

0/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 299/2005

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet..... OA Pg. 1 to 8
MP 164/05 order page 1 MP closed 6/9/06
2. Judgment/Order dtd. 16.01.2008 Pg. to
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. Amended OA 299/05 Pg. 1 to 60
OA 299/05 Page 1 to 57
5. E.P/M.P. 164/05 Pg. 1 to 7
6. R.A/C.P. Pg. to
7. W.S./counter Affidavit Pg. 1 to 20
8. Rejoinder Pg. 1 to 10
9. Reply Pg. to
10. Any other Papers Pg. to
11. Memo of Appearance
12. Additional Affidavit
13. Written Arguments
14. Amendment Reply by Respondents
15. Amendment Reply filed by the Applicant
16. Counter Reply

SECTION OFFICER (Judl.)

Kalia
07.11.07

FORM NO. @
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 277/05
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant(s) D. Chakrabarty
Respondent(S) W. O. S. S.

Advocate for the Applicants Mr. M. Chanda, G. N. Chakrabarty
S. Choudhury, S. Nain

Advocate for the Respondent(S) M. A. Ahmed CGSC ✓
Rly St. Counsel

Notes of the Registry Date 6.12.2005 Order of the Tribunal

This application
is for C. F. No. _____
disposed vide IP. No. _____
No. 266/317/27
Dated 28.11.05

Sheets
Dy. Registrar

NO steps

NT
30.11.05

steps taken on

9/11/06

6/11/06

mb
19.12.2005

Mr. M. Chanda, learned counsel
for the applicant submits that the
applicant gets the order with refer-
ence to which is ^{made in the order} impugned and amend-
ment application is being filed
shortly. Post on 21.12.2005.

V. J. J.
Vice-Chairman

V. J. J.
Vice-Chairman

(5)

O.A. 299 of 05

21.12.05.

Heard Mr. M. Chanda learned counsel for the applicant and Mr. A. K. Choudhury, learned Addl. C.G.S.C. for the Respondents, M.P.

for amendment is allowed. ~~Notice in the~~ Copy of the M.P. must also be forwarded to the Respondents along with the O.A. The applicant in the meantime will file consolidated application also.

Post the matter on 7.2.06. Written statement if any, in the meantime.

Vice-Chairman

Im

07.02.2006

When the matter came up for hearing, Mr. M. U. Ahmed, learned Addl. C.G.S.C. for the respondents submits that he has received a copy of the amendment application. However, requests to send the copy of the amendment application to the respondents directly. The registry is directed to send the copy of the amendment application to the respondents if not already sent. Counsel for the respondents also sought for some more time to file reply statement. Post on 23.3.2006 in the admission list.

Vice-Chairman

mb

23.3.2006

Four weeks time is sought on behalf of the respondents to file reply statement to the amendment petition. Let it be done.

post on 27.4.2006.

Vice-Chairman

bb

Pl. comply order dated 7.2.06.

N3 8.2.06

Amended notices with M.P. No. 164/05 issuing to resp. nos. 1 to 4, vide our office notes dt. 9/1/06.

8/2/06.

① Service report awaited.

22.3.06

Amended
A Notice & order
dt. 21/12/05 and
along with copy,
of M.P. No. 164/05
sent to D/section
for issuing to
resp. Nos. 1 to 4
by regd. A/D post.

Class 5/1/06. D/No- 81 to 64
Dt- 10-1-06

Notice duly served
on resp. Nos. 4.

Class 16/1/06

6.2.06

An amended
application has been
submitted by the
Applicant.

mb

27.4.2006 Considering the issue involved and that a judgment, which is said to be covered has been pointed out, the O.A. has to be admitted. Admit. Four weeks time is granted to the respondents to file reply statement. Post on 30.5.2006.

Vice-Chairman

bb

30.5.2006 Mr.M.U.Ahmed, learned Addl.C.G.S. C. wanted to have some more time to file reply statement. Let it be done. Post on 3.7.2006.

Vice-Chairman

bb

03.07.2006 Post on 13.07.2006.

Vice-Chairman

mb

13.07.2006 Mr M.U. Ahmed, learned Addl. C.G. S.C. for the respondents submitted that he has been directed to seek further time to file draft reply since the matter is pending in the Ministry of Information and Broadcasting. It is evident that the case ~~is~~ pertains to 2005 and right from 6.12.2005 the respondents are seeking time to file reply statement, but nothing is forthcoming. As a matter of last chance three weeks time is granted to file reply statement. If not reply statement is filed, the consequences will follow.

Post on 04.08.2006.

Vice-Chairman

mb

29-5-06

No Wls has been filed.

30-6-06

No Wls has been filed.

12-7-06

No Wls has been filed.

3-8-06

No Wls has been filed.

O.A. 299/2005

04.08.2006 Present: Hon'ble Sri K.V. Sachidananda
Vice-Chairman.

Hon'ble Sri Gautam Ray,
Administrative Member.

Learned counsel for the respondents submitted that he would like to have some time to file reply statement. Let it be done.

Post on 06.09.2006.


Member


Vice-Chairman

mb

06.09.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Learned Counsel for the Respondents wanted time to file reply statement. Let it be done.

Post on 26.10.2006.


Vice-Chairman

/mb/

No. W3 has been
filed.

2
5.9.06.

26.10.06
Amendment filed
no. W3 filed
by -

O.A. No. 299/2005

20.10.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Learned Counsel for the
Respondents represented and sought for
time to file reply statement. Post on
21.11.2006.

Vice-Chairman

/mb/

21.11.2006 Mr. M. U. Ahmed, learned Addl. C.G.
S.C. wanted further time to file ~~xxx~~
~~xxxxxx~~ reply statement. Four week
time is granted to the respondents
for the same.

post on 21.12.2006.

Vice-Chairman

bb

21.12.06

Counsel for the respondents
further time to file written statement.
List on 12.1.07 for order.

Vice-Chairman

pg

12.1.07

Post the matter on 11.1.07.
In the meantime, respondents will
file the written statement.

Vice-Chairman

lm

7.2.2007

Mr. M. U. Ahmed
C.G.S.C. submits that
will be filed within two
1dd\ Post the case on

Vice

/bb/

No WLS has been
filed.

mm
20.11.06

No WLS has been
filed.

mm
20.12.06.

No WLS has been
filed.

mm
11.1.07.

No WLS has been
filed.

mm
6-2.07.

14.2.07

Committee report
submitted by the
Respondents, page
No. 1 to 20.

mm

15.2.07

Counsel for the applicant submitted that he wanted further four weeks time to file rejoinder. Let it be done within four weeks.

Post on 16.3.07 for order.

Vice-Chairman

pg

15.3.07.

Counsel for the applicant prays for time to file rejoinder. Post the matter 12.4.07.

Member

Vice-Chairman

lm

15.5.07.

At the request of learned counsel for the applicant four weeks time is granted to file written statement. Post the matter on 15.6.07.

Vice-Chairman

lm
15.5.07.

Counsel for the applicant wanted time to file rejoinder. Let it be done. Post the matter on 18.7.07.

Vice-Chairman

18.7.2007

10 days time is allowed to the learned counsel for the Applicant to file rejoinder.

Post the case on 31.7.2007.

Vice-Chairman

/bb/

The case is ready for hearing.

20
15.3.07.

No rejoinder has been filed.

20
11.5.07.

No rejoinder has been filed.

20
14.6.07.

17.7.07

no rejoinder filed

lm

Res. not filed

20
30.7.07

Notes of the Registry	Date	Order of the Tribunal
Rejoinder not filed. 22.8.07.	31.7.2007	As requested, further three weeks time is allowed to the Applicant to file rejoinder. Post the matter on 23.08.2007. Vice-Chairman
Rejoinder not filed. 11.9.07.	23.8.2007	Let the case be posted on 12.9.2007 for filing of rejoinder and completion of pleadings. Thereafter matter will be posted before the next Division Bench for hearing. Vice-Chairman
Rejoinder not filed. 1.10.07.	12.9.07.	Counsel for the applicant wanted time to file rejoinder. Let it be done. Post the matter on 3.10.07. Vice-Chairman
Rejoinder submitted by the Applicant, copy served. 6.11.07.	03.10.2007	Mr.M.Chanda learned counsel for the applicant undertakes to file rejoinder before 13.11.07. Call this matter on 13.11.2007 for hearing. (Khushiram) Member(A) (Monoranjan Mahanty) Vice-Chairman
and rejoinder filed by the parties. 12.11.07.		

SA-299/05

13.11.2007.

In this case ^{and} reply/rejoinder have already been filed and this case is ready for hearing.

Call this matter on 6th December, 2007 for hearing before Division Bench.

The case is ready for hearing.

23
5.12.07.

(M.R.Mohanty)
Vice-Chairman

Lm

06.12.2007

Mr.M.U.Ahmed, learned Addl. Standing counsel for the Union of India, is absent. Prayer is made on his behalf for adjournment. The case is accordingly adjourned.

Call this matter on 16.01.2008.

The case is ready for hearing.

15.12.08

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

16.01.2008

Heard learned counsel for the parties.

Hearing concluded.

For the reasons recorded separately, this O.A. stands disposed of.

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

5/2/08

Complaints sent to the office for ready to move to the parties along with copy to the Secy to the Ministry of Finance and the Comptroller and Auditor General.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

.....

Original Application No. 299/2005

DATE OF DECISION : 16-01-2008

Shri Dipankar Chakraborty

.....Applicant/s

Mr M.Chanda

.....Advocate for the
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

Mr M. U Ahmed, Addl. C.G.S.C

.....Advocate for the
Respondent/s

CORAM

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

1. Whether reporters of local newspapers may be allowed to see the judgment ? Yes/No[✓]
2. Whether to be referred to the Reporter or not ? Yes/No[✓]
3. Whether their Lordships wish to see the fair copy of the judgment ? Yes/No[✓]

Vice-Chairman/Mamber(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 299 of 2005

Date of Order: This, the 16th Day of January, 2008

THE HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE SHRI KHUSHIRAM, ADMINISTRATIVE MEMBER

Sri Dipankar Chakraborty
Stenographer Grade-III
Regional Office, DAVP
Nabin Nagar, Janapath
Guwahati - 781 024.

..... Applicant.

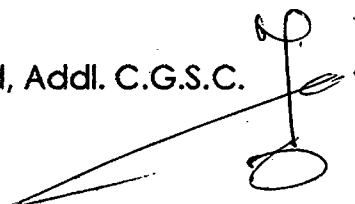
By Advocates Mr.M.Chanda, Mr.G.N.Chakraborty, Mr.S.Choudhury & Mr.S.Nath.

- Versus -

1. The Union of India
Represented by the Secretary to the
Government of India
Ministry of Information & Broadcasting
'A' Wing, Shastri Bhawan
New Delhi-110 001.
2. The Director
Directorate of Advertising and
Visual Publicity, Ministry of Information
and Broadcasting, PTI Building
3rd Floor, Parliament Street
New Delhi-110 001.
3. Deputy Director (Admn.)
DAVP, Ministry of I & B
PTI Building, 3rd Floor
Parliament Street
New Delhi - 110 001.
4. Regional Director
Regional Office
DAVP, Ministry of I & B
Nabin Nagar, Janapath
Guwahati-781 024.

..... Respondents.

Mr. M. U. Ahmed, Addl. C.G.S.C.



ORDER (ORAL)
16.01.2008

MANORANJAN MOHANTY, (V.C.):

Heard Mr.M.Chanda, learned counsel appearing for the Applicant, and Mr.M.U.Ahmed, learned Addl. Standing counsel for the Union of India.

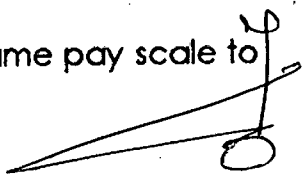
2. Claiming a higher pay scale (Rs.1,640-2,900/-; which has consequentially revised as Rs.5,500-9,000/-) the Applicant (a Stenographer of DAVP/Guwahati) approached the authorities and, as it appears, the Ministry of Information and Broadcasting sent a proposal to the Ministry of Finance; which has turned down the said proposal. The views of the Ministry of Finance having been accepted by the Administrative Ministry, the Applicant has approached this Tribunal with the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985.

3. Although the rejection order under Annexure-VI dated 16.08.2005 of the Administrative Department has been influenced by the views expressed by the Finance Ministry, yet the Applicant has not impleaded the Finance Ministry as a party Respondent in this case; despite the fact that the Applicant brought on record, by amendment, a copy of the U.O.No.205/E.III (B)/05 dated 30.06.2005 of the Ministry of Finance.

4. By filing a reply, the Administrative Department/Respondents have tried to support the views expressed in the rejection order dated 16.08.2005 and by filing a rejoinder the Applicant has tried to support his stand.

5. The matter was heard at length and the materials placed on record were examined. Mr.M.Chanda, learned counsel appearing for the Applicant has taken a stand that merely because the Applicant did not approach the Court/Tribunal, his claim to get salary in the same pay scale that has been extended to his counter parts in the Field Publicity Directorate/same Ministry would amount to discrimination/violating Article 14 of the Constitution of India. On the other hand, Mr.M.U.Ahmed, learned Addl. Standing counsel appearing for the Respondents Department, has vehemently opposed the stand of the Applicant by arguing that financial matters (like the applicability of pay scale) should always be left to the Administration (who should take the final decision) and the Courts or Tribunals ought not to act like an Appellate Authority over the decisions of the Administration so far policy matter are concerned. It is his stand that on the available facts, this Tribunal (at it's Principal Bench/New Delhi) allowed few members of the staff (of certain organizations of Govt. of India) to draw a higher pay in the scale of Rs. 1640-2900/- and that the Applicant, who is a member of the staff of DAVP, is not entitled to any such benefit and that rightly his prayer was turned down.

6. In course of hearing, Mr.M.Chanda, learned counsel appearing for the Applicant, expressed desire to grant liberty to the Applicant to approach the Respondents (and other Competent Authorities) to grant him the pay scale of Rs.1,640-2,900/- (revised Rs.5,500-9,000/-); on a review of the entire matter. He expects that the Respondents/Competent Authorities would realize that the Applicant (a member of the Staff of D.A.V.P.) has faced discrimination by not granting him the pay scale of Rs.1640-2900/-; while granting the same pay scale to

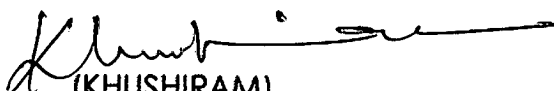


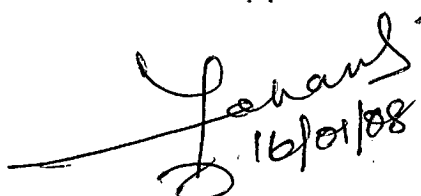
similarly placed staff of other Departments of the same Ministry/ I & B Ministry and would remove the discrimination on a review of the matter.

7. Having heard the learned counsel for the parties, this case is, hereby, remitted back to the Respondents, by granting liberty to the Applicant to put up his grievances in writing / by submitting a comprehensive representation to the Respondents/Competent Authorities, and, if any such representation is filed by the Applicant by the end of February, 2008; then the Respondents (Ministry of Information & Broadcasting) and the Ministry of Finance of the Government of India should re-consider the matter afresh (by keeping in mind the views expressed by this Tribunal in other connected matters) as expeditiously as possible.

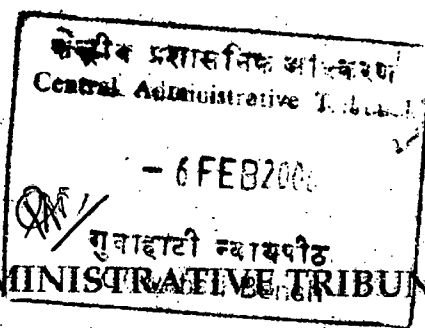
8. With aforesaid observations and directions, this case is disposed of.

9. Send copies of this order to all the Respondents in the addresses given in the Q.A. A copy of this order be also sent to the Secretary to the Govt. of India, in the Ministry of Finance, (Department of Expenditure), E.III B Branch (with reference to their U.O. No.205/E-III (G 35)/05 dated 30.06.2005 and O.M. No. 6(3)-IC/95 dated 15.04.2004). Free copies of this order be sent to the Applicant and be also supplied to the learned counsels appearing for the parties.


(KHUSHIRAM)
MEMBER (A)


(MANORANJAN MOHANTY)
VICE-CHAIRMAN

/bb/



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O.A. No. 299 /2005

AMENDED ORIGINAL APPLICATION

Sri Dipankar Chakraborty. : Applicant.

-Versus-

Union of India and Others. : Respondents.

INDEX

Sl. No.	Annexure	Particulars	Page No.
1.	--	Application	1-19
2.	--	Verification	-20-
3.	I	Copy of order dated 07.08.2000.	- 21 -
4.	II	Copy of O.M dated 31.07.90.	22 - 23
5.	III	Copy of judgment and order dated 19.01.96.	24 - 52
6.	IV	Copy of judgment and order dated of the Hon'ble Supreme Court.	- 53 -
7.	V	Copy of representation dated 07.04.05.	54 - 55
8.	VI	Copy of letter dated 16.06.05.	- 56 -
9.	VII	Copy of impugned order dated 16.08.05.	57 - 58
10.	VIII	Copy of the O.M dated 15.04.2004.	- 59 -
11.	IX	Copy of impugned letter dated 30.06.2005	- 60 -

Filed By:

Date: -

Advocate

70
filed by me applicant
through Suba Mr.
Advocate
06.02.2006

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI**

(An application under Section 19 of the Administrative Tribunals Act, 1985)

AMENDED ORIGINAL APPLICATION

O. A. No. 299 /2005

BETWEEN:

Sri Dipankar Chakraborty,
Stenographer Grade - III,
Regional Office, DAVP,
Nabin Nagar, Janapath,
Guwahati- 781024.

-----Applicant.

-AND-

1. **The Union of India.**
Represented by Secretary to the
Government of India,
Ministry of Information & Broadcasting, 'A' wing,
Shastri Bhawan,
New Delhi- 110001.
2. **The Director.**
Directorate of Advertising and Visual Publicity,
Ministry of Information and Broadcasting,
PTI Building, 3rd Floor,
Parliament Street,
New Delhi- 110 001.
3. **Deputy Director (Admn.).**
DAVP, Ministry of I & B,
PTI Building, 3rd Floor,
Parliament Street,
New Delhi- 110 001.
4. **Regional Director,**
Regional Office,
DAVP, Ministry of I & B,
Nabin Nagar, Janapath,
Guwahati- 781 024.

..... Respondents.

DETAILS OF THE APPLICATION

1. Particulars of the order (s) against which this application is made:

This application is made praying for a direction upon the respondents for grant of higher revised scale of Rs. 5,500-9,000/- w.e.f. 09.08.1999, i.e. the date on which the applicant is placed in the scale of Rs. 5,000-8,000/- pursuant to O.M dated 09.08.99 and also for non-consideration of his representation dated 07.04.05.

2. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation:

The applicant further declares that this application is filed within the limitation prescribed under Section- 21 of the Administrative Tribunals Act 1985.

4. Facts of the case:

4.1 The applicant is a citizen of India and as such he is entitled to all the rights and privileges granted by the constitution of India.

4.2 That the applicant was initially selected by the Staff Selection Commission after being found suitable by the Staff Selection Commission on all India basis for direct recruitment to the Grade of Stenographer Grade- III and accordingly the applicant on his appointment on regular basis joined in the Regional Office, Directorate of Advertising and Visual Publicity (in short DAVP) on 24.02.83 in the scale of pay of Rs. 330-560/- (pre-revised) (revised pay scale 1,200-2,040/-) in the cadre of Stenographer Grade- III. The next avenue of promotion of the applicant in the hierarchy is Stenographer Grade- II.

- 4.3 That your applicant has completed more than 12 years of service and accordingly attained eligibility for grant of first financial upgradation under the Scheme of ACP, issued by the Govt. of India, vide O.M dated 09.08.1999 and accordingly vide order bearing letter No. GHT/RO/A-20012/II/GAU/89/246 dated 07.08.2000, the applicant was placed in the next higher scale of pay of Rs. 5,000-8,000/- with effect from 09.08.99, treating the said scale of pay of Rs. 5,000-8,000/- as the scale of Stenographer Grade- II, in the DAVP.

A copy of the order dated 07.08.2000 is annexed herewith for perusal of Hon'ble Tribunal as Annexure- I.

- 4.4 That it is stated that as per the promotional avenue available in DAVP, applicant is entitled to be promoted to the cadre of Stenographer Grade- II on his turn. However, in DAVP, the scale of pay of Rs. 5,000-8,000/- is allotted to the cadre of Stenographer Grade- II and accordingly on his attaining eligibility under the ACP Scheme, the applicant is given benefit of higher scale of pay of Rs. 5,000-8,000/- with effect from 09.08.99, whereas incumbents working in the cadre of Stenographer Grade- II in the DFP under the same Ministry of I & B are drawing the scale of pay of Rs. 5,500-9,000/- in terms of O.M dated 31.07.90, issued by the Govt. of India, and thereby extended the benefit of higher revised scale of pay of Rs. 1,640-2,900/- (revised Rs. 5,500-9,000/-) to the counterparts of the applicant in DEF.

- 4.5 That it is stated that recruitment in different cadres of stenographers are being made through the recruitment agency i.e. through Staff Selection Commission for the subordinate offices of the Govt. of India as well as for the Central Secretariat by holding common recruitment examination by the SSC however appointments are being made on the basis of the priority/option of the individual candidates. Moreover, Directorate of Advertising Visual Publicity is a participating office of CSS/CSSS in

which department applicant is appointed to the recommendation of the Staff Selection Commission (in short SSC). The applicant is now holding the post of Stenographer Gr.- III, which is classified as non-gazetted Group 'C' category.

- 4.6 That it is stated that normally the promotional avenues of stenographers working in the cadre of Group- D is in the cadre of Group 'C'/Personal Assistant and then to the cadre of Private Secretary/Stenographer Grade-I. Similarly, Stenographers who are recruited and designated as Stenographer Grade-III, their next avenue of promotion is Stenographer Grade- II and then to the cadre of Stenographer Grade - I. Be it stated that Stenographer Grade 'IV' is equivalent to Stenographer Grade- III, similarly Stenographer Grade 'C' is equivalent to the cadre of Stenographer Grade-II, having same scale of pay.
- 4.7 That it is stated that stenographer Grade- II of the Directorate of Field Publicity under the same Ministry of Information and Broadcasting are getting same scale of pay of Rs. 1,640-2,900/- w.e.f. 01.01.86 (revised Rs. 5,500- 9,000/-) while the applicant being stenographer Grade-III under the same Ministry but working in the subordinate office of DAVP as such his pay is liable to be fixed in the scale of pay of Rs. 5,500-9,000/- with effect from 09.08.1999 on attaining his eligibility for grant of 1st financial upgradation on completion of 12 years service, as because the scale of Rs. 5,500-9,000/- has been granted to the Stenographer Grade- II working in other subordinate offices in terms of the O.M dated 31.07.1990 as such the applicant is also entitled to be placed in the scale of pay of Rs. 5,500-9,000/-, which is the scale subsequently provided for Stenographer Grade-II, which is the scale of pay meant for next hierarchy of the applicant, as such applicant is also entitled to the higher revised scale of Rs. 5,500-9,000/- while granted 1st financial upgradation with arrear monetary benefit with effect from 09.08.99 in terms of O.M dated 09.08.99.

