentioned documents clearly indicates the fact that the NEC is statutory body not under the control of MHA and as such their stand regarding sanction from MHA is self contradictory and not and not sustainable. the power and function of NEC authority has already been discussed in the judgment and order dated 26.12.2000 passed in OA No.149/98 and as such the

respondents now can not reopen these issues.

4. That with regard to the statement made in para 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 of the Written Statement the applicants while reiterating and reaffirming the statement made above beg to state that the contention raised by the respondents regarding power and authority as well as the interpretation given regarding NEC Act is baseless and contradictory. Since MHA has been made as a party respondent in this OA it would be wrong on the part of the NEC authority to make any statement contradictory to records. Although the Written Statement has been stated to be filed by all the respondents, the applicants pray before this Hon'ble Tribunal for a direction to the Respondent No.1 that is MHA to clearly the issue and to file separate Written Statement.

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VERIFICATION

I, Swapnabrata Dutta Choudhury, the Applicant No.13 in O.A. No.149/98, do hereby solemnly affirm and verify that the statements made in paragraphs 1, 3, 4 are true to my knowledge and those made in paragraphs 2 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 25th day of Sept of 2003.

Signature.

Swapnabrata Dutta Choudhury

New Delhi, 8 February, 1994

8 FEB 1994

To

Shri P.B.O. Warjri,
Director,
North Eastern Council Secretariat,
Shillong.

Subject: Gases O.A. No. 162/93-Shri N. Das Vs. Union of India and others, O.A. No. 170/93 - Shri A. Das Vs. Union of India and others, O.A. No. 171/93- Pariat Vs. Union of India and others and O.A. No. 172/93-Shri H.K. Nandy Vs. Union of India and others.

Sir,

I am directed to refer to your letter No. NEC/ADM/33/93 dated 17 January, 1994.

2. The case has been discussed by Director(NEC) in the Deptt. of Personnel and Training. The Deptt. of Personnel is of the view that NEC cannot claim scales under two sets of rules. They should choose one set and give justification for the same. Deptt. of Personnel will then process the case and take a clear view in the matter.

3. Accordingly, it is requested that a case should be prepared in consultation with the Senior Central Govt. Standing Counsel, According to the CSS Rules as they are more advantageous and also justifiable in view of NEC's status as a statutory body, and not an attached/ subordinate/non secretariat body.

Yours faithfully,

Lata Gulati
Desk Officer

Attested
vs
Advocate

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GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
NORTH EASTERN COUNCIL SECRETARIAT
SHILLONG - 793 001

ANNEXURE 2
76/87

NO. NEC/AOM/21/91

Dated the 9th March, 1998

To

Shri B. Mehta,
Advocate,
Guwahati High Court & Central
Administrative Tribunal,
Guwahati,
Nar Narayan Path, P.O. Bharalumukh,
Guwahati - 781 009

Sub: Parity in pay scale of Stenographers Gr.II
with that of similar situated Stenographers
of other Organisations & Central Sectt.

Sir,

I am directed to refer to your legal Notice
dated 26.12.1997 on the subject mentioned above and to
state as follows:

1. Status of North Eastern Council: It is true that the North Eastern Council Sectt. is a statutory Organisation set up by an Act of Parliament in 1971, Section 7 of the North Eastern Council Act, 1971 provides that the Council shall have a secretarial staff consisting of a Secretary, Planning Adviser, Financial Adviser, Security Adviser and such other Officers and employees as the Central Govt. may, by order, determine. However there was no details in the Act regarding nature and categories/pay scale of various posts in the North Eastern Council Sectt. As such the power of creation of posts and determination of pay scale for each category of employees rest with the Central Govt. as the North Eastern Council has no power to sanction for creation of different posts as well as creating higher pay scale to such employees.

2. Parity of Pay Scale: It is true that there is parity in pay scale of Assistants and Stenographers Gr.II of North Eastern Council Sectt. as compared to similar posts in the Central Sectt. and other Organisations participating in the Central Sectt. Service. The 4th pay Commission had recommended pay scale of Rs. 1400-2600/- for Assistants & Stenographers in the Central Ministries/Deptts. of Govt. of India and this pay scale has already been granted to the Stenographers

Attested
S. K. Mehta
Advocate

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Gr.II. However the pay scale of Assts. and Stenographers in the Central Sectt. has been further revised to Rs.1640-2900/- w.e.f. 1.1.1996 consequent on the decision of the Central Administrative Tribunal, Principal Bench, N.Delhi in U.A. No. 1538/87 dated 23.5.1989 vide Deptt. of Personnel & Training OM No. 2/1/90-CS.IV dated 31.7.1990. The NEC Sectt. sent the proposal for granting this same pay scale to Asstt/Steno-grapher Gr.II of NEC Sectt. but this pay scale has not been granted to the Assts. and Stenographers Gr.II of NEC Sectt. so far, mainly on the ground that the method of recruitment in NEC Sectt. was not through open Competitive Examination, which is the requirement as per OM dated 31.7.1990. However the matter has been taken up again with the Ministry of Home Affairs being the Administrative Ministry concerned of North Eastern Council Sectt. and a final decision in this regard has not been received so far.