- 4.8 That it is stated that Govt. of India, Ministry of Finance, Deptt. Of Expenditure issued an office memorandum whereby scale of pay Rs. 1400-2300/- (pre-revised Rs. 425-700/-), which was granted following the recommendation of the 4th Central Pay Commission was subsequently further revised to Rs. 1,400- 2,600/- w.e.f. 01.01.86 by the Ministry of Finance O.M. dated 04.05.90 and thereby the stenographer Grade- II of the subordinate offices brought at par with stenographers and Assistant of Central Secretariat of the Govt. of India.
- 4.9 That it is stated that right from the year 1971, the scale of stenographers and assistants of the DAVP are comparable to the stenographers and Assistants working in the Central Secretariat.
- 4.10 That it is stated that Govt. of India, Ministry of Finance, department of Expenditure vide office memorandum No. 2/1/90-CS-4 dated 31.07.90 revised/upgraded the scale of pay of Stenographer Grade 'C' in the Central Secretarial Stenographer Service from the scale of pay of Rs. 1400-40-1600-50-2300-EB-60-2600 to Rs. 1640-60-2600-EB-75-2900. The aforesaid benefit of the office memorandum dated 31.07.90 were extended to the Stenographer Grade- II in many Central Government departments, who are working in the subordinate offices. Some of the departments have extended the benefit of higher revised scale of Rs. 1,640-2,900/- w.e.f. 01.01.86 following the direction in Court cases of the various Benches of the Central Administrative Tribunal, which were subsequently confirmed by the Hon'ble Supreme Court and some of the Central Government department have extended the said benefit to the Stenographer Grade-II working in subordinate offices following the administrative orders passed by the department itself, following the O.M dated 31.07.90. The following Central Government departments have extended the benefit of higher revised scale:

**LIST OF SUBORDINATE OFFICES WHERE REVISED SCALE
OF Rs. 1640-2900 IMPLEMENTED THROUGH COURT CASES
ARE FURNISHED BELOW:**

SL No.	Case No.	Name of the Deptt.	Whether Implemented
1.	O.A. No. 2865/91 O.A. No. 529/92 (CAT Principal Bench), decided on 4.2.1993.	CAT, New Delhi	Yes
2.	O.A. No. 152/91, CAT, Jaipur Bench, decided on 9.8.94.	Salt Commissioner	Yes
3.	O.A. No. 1130/91, CAT, Calcutta Bench, decided on 19.5.1995.	Director General of Ordnance Factory, Calcutta	Yes
4.	O.A. No. 1322/94 & O.A. No. 276/95, decided on 26.7.95 and 20.7.95.	C.B.D.T., Ernakulam	Yes
5.	O.A. No. 144A/93, CAT, New Delhi decided on 19.1.96.	CBI, New Delhi (confirmed by the SC)	Yes
6.	O.A. No. 985/94, CAT, New Delhi decided on 19.1.96.	DG, Income Tax (confirmed by the SC)	Yes
7.	O.A. No. 548/94, CAT New Delhi.	Directorate of Field Publicity (confirmed by the SC)	Yes
8.	O.A. No. 8348-50/95 (1998) SCC (L&S) 253 decided on 9.10.96.	Official Language Wing, Ministry of Law & Justice.	Yes
9.	CWP No. 4414/96 & O.A. No. 3181/96 Delhi High Court decided on 16.7.1997.	Kendriyalaya Vidyalaya Sangathan, New Delhi.	Yes
10.	CWP No. 4842/96, Delhi High Court, decided on 16.7.1997.	National Book Trust of India	Yes
11.	O.A. No. 407/97 CAT, Principal Bench, New Delhi decided on 9.1.1998.	National Achieves of India	Yes
12.	O.A. No. 527/97 CAT, Principal Bench, New Delhi decided on 28.9.1998.	Director General of Inspection, Customs & Central Excise	Yes

13.	CWP No. 381/96, Delhi High Court decided on 16.10.98.	Central Pollution Control Board	Yes
14.	O.A. No. 361/97 CAT, Jaipur decided on 18.1.2000	Central Ground Water Board	Yes
15.	O.A No. 383/96 with MA No. 811/96 CAT, Jaipur, decided on 20.4.2001.	Central Ground Water Board	Yes

LIST OF SUBORDINATE OFFICES WHERE REVISED SCALE OF Rs. 1640-2900 IMPLEMENTED BY ADMINISTRATIVE ORDER:

Sl. No.	Name of the Deptt.	Implementation Order	Pay Scales
1	Deptt. Of Space/ISRO Centres/Units/Bangalore	No. 2/13 (10)/85-I (Vol. VII) dt. 23.4.98	Rs. 425-700 Rs. 1400-2300 Rs. 1400-2600 Rs. 1640-2900
2	Deptt. Of Atomic Energy, Atomic Energy Commission Hyderabad	No. 1/27/94-SCS/407 dated 15.5.1997	Same as above
3	CSIR (All Units) New Delhi	No. 16/23/86-Adm. II Vol. VII (Pt. I) dated 18.4.1994	Rs. 425-800/- Rs. 1400-2600/- Rs. 1640-2900/-
4	ICMR, New Delhi	Same as above	Same as above
5	CGCRL Calcutta (Under CSIR)	No. A- 3(1)/GC/85-EI dated 12.6.1995	Same as above

It is relevant to mention here that the counterparts of the applicant working under the same Ministry i.e. in the Directorate of Field Publicity in the cadre of Stenographer Grade- II being aggrieved with the denial of benefit of higher revised scale of Rs. 1640-2900/- approached the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi by filing O.A. No. 548/94. However, the said O.A was contested by the Respondents Union of India, the issue involving in O.A. No. 548/94 was finally decided by the learned Tribunal along with O.A. Nos. 144-A/93, 985/93 on 19.01.96. The Hon'ble Tribunal after considering the arguments advanced by the parties was pleased to allow the aforesaid O.As with the directions to grant the benefit of higher revised scale of Rs. 1,640-2,900/- w.e.f. 01.01.1986.

The present applicant is similarly situated like the Stenographer Grade-II of the Directorate of Field Publicity so far terms and conditions of the recruitments, duties and responsibilities, nature of works are exactly same and as such entitled to the benefit of higher revised scale of Rs. 5,500-9000/- (pre-revised Rs. 1,640-2,900/-) instead of Rs. 5,000-8,000/- w.e.f. 09.08.1999 i.e. the day from which 1st financial upgradation was granted to the applicant.

Copy of the O.M dated 31.07.90 and judgment and order dated 19.01.96 are enclosed herewith and marked as Annexure- II & III respectively.

- 4.11. That it is stated that Stenographer Grade- II and Assistants were recommended pay scale of Rs. 1400-2600/- by the 4th C.P.C. The same recommendation was made by the 4th Pay Commission to the Assistance and Stenographer Grade- II (P.A) who are working in the Central Secretariate. Moreover, by a subsequent O.M dated 31.07.1990 revised scale of pay of Rs. 1640-2900 in the pre-revised scale of pay of Rs. 425-800 for duty post included in the Assistant Grade of Central Secretariate Services and Grade- C Stenographers of Central Secretariate Stenographers Service w.e.f. 01.01.86 was given. The same revised scale of pay was also made applicable to Assistant and Stenographers who are working in other organization like Ministry of External Affairs which is not participating in the Central Secretarial Services (in short CSS) and Central Stenographer Secretariate Services (in short CSSS). But where the posts are incomparable grades with same classification and pay scales and the method of recruitment through open competitive examination also extended the benefit of revised higher pay scale of Rs. 1640-2900/- w.e.f. 22.08.86. However, as a result of the extension of the benefit of O.M dated 31.07.1990 on selective basis in certain subordinate offices of the Central Government, caused of grievances to the employees of various Central Government department and as a result large number of cases were filed before the

various Benches of the learned Central Administrative Tribunal for extension of the higher revised scale in terms of O.M dated 31.07.1990.

- 4.12 That it is stated that the judgment and order dated 19.01.1996 passed in O.A. No. 548/94 in favour of the Assistant and Stenographer Grade- II who are working under the same Ministry in the Directorate of Field Publicity were accepted and implemented by the Respondents Union of India. However, the respondents Union of India preferred a Special Leave Petition before the Hon'ble Supreme Court and the same was dismissed on merits vide order dated 11.07.1996.

Copy of the judgment and order of the Hon'ble Supreme Court is annexed herewith for perusal of Hon'ble Tribunal as Annexure- IV.

- 4.13 That it is stated that the applicant was initially selected through Staff Selection Commission by competitive examination for direct recruitment on all India basis in the cadre of Grade-III Stenographer and subsequently attained eligibility for grant of 1st financial upgradation in the scale of pay of Rs. 5,500-9,000/- in view of the Govt. O.M dated 31.07.1990. It is stated that post of Stenographers and Assistants in the DAVP are comparable to the post of Stenographer and Assistant of the Central Secretariate in all respect as such the applicant is entitled to the benefit of higher revised pay scale of Rs. 5,500-9,000/- (pre-revised Rs. 1640-2900/-) w.e.f. 09.08.1999 i.e. on the day when the applicant attained eligibility for grant of 1st financial upgradation in lieu of promotion. Moreover, post of Stenographer Grade-II and Assistant of DAVP are equivalent in the rank and status and comparable to the Stenographer Grade-II and Assistant of DFP, since the applicant is similarly situated like the applicants of O.A. No. 548/94, therefore entitled to benefit of higher scale of pay contained in above mentioned O.M dated 31.07.1990, even in the case, when 1st ACP is granted to the applicant.

4.14 That your applicant submitted representation dated 07.04.2005 for extension of benefit of higher scale of pay i.e. Rs. 5,500-9,000/- as well as 6,500-10,000/- treating the applicant with other similarly situated Stenographers working in other departments. However, the applicant also raised a question whether the applicant could be termed as ex-cadre official by the Directorate in the said representation. By the letter bearing No. A-32011/1/2005-Admn.I dated 16.06.2005, it is informed to the applicant quoting the reference of Shri R. N. Das that regarding enhancement of scale of pay is under consideration and the matter regarding withdrawal of ex-cadre category would be examined separately. It is further relevant to mention here that ultimately the department has decided not to extend the benefit of Rs. 5,500-9,000/- (pre-revised Rs. 1640-2900) to the Stenographers working in DAVP in the light of the decision rendered in O.A. 548/94, by the CAT, Principal Bench, through impugned Office Memorandum bearing letter No. A-12032/1/202/Admn.I dated 16.08.2005 on the ground that the benefit is restricted only to the parties to of the aforesaid O.A. and further stated that the benefit of higher revised scale contained in O.M dated 31.07.90 is exclusively restricted to the Stenographers and Assistants of the Central Secretariate and it is further stated that in view of Ministry of Finance letter dated 30.06.05 and O.M dated 15.04.04, benefit cannot be extended to the employees of the subordinate offices and Public sectors Undertakings. In this connection it may be stated that the applicant of the O.A. 548/94 are working in the Directorate of Field Publicity i.e. also a subordinate office of the Central Government like DAVP and as such contention of the respondents is highly arbitrary, discriminatory and unfair. It is relevant to mention here that the impugned order was addressed to Shri R. N Das and similarly situated employees of DAVP, therefore, it can be presumed that the policy decision is also equally binding on the present applicant also and therefore finding no other alternative, the applicant also praying before the Hon'ble Tribunal for a direction upon the respondents to grant the scale of pay of Rs. 5,500-9,000/-

with effect from 09.08.99 i.e. on the day when the benefit of 1st ACP was granted to the applicant in the scale of Rs. 5,000-8,000/- with all consequential benefit including arrear monetary benefits and further be pleased to declare that the impugned decision communicated through O.M dated 16.08.2005 is void-ab-initio.

Copy of the representation dated 07.04.2005 and letter dated 16.02.05 are enclosed herewith for perusal of the Hon'ble Tribunal as Annexure- V & VI respectively.

- 4.15 That it is stated that the respondents Union of India after considering grievance of the petition dated 03.12.03 of Shri R.N. Das, a similarly situated employee like the applicant issued the impugned office Memorandum bearing letter No. A-12033/1/202/Admn. 1 dated 16.08.2005, whereby the claim for extension of the benefit of higher pay scale of Rs. 1640-2900/- w.e.f. 22.08.88 (corresponding revised scale of Rs. 5500-9000) w.e.f. 01.01.96 has been rejected in a most mechanical manner without application of mind on the pretext that benefit of a judgment/order of a Central Administrative Tribunal cannot be extended to the non-applicants and further stated that higher pay scale of Rs. 1640-2900 has been restricted to the Assistants/Stenos in CSS/CSSS and the same has not extended to the similar post in subordinate offices/autonomous organizations in terms of Ministry of Finance letter dated 30.06.05 and in terms of O.M dated 15.04.04. It is surprising to note that the ground on which the claim of the applicant has been rejected by the DAVP is not sustainable in the eye of law, as because Government of India being a modal employer cannot force the employees of a particular class to approach the Court of law and obtain individual order in their favour on a particular issue more so when the judgment and order passed in O.A. No. 548/1994 passed by the learned Principal Bench New Delhi and the same was accepted and implemented by the respondents Ministry, now they cannot deny the extension of the said benefit to the similarly situated

employees like the applicant. Moreover, when the respondents Union of India accepted and implemented the judgment dated 19.01.1996 passed in O.A. No. 548/1994 in favour of the employees working in the subordinate offices like DFP and other Central Government departments indicated in the preceding paragraphs as such their contention that the benefit of higher revised scales of Rs. 1,640-2,900/- (corresponding revised scale of Rs. 5,500-9000) has been restricted to the Assistant and Stenos in CSS/CSSS is false and misleading, on the one hand they have admitted the implementation of the judgment and order dated 19.01.1996 in O.A. 548/94, 144-A/93 and 985/93, therefore the statement and contention of the respondents are self contradictory. Moreover, further contention of the respondents that in view of the Ministry of Finance letter dated 30.06.2005 and 15.04.2004 the benefit of higher revised scales cannot be granted to the applicant is totally wrong as because it would be evident from a mere reading of the O.M dated 15.04.2004 that the Ministry of Finance, department of Expenditure has imposed restrictions regarding extension of benefit of higher scale contained in O.M dated 31.07.1990 exclusively to the Assistant and Stenographers of Autonomous bodies, it is categorically submitted that the applicant is working in Central Government department, therefore the O.M dated or O.M dated 15.04.2004 cannot be made applicable in the instant case of the applicant and on that ground alone the impugned order dated 16.08.2005 is liable to be declared void-ab-initio.

A copy of the impugned order dated 16.08.05 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- VII.

- 4.15 A. That your applicant beg to say that the grounds raised in the O.M No. 6 (3)- 1C/95 dated 15.04.2004 as well as in the letter dated 30.06.2005 for denial of higher revised scale of pay cannot be sustained in the eye of law in view of the fact that in the case of similarly situated employees the same has already been decided by the various Benches of the learned Tribunal which

has been upheld by the Hon'ble Supreme Court and the respondents Union of India has accepted and implemented those decisions of the learned Tribunal in the case of the similarly situated employees as indicated in the preceeding paragraphs as such respondents are barred by law of estoppel to raise such objection in the case of the present applicant and on that ground alone the impugned office memorandum dated 15.04.2004 as well as the decision of the respondents communicated through paragraph 2 of the letter dated 30.06.2005 are liable to be set aside and quashed. It is a settled position of law that once a benefit of pay scale extended to a particular class of employees then the said benefit cannot be denied to the similarly situated employees belonging to the same category only on the ground that they have not approached the Court of law.

In the circumstances stated above the impugned O.M dated 15.04.2004 and impugned letter dated 30.06.2005 be set aside and quashed.

Copy of the O.M dated 15.04.2004 and impugned letter dated 30.06.2005 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure - VIII and IX respectively.

- 4.16 That your applicant being similarly situated like those Stenographers Grade-II, who were applicant in O.A. No. 548/94 of the Directorate of Field Publicity, as such denial of the benefit of higher revised scale of pay contained in O.M dated 31.07.1990 is highly discriminatory, arbitrary and such action is in violation of Article 14 of the Constitution of India and on that ground alone the impugned office memorandum dated 16.08.2005 is liable to be declared void-ab-initio.
- 4.17 That your applicant submitted representations but the same have been rejected in a most arbitrary manner and thereby denied the appropriate scale of pay of Rs. 5500-9000/- (pre-revised Rs. 1640-2900 -) w.e.f. 09.08.1999 and as such applicant is incurring financial loss each and every month due to non-fixation of his pay in the appropriate scale of pay and

as such it is a continuous wrong giving recurring cause of action due to negligence and inaction of the respondents Union of India.

In the circumstances stated above applicant has no other alternative remedy but to approach this Hon'ble Tribunal for protection of his valuable and legal right and be pleased to pass appropriate order directing the respondents to grant and fix the pay in the scale of Rs. 5500-9000/- w.e.f. 09.08.99 with all consequential benefit and arrears monetary benefits.

4.18 That this application is made bonafide and for the cause of justice.

5. Grounds for relief (s) with legal provisions:

5.1 For that, the applicant being similarly circumstanced like the Stenographer Grade-II of Directorate of Field Publicity who were applicants in O.A. No. 548/1994 for extension of the benefit of higher revised scale Rs. 5,500-9,000 (pre-revised Rs. 1,640-2900/-) w.e.f. 09.08.1999, date of grant of first ACP to the applicant) treating 5,500-9,000 is the scale of Stenographer Grade- II employees in DAVP instead of 5000-8000, in the light of the judgment and order dated 19.01.1996 passed in favour of those employees of the same Ministry which was further accepted and implemented by the respondents Union of India in the directorate of field publicity.

5.2 For that, the applicant is similarly circumstanced like those Stenographers Grade- II of the Directorate of Field Publicity and was vested with similar duties, responsibilities and nature of work, moreover, recruitment conditions, rank, status and scale of pay of the Stenographer Grade-II of the Directorate of Advertising and Visual Publicity are exactly similarly with that of Directorate of Field Publicity and both are Central Government department under the Ministry of Information and Broadcasting.

- 5.3 For that, applicant was selected from open market through competitive examination and the Grade, rank, duties and responsibilities and scale of pay of Stenographer Grade- II of the Directorate of Advertising and Visual Publicity are equivalent to the post included in the Assistant Grade of Central Secretariat service and Grade 'C' Stenographer of the Central Secretariat Stenographer Services and method of recruitment of both the categories are through open competition and posts are comparable to each other.
- 5.4 For that, the applicant fulfils all the criteria laid down in the O.M dated 31.07.1990 issued by the DOPT, Govt. of India and as such entitled to the benefit of higher revised scale contained in the aforesaid O.M dated 31.07.1990 at least from the date when first financial upgradation granted to the applicant in terms of OM dated 9.8.1999 with all consequential benefits.
- 5.5 For that, denial of benefit of higher scale of pay to the applicant when the same was extended to the similarly situated employees of the Directorate of Filed publicity and also in other subordinate offices of the Central Government department either following the judgment and order of the learned Central Administrative Tribunal or by virtue of the administrative orders issued by the administrative Ministries of various Central Government department as such non-extension of the benefit to the applicant is highly discriminatory and the same is in violation of principles laid down in Article 14 of the Constitution of India.
- 5.6 For that, the judgment and order passed in favour of similarly situated employees in O.A. No. 985/1993 was carried on appeal by filing a Special Leave Petition before the Hon'ble Supreme Court but the same was dismissed by the Hon'ble Supreme Court by order dated 11.07.1996 on merit, and thereby confirmed the judgment and order passed by the

learned Central Administrative Tribunal in O.A. No. 985/1993 which is similar to the judgment passed by the CAT in O.A No. 548 of 1994.

- 5.7 For that, the grounds assigned in the impugned order dated 16th August, 2005, while rejecting the claim of the similarly situated employee namely Sri R.N. Das, for grant of higher scale of pay of Rs. 1,640-2,900/- (revised Rs. 5,500-9,000/-) is not sustainable in the eye of law inasmuch as Union of India cannot compel each and every employee to approach the Court of law for obtaining a particular relief when the same was decided in favour of the similarly situated employees of the same Ministry by a competent Court of law by it's judgment and order dated 19.01.1996 passed in O.A. No. 548/94 under the same Ministry and more so when the same judgment was accepted and implemented by the respondent Union of India in favour of the employees of the subordinate offices of the Central Government department as such contention raised in the impugned order dated 16.08.05 is not sustainable in the eye of law.
- 5.8 For that the contention of the respondents that the benefit of a judgment rendered by a competent Court of law is restricted only to the applicants of those cases as per extend policy of the Government is highly arbitrary, unfair on the part of a model employer like Union of India.
- 5.9 For that, the contention of the respondents raised in the O.M dated 16.08.05 that the benefit of higher scale has been restricted to the Assistants and Stenos in CSS/CSSS is self contradictory and said statement is false and misleading inasmuch as the benefit has been extended to the Stenographer Grade- II working in the Directorate of Filed Publicity who are similarly situated like the present applicant.
- 5.10 For that, denial of allotment of appropriate scale of pay and re-fixation of pay to the similarly situated employees working under the same Ministry in the same rank and status is a continuous wrong, causing irreparable

financial loss each and every month and on that score alone the impugned order dated 16.08.2005 is liable to be set aside and quashed.

- 5.11 For that the applicant being similarly situated like those Stenographers of Directorate of Field Publicity and working in the Central Government department as such denial of the benefit of higher scale of pay on the ground assigned in the letter dated 30.06.2005 and 15.04.2004 issued by the Govt. of India, Ministry of Finance is not sustainable in the eye of law as contended by the respondents in O.M dated 16.08.2005.
- 5.12 For that the benefit of first ACP has been granted to the applicant on the basis of the higher scale available in the post of Stenographer Grade II in DAVP i.e. scale of Rs. 5,000-8,000, whereas as per judgment and order dated 19.01.1996, the said scale of Rs. 5,000-8,000 ought to have been revised to the next higher scale of Rs. 5,500-9,000 and as such applicant is entitled to the scale of Rs. 5,500-9,000 instead of the scale of Rs. 5,000-8,000 from the date of attaining eligibility for first ACP in terms of O.M dated 09.08.1999.
- 5.13. For that the contention of the respondents raised in O.M dated 15.04.2004 as well as in the impugned letter dated 30.06.05 after having been implemented the decision of the learned Tribunal granting the revised higher pay scales in terms of O.M dated 30.07.1990 to the similarly situated employees of the Ministry of Information and Broadcasting as such respondents are barred by law of estoppel to raise such ground denying the benefit of higher revised pay scales to the applicant.
- 5.14 For that grounds raised in O.M dated 15.04.2004 as well as in the impugned letter dated 30.06.05 are highly discriminatory and those impugned letters have been issued in violation of Article 14 of the Constitution of India and on the score alone the impugned O.M dated

15.04.2004 as well as in the impugned letter dated 30.06.05 are liable to be set aside and quashed.

6. Details of remedies exhausted.

That the applicant declares that he has exhausted all the remedies available to and there is no other alternative remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

- 8.1 That the Hon'ble Tribunal be pleased to declare that the employees working in the cadre of Stenographer Grade- II in DAVP are entitled to benefit of higher revised scale of Rs. 5,500-9,000/- instead of Rs. 5,000-8,000/- in the light of the judgment and order 19.1.1996 passed by the CAT Principal Bench, New Delhi in O.A No. 548 of 1994.
- 8.2 That the Hon'ble Tribunal be pleased to direct the respondents to grant and re-fix the benefit of higher revised scale of pay of Rs. 5,500-9,000/- with effect from 09.08.1999 to the applicant with all consequential benefits

including arrear monetary benefit by modifying the office order issued under letter No. GHT/RO/A-20012/11/GAU/89/246 dated 07.08.2000.

8.2 A. That the Hon'ble Tribunal be pleased to set aside and quash the impugned O.M dated 15.04.2004 as well as in the impugned letter dated 30.06.05 respectively (Annexure- VIII & IX).

8.3 Costs of the application.

8.4 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

9.1 That the Hon'ble Tribunal be pleased to observe that pendency of the application shall not be bar to grant relief to the applicant as prayed for.

10.

11. Particulars of the L.P.O:

- i) L.P.O No. :
- ii) Date of issue :
- iii) Issued from :
- iv) Payable at :

12. List of enclosures:

As given in the index.

VERIFICATION

I, Sri Dipankar Chakraborty, Son of late B. Chakraborty, aged about 43 years, working as Stenographer Grade - III, in the office of Regional Office, DAVP, Guwahati, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the _____ day of December 2005.

Dipankar Chakraborty

- 21 -
- 22 -

AEP order of D. Chakraborty, Steno-III

Annexure-I

3A

GOVERNMENT OF INDIA
DIRECTORATE OF ADVERTISING & VISUAL PUBLICITY
MINISTRY OF INFORMATION & BROADCASTING
REGIONAL OFFICE :: GUWAHATI

No. GHT/RO/A-20012/11/GAUR9/246

07.03.2000

In cancellation of earlier order of even No. dt. 3.8.2000 and in continuation of this Directorate's Order No. A-2011/25/99-Admin-I dt. 12.4.2000.
The Pay of Shri D. Chakraborty, Steno, Regional Office, DAVP, Guwahati is fixed in the upgradation to next higher scale of pay of Rs. 5000-150-8000 as per Ministry order No. 35034/1/97 Estt(D) dt. 9.8.99

Pay drawn as Steno-III in the scale of Rs.	Date from which pay in col. 1 is being drawn	Date of upgradation Rs. 5000 - 150-8000/- (with notional increments)	pay fixed in the scale of	Dt. of next increment	pay raised from - to
4000-100-6000					
Rs. 5100/-	1.2.99	9.8.99	Rs. 5300/-	1.8.2000	Rs. 5300 - Rs. 5450

The above pay is subject to post audit and in the light of audit observation of any over payment is made it will be recovered in lumpsum.

(S.K. Majhiya)
Research Officer

Copy to:

1. Shri D. Chakraborty, Steno, RO, DAVP, Guwahati
2. DD(Admin), DAVP, New Delhi.
3. A.O. DAVP, Guwahati.
4. PAO, Dordarshan, Guwahati
- ✓ 5. Service Book.

(S.S. Talukdar)
Asstt. Editor

Attested
Sub
Advocate

Annexure- II

(Typed copy)

(Extract)

No. 2/1/90-CS-IV

Government of India

Ministry of Personnel, Public Grievances and Pension
Department of Personnel & Training

New Delhi, dated the 31st July, 1990

Subject: Revision of Scale of Pay of Assistant Grade of Central Secretarial Service and Grade 'C' Stenographers of Central Secretarial Stenographer Service.

1. The undersigned is directed to say that the question regarding revision of scale of pay for the post of Assistants in the Central Secretarial etc., has been under consideration of the Government in terms of order dated 23rd May, 1989 in O.A. No. 1530/87 by the Central Administrative Tribunal, Principal Bench, New Delhi for some time past. The President is now pleased to prescribe the revised scale of Rs. 1640-60-2600-EB-75-2900 for the pre-revised scale of Rs. 425-15-560-20-700-EB-25-800 for duly posts included in the Assistant Grade of Central Secretarial Service and Grade 'C' Stenographers of Central Secretarial Stenographers Service with effect from 1.1.1986. The same revised pay scale will also be applicable to Assistants and Stenographers in other Organisations like Ministry of External Affairs which are not participating in the Central Secretarial Service and Central Secretarial Stenographers Service but where the post are in comparable grades with same classification and pay scale and the method of recruitment through Open Competitive Examination is also the same.

Shri. Advocate

2. Pay of the Assistants and Grade 'C' Stenographers in position as on 1.1.1986, shall be fixed in terms of Central Civil Service (Revised Pay) Rules 1986. The employees concerned shall be given option to opt for the revised scale of pay from 1.1.1986 or subsequent date in terms of Rule 5 ibid, read with Ministry of Finance O.M No. 7 (52)-E.III/86 dated 22.12.1986 & 27.5.1988 in the form appended to Second Schedule of the rule ibid. This option should be exercised within three months of the date of issue of the O.M. This option once exercised shall be final.

3. Formal amendment to CSS (RP) Rules, 1986 will be issued in due course.

4. This issues with concurrence of Ministry of Finance (Department of Expenditure) vide their U.O. No. 7(48)/IC/89 dt. 30.7.90.

Sd/- Illegible

Under Secretary to the Govt. of India.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

NEW DELHI

Annexure III

Original Application No. 144-A of 1993

THIS THE 19th DAY OF January, 1996.

HON'BLE MR N.V. KRISHNAN, ACTING CHAIRMAN
HON'BLE MR L.C. VERMA, JUDICIAL MEMBER

V.R. Panchal, S/o Sri Rati Lal, R/o F-49, Road No. 4,
Andrews Ganj, New Delhi, working as Crime Assistant
in the office of Central Bureau of Investigation, Delhi
Region, Block No. 4, C.G.O. Complex, Lodi Road,
New Delhi.

2. B.S. Sethi, Crime Assistant/CBI, as on 1.1.1986,
(now JA/CBI)

3. Pritam Lal, Crime Assistant/CBI as on 1.1.1986
(now OS/CBI).

4. M.C. Das, Crime Assistant/CBI as on 1.1.1986
(now OS/CBI)

5. G.V.S. Rao, Crime Assistant/CBI, as on 1.1.1986
(now OS/CBI).

6. V.R. Prasad Rao, Crime Assistant/CEI as on 1.1.1986
(now OS/CBI).

7. Joy Joseph, Crime Assistant/CBI as on 1.1.1986
(now OS/CBI).

8. D.G.K. Sastry, Crime Assistant/CBI as on 1.1.1986
(now OS/CBI)-

9. B.D. Goel, Crime Assistant/CBI as on 1.1.1986
(now OS/CBI).

Shri
Advocate

88 25- 41
11. B.B. Goel, Crime Assistant/CBI.

12. M.C. Kholia, Crime Assistant/CBI.

13. Sobha Chand, Crime Assistant/CBI.

14. P.V. Krishnamurthy, Crime Assistant/CBI.

15. A.N. Murthy, Crime Assistant/CBI.

16. L.R. Charba, Crime Assistant/CBI.

17. Naresh Kumar, Crime Assistant/CBI.

18. G.K. Garg, Crime Assistant/CBI.

19. H.S. Chakrevarthi, Crime Assistant/CBI.

20. R.N. Prashad, Crime Assistant/CBI.

21. Rajinder Singh, Crime Assistant/CBI.

22. R.N. Bhardwaj, Crime Assistant/CBI.

23. Prem Prakash, Crime Assistant/CBI.

24. N.K. Tiwari, Crime Assistant/CBI.

25. G.K. Swamy, Crime Assistant/CBI.

26. K.D. Singal, P.A. (Steno Gr. 'C') as on 1.1.1986
(now Sr. P.A.).

27. Smt. Krishna Anand, PA (Steno Gr. 'C') as on 1.1.1986
(now Sr. P.A.).

28. Smt. Kanta Gaba, PA (Steno Gr. 'C') as on 1.1.1986
(now Sr. P.A.).

29. Prabha B. Singh P.A. (Steno Gr. 'C').

30. U.P. Elatia, P.A. (Steno Gr. 'C') as on 1.1.1986

32. Smt. Parvesh Chawla PA (Steno Gr. 'C') as on
1.1.1986 (now Sr. P.A.).

33. Sri Ashok Sahaney, PA/CBI.

34. N. N. Datta, P.A./CBI.

35. R.N. Lutha PA/CBI.

36. Smt. Jayshree, P.A./CBI.

37. S.P. Narula, P.A./CBI.

38. M.L. Khanna, PA/CBI.

39. S.R. Srivastava, PA/CBI.

Applicants

By Advocate : Sri V.S. R. Krishna

Versus

Union of India through its Secretary, Department of
Personnel & Training, New Delhi.

2. Union of India through its Secretary, Ministry of
Finance (Department of Expenditure), New Delhi.

3. Central Bureau of Investigation, Block No. 3 CGO
Complex, New Delhi.

Respondents

By Advocate : Sri M.M. Sudan

With

Original Application No. 985 of 1993

Goverdhan Lal, S/o Late Sri Permanand, R/o SEC V/1558,
R.K. Puram, New Delhi.

2. Hari Lal, S/o Sri Bannu Lal, R/o E-574, West.

- 20 27 23
3. Bajjeet Singh, S/o Sri Ramji Lal, R/o 548, Chirag, Delhi.
 4. Lakshman Dass, S/o Late Sri Behari Lal, R/o 510, Rishi Nagar, Shakur Basti, Delhi.
 5. Charan Singh, S/o Sri Prem Singh, R/o 328 Munirka, New Delhi.
 6. C.S. Negi, S/o Late Sri H.S. Negi, R/o S-IV, E.E. Road, New Delhi.
 7. R.K. Chopra, S/o Sri Hans Raj Chopra, R/o 84, East/ Azad Nagar, New Delhi.
 8. D.R. Khullar, S/o Late Sri Lal Chand Khullar, R/o 60/43, Kalibari Marg, DIZ Area, New Delhi.
 9. M.N. Chopra, S/o Late Sri S.D. Chopra, 94, Moti Bagh, TYPE III, New Delhi.
 10. Sampat Sahni S/o Sri M.L. Sahni, R/o 165-A Mayapuri Vihar, Phase II, Pocket-C, New Delhi.
 11. P.G. Kirar, S/o Giri Raj Parshad, R/o LF-61-A Muriya Enclave, Pitam pura, Delhi.
 12. Miss Sarla Sachdeva, D/o Sri Kanaya Lal Sachdeva, R/OH-117, D.D.A. Flats, Naraina, New Delhi.
 13. R.K. Aroga, S/o Lt. Sri G.M. Arora, R/o 23 Indra Park Palam Road, New Delhi.
 14. R.M. Sharma, S/o Lt. Sri Ram Dhari Sharma, R/o 40-F Aram Bagh, Type-B, New Delhi.
 15. S.R. Ghai, S/o Late Sri B.R. Ghai, R/o Sec. 3/928 R.K. Puram, New Delhi.

28-
17. Radhey Shyam, S/o Late Sri Barwari Lal, 250,

I.T. Colony, Unit, Pitam Pura, Delhi.

18. Smt. Urmil Bhatia, W/o Sri Gulshan Bhatia, R/o
C-1 G.2 Dislshad Garden, Delhi.

19. Sri Bhanshyam, S/o Lt. Sri Rama Ram, R/o Vill &
Post Karala, Delhi.

20. Ishwar Singh, S/p Lt. Sri Raja Ram, R/o Vill.
Balanr, P.O. Bahadurgarh, Dist. Rohtak (Haryana).

21. Surinder Singh, S/o Sri J.B. Singh, R/o G-39
Nanakpura, New Delhi.

22. Smt. Neelam Raichand, W/o Sri Arun Kumar Raichand,
R/o 9, Mousam Vihar, New Delhi.

23. Rajinder Kumar Arora, S/o late Sri O.P. Arora,
R/o H.No. 494, Circular Road, Shahadara, Delhi.

24. Kasturi Lal, S/o Lt. Sh. Banshi Ram, R/o 4161/65
Gali Shahtara, Ajmeri Gate, Delhi.

Applicants

By Advocate : Sri M.L. Ohri

Versus

Union of India through the Secretary, Ministry of
Finance, Dept. of Revenue, North Block, New Delhi.

2. The Secretary, Ministry of Personnel, Public
Grievances and Pensions, Dept. of Personnel &
Training, New Delhi.

3. The Chairman, Central Board of Direct Taxes,
Ministry of Finance, Department of Revenue, North
Block, New Delhi.

Respondents

By Advocate : U.P. Uppal

29 - 45
Original Application No. 548 of 1994

Brahm Dass, Directorate of Field Publicity, Ministry
of Information & Broadcasting, East Block 4, Level 3,
R.K. Puram, New Delhi.

2. H.K. Mahto, Directorate of Field Publicity,
Ministry of I & B, R.K. Puram New Delhi.

3. Sukhdev Raj Sharma, Directorate of Field Publicity,
Ministry of I & B, R.K. Puram, New Delhi.

4. J.K. Garg, Directorate of Field Publicity, Ministry
of I & B, R.K. Puram, New Delhi.

5. V.S. Negi, Directorate of Field Publicity,
Ministry of I & B, R.K. Puram, New Delhi.

6. Mrs. Harbans Ahuja, Directorate of Field Publicity,
Ministry of I & B, R.K. Puram, New Delhi.

7. Mrs. Rashmi Marwaha, Directorate of Field
Publicity, Ministry of I & B, R.K. Puram, New Delhi.

8. N.S. Srivastava, Regional Office, Directorate of
Field Publicity, Ministry of I & B, Vidhan Sabha Marg,
Lucknow

9. Vishan Das, Regional Office, Directorate of Field
Publicity, Ministry of I & B, Chattranjan Marg,
Jaipur.

10. Mrs. Shricevi Arun Morawar, Regional Officer
Directorate of Field Publicity, Ministry of I & B,
Vidya Vihar, Pune.

11. K.K. Sharma, Regional Office, Directorate of Field
Publicity, Ministry of I & B, Chattranjan Marg,
Jaipur.

-30- -7-

Publicity, Ministry of I & B, Sector 34-A, Chandigarh.

12. Desh Raj, Directorate of Field Publicity,
Ministry of I & B, R.K. Puram, New Delhi.

13. Desh Raj, Regional Office Dte. of Field Publicity,
Assam Region, Guwahati.

14. V. Padmandabhan, Regional Office, Dte. of Field
Publicity, Ministry of I & B, Tamil Nadu Region,
Madras.

Applicants

By Advocate : Sri V.S. R. Krishna

Versus

Union of India through the Secretary, Ministry of
I & B, Shastri Bhawan, New Delhi.

2. The Secretary, Department of Personnel &
Training, Ministry of Personnel & Public Grievances
& Pensions, New Delhi.

3. The Secretary, Ministry of Finance, North
Block, New Delhi.

4. The Director of Field Publicity, East Block 4
Level 3, R.K. Puram, New Delhi.

Respondents

By Advocate : Sri M.M. Susan

ORDER

D.C. VERMA, MEMBER (J)

In the three O.A.s, the applicants are
Assistants and Stenographers.

...parity in the pay-scale given to their counterparts...

in the Central Secretariat. As the points involved in the 3 O.A.s are common, it is being disposed of by a single order.

2. In O.A. No. 144-A/93, 39 applicants are working as 'Crime Assistants And Stenographers Grade 'C'

(P.A.) in the department of Central Bureau of Investigation (in short C.B.I.) attached office of the Ministry of Personnel & Public Grievances & Pensions, Govt. of India.

3. In O.A. No. 985/93, 24 applicants are Assistants in the office of Director General of Income Tax (INV), North, New Delhi which is attached office of Central Board of Direct Taxes, Ministry of Finance, Department of Revenue.

4. In O.A. No. 548/94, 14 applicants are working as Stenographers Grade-II and Assistants in the Directorate of Field Publicity (in short DFP), Ministry of Information & Broadcasting.

5. All the applicants who are working as except Steno Gr.II of the O.A. No.546/94 Assistants or Stenographers Grade-II/were recommended pay-scale of Rs. 1400-2600/- by the 4th Pay Commission (in short P.C.). The same recommendation was made by the 4th P.C. to the Assistants and Stenographers Grade-II (P.A.) who are working in the Central Secretariat. However, by a subsequent O.M. No. 2/1/90 CS.4 dated 31.7.90 revised scale of pay of Rs. 1640-2900 in the pre-revised scale of

Stenographers

Stenographers of Central Secretariat Services

to revise the pay scales was also made applicable to Assistants and Stenographers who are working in other organisation like Ministry of External Affairs which were not participating in the Central Secretariat Services (in short CSS) and Central Secretariat Stenographers

Services (in short CSSS) but where the posts were in comparable grades with same classification and pay-scales and the method of recruitment through open competitive examination was the same. This is the Govt. cause of grievance to employees of various Central departments. The filed As in different Benches of the Tribunal.

6. Before discussing the facts of each case, it would be better to transverse the case law on the point.

In the case of Randhir Singh Vs. Union of India & others (AIR 1982 SC, 877), the apex court has held as below :

"It is true that equation of posts and equation of pay are matters primarily for Executive Government and expert bodies like the Pay Commission and not for courts, but where all things are equal that is, where all relevant considerations are the same, persons holding identical posts may not be treated differentially in the matter of their pay merely because they belong to different departments. Of course, if officers of the same rank perform dissimilar functions and the powers, duties and responsibilities of the posts held by them vary, such officers may not be heard to complain of dissimilar pay merely because the posts are of the same rank and the nomenclature is the same."

"It is well-known that there can be and there are different grades in a service, with varying qualifications for entry into a particular grade, the higher grade often

either academic qualifications or experience based on length of service, reasonably sustain the classification of the officers into two grades with different scales of pay. The principle of equal pay for equal work would be an abstract doctrine not attracting Art. 14 if sought to be applied to them AIR 1962 SC 1139, "Distinguished."

"It is true that the principle of 'equal pay for equal work' is not expressly declared by our Constitution to be a fundamental right. But it certainly is a Constitutional goal."

"Constructing Articles 14 and 16 in the light of the preamble and Article 39(d), it is clear that the principle 'Equal pay for Equal work' is deducible from those Articles and may be properly applied to cases for unequal scales of pay based on no classification or irrational classification though those drawing the different scales of pay do identical work under the same employer."

The principle as laid down in *Ranbhai Singh's case* (supra) has been reiterated in the case of *Mewa Ram Kanojia Vs. All India Institute of Medical Sciences and others* (A.F.J. 1989 (1) page 654) in the following words :

"The doctrine of 'Equal Pay for equal work' is not expressly declared a fundamental right under the Constitution. But Article 39 (d) read with Articles 14 and 16 of the Constitution declares the constitutional goal enjoining the State not to deny any person equality before law in matters relating to employment including the scales of pay. Article 39(d) read with Articles 14 and 16 of the Constitution enjoins the State that where all things are equal, persons holding identical posts, performing identical and similar duties under the same employer should not be treated differently in the matter of their pay. The doctrine of 'Equal pay for equal work' is not abstract one, it is open to the State to prescribe different scales of pay for different post having regard to educational qualifications duties and responsibilities of the post. The principle of 'Equal pay for equal work' is applicable when employees holding the same rank perform similar functions and discharge similar duties and responsibilities are treated differently. The application of the doctrine would arise where employees are equal in every respect but they are

-34-

50

7. In view of the above, the principle of "Equal pay for equal work" is applicable when employees holding the same rank perform similar functions and discharge similar duties and responsibilities are treated differently in the matter relating to the scale of pay. While dealing with the parity of the pay-scale in the case of State of U.P. & others Vs. J.P. Chaurasia & others (1989 SC (LBS) 71), the apex court relied on the earlier decision including Randhir Singh's case (supra) and the case of Bagwandas Vs. State of Haryana (1987 (4) SCC 634) and observed as below :

"Primarily it requires among others, evaluation of duties and responsibilities of the respective posts. More often functions of two posts may appear to be the same or similar, but there may be difference in degrees in the performance. The quantity of work may be the same, but quality may be different that cannot be determined by relying upon averments in affidavits of interested parties. The equation of posts or equation of pay must be left to the Executive Government. It must be determined by expert bodies like Pay Commission. They would be the best judge to evaluate the nature of duties and responsibilities of posts. If there is any such determination by a Commission or Committee, the court should normally accept it. The Court should not try to tinker with such equivalence unless it is shown that it was made with extraneous consideration."

8. In view of the above, the Court should normally accept the decision taken on the basis of recommendations of the P.C., which is an expert body to determine pay-scales. However, in case it is found that for extraneous consideration, by a subsequent State action or in action.

may sometime feel it necessary, for the purpose of providing justice, to interfere with the orders issued by the executive. Some such situations, amongst others, are as below, where,

(i) the pay commission omitted to consider the pay-scale of some posts of any particular service, or

(ii) the Pay-commission recommended certain scales based on no classification or irrational classification, or

(iii) after recommendation of the Pay-commission is accepted by the Govt., there is unjust treatment by subsequent arbitrary State action/or in action. In other words the subsequent State action/in action results in favourable treatment to some and unfair treatment to others.

9. In the case of all the above three situations, courts interference is absolutely necessary to undo the in-justice. Aggrieved employees have a right and the courts have jurisdiction to remedy the unjust treatment metted by arbitrary State action or in action.

10. In view of the principle of law derived as above, facts of each case has to be examined separately to find whether the applicants of the three O.A.s are entitled to have their pay-scales revised on the basis of the O.M. of the Govt. of India dated 31.7.90.

11. O.A. No. 144-A/93

in the department of C.B.I. which is an attached office of Ministry of Personnel, Public Grievances & Pensions, Govt. of India. It is stated in the O.A. and not denied in the Counter reply that prior to 24.11.1967, all the ministerial posts in C.B.I. (Head Office) were manned by Personnel belonging to CSS, CSSS and CSCS services. It is also not denied that for the first time, the Ministry of Home Affairs vide its letter dated 24.11.1967 redesignated post of Assistant to Crime Assistant and Stenographer as Personal Assistant in the department of C.B.I. with a specific mention that "the redesignated posts would carry the same scale of pay and allowances as at present and there would also be no change in their classification". The result being that the Assistants and P.A.s in the department of C.B.I. stand automatically excluded from the purview of the CSS, CSSS and CSCS cadres of the Ministry of Home Affairs.

12. In para 4.8 of the O.A., it is clearly stated that the "equality and nature of work, functions, duties and responsibilities of the Section Officers vis-a-vis Crime Assistants, Grade 'C' Stenographers vis-a-vis Personal Assistants of C.B.I. are identical and similar in all respects". This fact is not denied by the respondents in their reply. As regards the nature of work, functions, duties and responsibilities of the Crime Assistants and Grade 'C' Stenogra-

- 37 -

Assistants and Grade 'C' Stenographers of the Civil Secretariat, we are of the view, are identical and similar in all respects. The judgment given by the Tribunal in J.A. No. 760/88 in the case of Puran Chand & others Vs. Union of India & others, the following paragraph so far it relates to work and duties of the Assistants in the CSS and Crime Assistants of the C.B.I. are concerned, is very relevant and so extracted below:

"The Ministry of Finance have not agreed with the recommendations of the Department of Personnel without explaining as to show the work done by the Crime Assistants in the C.B.I. on their promotion as Office Superintendent is of lower category, or responsibility. From the noting in the file of Ministry of Personnel, it is quite clear that the Ministry of Personnel have reached the conclusion that there is a parity between the duties and responsibilities of the applicants with these of the Assistants and Section Officers in the CSS and as such they should be entitled to "equal pay for equal work". They should be entitled to the same facilities. The Supreme Court has already held that "equal pay should be paid for equal work".

13. Thus, from the documents on record, it is fully established that there is parity between the duties and responsibilities of the applicants in U.A. No. 144-A/93 with those of Assistants and Stenographers Grade 'C' in the CSS and CSSS.

14. As regards the pay-scales prior to 4th P.C., the scales of Crime Assistants of the C.B.I. and the Assistants of CSS cadres were Rs. 425-800/- and those of Personal Assistants of the C.B.I. and Stenographers Grade 'C' of CSSS cadres were also Rs. 425-800/-. The 4th P.C.

to all the above category i.e. Crime Assistants.

and the Personal Assistants of the department of

C.B.I. and Assistants and Stenographers Grade 'C'

(c) of the CSS and CSSS and this recommendations of

the Pay-scales was accepted by the Govt. of the

15. The recommendations of the 4th P.C.

has been quoted in para 4.14 of the O.A. The

relevant portion of the 4th P.C. as quoted in the

O.A. are given below :

"6.41. The scale of Rs. 425-800/- covers posts of Assistant and Stenographer in different ministries/departments, auditor under C&AG, etc. The recruitment is either through competitive examination or by promotion from the scale of Rs. 330-560/-

6.42. There are three other scales which are segments of the scale of Rs. 425-800/- and these are Rs. 425-700/-, Rs. 440-750/- (at (c)) and Rs. 440-750/- (at (e)). The categories of posts covered by the scale of Rs. 425-750/- are engineering assistant in coordination and all India radio, selection grade, inspector of telegraph and assistant superintendent (telegraph and telephone) in P&T and stock verifier in railways. The scale of Rs. 440-750/- at (c) and the scale of Rs. 440-750/- at (e) are for trained graduate teachers, the scale of Rs. 440-750/- at (e) having been introduced subsequent to the report of the Third Pay Commission, appointment to all these posts is partly by promotion from the scales of Rs. 330-560/- and Rs. 425-640/- and partly by direct recruitment.