As stated earlier the North Eastern Council Sectt. has no power to grant higher pay scale if it is not in a position to sanction the pay scale of Rs.1600-2900/- to the Assts. and Stenographers w.e.f. 1.1.1996 without the concurrence of the Administrative Ministry concerned i.e. the Ministry of Home Affairs.

Yours faithfully,

L.Chunungo
(L.Chunungo)
Deputy Secretary

Memo No. NEC/ADM/21/91

Dated the 9th March, 1998

Copy to:

1. Dy. Secretary to the Governor of Arunachal Pradesh & Chairman, NEC with reference to his letter No. G/NEC/98/1581 dated 12.1.1998.
2. The General Secretary, NEC Sectt. Employees Association, Shillong for information.
3. Shri N.D. George, Director(NEC), Govt. of India, Ministry of Home Affairs, N.Delhi - 1 with reference to his office letter of even No. dated 16.12.1997.
4. Office Copy

*Attended now
10.3.98
Adm. Deptt.*

L.Chunungo
(L.Chunungo)
Deputy Secretary

GOVERNMENT OF INDIA
NORTH EASTERN COUNCIL SECRETARIAT
SHILLONG-1.

No. NEC/ADM/41/2000

Dated, the 28th August, 2002.

C I R C U L A R

Consequent on the creation of the new Department of Development of North Eastern Region and transfer of the administrative control of NEC from MHA to Department of Development of North Eastern Region, the letter head and address of NEC Secretariat shall be as follows with immediate effect :-

Government of India
Department of Development of
North Eastern Region
North Eastern Council Secretariat
Shillong-793001.

GRAM: NECOUNCIL

FAX NO. 222140
224270

PHONE:

2. All outgoing letters from North Eastern Council Secretariat should have the above letter head.

This supersedes the previous Circular No. NEC/ADM/41/2000 dt. 9.10.2000.

911/4

Deputy Secretary.

Dated, the 28th August, 2002.

Memo No. NEC/ADM/41/2000

Copy to :-

1. The Joint Secretary, Department of Development of North Eastern Region, Vigyan Bhawan Annex, Maulana Azad Road, New Delhi.
2. The Deputy Secretary, Department of Development of North Eastern Region, Vigyan Bhawan Annex, Maulana Azad Road, New Delhi.
3. All Advisers/Directors/Officers, NEC Sectt. For information and
4. All Wings/Branches/Sectors, NEC Sectt. compliance.
5. All Stenos/PAs/PS.

Attested
R. Mathur
Advocate

(R. Mathur)
Deputy Secretary.

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NORTH EASTERN COUNCIL SECRETARIAT
SHILLONG

No. NEC/ADM/41/2000

Dt., Shillong, the 9th October, 2000.

C I R C U L A R

As desired by the Chairman, NEC the word 'GOVT. OF INDIA, MINISTRY OF HOME AFFAIRS' appearing on all existing files covers and stationeries of the NEC Sectt. should be blocked out. The concerned sections/sectors may do the needful pertaining to their respective sectors/sections.

Sd/-

(L. Chuaingo)
Deputy Secretary.

Memo No. NEC/ADM/41/2000 Dt. Shillong, the 9th October, 2000.
Copy to :-

1. All Sectors/Sections of NEC.
2. PS to Secretary, NEC.
3. PA to Planning Adviser, NEC.
4. PA to Financial Adviser, NEC.

(L. Chuaingo)
Deputy Secretary.

Attested
Under
Advocate

GOVERNMENT OF INDIA
NORTHEASTERN COUNCIL SECRETARIAT,
SHILLONG.

NO. NEC/PLAN/H-10/2003

4th March, 2003.CIRCULAR

NEC is a statutory body i.e Council set up independently by an Act of Parliament under the Government of India, has its own separate identity, powers & functions, Secretariat generally headed by the Secretary who is the senior IAS officer equal in rank and status to that of the Secretary in any Ministry under the Government of India and as such North Eastern Council does not form part and parcel of any Ministry in the Government of India.

All Sectoral Heads and Heads of the Institutions under the administrative control of NEC, are therefore, requested to kindly drop the name of the Ministry of DONER from the letter or any other document whenever correspondences are being made henceforth. This supersedes all previous notifications to that effect.

This has the orders of the Chairman NEC in the file.

(Rajeev Mathur)

Deputy Secretary

Copy to :-

- 1 P.S to the Governor of Assam & Chairman NEC, Raj Bhawan, Guwahati.
- 2 The Joint Secretary (NEC) in the Department of Development of North Eastern Region Vigyan Bhawan Annex, Maulana Azad Road, New Delhi - 110 011.
- 3 All Sectoral Heads of NEC.
- 4 Heads of the Institutions under NEC
- 5 Project Coordinator & Development Strategist NERCRMS, Shillong.

C.C to :-

- 1 P.S. to Secretary NEC
- 2 P.A. to Planning Adviser NEC
- 3 P.A. to Financial Adviser NEC

*Attested
V. K. Mathur
Advocate*