8.43. The scale of Rs. 470-750/- covers categories of posts like scientific assistant in departments of atomic energy and space, tradesman in the department of space, section controller in the railways, assistant foreman in the department of energy and grade IV officers of the Central Information Service (CIS). Appointment to these categories of posts is mostly by promotion from the level of Rs. 330-560/- and Rs. 425-700/-. There is also direct recruitment for certain categories of posts like reporter in All India Radio, Scientific Assistant in department of Space and for grade IV of CIS.

5

fact that promotions to these are made from more or less similar levels, we recommend that all categories of posts presently covered by the scales of (a) Rs. 425-800/-; (b) Rs. 425-750/-; (c) Rs. 440-750/-; (d) Rs. 470-750/- and (e) Rs. 440-750/- may be grouped together and given the scale of Rs. 1400-40-1600-50-2300-EB-60-2600/-. In respect of the categories of posts in the scale of Rs. 470-750/- where graduates in science are directly recruited, we recommend that a suitable higher start may be given in the scale of Rs. 1400-40-1600-50-2300-EB-60-2600/-.

16. Thus, it is clear that after considering various factors to attract persons of required qualifications and calibre and with a view that the salary structure should be coherent and should adequately reflect the substantial differences in the nature and responsibilities of the various posts and to avoid frustration in the employees on comparing his lot with his compeers and to minimise the number of pay-scales, the pay-commission made the above recommendations on the basis of duties and responsibilities of various posts. The concept of "Equal pay for equal work" as principle for determining the salary of the Government employees was also taken note of. The 4th P.C. observed in para 7.12 that "in the absence of any distinguishing features, employees of the Central Government in different branches should be paid equally, if their work was adjudged to be of equal value."

17. The learned counsel for the respondents has contested the claim of the applicants on the ground that each department had its own methods of recruitment and same/equal pay-scales cannot be

-18- 40

is merely on the ground that the applicants did not satisfy the conditions laid down in DP&T J.M. dated 31.7.90. In other words, his contention is that the nature of work performed by the Assistants/Stenographers Grade 'C' in the Ministry of the Govt. of India and duties/functions of the

Petitioners working in the C.B.I. are quite different and the posts with different qualifications have different methods of recruitment and source of entry and as such there cannot be any parity to justify the grant of the revised higher pay-scales to the petitioners.

18. It has been already discussed above and found established that so far the work, duties and responsibilities of the applicants as Crime Assistants and P.A.s are concerned, they are equal to that of their counterparts working in the Civil Secretariat in the cadres of CSS and CSSS. It has also been found that even the department of Personnel had found parity between the duties and responsibilities of the applicants working as Crime Assistant with that of Assistants of CSS. The matter was examined by 4th P.C. and 4th P.C. also recommended the same scales to both the categories of employees. It is the subsequent action i.e.

issue of O.M. dated 31.7.90, disparity has been created between the employees of CSS and the applicants of this case. xxxxxxxx. Even in O.M. dated 31.7.90, it is mentioned that "the same revised pay-scale will also be applicable to Assistants and Stenographers in other organisation

and the Central Secretariat Stenographers Services but where the posts are in comparable grades with same classification and pay-scales and the method of recruitment through Open Competitive Examination is also the same." This part of the O.M. has been examined by the various Benches of the Tribunal.

Assistants & Stenographers Grade 'C' working in the Department of Central Administrative Tribunal, Border Security Force, Indo Tibetan Border Police, Central Industrial Security Force and Bureau of Police & Research Development were parity with Assistants of CSS and Steno Gr'C' of CSSS, granted by the Tribunal. It is also worthwhile mentioning that there was no provision for direct recruitment to the post concerned in Border Security Force and to the post of Assistants in Central Administrative Tribunal.

19. Besides the above, this point has been already considered by the apex court in the case of Bhagwan Das Vs. State of Haryana (1987 (2) A.T.J. 479. Therein, the contention on behalf of State was that the respondents were selected by the subordinate service Selection Board after competing with candidates from any part of the country and that normally the selection at best is limited to the candidates from the cluster of a few villages only. Repelling the arguments of State's Counsel, the apex court has held as below :

"We need not enter into the merits of the respective modes of selection. Assuming that the selection of the petitioners has been limited to the cluster of a few villages whereas Respondents 2 to 6 were selected by another mode wherein they had faced competition from candidates from all

42
to be dissimilar the fact that the recruitment was made in one way or the other would hardly be relevant from the point of view of "Equal Pay for equal work" doctrine. It was open to the State to resort to a selection process where the candidates from all over the country might have competed if they so desired. If however they deliberately chose to limit the selection of the candidates from a cluster of a few villages it will not absolve the State from treating such candidates disadvantage of the selectees of in a discriminatory manner to the once they are appointed provided the work done by the candidates so selected is similar in nature."

(Emphasis made)

20. Thus, in view of the above discussions, the applicants are entitled to the scale of Rs. 1640-2900/- at par with the Assistants and Stenographers Grade 'C' working in the CSS and CSSS cadres.

21. O.A. No. 985/93

The applicants, in this case, are Assistants in the office of Director General of Income Tax (INV) North, New Delhi, in the pay-scales of Rs. 1400-2600/-. The office of the Director General of Income Tax is an attached office of the Central Board of Direct Taxes, Ministry of Finance, Department of Revenue, New Delhi. The applicants are holders of Group 'C' Non-Gazetted post. The case of the applicants is that by all 4 previous P.C.s, parity was maintained between the applicants and their counterparts working in the CSS cadres. In para 4.3. of the O.A., the pay-scales of Assistant in the office of Central Board of Direct Taxes and Central Secretariat Services has been given, which is as below :

-43-

59

**Scale of pay of
Assistants in the attached
office of Central Board of
Direct Taxes & Central
Secretariat Service**

1st Pay Commission	Rs. 160-450
2nd Pay Commission	Rs. 210-530
3rd Pay Commission	Rs. 425-800
4th Pay Commission	Rs. 1400-2600 "

been

22. The above fact has not/denied by the respondents in their reply. The scale of Assistants working in the Central Secretariat Service were revised by O.M. dated 31.7.90 but w.e.f. 1.1.1986.

Assistants working in the Central Secretariat were given the pay-scale of Rs. 1640-2900/- in place of Rs. 1400-2600/-. The same revision in the scale of pay of the applicants was not made and the representation was rejected by the order dated 4/9.12.92 (Annexure-2). The grounds for rejection given in Annexure-2, is as below :

"Item	Assistants in the Central Secretariat	Assistants in the Directorates of the CBDT
1. Classification	Group 'B' (Non-gazetted)	Group 'C'
2. Method of Recruitment	Partly by Direct Recruitment through UPSC and partly by promotion from UDCs	100% by promotion from UDCs. There is no Direct Recruitment
3. Nature of Duties & responsibilities	Assistants in the Central Secretariat contribute to policy making of the Govt. of India	The Directorates of the CBDT not deal with any policy matter. The nature of duties and responsibilities of Assistants is routine and clerical.
4. Promotion to Higher Grade	Assistants in the Central Secretariat are eligible for	Assistants in the Directorates are eligible for promotion to

as well, as in the scale of Rs. 2000-3200 ps per Recruitment Rules (Group 'C' Non-gazetted). "

23. As regards the grounds of rejection at Sl. No. ~~xxxx~~ 2 is concerned, we need not discuss the same in detail, as the same has been already examined and found not tenable in the earlier O.A. No. 144-A/93, in view of apex court decision quoted in para 19 in the case of Bhagwan Das Vs. State of Haryana, at Sl. No. 1. As regards classification is concerned, the point was discussed by the ~~xxxxxx~~ Ernakulam Bench in its judgment dated 26.7.95 in O.A. No. 1322/94 & O.A. No. 276/95 in the case of K.R. Chandrasekharan Kunji Vs. The Secretary, Department of Revenue, Ministry of Finance, Central Secretariat, New Delhi

The Ernakulam Bench has held as below :

"It was argued further that Assistants in the External Affairs Ministry are in Group 'B' while Assistants in the Passport Office are in Group 'C'. This exactly is the grievance of the applicants. According to them two classes who are similar are differently treated by dividing them into Group 'B' and 'C'. Therefore, the argument of respondents would only establish the case of discrimination and not justify it."

24. The third point is that the nature of duties and responsibilities of the Assistants in the Central Secretariat is to contribute to policy making of the Govt. of India and whereas the applicants who hold the posts of Assistants in CBDT do not deal with any policy matter and do only routine and clerical job, ~~xx~~ concerned. The ~~xxxxxx~~ Ernakulam Bench in

of Revenue, Ministry of Finance, Central Secretariat,
New Delhi, decided on 20.7.95, (supra)

was also considering the case of Assistants
in the Enforcement Directorate and Passport Office
for the scale of Rs. 1640-2900/- w.e.f. 1.1.1986.

A similar ground was taken, and Ennakulam Bench
observed " we find it difficult to endorse the
view that officials at a comparatively lower
level like Assistants in the Ministry have anything
to do with policy matters in the real sense."

25. We are in full agreement with the
views expressed by the Ennakulam Bench. on the point.

26. The fourth ground of rejection is that
Assistants in the Central Secretariat are eligible
for promotion to the post of Section Officer in
the pay-scale of Rs. 2000-3500/- (Grade 'B' Gazetted),
on the other hand, the Assistants in the
Directorates are eligible for promotion to the
post of Senior Technical Assistant/Technical
Research Assistant in the scale of Rs. 1640-2900/-
as well as in the scale of Rs. 2000-3200/- which is
Group 'C' Non-Gazetted post. In other words, the
case of the respondents is that scale of
Rs. 1640-2900/- is an intermeditaory scale between
the post of Assistants and Technical Research
Assistant which is a promotional posts of the
applicants who are working in the scale of

thereafter Technical Research Assistant (Scale R. 2000-3200/-).

27. The objection of the respondents that due to intermediary scales, the applicants were not given the scales of R. 1640-2900/- is also not sustainable. This point has already been considered, in a similar matter by Hon'ble Supreme Court in the case of Union of India & Others Vs. Debashis Kar & others (1995 SCC (L&S) 1303.

The apex court was dealing with the scale given to Draughtsmen Grade II in CPWD and Ordnance Factories. A similar objection, as in the case before us regarding intermediary scale, was taken before the apex court and the same was repelled in the following words :

"Sri N.N. Goswami, learned Senior Counsel appearing in support of the appeals as well as the special leave petitions and the review petition, has urged that the channel of promotion in Ordnance Factories is different from the channel of the promotion in CPWD inasmuch as in CPWD there is no further promotion after a person reaches the scale of Draughtman Grade I while in Ordnance Factories a draughtsman is entitled to be promoted as Chargeman Grade II and thereafter as Chargeman Grade I and as Foreman and that the post of Chargeman Grade II which is the promotional post for draughtsman was in the pay-scale of R. 425-700 would result in placement of Draughtsman in the said pay-scale of R. 425-700/- would result in Draughtsman being placed at the same level as the promotional post of Chargeman Grade II and, therefore, the benefit of the revision of pay-scales under Office Memorandum dated 13.3.1984 cannot be extended to the Draughtsman in Ordnance Factories. On behalf of the respondents, it is disputed that there are no promotional chances for Draughtsman Grade I in CPWD. This point was not debated in any of the

67

-24-

As regards the post of Chargeman Grade II being a promotional post for Draughtsman in Ordnance Factories and it being in the scale of Rs. 425-700/- cannot be a justification for denying the revision of pay scales to Draughtsmen and their being placed in the scale of Rs. 425-700/- on the basis of the Office Memorandum dated 13.3.1984 if such Draughtsmen are otherwise entitled to such revision in the pay-scale on the basis of the said memorandum.

28. In the case before us, Assistants in the Directorates attached to CBDT and Assistants in CSS were in the same scale prior to issue of O.M. dated 31.7.90. Thus, for more than 4 decades Directorate; all the previous since establishment of the ~~Directorate~~ Pay-Commissions till the 4th P.C., the parity of the pay-scales between the two were maintained. There is nothing on record to show that after recommendation of the 4th P.C., which was accepted by the Govt., any new developments occurred to create differentiation between the status of the Assistants working in the Directorates attached to CBDT and that of CSS. The O.M. dated 31.7.90 has, thus, created dis-parity between the two and, therefore, the order dated 4/9.12.92 refusing the pay-scale of Rs. 1640-2900/- to the applicants cannot be sustained on the ground of discrimination.

29. In our view, therefore, the present

applicants are entitled to the scales of

Rs. 1640-2900/- at par with the Assistants in the

CSS

Stenographers Grade-II and Assistants in the
Directorate of Field Publicity, Ministry of
Information & Broadcasting. Both the post

belong to General Central Service, Non-Gazetted
ministerial post and are at present in the scale

of R. 1400-2600/-. The Directorate of Field
Publicity was a participating office in the
Central Secretariat Service/Central Secretariat
Stenographers Service from its inception. The
posts sanctioned for the DFP were included in
the authorised permanent strength of the Ministry
of Information & Broadcasting and manned by the
Personnel of the said Ministry upto 1975. Thereaf-
ter, DFP was excluded from the purview of the
Central Secretariat Service/Central Secretariat
Stenographers Service. At that time, those who
had opted for the DFP were retained in the DFP
with their original status, pay, scales etc.
The O.M. dated 31.7.90 is the cause of grievance
to the applicants.

31. The main ground for rejection of the
claim of the applicants is (i) that the method
of recruitment to these posts in the Directorate
is not through open competition; (ii) that the
pay-scales for the post of Stenographer Grade-II
in the DFP was R. 425-700/- which was subsequently
revised to R. 1400-2300/- on the recommendations
of the 4th P.C. and later on it was again revised
to R. 1400-2600/- w.e.f. 1.1.1986 by the Ministry
of Finance, O.M. dated 8.5.90 and (iii) since sub

49 - matter will be taken with them.

32. It is not denied that right from the year 1971, the scales of Stenographers and Assistants in the DFP were comparable to the scale of Stenographers and Assistants in the Central Secretariat. A comparative table showing the equation of posts and pay-scales has been given in para 4.12 of the O.A., and is being reproduced below :

*Year	Pay-Scale of Asstts. and Stenos in the DFP	Pay Scale of Asstts. & Steno in the Central Sectt.	Pay Scal of Asstts. & stenos in other organi-sations like ITBP, CISF, Cabinet Sectt. as also in EPR&D AFHQ, IB, CBI,SSB RAW & BSF.
-------	--	--	--

1971	210-530	210-530	210-530
CONSEQUENT UPON RECOMMENDATIONS OF 3RD PAY COMMISSION			
1973	425-800	425-800	425-800
CONSEQUENT UPON RECOMMENDATIONS OF 4TH PAY COMMISSION			
1986	1400-2600	1400-2600	1400-2600

Upon issue of GOI Ministry of Personnel OM No. 2/1/90-CS.IV dated 31.7.90 (Ann.A-1) revising the pay-scales of Stenographers Grade 'C' and Assistants from Rs. 1400-2600/- to Rs. 1640-2900/- to be effective retrospectively from 1.1.1986 in the Central Secretariat Service.

1986	1400-2600	1640-2900	1640-2900
------	-----------	-----------	-----------

33. The applicants till the year 1975, were

-50-

participating in the CSS/CSSS and were discharging their duties of Stenographers Grade II and Assistants in the same manner as those of Stenographers and Assistants in the CSS/CSSS. It has been asserted in para 4.7 of the O.A. that the job contents of the Stenographers Grade II and the Assistants in the LFP was absolutely the same as in the comparable departments. It has been further asserted that status and responsibilities of the applicants in the LFP is in no way inferior than in any of the comparable posts in the CSS. This fact too has not been denied in the reply. Thus, as regards work, duties and responsibilities of the applicants vis-a-vis their counterparts in the CSS/CSSS are concerned, is not in dispute that they are comparable.

34. The point that there is no provision for direct recruitment on the basis of open competition, has already been discussed and found not sustainable, in our discussions in the earlier O.A.s above.

35. The other point is that pay-scale of Stenographers Grade-II of LFP was only Rs. 425-700/- whereas those of CSSS was Rs. 425-800/-. It is not disputed that the scale of Rs. 425-700/- was revised to Rs. 1400-2300/-, but the scale of Stenographers Grade II of LFP was subsequently revised to Rs. 1400-2600/-, by O.M. dated 4.5.90 w.e.f. 1.1.1986. Thus, the benefit of the scale of Rs. 1400-2600/- was made available to Stenographer

67
- 51 -
may be reasons, the Government in its own wisdom
thought it proper to bring the Stenographers

Grade-II of DFP at par with CSSS. However, by
the impugned order dated 31.7.90 different scale
was given to CSSS and Stenographer Grade-II of
some other departments. The ground mentioned
in the O.M. dated 31.7.90 for putting CSSS in

a higher pay-scale has not been found tenable,
in view of various apex court judgments, by the
Tribunal in various cases. In the case before
us, we are of the view that the case of the
applicants who are working as Assistants &
Stenographers Grade-II in the DFP cannot be
discriminated.

36. The third point that since 5th P.C.
has been announced by the Government and
the matter will be taken-up with them, the
applicants should wait till the recommendations
of the 5th P.C., is also not tenable. The
applicants are claiming parity w.e.f. 1.1.1985.
The Government has, after, putting the applicants
at par with CSS/CSSS created a discrimination
by issue of O.M. dated 31.7.90 and hence this
matter can be well decided by this Tribunal.

37. In our view, therefore, the
applicants, in this case, are also entitled to
the scale of Rs. 1640-2900/- as their counterparts
in the CSS/CSSS.

38. In view of our discussions made above,
all the three O.A.s are allowed and the respondents
of the respondents are ordered to pay

the scale of Rs. 1640-2900/-, but the payment of arrears would be limited to one year prior to date of filing of the respective O.A.S. However, the fixation of pay will be effective w.e.f. 1.1.1966. If any of the applicant has, in the meanwhile, during the pendency of the case, retired he will be given consequential benefits thereof. The order and directions given in the case shall be complied with by the respondents within a period of two months w.e.f. the date of communication of this order.

39. In the facts and circumstances of the case, there shall be no order as to costs.

Member (J)

GIRISH/-

Acting Chairman

भारत सरकार
CERTIFIED TRUE COPY
दिनांक/Date: 27/2/66
जनसंग न्यायाधीश/Section Officer
केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal
महानगर दिल्ली, नई दिल्ली
New Delhi

SUPREME COURT OF INDIA

IN CHARGE OF PROCEEDINGS

Petition (s) for Special Leave to Appeal (Civil / Cr.) No. (s)/96 CC 2135
(From the judgement and order dated 19.1.1996)

(of the Hon'ble Justice)

Central Administrative Tribunal, Principal Bench, New Delhi,
in O.A. No. 985/93

Union of India & Ors.

Petitioner (s)

Versus

Goverdhan Lal & Ors.
(with I.A. 1(c/delay) in filing SLP)

432635

Respondent(s)

Date: 1.7.1996

This / These Petition (s) was/were called on for hearing today.

CONAM

Honble Mr. Justice
Honble Mr. Justice
Honble Mr. Justice

S.C. Agrawal
G. L. Nanavati

...died to be true copy

Assistant Registrar (Jd)

26/7/2000

Supreme Court of India

For the petitioner (s)

Mr. R. Venugopal Reddy, Sr. Adv.,
Mr. B. Parthasarathi, Adv.,
Mr. S.H. Terdol, Adv., Ms. Sushma Suri, Adv.,
and Mr. B.V. Balaram Das, Adv.

For the Respondent(s)

Mr. N.K. Aggarwal, Adv. (Caveator)

UPON hearing ~~the~~ the Court made the following
ORDER

Delay condoned.

The special leave petition is dismissed on
merits.

(V.K. SHARMA)
Court Master

(S.B. SHARMA)
Court Master

Advocate

To
The Dy. Director(Admn.I),
DAVP, Min. of I&B,
New Delhi-110001,
(Through Proper Channel)

Sub:-Termination of the word'Ex-Cadre'against the posts filled in
through Staff Selection Commission-reg.

Sir,

I like to draw your kind attention on the above subject. In this regard, I am placing below a few lines for your kind perusal and necessary action at the earliest.

1.Sir, I applied and appeared in the combined and open competitive Examination conducted by the Staff Selection Commission in All India basis for direct recruitment for the Stenographer-Gr.III/'D', Clerks Grade etc., Examination as was advertised by the Staff Selection Commission for direct recruitment, in the year 1982. "Direct recruit" means a person recruited to the concerned post on the basis of a competitive examination held by the Staff Selection Commission.

2.Accordingly, I appeared for the post of Stenographer Gr.III/'D' Examination in the pay-scale of Rs.330/- - Rs.560/- (revised to Rs.1200/- - Rs.2040/- and Rs.4000/- - Rs.6000/-). I belong to Guwahati, Assam, the Staff Selection Commission, Guwahati, nominated my name for the Regional Office, DAVP, Min. of I&B, Govt. of India at Guwahati, the Cadre Controlling Authority of which is the Ministry of Information & Broadcasting, Govt. of India. And I joined at Regional Office, DAVP, Min. of I&B, Guwahati on 24.02.1983 in the post of Stenographer Gr.III/'D' in the pay-scale of Rs.330/- - 560/- (now Rs.4000-6000/-).

3.Sir, as per usual Government norms, I should have been given the due promotion after completion of 6/8 years service in the post of Stenographer Gr.III/'D', to the post of P.A/Stenographer-Gr.C(Gr.II) in the pay-scale of Rs.1640/- - 2900/- w.e.f. March, 1991 to March, 1999 and afterwards to P.S/Stenographer-Gr.I in the pay-scale of Rs.6500/- - 10500/- w.e.f. April, 1999 if the due period for promotion from PA to PS etc. was for 8 years or so. But, I have been still holding the post of Stenographer-Gr.III/'D' despite I rendered 23 years services and was selected through Staff Selection Commission and not selected by any particular Department. On the other hand, I have noticed that the candidates appeared in the same examination and posted in various Deptts./Ministries in different places of the country in the same pay-scale, have been given promotion within/after 8 years as the case may be to the next promotional post i.e. Stenographer Gr.C(Gr.II)/P.A in the pay-scale of Rs.1640/- - 2900/- (now Rs.5500/- - 9000/-) and subsequently to P.S/Stenographer-Gr.I in the pay-scale Rs.6500/- - 10500/-.

4.But, I have been given the pay-scale Rs.5000/- - Rs.8000/- under the ACP Scheme w.e.f. August, 1999 i.e. after 16 (sixteen years wrongly, the pay-scale of which should not be meant for me because of my selection made directly through Staff Selection Commission and not through DAVP/Employment Exchange/Advertisement published in the local newspaper for a particular Deptt./Ministry and for a particular post. Thus, I have been depriving from the legitimate and stipulated periodical promotion with pay-protection/transfer facility from one Deptt. to another in the Min. of I&B like the others.

Sir, the Staff Selection Commission initiates functioning since 1976 or so and there are 6/7 Regional Offices of SSC who conducts various open competitive examinations for various posts in All India basis and cover all the places/States as framed according to its jurisdiction. Since after functioning of SSC offices, every Deptt./Ministry is to place requisition to the SSC Offices who nominate the candidates in different/Deptt./Ministries preferably on region basis from the Common Inter-se-Seniority list against the candidates appeared for the same examination conducted by the SSC in that particular year.

*Attested
Sir
Advocate*

Hence, though my name had been nominated for RO, DAVP, Min. of I&B, Guwahati, the Cadre Controlling Authority should be the Min. of I&B and not the DAVP since, I never applied for a particular post in a particular Deptt., and my promotion/transfer should be made accordingly as like the others use to get in different Deptts./Ministries in different places including Delhi. And in no case, I should be treated for the Staff of DAVP only as wrongly shown in the designation Stenographer Gr.III/'D'(Ex-Cadre). Perhaps, it would have been treated, if I was selected through Employment Exchange/appointed on appearing through local newspapers for a particular post and for a particular Deptt. like DAVP only. But, I like the others came through SSC the mode of appointment etc., should have been done following the common inter-se seniority list would have been prepared in the State/Region by the Deptt., after it was ascertained from the Commission Offices which was not followed.

In view of the above, I earnestly believe that I have been wrongly treated as an 'Ex-Cadre official of this Directorate which should be terminated immediately and I would request you to give the due benefit at par as like the others are placed as mentioned above i.e. due promotion to the post of P.A/Steno.Gr.'6(Gr.II) w.e.f. March, 1991 to July, 1999 in the pay-scale of Rs.1640/- -2900/- (i.e. March'1991 to Dec.'95 in the pay-scale Rs.1640/- -2900/- and from January'96 to July 1999 in the pay-scale Rs.5500/- -9000/- and subsequent due promotion to the post of P.S/Gr.I Steno. in the pay-scale of Rs.6500/- -10500/- w.e.f. August, 1999 till date (i.e. April'2005).

Your early action towards the termination of word 'Ex-Cadre and also to give pay-protection/promotion etc. on the basis of above stated facts is highly solicited in this regard.

Thanking you,

Yours faithfully,

(D. Chakraborty)

Stenographer-Gr.III/'D'

RO: DAVP: Guwahati

Encl: First schedule of
css/csss/cses rules, 1962, 1969 & 1986
(Pages 11-15 and Pages 1-4)
Dt:-7.04.05

Copy for inf.&n/a please to:

1. Director, DAVP, New Delhi.
2. Grievance Officer and J.D(Admn.), DAVP, New Delhi.
3. Director, SSC, New Delhi.
4. Director, SSC, Guwahati.
5. Director, DOP&T, New Delhi.
6. Joint Secretary(P&A) and Grievance Officer, Min. of I&B, New Delhi.
7. S.O., MUC, Min. of I&B, New Delhi.

(D. Chakraborty)

Stenographer-Gr.III/'D'

RO: DAVP: GUWHATI

(-Kell-at-havst.)
56

Annexure VI

BY SPEED POST

72

No. A-32011/1/2005-Admn.I

Government of India

Directorate of Advertising & Visual Publicity

Ministry of Information & Broadcasting

1st Floor, P.T.I. Building, Connaught Place,
New Delhi-110001

OFFICE MEMORANDUM

Subject: Prayer for withdrawal of 'Ex-cadre' Category.

16/06/05
(33)

With reference to their letters dated 07.04.2005, 19.04.2005 received from S/Shri Dipak Mandal & Dipankar Chakraborty, Stenographers Grade III respectively on the above cited subject, it is informed that the case for withdrawal of 'Ex-cadre' Category is being examined separately. It is intimated that Shri R. N. Das, Stenographer Grade-II of this Directorate, has been representing for enhancement of pre-revised scale of pay of Stenographer Grade II from Rs.1400-2600 to Rs.1640-2900 w.e.f. 1986 (further revised from Rs.5000-8000 to Rs.5500-9000 w.e.f. 01.01.1996) based on OA No. 548/94 filed by applicants in C.B.D.T. DFP, etc. in the Hon'ble CAT, Principal Bench, New Delhi. The matter is already under consideration in the Ministry of Information & Broadcasting. They are also requested to provide a copy of orders of their appointment to the post of Stenographer Grade III so that their case may be forwarded to DoP&T for considering their representations.

(Signature)

(G. C. DWIVEDI)
JOINT DIRECTOR (ADMN.)
TELE. # 2335 3087

1. Shri Dipankar Chakraborty,
Stenographer Grade III,
Regional Office, DAVP,
Guwahati.

(Through Regional Office, DAVP, Guwahati)

2. Shri Dipak Mandal,
Stenographer Grade III,
Regional Exhibition Office, DAVP,
Kolkata.

(Through Regional Exhibition Office, DAVP,
Kolkata)

Alister
Advocate

BY SPEED POST

**No. A-12033/1/2002-Admn.I
Government of India
Directorate of Advertising & Visual Publicity
(Ministry of Information & Broadcasting)**

**Soochana Bhavan, C.G.O. Complex, Lodhi Road,
New Delhi, Dated the 16th August 2005**

OFFICE MEMORANDUM

Subject : Representation of Shri R. N. Das, Stenographer Grade- II (now Stenographer Grade-I), Regional Office, DAVP, Guwahati regarding enhancement of pre-revised pay scale of Stenographer Grade - II as per CAT, New Delhi's Order in O.A. No. 548/94 filed by Assistants and Stenographers - II of DFP.

The undersigned is directed to refer to a Grievance Petition dated 03.12.2003 of Shri R. N. Das, Stenographer Grade - II (now Stenographer Grade - I), Regional Office, DAVP, Guwahati on the subject cited above and to say that the matter has been examined in consultation with the Ministry of Information & Broadcasting, Ministry of Law & Justice, Department of Personnel & Training and Ministry of Finance, Department of Expenditure. The Department of Expenditure has not agreed to this Directorate's proposal for extension of benefits of the CAT's Order dated 19.01.1996 in O.A. No.(s) 548/94, 144-A/93 and 985/93 to Shri R. N. Das, Stenographer Grade - II (now Stenographer Grade - I), Regional Office, DAVP, Guwahati for revision of the pay scale of Rs.1400-2600 w.e.f. 01.01.1986 and from Rs.5000-8000 to Rs.5500-9000 w.e.f. 01.01.1996. As per the extant policy, the benefit of any judgement/order of Court/Tribunal cannot be extended to the non-applicants. Further, the higher pay scale of Rs.1640-2900 has been restricted to the Assistants/Stenos in CSS/CSRS and the same has not been extended to the similar posts in subordinate offices/autonomous organizations. A copy of the Ministry of Finance, Department of Expenditure's U.O. No. 205/E.III dated 30.06.2005 along with their O.M. No. 6(3)-IC/95 dated 15.04.2004 is enclosed for ready reference.

Encl. As above.

**(ASHOK KUMAR)
DEPUTY DIRECTOR (ADMN.)
TELE. 2371 7023**

**Shri R. N. Das,
Stenographer Grade -I, (Through Regional Office, DAVP, Bangalore)
Regional Office, DAVP,
Guwahati.**

*Attested
Advocate*

- 2 -

Copy to :-

BY SPEED POST

1. Regional Office (Shri S. C. Talukdar, Assistant Editor), DAVP, Guwahati. It is requested that the enclosed O.M. addressed to Shri R. N. Das, Stenographer Grade I Regional Office, DAVP, Guwahati may please be got delivered to him under intimation to this Directorate.
2. Ministry of Information & Broadcasting, Admin.IV Section, Shastri Bhavan, New Delhi.
3. Ministry of Information & Broadcasting (Shri S. V. Krishnan, US (MC)), Shastri Bhavan, New Delhi with reference to their J.D. Note No. 1/35/2003-MI/C dated 06.07.2005.

(ASHOK KUMAR)
DEPUTY DIRECTOR (ADMIN.)

O.M.No.6(3)-IC/95
Government of India
Ministry of Finance
Department of Expenditure
....

New Delhi, dated 15th April, 2004

OFFICE MEMORANDUM

Sub: Revision of scale of pay of Assistant Grade of Central Secretarial Service and Grade 'C' Stenographers of Central Secretarial Stenographers Service.

The undersigned is directed to refer to DOPT's O.M. No.6/6/90-CS-1 dated 3.1.91 and Ministry of Finance O.M. No.744/IC/90 dated 11th December, 1990 on the subject mentioned above and to state that DOPT's O.M. dated 31.7.90 was meant exclusively for Assistants/Stenographers of the CSS/CSSS and this was not to be extended to autonomous organization etc. However, it has come to the notice of the Govt. that some autonomous organizations have adopted the pay scale of Rs.1640-2900 to their Assistants/Stenographers inadvertently. In some cases, the scale has been extended to autonomous organization on the basis of order of the CAT.

It may be stated in this connection that the hon'ble High Court of Delhi in their judgment dated 31.5.2002 and 18.12.2003 have specifically rejected the contention of the employees of autonomous organizations (i.e. KVS/NVS, NIT and NIEPA etc. that Assistants/Stenographers of autonomous bodies are entitled to the scale of Rs.1640-2900(pre-revised) w.e.f. 1.1.86. Accordingly, the benefit of higher pay scale is being withdrawn from all the autonomous bodies under the control of Ministry of HRD. The same benefit may also be withdrawn from the employees of other autonomous bodies of Govt. of India as well.

All the Financial Advisors are requested to take urgent corrective measures to withdraw the scale of Rs.1640-2900(pre-revised) from Assistants/Stenographers of autonomous organizations. The amount of Pay & Allowances already paid to the employees on this account may also be recovered.

(Signature)
(Anuradha Mittal)
Director

All F.As

*Attested by
Advocate*

Ministry of Finance
Department of Expenditure
E.III B Branch

Ministry of Information & Broadcasting may please refer to their notes on pre pages relating to the extension of the benefit of CAT's order dated 19.1.96 in OA Nos. 548/94, 144-A/93 and 985/93 filed by Assistants and Stenographers Gr. II of DFP(M/o I&B), CBI and CBDT respectively, to Sh. R.N. Das, Stenographer Gr. II (ex-cadre) of DAVP for revision of the pay scale of Rs. 1400-2600 to Rs. 1640-2900 w.e.f. 1.1.86 and from Rs. 5000-8000 to Rs. 5500-9000 w.e.f. 1.1.96.

2. The matter has been examined in this Department and the same has not been agreed to since as per the extant policy, the benefit of any judgment/order of Court/CAT cannot be extended to the non-applicants. Further, the higher pay scale of Rs. 1640-2900 has been restricted to the Assistants/Stenos in CSS/CSSS and the same has not been extended to the similar posts in autonomous organizations/subordinate offices. The enclosed OM dated 15.4.2004 issued in this regard may also be perused.

3. JS(Per) has seen.

K. Singh
(Karan Singh)

Under Secretary to the Govt. of India

FA(Information & Broadcasting)

M/o Finance, Deptt. of Exp. U.O.No. 205/E-III C38/05 dated 30/6/05

All F As

*Attested
for
Advocate*

28 NOV 2005 NS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench
GUWAHATI BENCH GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O. A. No. 299 /2005

Shri Dipankar Chakraborty
-Vs-
Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 1980- Applicant was initially selected through Staff Selection Commission in the post of Stenographer Grade 'D'/III (Group 'C' non-gazetted) and was appointed as Stenographer Group 'D' in the department of Directorate of Audio Visual and Publicity (for short DAVP), Kolkata under the Ministry of Information and Broadcasting. His next avenue of promotion is Stenographer Grade- II.
- 07.08.2000- Applicant was granted first financial upgradation under the ACP Scheme and accordingly he was placed in the next higher scale of pay of Rs. 5,000-8,000/- w.e.f. 09.08.99, whereas incumbents working in the cadre of Stenographer Grade- II in the DFP under the Ministry of I & B are drawing the pay scale of Rs. 5,500-9,000/-.
(Annexure-I)
- 31.07.1990- That the Govt. of India, Ministry of Finance vide OM dated 31.7.90 granted higher revised scale of pay of Rs. 1640-2900 to the Stenographers and Assistance of CSS/CSSS and the said benefit of higher scale was extended to stenographers and assistance who are working in other organization like Ministry of External Affairs, which is not participating in the CSS/CSSS, but wherein the post are in comparable grades with same classification and pay scales and the method of recruitment through open competitive examination. The benefit of higher scale of Rs. 1,640-2,900 extended w.e.f 01.01.1986.
(Annexure-II)
- 19.01.1996- The Hon'ble CAT, Principal Bench, New Delhi passed judgment and order on 19.1.1996 in O.A No. 548 of 1994 along with O.A No. 985 of 1993 in favour of the similarly situated employees working in the grade of Stenographer Grade II in the Directorate of field publicity and ESI corporation for granting the benefit of higher revised scale of 1640-2900 (corresponding revised scale of Rs. 5500-

9000), instead of Rs. 1400-2600 (revised 5000- 8000) in terms of OM dated 31.7.1990. The present applicant is similarly situated like the Stenographer Grade- II of the Directorate of Field Publicity so far terms and conditions of the recruitments, duties and responsibilities, nature of works are exactly same and as such entitled to the benefit of higher revised scale of pay of Rs. 5,500-9,000/- (pre-revised Rs. 1,640-2,900/-) instead of Rs. 5,000-8,000/- w.e.f. 09.08.99 i.e. the day from which 1st financial upgradation was granted to the applicant. (Annexure-II)

- 11.07.1996- Union of India preferred an SLP before the Hon'ble Supreme Court against the judgment and order dated 19.01.96 passed in O.A. No. 548/94 the said SLP was dismissed on 11.07.96. (Annexure-IV)
- 07.04.2005- Applicant submitted representation praying for extension of the benefit of higher revised scale Rs. 5500-9000 (pre-revised Rs. 1640-2900) as well as Rs. 6,500-10,000/- treating the applicant with other similarly situated Stenographers working in other departments. (Annexure-V)
- 16.06.2005- Respondents informed the applicant that the matter regarding enhancement of scale of pay is under consideration. (Annexure-VI)
- 16.08.2005- Impugned order passed on 16.08.2005 by the respondents rejecting the claim of the applicant for grant of higher revised scale on the alleged ground that the benefit of the judgment has been restricted only to the parties as per extended policy of the Govt. And also on the ground that the benefit of higher revised scale provided in terms of 31.07.1990 exclusively restricted to the employees of CSS/CSSS and employees of subordinate offices of the Govt. of India and PSU employees are not entitled to the same. (Annexure- VII)

Hence this Original Application.

P R A Y E R S

Relief (s) sought for :

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

1. That the Hon'ble Tribunal be pleased to declare that the employees working in the cadre of Stenographer Grade- II in DAVP are entitled to

benefit of higher revised scale of Rs. 5,500-9,000/- instead of Rs. 5,000-8,000/- in the light of the judgment and order 19.1.1996 passed by the CAT Principal Bench, New Delhi in O.A No. 548 of 1994.

2. That the Hon'ble Tribunal be pleased to direct the respondents to grant and re-fix the benefit of higher revised scale of pay of Rs. 5,500-9,000/- with effect from 09.08.1999 to the applicant with all consequential benefits including arrear monetary benefit by modifying the office order issued under letter no. GHT/RO/A-20012/11/GAU/89/246 dated 07.08.2000.
3. Costs of the application.
4. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

1. That the Hon'ble Tribunal be pleased to observe that pendency of the application shall not be bar to grant relief to the applicant as prayed for.

केन्द्रीय प्रशासनिक अपील बोर्ड
Central Administrative Tribunal

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O.A.No 299/2005

Sri Dipankar Chakraborty. : Applicant.

-Versus-

Union of India and Others. : Respondents.

INDEX

Sl. No.	Annexure	Particulars	Page No.
1.	---	Application	1-18
2.	---	Verification	-19-
3.	I	Copy of order dated 07.08.2000.	- 20 -
4.	II	Copy of O.M dated 31.07.90.	21 - 22 .
5.	III	Copy of judgment and order dated 19.01.96.	23 - 51 .
6.	IV	Copy of judgment and order dated of the Hon'ble Supreme Court.	- 52 -
7.	V	Copy of representation dated 07.04.05.	53 - 54 .
8.	VI	Copy of letter dated 16.06.05.	- 55 -
9.	VII	Copy of impugned order dated 16.08.05.	56 - 57 .

Filed By:

Date: -

Advocate

1
51
Filed by the applicant
through: Subrata Nath,
Advocate
28.01.05

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI**

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O.A. No. _____/2005

BETWEEN:

Sri Dipankar Chakraborty,
Stenographer Grade - III,
Regional Office, DAVP,
Nabin Nagar, Janapath,
Guwahati- 781024.

-----Applicant.

-AND-

1. The Union of India,
Represented by Secretary to the
Government of India,
Ministry of Information & Broadcasting, 'A' wing,
Shastri Bhawan,
New Delhi- 110001.
2. The Director.
Directorate of Advertising and Visual Publicity,
Ministry of Information and Broadcasting,
PTI Building, 3rd Floor,
Parliament Street,
New Delhi- 110 001.
3. Deputy Director (Admn.).
DAVP, Ministry of I & B,
PTI Building, 3rd Floor,
Parliament Street,
New Delhi- 110 001.
4. Regional Director,
Regional Office,
DAVP, Ministry of I & B,
Nabin Nagar, Janapath,
Guwahati- 781 024.

..... Respondents.

Dipankar Chakraborty

DETAILS OF THE APPLICATION

1. Particulars of the order (s) against which this application is made:

This application is made praying for a direction upon the respondents for grant of higher revised scale of Rs. 5,500-9,000/- w.e.f. 09.08.1999, i.e. the date on which the applicant is placed in the scale of Rs. 5,000-8,000/- pursuant to O.M dated 09.08.99 and also for non-consideration of his representation dated 07.04.05.

2. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation:

The applicant further declares that this application is filed within the limitation prescribed under Section- 21 of the Administrative Tribunals Act 1985.

4. Facts of the case:

- 4.1 The applicant is a citizen of India and as such he is entitled to all the rights and privileges granted by the constitution of India.
- 4.2 That the applicant was initially selected by the Staff Selection Commission after being found suitable by the Staff Selection Commission on all India basis for direct recruitment to the Grade of Stenographer Grade- III and accordingly the applicant on his appointment on regular basis joined in the Regional Office, Directorate of Advertising and Visual Publicity (in short DAVP) on 24.02.83 in the scale of pay of Rs. 330-560/- (pre-revised) (revised pay scale 1,200-2,040/-) in the cadre of Stenographer Grade- III. The next avenue of promotion of the applicant in the hierarchy is Stenographer Grade- II.

Lipika Chakraborty.

- 4.3 That your applicant has completed more than 12 years of service and accordingly attained eligibility for grant of first financial upgradation under the Scheme of ACP, issued by the Govt. of India, vide O.M dated 09.08.1999 and accordingly vide order bearing letter No. GHT/RO/A-20012/II/GAU/89/246 dated 07.08.2000, the applicant was placed in the next higher scale of pay of Rs. 5,000-8,000/- with effect from 09.08.99, treating the said scale of pay of Rs. 5,000-8,000/- as the scale of Stenographer Grade- II, in the DAVP.

A copy of the order dated 07.08.2000 is annexed herewith for perusal of Hon'ble Tribunal as Annexure- I.

- 4.4 That it is stated that as per the promotional avenue available in DAVP, applicant is entitled to be promoted to the cadre of Stenographer Grade- II on his turn. However, in DAVP, the scale of pay of Rs. 5,000-8,000/- is allotted to the cadre of Stenographer Grade- II and accordingly on his attaining eligibility under the ACP Scheme, the applicant is given benefit of higher scale of pay of Rs. 5,000-8,000/- with effect from 09.08.99, whereas incumbents working in the cadre of Stenographer Grade- II in the DFP under the same Ministry of I & B are drawing the scale of pay of Rs. 5,500-9,000/- in terms of O.M dated 31.07.90, issued by the Govt. of India, and thereby extended the benefit of higher revised scale of pay of Rs. 1,640-2,900/- (revised Rs. 5,500-9,000/-) to the counterparts of the applicant in DEF.

- 4.5 That it is stated that recruitment in different cadres of stenographers are being made through the recruitment agency i.e. through Staff Selection Commission for the subordinate offices of the Govt. of India as well as for the Central Secretariat by holding common recruitment examination by the SSC however appointments are being made on the basis of the priority/option of the individual candidates. Moreover, Directorate of Advertising Visual Publicity is a participating office of CSS/CSSS in

Asif Khan Chakraborty

which department applicant is appointed to the recommendation of the Staff Selection Commission (in short SSC). The applicant is now holding the post of Stenographer Gr.- III, which is classified as non-gazetted Group 'C' category.

- 4.6 That it is stated that normally the promotional avenues of stenographers working in the cadre of Group- D is in the cadre of Group 'C' /Personal Assistant and then to the cadre of Private Secretary/Stenographer Grade-I. Similarly, Stenographers who are recruited and designated as Stenographer Grade-III, their next avenue of promotion is Stenographer Grade- II and then to the cadre of Stenographer Grade - I. Be it stated that Stenographer Grade 'D' is equivalent to Stenographer Grade- III, similarly Stenographer Grade 'C' is equivalent to the cadre of Stenographer Grade-II, having same scale of pay.
- 4.7 That it is stated that stenographer Grade- II of the Directorate of Field Publicity under the same Ministry of Information and Broadcasting are getting same scale of pay of Rs. 1,640-2,900/- w.e.f. 01.01.86 (revised Rs. 5,500- 9,000/-) while the applicant being stenographer Grade-III under the same Ministry but working in the subordinate office of DAVP as such his pay is liable to be fixed in the scale of pay of Rs. 5,500-9,000/- with effect from 09.08.1999 on attaining his eligibility for grant of 1st financial upgradation on completion of 12 years service, as because the scale of Rs. 5,500-9,000/- has been granted to the Stenographer Grade- II working in other subordinate offices in terms of the O.M dated 31.07.1990 as such the applicant is also entitled to be placed in the scale of pay of Rs. 5,500-9,000/-, which is the scale subsequently provided for Stenographer Grade-II, which is the scale of pay meant for next hierarchy of the applicant, as such applicant is also entitled to the higher revised scale of Rs. 5,500-9,000/- while granted 1st financial upgradation with arrear monetary benefit with effect from 09.08.99 in terms of O.M dated 09.08.99.

Dipankar Chakraborty

- 4.8 That it is stated that Govt. of India, Ministry of Finance, Deptt. Of Expenditure issued an office memorandum whereby scale of pay Rs. 1400-2300/- (pre-revised Rs. 425-700/-), which was granted following the recommendation of the 4th Central Pay Commission was subsequently further revised to Rs. 1,400- 2,600/- w.e.f. 01.01.86 by the Ministry of Finance O.M. dated 04.05.90 and thereby the stenographer Grade- II of the subordinate offices brought at par with stenographers and Assistant of Central Secretariat of the Govt. of India.
- 4.9 That it is stated that right from the year 1971, the scale of stenographers and assistants of the DAVP are comparable to the stenographers and Assistants working in the Central Secretariat.
- 4.10 That it is stated that Govt. of India, Ministry of Finance, department of Expenditure vide office memorandum No. 2/1/90-CS-4 dated 31.07.90 revised/upgraded the scale of pay of Stenographer Grade 'C' in the Central Secretarial Stenographer Service from the scale of pay of Rs. 1400-40-1600-50-2300-EB-60-2600 to Rs. 1640-60-2600-EB-75-2900. The aforesaid benefit of the office memorandum dated 31.07.90 were extended to the Stenographer Grade- II in many Central Government departments, who are working in the subordinate offices. Some of the departments have extended the benefit of higher revised scale of Rs. 1,640-2,900/- w.e.f. 01.01.86 following the direction in Court cases of the various Benches of the Central Administrative Tribunal, which were subsequently confirmed by the Hon'ble Supreme Court and some of the Central Government department have extended the said benefit to the Stenographer Grade-II working in subordinate offices following the administrative orders passed by the department itself, following the O.M dated 31.07.90. The following Central Government departments have extended the benefit of higher revised scale:

Dr. Pankaj Chakraborty.

**LIST OF SUBORDINATE OFFICES WHERE REVISED SCALE
OF Rs. 1640-2900 IMPLEMENTED THROUGH COURT CASES
ARE FURNISHED BELOW:**

Sl. No.	Case No.	Name of the Deptt.	Whether Implemented
1.	O.A. No. 2865/91 O.A. No. 529/92 (CAT Principal Bench), decided on 4.2.1993.	CAT, New Delhi	Yes
2.	O.A. No. 152/91, CAT, Jaipur Bench, decided on 9.8.94.	Salt Commissioner	Yes
3.	O.A. No. 1130/91, CAT, Calcutta Bench, decided on 19.5.1995.	Director General of Ordnance Factory, Calcutta	Yes
4.	O.A. No. 1322/94 & O.A. No. 276/95, decided on 26.7.95 and 20.7.95.	C.B.D.T., Ernakulam	Yes
5.	O.A. No. 144A/93, CAT, New Delhi decided on 19.1.96.	CBI, New Delhi (confirmed by the SC)	Yes
6.	O.A. No. 985/94, CAT, New Delhi decided on 19.1.96.	DG, Income Tax (confirmed by the SC)	Yes
7.	O.A. No. 548/94, CAT New Delhi.	Directorate of Field Publicity (confirmed by the SC)	Yes
8.	O.A. No. 8348-50/95 (1998) SCC (L&S) 253 decided on 9.10.96.	Official Language Wing, Ministry of Law & Justice.	Yes
9.	CWP No. 4414/96 & O.A. No. 3181/96 Delhi High Court decided on 16.7.1997.	Kendriyalaya Vidyalaya Sangathan, New Delhi.	Yes
10.	CWP No. 4842/96, Delhi High Court, decided on 16.7.1997.	National Book Trust of India	Yes
11.	O.A. No. 407/97 CAT, Principal Bench, New Delhi decided on 9.1.1998.	National Achieves of India	Yes
12.	O.A. No. 527/97 CAT, Principal Bench, New Delhi decided on 28.9.1998.	Director General of Inspection, Customs & Central Excise	Yes

Lipankar Chakraborty.

13.	CWP No. 381/96, Delhi High Court decided on 16.10.98.	Central Pollution Control Board	Yes
14.	O.A. No. 361/97 CAT, Jaipur decided on 18.1.2000	Central Ground Water Board	Yes
15.	O.A No. 383/96 with MA No. 811/96 CAT, Jaipur, decided on 20.4.2001.	Central Ground Water Board	Yes

LIST OF SUBORDINATE OFFICES WHERE REVISED SCALE OF Rs. 1640-2900 IMPLEMENTED BY ADMINISTRATIVE ORDER:

Sl. No.	Name of the Deptt.	Implementation Order	Pay Scales
1	Deptt. Of Space/ISRO Centres/Units/Bangalore	No. 2/13 (10)/85-I (Vol. VII) dt. 23.4.98	Rs. 425-700 Rs. 1400-2300 Rs. 1400-2600 Rs. 1640-2900
2	Deptt. Of Atomic Energy, Atomic Energy Commission Hyderabad	No. 1/27/94-SCS/407 dated 15.5.1997	Same as above
3	CSIR (All Units) New Delhi	No. 16/23/86-Adm. II Vol. VII (Pt. I) dated 18.4.1994	Rs. 425-800/- Rs.1400-2600/- Rs. 1640-2900/-
4	ICMR, New Delhi	Same as above	Same as above
5	CGCRI, Calcutta (Under CSIR)	No. A- 3(1)/GC/85-EI dated 12.6.1995	Same as above

It is relevant to mention here that the counterparts of the applicant working under the same Ministry i.e. in the Directorate of Field Publicity in the cadre of Stenographer Grade- II being aggrieved with the denial of benefit of higher revised scale of Rs. 1640-2900/- approached the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi by filing O.A. No. 548/94. However, the said O.A was contested by the Respondents Union of India, the issue involving in O.A. No. 548/94 was finally decided by the learned Tribunal along with O.A. Nos. 144-A/93, 985/93 on 19.01.96. The Hon'ble Tribunal after considering the arguments advanced by the parties was pleased to allow the aforesaid O.As with the directions to grant the benefit of higher revised scale of Rs. 1,640-2,900/- w.e.f. 01.01.1986.

Atul Kumar Chakraborty.

The present applicant is similarly situated like the Stenographer Grade-II of the Directorate of Field Publicity so far terms and conditions of the recruitments, duties and responsibilities, nature of works are exactly same and as such entitled to the benefit of higher revised scale of Rs. 5,500-9000/- (pre-revised Rs. 1,640-2,900/-) instead of Rs. 5,000-8,000/- w.e.f. 09.08.1999 i.e. the day from which 1st financial upgradation was granted to the applicant.

Copy of the O.M dated 31.07.90 and judgment and order dated 19.01.96 are enclosed herewith and marked as Annexure- II & III respectively.

- 4.11 That it is stated that Stenographer Grade- II and Assistants were recommended pay scale of Rs. 1400-2600/- by the 4th C.P.C. The same recommendation was made by the 4th Pay Commission to the Assistance and Stenographer Grade- II (P.A) who are working in the Central Secretariate. Moreover, by a subsequent O.M dated 31.07.1990 revised scale of pay of Rs. 1640-2900 in the pre-revised scale of pay of Rs. 425-800 for duty post included in the Assistant Grade of Central Secretariate Services and Grade- C Stenographers of Central Secretariate Stenographers Service w.e.f. 01.01.86 was given. The same revised scale of pay was also made applicable to Assistant and Stenographers who are working in other organization like Ministry of External Affairs which is not participating in the Central Secretarial Services (in short CSS) and Central Stenographer Secretariate Services (in short CSSS). But where the posts are incomparable grades with same classification and pay scales and the method of recruitment through open competitive examination also extended the benefit of revised higher pay scale of Rs. 1640-2900/- w.e.f. 22.08.86. However, as a result of the extension of the benefit of O.M dated 31.07.1990 on selective basis in certain subordinate offices of the Central Government, caused of grievances to the employees of various Central Government department and as a result large number of cases were filed before the

Dipankar Chakraborty.

various Benches of the learned Central Administrative Tribunal for extension of the higher revised scale in terms of O.M dated 31.07.1990.

- 4.12 That it is stated that the judgment and order dated 19.01.1996 passed in O.A. No. 548/94 in favour of the Assistant and Stenographer Grade- II who are working under the same Ministry in the Directorate of Field Publicity were accepted and implemented by the Respondents Union of India. However, the respondents Union of India preferred a Special Leave Petition before the Hon'ble Supreme Court and the same was dismissed on merits vide order dated 11.07.1996.

Copy of the judgment and order of the Hon'ble Supreme Court is annexed herewith for perusal of Hon'ble Tribunal as Annexure- IV.

- 4.13 That it is stated that the applicant was initially selected through Staff Selection Commission by competitive examination for direct recruitment on all India basis in the cadre of Grade-III Stenographer and subsequently attained eligibility for grant of 1st financial upgradation in the scale of pay of Rs. 5,500-9,000/- in view of the Govt. O.M dated 31.07.1990. It is stated that post of Stenographers and Assistants in the DAVP are comparable to the post of Stenographer and Assistant of the Central Secretariate in all respect as such the applicant is entitled to the benefit of higher revised pay scale of Rs. 5,500-9,000/- (pre-revised Rs. 1640-2900/-) w.e.f. 09.08.1999 i.e. on the day when the applicant attained eligibility for grant of 1st financial upgradation in lieu of promotion. Moreover, post of Stenographer Grade-II and Assistant of DAVP are equivalent in the rank and status and comparable to the Stenographer Grade-II and Assistant of DFP, since the applicant is similarly situated like the applicants of O.A. No. 548/94, therefore entitled to benefit of higher scale of pay contained in above mentioned O.M dated 31.07.1990, even in the case, when 1st ACP is granted to the applicant.

Dr. Pankar Chakraborty

4.14 That your applicant submitted representation dated 07.04.2005 for extension of benefit of higher scale of pay i.e. Rs. 5,500-9,000/- as well as 6,500-10,000/- treating the applicant with other similarly situated Stenographers working in other departments. However, the applicant also raised a question whether the applicant could be termed as ex-cadre official by the Directorate in the said representation. By the letter bearing No. A-32011/1/2005-Admn.I dated 16.06.2005, it is informed to the applicant quoting the reference of Shri R. N. Das that regarding enhancement of scale of pay is under consideration and the matter regarding withdrawal of ex-cadre category would be examined separately. It is further relevant to mention here that ultimately the department has decided not to extend the benefit of Rs. 5,500-9,000/- (pre-revised Rs. 1640-2900) to the Stenographers working in DAVP in the light of the decision rendered in O.A. 548/94, by the CAT, Principal Bench, through impugned Office Memorandum bearing letter No. A-12032/1/202/Admn.I dated 16.08.2005 on the ground that the benefit is restricted only to the parties to of the aforesaid O.A. and further stated that the benefit of higher revised scale contained in O.M dated 31.07.90 is exclusively restricted to the Stenographers and Assistants of the Central Secretariate and it is further stated that in view of Ministry of Finance letter dated 30.06.05 and O.M dated 15.04.04, benefit cannot be extended to the employees of the subordinate offices and Public sectors Undertakings. In this connection it may be stated that the applicant of the O.A. 548/94 are working in the Directorate of Field Publicity i.e. also a subordinate office of the Central Government like DAVP and as such contention of the respondents is highly arbitrary, discriminatory and unfair. It is relevant to mention here that the impugned order was addressed to Shri R.N Das and similarly situated employees of DAVP, therefore, it can be presumed that the policy decision is also equally binding on the present applicant also and therefore finding no other alternative, the applicant also praying before the Hon'ble Tribunal for a direction upon the respondents to grant the scale of pay of Rs. 5,500-9,000/-

Divyankar Chakraborty.

with effect from 09.08.99 i.e. on the day when the benefit of 1st ACP was granted to the applicant in the scale of Rs. 5,000-8,000/- with all consequential benefit including arrear monetary benefits and further be pleased to declare that the impugned decision communicated through O.M dated 16.08.2005 is void-ab-initio.

Copy of the representation dated 07.04.2005 and letter dated 16.02.05 are enclosed herewith for perusal of the Hon'ble Tribunal as Annexure- V & VI respectively.

- 4.15 That it is stated that the respondents Union of India after considering grievance of the petition dated 03.12.03 of Shri R.N. Das, a similarly situated employee like the applicant issued the impugned office Memorandum bearing letter No. A-12033/1/202/Admn. 1 dated 16.08.2005, whereby the claim for extension of the benefit of higher pay scale of Rs. 1640-2900/- w.e.f. 22.08.88 (corresponding revised scale of Rs. 5500-9000) w.e.f. 01.01.96 has been rejected in a most mechanical manner without application of mind on the pretext that benefit of a judgment/order of a Central Administrative Tribunal cannot be extended to the non-applicants and further stated that higher pay scale of Rs. 1640-2900 has been restricted to the Assistants/Stenos in CSS/CSSS and the same has not extended to the similar post in subordinate offices/ autonomous organizations in terms of Ministry of Finance letter dated 30.06.05 and in terms of O.M dated 15.04.04. It is surprising to note that the ground on which the claim of the applicant has been rejected by the DAVP is not sustainable in the eye of law, as because Government of India being a modal employer cannot force the employees of a particular class to approach the Court of law and obtain individual order in their favour on a particular issue more so when the judgment and order passed in O.A. No. 548/1994 passed by the learned Principal Bench New Delhi and the same was accepted and implemented by the respondents Ministry, now they cannot deny the extension of the said benefit to the similarly situated

Lipankar Chakraborty.

Q2

employees like the applicant. Moreover, when the respondents Union of India accepted and implemented the judgment dated 19.01.1996 passed in O.A. No. 548/1994 in favour of the employees working in the subordinate offices like DFP and other Central Government departments indicated in the preceding paragraphs as such their contention that the benefit of higher revised scales of Rs. 1,640-2,900/- (corresponding revised scale of Rs. 5,500-9000) has been restricted to the Assistant and Stenos in CSS/CSSS is false and misleading, on the one hand they have admitted the implementation of the judgment and order dated 19.01.1996 in O.A. 548/94, 144-A/93 and 985/93, therefore the statement and contention of the respondents are self contradictory. Moreover, further contention of the respondents that in view of the Ministry of Finance letter dated 30.06.2005 and 15.04.2004 the benefit of higher revised scales cannot be granted to the applicant is totally wrong as because it would be evident from a mere reading of the O.M dated 15.04.2004 that the Ministry of Finance, department of Expenditure has imposed restrictions regarding extension of benefit of higher scale contained in O.M dated 31.07.1990 exclusively to the Assistant and Stenographers of Autonomous bodies, it is categorically submitted that the applicant is working in Central Government department, therefore the O.M dated or O.M dated 15.04.2004 cannot be made applicable in the instant case of the applicant and on that ground alone the impugned order dated 16.08.2005 is liable to be declared void-ab-initio.

A copy of the impugned order dated 16.08.05 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- VII.

- 4.16 That your applicant being similarly situated like those Stenographers Grade-II, who were applicant in O.A. No. 548/94 of the Directorate of Field Publicity, as such denial of the benefit of higher revised scale of pay contained in O.M dated 31.07.1990 is highly discriminatory, arbitrary and such action is in violation of Article 14 of the Constitution of India and on

Pran Kar Chakraborty

that ground alone the impugned office memorandum dated 16.08.2005 is liable to be declared void-ab-initio.

- 4.17 That your applicant submitted representations but the same have been rejected in a most arbitrary manner and thereby denied the appropriate scale of pay of Rs. 5500-9000/- (pre-revised Rs. 1640-2900 -) w.e.f. 09.08.1999 and as such applicant is incurring financial loss each and every month due to non-fixation of his pay in the appropriate scale of pay and as such it is a continuous wrong giving recurring cause of action due to negligence and inaction of the respondents Union of India.

In the circumstances stated above applicant has no other alternative remedy but to approach this Hon'ble Tribunal for protection of his valuable and legal right and be pleased to pass appropriate order directing the respondents to grant and fix the pay in the scale of Rs. 5500-9000/- w.e.f. 09.08.99 with all consequential benefit and arrears monetary benefits.

- 4.18 That this application is made bonafide and for the cause of justice.

5. Grounds for relief (s) with legal provisions:

- 5.1 For that, the applicant being similarly circumstanced like the Stenographer Grade-II of Directorate of Field Publicity who were applicants in O.A. No. 548/1994 for extension of the benefit of higher revised scale Rs. 5,500-9,000 (pre-revised Rs. 1,640-2900/-) w.e.f. 09.08.1999, date of grant of first ACP to the applicant) treating 5,500-9,000 is the scale of Stenographer Grade- II employees in DAVP instead of 5000-8000, in the light of the judgment and order dated 19.01.1996 passed in favour of those employees of the same Ministry which was further accepted and implemented by the respondents Union of India in the directorate of field publicity.

Dipankar Chakraborty.

- 5.2 For that, the applicant is similarly circumstanced like those Stenographers Grade- II of the Directorate of Field Publicity and was vested with similar duties, responsibilities and nature of work, moreover, recruitment conditions, rank, status and scale of pay of the Stenographer Grade-II of the Directorate of Advertising and Visual Publicity are exactly similarly with that of Directorate of Field Publicity and both are Central Government department under the Ministry of Information and Broadcasting.
- 5.3 For that, applicant was selected from open market through competitive examination and the Grade, rank, duties and responsibilities and scale of pay of Stenographer Grade- II of the Directorate of Advertising and Visual Publicity are equivalent to the post included in the Assistant Grade of Central Secretariat service and Grade 'C' Stenographer of the Central Secretariat Stenographer Services and method of recruitment of both the categories are through open competition and posts are comparable to each other.
- 5.4 For that, the applicant fulfils all the criteria laid down in the O.M dated 31.07.1990 issued by the DOPT, Govt. of India and as such entitled to the benefit of higher revised scale contained in the aforesaid O.M dated 31.07.1990 at least from the date when first financial upgradation granted to the applicant in terms of OM dated 9.8.1999 with all consequential benefits.
- 5.5 For that, denial of benefit of higher scale of pay to the applicant when the same was extended to the similarly situated employees of the Directorate of Field publicity and also in other subordinate offices of the Central Government department either following the judgment and order of the learned Central Administrative Tribunal or by virtue of the administrative orders issued by the administrative Ministries of various Central Government department as such non-extension of the benefit to the

Silankar Chakraborty.

✓

applicant is highly discriminatory and the same is in violation of principles laid down in Article 14 of the Constitution of India.

- 5.6 For that, the judgment and order passed in favour of similarly situated employees in O.A. No. 985/1993 was carried on appeal by filing a Special Leave Petition before the Hon'ble Supreme Court but the same was dismissed by the Hon'ble Supreme Court by order dated 11.07.1996 on merit, and thereby confirmed the judgment and order passed by the learned Central Administrative Tribunal in O.A. No. 985/1993 which is similar to the judgment passed by the CAT in O.A No. 548 of 1994.
- 5.7 For that, the grounds assigned in the impugned order dated 16th August, 2005, while rejecting the claim of the similarly situated employee namely Sri R.N. Das, for grant of higher scale of pay of Rs. 1,640-2,900/- (revised Rs. 5,500-9,000/-) is not sustainable in the eye of law inasmuch as Union of India cannot compel each and every employee to approach the Court of law for obtaining a particular relief when the same was decided in favour of the similarly situated employees of the same Ministry by a competent Court of law by its judgment and order dated 19.01.1996 passed in O.A. No. 548/94 under the same Ministry and more so when the same judgment was accepted and implemented by the respondent Union of India in favour of the employees of the subordinate offices of the Central Government department as such contention raised in the impugned order dated 16.08.05 is not sustainable in the eye of law.
- 5.8 For that the contention of the respondents that the benefit of a judgment rendered by a competent Court of law is restricted only to the applicants of those cases as per extend policy of the Government is highly arbitrary, unfair on the part of a model employer like Union of India.
- 5.9 For that, the contention of the respondents raised in the O.M dated 16.08.05 that the benefit of higher scale has been restricted to the

Dipankar Chakraborty.

Assistants and Stenos in CSS/CSSS is self contradictory and said statement is false and misleading inasmuch as the benefit has been extended to the Stenographer Grade- II working in the Directorate of Field Publicity who are similarly situated like the present applicant.

- 5.10 For that, denial of allotment of appropriate scale of pay and re-fixation of pay to the similarly situated employees working under the same Ministry in the same rank and status is a continuous wrong, causing irreparable financial loss each and every month and on that score alone the impugned order dated 16.08.2005 is liable to be set aside and quashed.
- 5.11 For that the applicant being similarly situated like those Stenographers of Directorate of Field Publicity and working in the Central Government department as such denial of the benefit of higher scale of pay on the ground assigned in the letter dated 30.06.2005 and 15.04.2004 issued by the Govt. of India, Ministry of Finance is not sustainable in the eye of law as contended by the respondents in O.M dated 16.08.2005.
- 5.12 For that the benefit of first ACP has been granted to the applicant on the basis of the higher scale available in the post of Stenographer Grade II in DAVP i.e scale of Rs. 5,000-8,000, whereas as per judgment and order dated 19.01.1996, the said scale of Rs. 5,000-8,000 ought to have been revised to the next higher scale of Rs. 5,500-9,000 and as such applicant is entitled to the scale of Rs. 5,500-9,000 instead of the scale of Rs. 5,000-8,000 from the date of attaining eligibility for first ACP in terms of O.M dated 09.08.1999.

6. Details of remedies exhausted.

That the applicant declares that he has exhausted all the remedies available to and there is no other alternative remedy than to file this application.

Dipankar Chakraborty.

7. Matters not previously filed or pending with any other Court.

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

8.1 That the Hon'ble Tribunal be pleased to declare that the employees working in the cadre of Stenographer Grade- II in DAVP are entitled to benefit of higher revised scale of Rs. 5,500-9,000/- instead of Rs. 5,000-8,000/- in the light of the judgment and order 19.1.1996 passed by the CAT Principal Bench, New Delhi in O.A No. 548 of 1994.

8.2 That the Hon'ble Tribunal be pleased to direct the respondents to grant and re-fix the benefit of higher revised scale of pay of Rs. 5,500-9,000/- with effect from 09.08.1999 to the applicant with all consequential benefits including arrear monetary benefit by modifying the office order issued under letter No. GHT/RO/A-20012/11/GAU/89/246 dated 07.08.2000.

8.3 Costs of the application.

8.4 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for

Dipankar Chakrabarty.

98

During pendency of the application, the applicant prays for the following interim relief: -

- 9.1 That the Hon'ble Tribunal be pleased to observe that pendency of the application shall not be bar to grant relief to the applicant as prayed for.

10.

11. Particulars of the I.P.O

- i) I.P.O No. : ~~266 318988~~ . 266 317127,
 ii) Date of issue : ~~14.11.05~~ . 28.11.05
 iii) Issued from : G.P.O. Guwahati
 iv) Payable at : G.P.O. Guwahati

12. List of enclosures:
 As given in the index.

Dipankar Chakraborty

VERIFICATION

I, Sri Dipankar Chakraborty, Son of late B. Chakraborty, aged about 43 years, working as Stenographer Grade - III, in the office of Regional Office, DAVP, Guwahati, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 28th day of November, 2005.

Dipankar Chakraborty.

-20- AEP order of D. Chakraborty, Steno-III
100

Annexure-I

GOVERNMENT OF INDIA
DIRECTORATE OF ADVERTISING & VISUAL PUBLICITY
MINISTRY OF INFORMATION & BROADCASTING
REGIONAL OFFICE :: GUWAHATI

No. GHT/RO/A-20012/ 11 /GAU/89/246,

07.08.2000

In cancellation of earlier order of even No. dt. 3.8.2000 and in continuation of this Directorate's Order No. A-42011/25/99- Admn-I dt. 17.4.2000 .
The Pay of Shri D. Chakraborty, Steno, Regional Office, DAVP. Guwahati is fixed in the upgradation to next higher scale of pay of Rs. 5000-150-8000 as per
Ministry order No. 35034/1/97 Estt(D) dt. 9.8.99

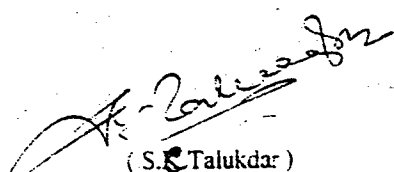
Pay drawn as Steno-III In the scale of Rs.	Date from which pay in col. 1 is being drawn	Date of upgradation Rs. 5000 - 150-8000/- (with notional increments)	pay fixed in the scale of	Dt. of next increment	pay raised from - to
4000-100-6000					
Rs. 5100/-	1.2.99	9.8.99	Rs. 5300/-	1.8.2000 1.8.2000	Rs.5300 - Rs.5450

The above pay is subject to post audit and in the light of audit observation of any over payment is made it will be recovered in lumpsum.


(S.K. Malviya)
Research Officer

Copy to:

1. Shri D. Chakraborty, Steno, RO, DAVP, Guwahati
2. DD(Admn), DAVP, New Delhi.
3. A.O. DAVP, Guwahati.
4. PAO, Dordarshan, Guwahati
- ✓ 5. Service Book.


(S. Talukdar)
Asstt. Editor

Attested
J.K.
Attested

Annexure- II

(Typed copy)

(Extract)

No. 2/1/90-CS-IV

Government of India

Ministry of Personnel, Public Grievances and Pension
Department of Personnel & Training

New Delhi, dated the 31st July, 1990

Subject: Revision of Scale of Pay of Assistant Grade of Central Secretarial Service and Grade 'C' Stenographers of Central Secretarial Stenographer Service.

1. The undersigned is directed to say that the question regarding revision of scale of pay for the post of Assistants in the Central Secretarial etc., has been under consideration of the Government in terms of order dated 23rd May, 1989 in O.A. No. 1530/87 by the Central Administrative Tribunal, Principal Bench, New Delhi for some time past. The President is now pleased to prescribe the revised scale of Rs. 1640-60-2600-EB-75-2900 for the pre-revised scale of Rs. 425-15-560-20-700-EB-25-800 for duly posts included in the Assistant Grade of Central Secretarial Service and Grade 'C' Stenographers of Central Secretarial Stenographers Service with effect from 1.1.1986. The same revised pay scale will also be applicable to Assistants and Stenographers in other Organisations like Ministry of External Affairs which are not participating in the Central Secretarial Service and Central Secretarial Stenographers Service but where the post are in comparable grades with same classification and pay scale and the method of recruitment through Open Competitive Examination is also the same.

*Attested
Jt. Secy.
Personnel*

2. Pay of the Assistants and Grade 'C' Stenographers in position as on 1.1.1986, shall be fixed in terms of Central Civil Service (Revised Pay) Rules 1986. The employees concerned shall be given option to opt for the revised scale of pay from 1.1.1986 or subsequent date in terms of Rule 5 *ibid*, read with Ministry of Finance O.M No. 7 (52)-E.III/86 dated 22.12.1986 & 27.5.1988 in the form appended to Second Schedule of the rule *ibid*. This option should be exercised within three months of the date of issue of the O.M. This option once exercised shall be final.

3. Formal amendment to CSS (RP) Rules, 1986 will be issued in due course.

4. This issues with concurrence of Ministry of Finance (Department of Expenditure) vide their U.O. No. 7(48)/IC/89 dt. 30.7.90.

Sd/- Illegible

Under Secretary to the Govt. of India.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

Annexure - II

Original Application No. 144-A of 1993

THIS THE 19th DAY OF January, 1996.

HON'BLE MR N.V. KRISHNAN, ACTING CHAIRMAN
HON'BLE MR D.C. VERMA, JUDICIAL MEMBER

V.R. Panchal, S/o Sri Rati Lal, R/o F-49, Road No. 4,
Andrews Ganj, New Delhi, working as Crime Assistant
in the office of Central Bureau of Investigation, Delhi
Region, Block No. 4, C.G.O. Complex, Lodi Road,
New Delhi.

2 . B.S. Sethi, Crime Assistant/CBI, as on 1.1.1986
(now JA/CBI)

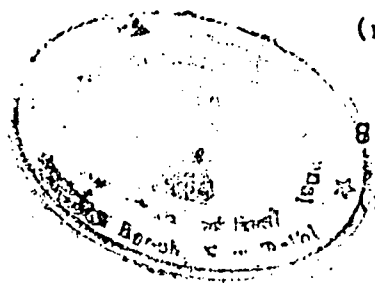
3. Pritam Lal, Crime Assistant/CBI as on 1.1.1986
(now OS/CBI).

4. M.C. Das, Crime Assistant/CBI as on 1.1.1986
(now OS/CBI)

5. G.V.S. Rao, Crime Assistant/CBI, as on 1.1.1986
(now OS/CBI).

6. V.R. Prasad Rao, Crime Assistant/CBI as on 1.1.1986
(now OS/CBI).

7. Joy Joseph, Crime Assistant/CBI as on 1.1.1986
(now OS/CBI).



8. D.G.K. Sastry, Crime Assistant/CBI as on 1.1.1986
(now OS/CBI) -

9. B.D. Goel, Crime Assistant/CBI as on 1.1.1986
(now OS/CBI).

Attested
by
Secretary

11. B.B. Goel, Crime Assistant/CBI.
12. M.C. Kholia, Crime Assistant/CBI.
13. Sobha Chand, Crime Assistant/CBI.
14. P.V. Krishnamurthy, Crime Assistant/CBI.
15. A.N. Murthy, Crime Assistant/CBI.
16. L.R. Chandra, Crime Assistant/CBI.
17. Naresh Kumar, Crime Assistant/CBI.
18. G.K. Garg, Crime Assistant/CBI.
19. H.S. Chakravathy, Crime Assistant/CBI.
20. R.N. Prashad, Crime Assistant/ CBI.
21. Rajinder Singh, Crime Assistant/CBI.
22. R.N. Bhardwaj, Crime Assistant/CBI.
23. Prem Prakash, Crime Assistant/CBI.
24. N.K. Tiwari, Crime Assistant/CBI.
25. G.K. Swamy, Crime Assistant/CBI.
26. K.D. Singal, P.A. (Steno Gr.'C') as on 1.1.1986
(now Sr. P.A.).
27. Smt. Krishna Anand, PA (Steno Gr.'C') as on 1.1.1986
(now Sr. P.A.).
28. Smt. Kanta Gaba, PA (Steno Gr.'C') as on 1.1.1986
(now Sr. P.A.).
29. Prabha B. singh P.A. (Steno Gr.'C').
30. U.P. Enatia, P.A. (Steno Gr.'C') as on 1.1.1986

32. Smt. Parvesh Chawla PA (Steno Gr. 'C') as on 1.1.1986 (now Sr. P.A.).

33. Sri Ashok Sahaney, PA/CBI.

34. N. N. Datta, P.A./CBI.

35. R.N. Lutha PA/CBI.

36. Smt. Jayshree, P.A./CBI.

37. S.P. Narula, P.A./CBI.

38. M.L. Khanna, PA/CBI.

39. S.A. Srivastava, PA/CBI.

Applicants

By Advocate : Sri V.S. R. Krishna

Versus

Union of India through its Secretary, Department of Personnel & Training, New Delhi.

2. Union of India through its Secretary, Ministry of Finance (Department of Expenditure), New Delhi.

3. Central Bureau of Investigation, Block No. 3 CGO Complex, New Delhi.

Respondents

By Advocate : Sri M.M. Sudan

With

Original Application No. 985 of 1993

Goverdhan Lal, S/o Late Sri Permanand, R/o SEC V/1558, R.K. Puram, New Delhi.

2. Murari Lal, S/o Sri Banwari Lal, R/o E-574, West.

210
-4- -26-
3. Bajjeet Singh, S/o Sri Ramji Lal, R/o 548, Chirag,
Delhi.

4. Lakshman Dass, S/o Late Sri Behari Lal, R/o 510,
Rishi Nagar, Shakur Basti, Delhi.

5. Charan Singh, S/o Sri Prem Sukh, R/o 328 Munirka,
New Delhi.

6. C.S. Negi, S/o Late Sri H.S. Negi, R/o S-IV, E.P.
Road, New Delhi.

7. R.K. Chopra, S/o Sri Hans Raj Chopra, R/o 84, East/
Azad Nagar, New Delhi.

8. D.R. Khullar, S/o Late Sri Lal Chand Khullar, R/o
60/43, Kalibari Marg, DIZ Area, New Delhi.

9. M.N. Chopra, S/o Late Sri S.D. Chopra, 94, Moti
Bagh, TYPE III, New Delhi.

10. Sampat Sahni S/o Sri M.L. Sahni, R/o 165-A Mayur
Vihar, Phase II, Pocket-C, New Delhi.

11. P.G. Kirar, S/o Giri Raj Parshad, R/o LP-61-A
Murya Enclave, Pitam pura, Delhi.

12. Miss Sarla Sachdeva, D/o Sri Kanaya Lal Sachdeva,
R/OH-117, D.D.A. Flats, Naraina, New Delhi.

13. R.K. Aroga, S/o Lt. Sri G.M. Arora, R/o 23A
Indra Park Palam Road, New Delhi.

14. R.M. Sharma, S/o Lt. Sri Ram Dhari Sharma, R/o
40-F Aram Bagh, Type-B, New Delhi.

15. S.R. Ghai, S/o Late Sri B.R. Ghai, R/o Sec. 3/928
R.K. Pura, New Delhi.

107

17. Radhey Shyam, S/o Late Sri Banwari Lal, 250,
I.T. Colony, Unit, Pitam Pura, Delhi.

18. Smt. Urmil Bhatia, W/o Sri Gulshan Bhatia, R/o
C-1 G.2 Dislshad Garden, Delhi.

19. Sri Bhanshyam, S/o Lt. Sri Rama Ram, R/o Vill &
Post Karala, Delhi.

20. Ishwar Singh, S/p Lt. Sri Raja Ram, R/o Vill.
Balanr, P.O. Bahadurgarh, Dist. Rohtak (Haryana).

21. Surinder Singh, S/o Sri J.P. Singh, R/o G-39
Nanakpura, New Delhi.

22. Smt. Neelam Raichand, W/o Sri Arun Kumar Raichand,
R/o 9, Mousam Vihar, New Delhi.

23. Rajinder Kumar Arora, S/o late Sri O.P. Arora,
R/o H.No. 494, Circular Road, Shahadara, Delhi.

24. Kasturi Lal, S/o Lt. Sh. Banshi Ram, R/o 4161/65
Gali Shahtara, Ajmeri Gate, Delhi.

Applicants

By Advocate : Sri M.L. Ohri

Versus

Union of India through the Secretary, Ministry of
Finance, Dept. of Revenue, North Block, New Delhi.

2. The Secretary, Ministry of Personnel, Public
Grievances and Pensions, Dept. of Personnel &
Training, New Delhi.

3. The Chairman, Central Board of Direct Taxes,
Ministry of Finance, Department of Revenue, North
Block, New Delhi.

Respondents

By Advocate : U.P. Uppal

28
Original Application No. 548 of 1994

Brahm Dass, Directorate of Field Publicity, Ministry
of Information & Broadcasting, East Block 4, Level 3,
R.K. Puram, New Delhi.

2. H.K. Mahto, Directorate of Field Publicity,
Ministry of I & B, R.K. Puram New Delhi.

3. Sukhdev Raj Sharma, Directorate of Field Publicity,
Ministry of I & B, R.K. Puram, New Delhi.

4. J.K. Garg, Directorate of Field Publicity, Ministry
of I & B, R.K. Puram, New Delhi.

5. V.S. Negi, Directorate of Field Publicity,
Ministry of I & B, R.K. Puram, New Delhi.

6. Mrs. Harbans Ahuja, Directorate of Field Publicity,
Ministry of I & B, R.K. Puram, New Delhi.

7. Mrs. Rashmi Marwaha, Directorate of Field
Publicity, Ministry of I & B, R.K. Puram, New Delhi.

8. N.S. Srivastava, Regional Office, Directorate of
Field Publicity, Ministry of I & B, Vidhan Sabha Marg,
Lucknow.

9. Vishan Das, Regional Office, Directorate of Field
Publicity, Ministry of I & B, Chittranjan Marg,
Jaipur.

10. Mrs. Shricevi Arun Moralwar, Regional Officer
Directorate of Field Publicity, Ministry of I & B,
Vidya Vihar, Pune.

11. K.K. Sharma, Regional Office, Directorate of Field

Publicity, Ministry of I & B, Sector 34-A, Chandigarh.

12. Desh Raj, Directorate of Field Publicity,
Ministry of I & B, R.K. Puram, New Delhi.

13. Desh Raj, Regional Office Dte. of Field Publicity,
Assam Region, Guwahati.

14. V. Padmandabhan, Regional Office, Dte. of Field
Publicity, Ministry of I & B, Tamil Nadu Region,
Madras.

Applicants

By Advocate : Sri V.S. R. Krishna

Versus

Union of India through the Secretary, Ministry of
I & B, Shastri Bhawan, New Delhi.

2. The Secretary, Department of Personnel &
Training, Ministry of Personnel & Public Grievances
& Pensions, New Delhi.

3. The Secretary, Ministry of Finance, North
Block, New Delhi.

4. The Director of Field Publicity, East Block 4
Level 3, R.K. Puram, New Delhi.

Respondents

By Advocate : Sri M.M. Susan

ORDER

D.C. VERMA, MEMBER (J)

In the three O.A.s, the applicants are
Assistants and Stenographers Grade 1st to 4th.

10
(Aspirants) parity in the pay-scale given to their counterparts

in the Central Secretariat. As the points involved in the 3 O.A.s are common, it is being disposed of by a single order.

2. In O.A. No. 144-A/93, 39 applicants are working as Crime Assistants and Stenographers Grade 'C' (P.A.) in the department of Central Bureau of Investigation (in short C.B.I.) attached office of the Ministry of Personnel & Public Grievances & Pensions, Govt. of India.

3. In O.A. No. 985/93, 24 applicants are Assistants in the office of Director General of Income Tax (INV), North, New Delhi which is attached office of Central Board of Direct Taxes, Ministry of Finance, Department of Revenue.

4. In O.A. No. 548/94, 14 applicants are working as Stenographers Grade-II and Assistants in the Directorate of Field Publicity (in short DFP), Ministry of Information & Broadcasting.

5. All the applicants who are working as except Steno Gr.II of the O.A. No.548/94 Assistants or Stenographers Grade-II/were recommended pay-scale of Rs. 1400-2600/- by the 4th Pay Commission (in short P.C.). The same recommendation was made by the 4th P.C. to the Assistants and Stenographers Grade-II (P.A.) who are working in the Central Secretariat. However, by a subsequent O.M. No. 2/1/90 CS.4 dated 31.7.90 revised scale of pay of Rs. 1640-2900 in the pre-revised scale of

Stenographers

Stenographers of Central Secretariat Services

to the revised pay-scale of 1.1.1986 was given. The same revised pay-scale was also made applicable to Assistants and Stenographers who are working in other organisations like Ministry of External Affairs which were not participating in the Central Secretariat Services

(in short CSS) and Central Secretariat Stenographers

services (in short CSSS) but where the posts were in comparable grades with same classification and pay-scales and the method of recruitment through open competitive examination was the same. This is the cause of grievance to employees of various Govt. departments. The aggrieved employees have filed As in different Benches of the Tribunal.

6. Before discussing the facts of each case, it would be better to transverse the case law on the point.

In the case of Randhir Singh Vs. Union of India & others (AIR 1982 SC, 877), the apex court has held as below :

"It is true that equation of posts and equation of pay are matters primarily for Executive Government and expert bodies like the Pay Commission and not for courts, but where all things are equal that is, where all relevant considerations are the same, persons holding identical posts may not be treated differentially in the matter of their pay merely because they belong to different departments. Of course, if officers of the same rank perform dissimilar functions and the powers, duties and responsibilities of the posts held by them vary, such officers may not be heard to complain of dissimilar pay merely because the posts are of the same rank and the nomenclature is the same."

"It is well-known that there can be and there are different grades in a service, with varying qualifications for entry into a particular grade, the higher grade often

either academic qualifications or experience based on length of service, reasonably sustain the classification of the officers into two grades with different scales of pay. The principle of equal pay for equal work would be an abstract doctrine not attracting Art. 14 if sought to be applied to them AIR 1962 SC 1139, Distinguished."

"It is true that the principle of "equal pay for equal work" is not expressly declared by our Constitution to be a fundamental right. But it certainly is a Constitutional goal."

"Constructing Articles 14 and 16 in the light of the preamble and Article 39(d), it is clear that the principle "Equal pay for Equal work" is deducible from those Articles and may be properly applied to cases for unequal scales of pay based on no classification or irrational classification though those drawing the different scales of pay do identical work under the same employer."

The principle as laid down in Randhir Singh's case (supra) has been reiterated in the case of Mewa Ram Kanojia Vs. All India Institute of Medical Sciences and others (A.I.J. 1989 (1) page 654) in the following words :

"The doctrine of "Equal Pay for equal work" is not expressly declared a fundamental right under the Constitution. But Article 39 (d) read with Articles 14 and 16 of the Constitution declares the constitutional goal enjoining the State not to deny any person equality before law in matters relating to employment including the scales of pay. Article 39(d) read with Articles 14 and 16 of the Constitution enjoins the State that where all things are equal, persons holding identical posts, performing identical and similar duties under the same employer should not be treated differently in the matter of their pay. The doctrine of "Equal pay for equal work" is not abstract one, it is open to the State to prescribe different scales of pay for different post having regard to educational qualifications duties and responsibilities of the post. The principle of "Equal pay for equal work" is applicable when employees holding the same rank perform similar functions and discharge similar duties and responsibilities are treated differently. The application of the doctrine would arise where employees are equal in every respect but they are

7. In view of the above, the principle of "Equal pay for equal work" is applicable when employees holding the same rank perform similar functions and discharge similar duties and responsibilities are treated differently in the matter relating to the scale of pay. While dealing with the parity of the pay-scale in the case of State of U.P. & others Vs. J.P. Chaurasia & others (1989 SC (143) 71), the apex court relied on the earlier decision including Randhir Singh's case (supra) and the case of Bagwandas Vs. State of Haryana (1987 (4) SCC 634) and observed as below :

"Primarily it requires among others, evaluation of duties and responsibilities of the respective posts. More often functions of two posts may appear to be the same or similar, but there may be difference in degrees in the performance. The quantity of work may be the same, but quality may be different that cannot be determined by relying upon averments in affidavits of interested parties. The equation of posts or equation of pay must be left to the Executive Government. It must be determined by expert bodies like Pay Commission. They would be the best judge to evaluate the nature of duties and responsibilities of posts. If there is any such determination by a Commission or Committee, the court should normally accept it. The Court should not try to tinker with such equivalence unless it is shown that it was made with extraneous consideration."

8. In view of the above, the Court should normally accept the decision taken on the basis of recommendations of the P.C., which is an expert body to determine pay-scales. However, in case it is found that for extraneous consideration, by a subsequent State action or in action.

may sometime feel it necessary, for the purpose of providing justice, to interfere with the orders issued by the executive. Some such situations, amongst others, are as below, where,

(i) the pay commission omitted to consider the pay-scale of some posts of any particular service, or

(ii) the Pay-commission recommended certain scales based on no classification or irrational classification, or

(iii) after recommendation of the Pay-commission is accepted by the Govt., there is unjust treatment by subsequent arbitrary State action/or in action. In other words the subsequent State action/in action results in favourable treatment to some and unfair treatment to others.

9. In the case of all the above three situations, courts interference is absolutely necessary to undo the in-justice. Aggrieved employees have a right and the courts have jurisdiction to remedy the unjust treatment metted by arbitrary State action or in action.

10. In view of the principle of law derived as above, facts of each case has to be examined separately to find whether the applicants of the three O.A.s are entitled to have their pay-scales revised on the basis of the O.M. of the Govt. of India dated 31.7.90.

11. O.A. No. 144-A/93

15

2024-2025

Assistants and Grade 'C' Stenographers of the Civil Secretariat, we are of the view, are identical and similar in all respects. The judgment given by the Tribunal in J.A. No. 760/88 in the case of Puran Chand & others Vs. Union of India & others, the following paragraph so far it relates to work and duties of the Assistants in the CSS and Crime Assistants of the C.B.I. are concerned, is very relevant and so extracted below:

"The Ministry of Finance have not agreed with the recommendations of the Department of Personnel without explaining as to show the work done by the Crime Assistants in the C.B.I. on their promotion as Office Superintendent is of lower category or responsibility. From the noting in the file of Ministry of Personnel, it is quite clear that the Ministry of Personnel have reached the conclusion that there is a parity between the duties and responsibilities of the applicants with these of the Assistants and Section Officers in the CSS and as such they should be entitled to "equal pay for equal work". They should be entitled to the same facilities. The Supreme Court has already held that "Equal pay should be paid for equal work."

13. Thus, from the documents on record, it is fully established that there is parity between the duties and responsibilities of the applicants in O.A. No. 144-A/93 with those of Assistants and Stenographers Grade 'C' in the CSS and CSSS.

14. As regards the pay-scales prior to 4th P.C., the scales of Crime Assistants of the C.B.I. and the Assistants of CSS cadres were Rs. 425-800/- and those of Personal Assistants of the C.B.I. and Stenographers Grade 'C' of CSSS cadres were also Rs. 425-800/-. The 4th P.C.

to all the above category i.e. Crime Assistants.

and the Personal Assistants of the department of

C.B.I. and Assistants and Stenographers Grade 'C'

of the CSS and CSSS and this recommendations of

Pay-scales was accepted by the Govt. of the

The recommendations of the 4th P.C.

has been quoted in para 4.14 of the O.A. The

relevant portion of the 4th P.C. as quoted in the

O.A. are given below :

8.41. The scale of Rs. 425-800/- covers posts of Assistant and Stenographer in / different ministries/departments, auditor under C&AG, etc. The recruitment is either through competitive examination or by promotion from the scale of Rs. 330-560/-

8.42. There are three other scales which are segments of the scale of Rs. 425-800/- and these are Rs. 425-700/-, Rs. 440-750/- (at (c)) and Rs. 440-750/- (at (e)) . The categories of posts covered by the scale of Rs. 425-750/- are engineering assistant in Cooridarshan and all India radio, selection grade, inspector of telegraph and assistant superintendent (telegraph and telephone) in P&T and stock verifier in rail ways. The scale of Rs. 440-750/- at (c) and the scale of Rs. 440-750/- at (e) are for trained graduate teachers, the scale of Rs. 440-750/- at (e) having been introduced subsequent to the report of the Third Pay Commission, appointment to all these posts is partly by promotion from the scales of Rs. 330-560/- and Rs. 425-640/- and partly by direct recruitment.

8.43. The scale of Rs. 470-750/- covers categories of posts like scientific assistant in departments of atomic energy and space, tradesman in the department of space, section controller in the railways, assistant foreman in the department of energy and grade IV officers of the Central Information Service (CIS). Appointment to these categories of posts is mostly by promotion from the level of Rs. 330-560/- and Rs. 425-700/-. There is also direct recruitment for certain categories of posts like reporter in All India Radio, Scientific Assistant in department of Space and for grade IV of CIS.

to all the above categories and in the fact that promotions to these are made from more or less similar levels, we recommend that all categories of posts presently covered by the scales of (a) Rs. 425-800/-; (b) Rs. 425-750/-; (c) Rs. 410-750/-; (d) Rs. 470-750/- and (e) Rs. 440-750/- may be grouped together and given the scale of Rs. 1400-40-1600-50-2300-EB-60-2600/-. In respect of the categories of posts in the scale of Rs. 470-750/- where graduates in science are directly recruited, we recommend that a suitable higher start may be given in the scale of Rs. 1400-40-1600-50-2300-EB-60-2600/-. Involvement

16. Thus, it is clear that after considering various factors to attract persons of required qualifications and calibre and with a view that the salary structure should be coherent and should adequately reflect the substantial differences in the nature and responsibilities of the various posts and to avoid frustration in the employees on comparing his lot with his compers and to minimise the number of pay-scales, the pay-commission made the above recommendations on the basis of duties and responsibilities of various posts. The concept of "Equal pay for equal work" as principle for determining the salary of the Government employees was also taken note of. The 4th P.C. observed in para 7.12 that " in the absence of any distinguishing features, employees of the Central Government in different branches should be paid equally, if their work was adjudged to be of equal value."

17. The learned counsel for the respondents has contested the claim of the applicants on the ground that each department had its own methods of recruitment and same/equal pay-scales cannot be

is merely on the ground that the applicants did not satisfy the conditions laid down in DP&T J.M. dated 31.7.90. In other words, his contention is that the nature of work performed by the Assistants/Stenographers Grade C in the Ministry of the Govt. of India and duties/functions of the petitioners working in the C.B.I. are quite different and the posts with different qualifications

have different methods of recruitment and source of entry and as such there cannot be any parity to justify the grant of the revised higher pay-scales to the petitioners.

18. It has been already discussed above and found established that so far the work, duties and responsibilities of the applicants as Crime Assistants and P.A.s are concerned, they are equal to that of their counterparts working in the Civil Secretariat in the cadres of CSS and CSJS. It has also been found that even the department of Personnel had found parity between the duties and responsibilities of the applicants working as Crime Assistant with that of Assistants of CSS. The matter was examined by 4th P.C. and 4th P.C. also recommended the same scales to both the categories of employees. It is the subsequent action i.e.

issue of O.M. dated 31.7.90, disparity has been created between the employees of CSS and the applicants of this case. xxxxxxxx. Even in O.M. dated 31.7.90, it is mentioned that "the same revised pay-scale will also be applicable to Assistants and Stenographers in other organisation

120

and the Central Secretariat Stenographers Services but where the posts are in comparable grades with same classification and pay-scales and the method of recruitment through Open Competitive Examination is also the same." This part of the O.M. has been examined by the various Benches of the Tribunal.

Assistants & Stenographers Grade 'C' working in the Department of Central Administrative Tribunal, Border Security Force, Indo Tibetan Border Police, Central Industrial Security Force and Bureau of Police & Research Development were parity with Assistants of CSS and Steno Gr'C' of CSSS, granted by the Tribunal. It is also worthwhile mentioning that there was no provision for direct recruitment to the post concerned in Border Security Force and to the post of Assistants in Central Administrative Tribunal.

19. Besides the above, this point has been already considered by the apex court in the case of Bhaqwan Das Vs. State of Haryana (1987 (2) A.T.J. 479. Therein, the contention on behalf of State was that the respondents were selected by the subordinate service Selection Board after competing with candidates from any part of the country and that normally the selection at best is limited to the candidates from the cluster of a few villages only. Repelling the arguments of State's Counsel, the apex court has held as below :

"We need not enter into the merits of the respective modes of selection. Assuming that the selection of the petitioners has been limited to the cluster of a few villages whereas Respondents 2 to 6 were selected by another mode wherein they had faced competition from candidates from all

- 41 -

to be dissimilar the fact that the recruitment was made in one way or the other would hardly be relevant from the point of view of "Equal Pay for equal Work" doctrine. It was open to the State to resort to a selection process where the candidates from all over the country might have competed if they so desired. If however they deliberately chose to limit the selection of the candidates from a cluster of a few villages it will not absolve the State from treating such candidates disadvantage of the selectees of in a discriminatory manner to the once they are appointed provided the work done by the candidates so selected is similar in nature."

(Emphasis made)

20. Thus, in view of the above discussions, the applicants are entitled to the scale of Rs. 1640-2900/- at par with the Assistants and Stenographers Grade 'C' working in the CSS and CSSS cadres.

21. O.A. No. 985/93

The applicants , in this case, are Assistants in the office of Director General of Income Tax (INV) North, New Delhi, in the pay-scales of Rs. 1400-2600/-. The office of the Director General of Income Tax is an attached office of the Central Board of Direct Taxes, Ministry of Finance, Department of Revenue, New Delhi. The applicants are holders of Group 'C' Non-Gazetted post. The case of the applicants is that by all 4 previous P.Cs, parity was maintained between the applicants and their counterparts working in the CSS cadres. In para 4.3. of the O.A., the pay-scales of Assistant in the office of Central Board of Direct Taxes and Central Secretariat Services has been given, which is as below :

✓

Scale of pay of Assistants in the attached office of Central Board of Direct Taxes & Central Secretariat Service

1st Pay Commission	Rs. 160-450
2nd Pay Commission	Rs. 210-530
3rd Pay Commission	Rs. 425-800
4th Pay Commission	Rs.1400-2600 "

22. The above fact has not/denied by the respondents in their reply. The scale of Assistants working in the Central Secretariat Service were revised by O.M. dated 31.7.90 but w.e.f. 1.1.1986.

Assistants working in the Central Secretariat were given the pay-scale of Rs. 1640-2900/- in place of Rs. 1400-2600/-. The same revision in the scale of pay of the applicants was not made and the representation was rejected by the order dated 4/9.12.92 (Annexure-2). The grounds for rejection given in Annexure-2, is as below :

"Item	Assistants in the Central Secretariat	Assistants in the Directorates of the CBDT
1. Classification	Group 'B' (Non-gazetted)	Group 'C'
2. Method of Recruitment	Partly by Direct Recruitment through UPSC and partly by promotion from UDCs.	100% by promotion from UDCs. There is no Direct Recruitment
3. Nature of Duties & responsibilities	Assistants in the Central Secretariat contribute to policy making of the Govt. of India	The Directorates of the CBDT not deal with any policy matter. The nature of duties and responsibilities of Assistants is routine and clerical.
4. Promotion to Higher Grade	Assistants in the Central Secretariat are eligible for promotion to	Assistants in the Directorates are eligible for promotion to

as well, as in the scale of Rs. 2000-3200 per Recruitment Rules (Group 'C' Non-gazetted). " 123

23. (Para) As regards the grounds of rejection at

Sl. No. ~~XXXX~~ 2 is concerned, we need not discuss

the same in detail, as the same has been already examined and found not tenable in the earlier O.A. No. 144-A/93,

in view of apex court decision quoted in para 19

in the case of Bhagwan Das Vs. State of Haryana.
at Sl. No. 1

As regards classification is concerned, the point

was discussed by the ~~XXXX~~ Ernakulam Bench

in its judgment dated 26.7.95 in O.A. No. 1322/94

& O.A. No. 276/95 in the case of K.R. Chandrasekharan

Kunji Vs. The Secretary, Department of Revenue,

Ministry of Finance, Central Secretariat, New Delhi

The Ernakulam Bench has held as below :

"It was argued further that Assistants in the External Affairs Ministry are in Group 'B' while Assistants in the Passport Office are in Group 'C'. This exactly is the grievance of the applicants. According to them two classes who are similar are differently treated by dividing them into Group 'B' and 'C'. Therefore, the argument of respondents would only establish the case of discrimination and not justify it."

24. The third point is that the nature of duties and responsibilities of the Assistants in the Central Secretariat is to contribute to policy making of the Govt. of India and whereas the applicants who hold the posts of Assistants in CBDT do not deal with any policy matter and do only routine and clerical job. **

~~concerned.~~ The ~~Ernakulam~~ Ernakulam Bench in

of Revenue, Ministry of Finance, Central Secretariat,

New Delhi, decided on 20.7.95, (supra)

was also considering the case of Assistants in the Enforcement Directorate and Passport Office for the scale of Rs. 1640-2900/- w.e.f. 1.1.1986.

A similar ground was taken, and Ernakulam Bench observed " we find it difficult to endorse the view that officials at a comparatively lower level like Assistants in the Ministry have anything to do with policy matters in the real sence."

25. We are in full agreement with the views expressed by the Ernakulam Bench. on the point.

26. The fourth ground of rejection is that Assistants in the Central Secretariat are eligible for promotion to the post of Section Officer in the pay-scale of Rs. 2000-3500/- (Grade 'B' Gazetted), on the other hand, the Assistants in the Directorates are eligible for promotion to the post of Senior Technical Assistant/Technical Research Assistant in the scale of Rs. 1640-2900/- as well as in the scale of Rs. 2000-3200/- which is Group 'C' Non-Gazetted post. In other words, the case of the respondents is that scale of Rs. 1640-2900/- is an intermeditaory scale between the post of Assistants and Technical Research Assistant which is a promotional posts of the applicants who are working in the scale of

(47)

125

thereafter Technical Research Assistant (Scale Rs. 2000-3200/-).
 27. The objection of the respondents that due to intermediary scales the applicants were not given the scales of Rs. 1540-2900/- is also not sustainable. This point has already been considered, in a similar matter by Hon'ble Supreme Court in the case of Union of India & Others Vs. Debashis Kar & others (1995 SCC (L&S) 1303.

The apex court was dealing with the scale given to Draughtsmen Grade II in CPWD and Ordnance Factories. A similar objection, as in the case before us regarding intermediary scale, was taken before the apex court and the same was repelled in the following words :

"Sri N.N. Goswami, learned Senior Counsel appearing in support of the appeals as well as the special leave petitions and the review petition, has urged that the channel of promotion in Ordnance Factories is different from the channel of the promotion in CPWD inasmuch as in CPWD there is no further promotion after a person reaches the scale of Draughtsman Grade I while in Ordnance Factories a draughtsman is entitled to be promoted as Chargeman Grade II and thereafter as Chargeman Grade I and as Foreman and that the post of Chargeman Grade II which is the promotional post for draughtsman was in the pay-scale of Rs. 425-700 would result in placement of Draughtsman in the said pay-scale of Rs. 425-700/- would result in Draughtsman being placed at the same level as the promotional post of Chargeman Grade II and, therefore, the benefit of the revision of pay-scales under Office Memorandum dated 13.3.1984 cannot be extended to the Draughtsman in Ordnance Factories. On behalf of the respondents, it is disputed that there are no promotional chances for Draughtsman Grade I in CPWD. This point was not debated in any of the

As regards the post of Chageman Grade II being a promotional post for Draughtsman in Ordnance Factories and it being in the scale of Rs. 425-700/- cannot be a justification for denying the revision of pay scales to Draughtsmen and their being placed in the scale of Rs. 425-700/- on the basis of the Office Memorandum dated 13.3.1984 if such Draughtsmen are otherwise entitled to such revision in the pay-scale on the basis of the said memorandum.

28. In the case before us, Assistants in the Directorates attached to CDDT and Assistants in CSS were in the same scale prior to issue of O.M. dated 31.7.90. Thus, for more than 4 decades since establishment of the ~~Directorate~~ Directorate, all the previous Pay-Commissions till the 4th P.C., the parity of the pay-scales between the two were maintained. There is nothing on record to show that after recommendation of the 4th P.C., which was accepted by the Govt., any new developments occurred to create differentiation between the status of the Assistants working in the Directorates attached to CDDT and that of CSS. The O.M. dated 31.7.90 has, thus, created dis-parity between the two and, therefore, the order dated 4/9.12.92 refusing the pay-scale of Rs. 1640-2900/- to the applicants cannot be sustained on the ground of discrimination.

29. In our view, therefore, the present applicants are entitled to the scales of Rs. 1640-2900/- at par with the Assistants in the CSS.

could have been Stenographers Grade-II and Assistants in the
their duties of Stenographer Grade II and Assistant
Directorate of Field Publicity, Ministry of
Information & Broadcasting. Both the post
belong to General Central Service, Non-Gazetted
ministerial post and are at present in the scale
of Rs. 1400-2600/-. The Directorate of Field
Publicity was a participating office in the
Central Secretariat Service/Central Secretariat
Stenographers Service from its inception. The
posts sanctioned for the DFP were included in
the authorised permanent strength of the Ministry
of Information & Broadcasting and manned by the
Personnel of the said Ministry upto 1975. Thereafter,
DFP was excluded from the purview of the
Central Secretariat Service/Central Secretariat
Stenographers Service. At that time, those who
had opted for the DFP were retained in the DFP
with their original status, pay, scales etc.
The O.M. dated 31.7.90 is the cause of grievance
to the applicants.

31. The main ground for rejection of the
claim of the applicants is (i) that the method
of recruitment to these posts in the Directorate
is not through open competition; (ii) that the
pay-scales for the post of Stenographer Grade-II
in the DFP was Rs. 425-700/- which was subsequently
revised to Rs. 1400-2300/- on the recommendations
of the 4th P.C. and later on it was again revised
to Rs. 1400-2600/- w.e.f. 1.1.1986 by the Ministry
of Finance, O.M. dated 4.5.90 and (iii) since both

matter will be taken with them.

48

128

32.

It is not denied that right from

the year 1971, the scales of Stenographers and

Assistants in the DFP were comparable to the scale

of Stenographers and Assistants in the Central

Secretariat. A comparative table showing the

equation of posts and pay-scales has been given

in para 4.12 of the O.A. and is being reproduced

below :

*Year	Pay-Scale of Asstts. and Stenos in the DFP	Pay Scale of Asstts. & Steno in the Central Sectt.	Pay Scal of Asstts. & stenos in other organi- sations like ITBP, CISF, Cabinet Sectt. as also in EPR&D AFHQ, IB CBI,SSB RAW & BSF
-------	---	--	---

1971	210-530	210-530	210-530
CONSEQUENT UPON RECOMMENDATIONS OF 3RD PAY COMMISSION			
1973	425-800	425-800	425-800
CONSEQUENT UPON RECOMMENDATIONS OF 4TH PAY COMMISSION			
1986	1400-2600	1400-2600	1400-2600

Upon issue of GOI Ministry of Personnel OM No. 2/1/90-CS.IV dated 31.7.90 (Ann.A-1) revising the pay-scales of Stenographers Grade 'C' and Assistants from Rs. 1400-2600/- to Rs. 1640-2900/- to be effective retrospectively from 1.1.1986 in the Central Secretariat Service.

1986	1400-2600	1640-2900	1640-2900
------	-----------	-----------	-----------

33.

The applicants till the year 1975, were

6

participating in the CSS/CSSS and were discharging their duties of Stenographers Grade II and Assistants in the same manner as those of Stenographers and Assistants in the CSS/CSSS. It has been asserted in para 4.7 of the O.A. that the job contents of the Stenographers Grade II and the Assistants in the DFP was absolutely the same as in the comparable departments. It has been further asserted that status and responsibilities of the applicants in the DFP is in no way inferior than in any of the comparable posts in the CSS. This fact too has not been denied in the reply. Thus, as regards work, duties and responsibilities of the applicants vis-a-vis their counterparts in the CSS/CSSS are concerned, is not in dispute that they are comparable.

34. The point that there is no provision for direct recruitment on the basis of open competition, has already been discussed and found not sustainable, in our discussions in the earlier O.A.s above.

35. The other point is that pay-scale of Stenographers Grade-II of LFP was only Rs. 425-700/- whereas those of CSSS was Rs. 425-800/-. It is not disputed that the scale of Rs. 425-700/- was revised to Rs. 1400-2300/-, but the scale of Stenographers Grade II of LFP was subsequently revised to Rs. 1400-2600/-, by O.M. dated 4.5.90 w.e.f. 1.1.1986. Thus, the benefit of the scale of Rs. 1400-2600/- was made available to Stenographer

may be reasons, the Government in its own wisdom

thought it proper to bring the Stenographers

Grade-II of DFP at par with CSSS. However, by

the impugned order dated 31.7.90 different scale

was given to CSSS and Stenographer Grade-II of

some other departments. The ground mentioned

in the O.M. dated 31.7.90 for putting CSSS in

a higher pay-scale has not been found tenable,

in view of various apex court judgments, by the

Tribunal in various cases. In the case before

us, we are of the view that the case of the

applicants who are working as Assistants &

Stenographers Grade-II in the DFP cannot be

discriminated.

36. The third point that since 5th P.C.

has been announced by the Government and

the matter will be taken-up with them, the

applicants should wait till the recommendations

of the 5th P.C., is also not tenable. The

applicants are claiming parity w.e.f. 1.1.1986.

The Government has, after, putting the applicants

at par with CSS/CSSS created a discrimination

by issue of O.M. dated 31.7.90 and hence this

matter can be well decided by this Tribunal.

37. In our view, therefore, the

applicants, in this case, are also entitled to

the scale of Rs. 1640-2900/- as their counterparts

in the CSS/CSSS.

38. In view of our discussions made above,

all the three O.M.s are allowed and the respondents

of the respective O.M.s are directed to place

the scale of Rs. 1640-2900/-, but the payment of arrears would be limited to one year prior to date of filing of the respective O.A.S.

However, the fixation of pay will be effective w.e.f. 1.1.1966. If any of the applicant has, in the meanwhile, during the pendency of the case, retired he will be given consequential benefits thereof. The order and directions given in the case shall be complied with by the respondents within a period of two months w.e.f. the date of communication of this order.

39. In the facts and circumstances of the case, there shall be no order as to costs.

Member (J)

Acting Chairman

GIRISH/-

प्रमाणित प्रतिलिपि
CERTIFIED TRUE COPY
दिनांक/Date: 27/9/66
जनरल सचिव/Section Officer
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रधान कार्यालय, नई दिल्ली
Principal Bench, New Delhi

-34- -52-

~~Annexure IV~~
~~Annexure IV~~
Annexure-IV SECTION XIV 132

COURT No 5

SUPREME COURT OF INDIA
RECORDS OF PROCEEDINGS

Petition (s) for Special Leave to Appeal (Civil / Crim) No (s)/96 CC 2335
(from the Judgement and order dated 19.1.1996

Central Administrative Tribunal, Principal Bench, New Delhi,
in O.A.No.985/93
Union of India & Ors.

(of the PROCEEDINGS)

Petitioner (s)

Versus

Goverdhan Lal & Ors.
(with I.A.1(c/delay) in filing SLP)

432635
Respondent(s)

Date: 11.7.1996

This / These Petition (s) was/were called on for hearing today.

CORAM :

Honble Mr. Justice
Honble Mr. Justice
Honble Mr. Justice

S.C. Agrawal
G.L. Nanavati

Filed to be true copy
Assistant Registrar (Jd) (di)
26/7/2007
Supreme Court of India

For the petitioner (s)

Mr. R. Venugopal Reddy, Sr. Adv.,
Mr. B. Parthasarathi, Adv.,
Mr. S.N. Tardol, Adv., Ms. Sushma Suri, Adv.
and Mr. B.V. Balaram Das, Adv.

For the Respondent(s)

Mr. N.K. Aggarwal, Adv. (Caveator)

UPON hearing ~~ED~~ the Court made the following
ORDER

Delay condoned.

The special leave petition is dismissed on
merits.

(V.K. SHARMA) 76
Court Master

(S.B. SHARMA)
Court Master

Advocate

153

To
The Dy. Director (Admn. I),
DAVP, Min. of I&B,
New Delhi-110001,
(Through Proper Channel)

Sub:-Termination of the word 'Ex-Cadre' against the posts filled in
through Staff Selection Commission-reg.

Sir,

I like to draw your kind attention on the above subject. In this regard, I am placing below a few lines for your kind perusal and necessary action at the earliest.

1. Sir, I applied and appeared in the combined and open competitive Examination conducted by the Staff Selection Commission in All India basis for direct recruitment for the Stenographer-Gr.III/'D', Clerks Grade etc., Examination as was advertised by the Staff Selection Commission for direct recruitment, in the year 1982. "Direct recruit" means a person recruited to the concerned post on the basis of a competitive examination held by the Staff Selection Commission.

2. Accordingly, I appeared for the post of Stenographer Gr.III/'D' Examination in the pay-scale of Rs.330/- - Rs.560/- (revised to Rs.1200/- - Rs.2040/- and Rs.4000/- - Rs.6000/-). I being belong to Guwahati, Assam, the Staff Selection Commission, Guwahati, nominated my name for the Regional Office, DAVP, Min. of I&B, Govt. of India at Guwahati, the Cadre Controlling Authority of which is the Ministry of Information & Broadcasting, Govt. of India. And I joined at Regional Office, DAVP, Min. of I&B, Guwahati on 24.02.1983 in the post of Stenographer Gr.III/'D' in the pay-scale of Rs.330/- - 560/- (now Rs.4000-6000/-).

3. Sir, as per usual Government norms, I should have been given the due promotion after completion of 6/ 8 years service in the post of Stenographer Gr.III/'D', to the post of P.A/Stenographer-Gr.'C'(Gr.II) in the pay-scale of Rs.1640/- - 2900/- w.e.f. March, 1991 to March, 1999 and afterwards to P.S/Stenographer-Gr.I in the pay-scale of Rs.6500/- - 10500/- w.e.f. April, 1999 if the due period for promotion from PA to PS etc. was for 8 years or so. But, I have been still holding the post of Stenographer-Gr.III/'D' despite I rendered 23 years services and was selected through Staff Selection Commission and not selected by any particular Department. On the other hand, I have noticed that the candidates appeared in the same examination and posted in various Deptts./Ministries in different places of the country in the same pay-scale, have been given promotion within/after 8 years as the case may be to the next promotional post i.e. Stenographer Gr.'C'(Gr.II)/P.A in the pay-scale of Rs.1640/- - 2900/- (now Rs.5500/- - 9000/-) and subsequently to P.S/Stenographer-Gr.I in the pay-scale Rs.6500/- - 10500/-.

4. But, I have been given the pay-scale Rs.5000/- - Rs.8000/- under the ACP Scheme w.e.f. August, 1999 i.e. after 16 (sixteen years wrongly, the pay-scale of which should not be meant for me because of my selection made directly through Staff Selection Commission and not through DAVP/Employment Exchange/Advertisement published in the local newspaper for a particular Deptt./Ministry and for a particular post. Thus, I have been depriving from the legitimate and stipulated periodical promotion with pay-protection/transfer facility from one Deptt. to another in the Min. of I&B like the others.

Sir, the Staff Selection Commission initiates functioning since 1976 or so and there are 6/7 Regional Offices of SSC who conducts various open competitive examinations for various posts in All India basis and cover all the places/States as framed according to its jurisdiction. Since after functioning of SSC offices, every Deptt./Ministry is to place requisition to the SSC Offices who nominate the candidates in different/Deptt./Ministries preferably on region basis from the Common Inter-se-Seniority list against the candidates appeared for the same examination conducted by the SSC in that particular year.

Attested
for
Advocate

Hence, though my name had been nominated for RO, DAVP, Min. of I&B, Guwahati, the Cadre Controlling Authority should be the Min. of I&B and not the DAVP since, I never applied for a particular post in a particular Deptt. and my promotion/transfer should be made accordingly as like the others use to get in different Deptts./Ministries in different places including Delhi. And in no case, I should be treated for the Staff of DAVP only as wrongly shown in the designation Stenographer Gr.III/'D'(Ex-Cadre). Perhaps, it would have been treated, if I was selected through Employment Exchange/appointed on appearing through local newspapers for a particular post and for a particular Deptt. like DAVP only. But, I like the others came through SSC the mode of appointment etc., should have been done following the common inter-se seniority list would have been prepared in the State/Region by the Deptt., after it was ascertained from the Commission Offices which was not followed.

In view of the above, I earnestly believe that I have been wrongly treated as an 'Ex-Cadre official of this Directorate which should be terminated immediately and I would request you to give the due benefit at par as like the others are placed as mentioned above i.e. due promotion to the post of P.A/Steno.Gr.'6(Gr.II) w.e.f. March, 1991 to July, 1999 in the pay-scale of Rs.1640/--2900/-(i.e. March 1991 to Dec.'95 in the pay-scale Rs.1640/- -2900/- and from January '96 to July 1999 in the pay-scale Rs.5500/- -9000/- and subsequent due promotion to the post of P.S/Gr.I Steno. in the pay-scale of Rs.6500/- -10500/- w.e.f. August, 1999 till date (i.e. April 2005).

Your early action towards the termination of word 'Ex-Cadre and also to give pay-protection/promotion etc. on the basis of above stated facts is highly solicited in this regard.

Thanking you,

Yours faithfully,

(D. Chakraborty)

Stenographer-Gr.III/'D'

RO: DAVP: Guwahati

Encl: First schedule of
SS/CSSS/CSS Rules, 1962, 1969 & 1982 & 1984.
(Pages 11-15 and pages 1-4)
Dt:-7.04.05

Copy for inf.&n/a please to:

1. Director, DAVP, New Delhi.
2. Grievance Officer and J.D(Admn.), DAVP, New Delhi.
3. Director, SSC, New Delhi.
4. Director, SSC, Guwahati.
5. Director, DOP&T, New Delhi.
6. Joint Secretary(P&A) and Grievance Officer, Min. of I&B, New Delhi.
7. S.O., MUC, Min. of I&B, New Delhi.

(D. Chakraborty)

Stenographer-Gr.III/'D'

RO: DAVP: GUWHATI

(~~Reply of letter.~~)

-55-

Annexure VI

BY SPEED POST

No. A-32011/1/2005-Admn.I

Government of India

Directorate of Advertising & Visual Publicity

Ministry of Information & Broadcasting

3rd Floor, PTI Building, Connaught Street,
New Delhi dated the 8th June 2005

OFFICE MEMORANDUM

Subject: Prayer for withdrawal of 'Ex-cadre' Category.

With reference to their letters dated 07.04.2005, 19.04.2005 received from S/Shri Dipak Mandal & Dipankar Chakraborty, Stenographers Grade III respectively on the above cited subject, it is informed that the case for withdrawal of 'Ex-cadre' Category is being examined separately. It is intimated that Shri R. N. Das, Stenographer Grade-II of this Directorate, has been representing for enhancement of pre-revised scale of pay of Stenographer Grade II from Rs.1400-2600 to Rs.1640-2900 w.e.f. 1986 (further revised from Rs.5000-8000 to Rs.5500-9000 w.e.f. 01.01.1996) based on OA No. 548/94 filed by applicants in CBDT, DFP, etc. in the Hon'ble CAT, Principal Bench, New Delhi. The matter is already under consideration in the Ministry of Information & Broadcasting. They are also requested to provide a copy of orders of their appointment to the post of Stenographer Grade III so that their case may be forwarded to DoP&T for considering their representations.

(G. C. DWIVEDI)

JOINT DIRECTOR (ADMN.)

TELE. # 2335 3087

1. Shri Dipankar Chakraborty,
Stenographer Grade III,
Regional Office, DAVP,
Guwahati.

(Through Regional Office, DAVP, Guwahati)

2. Shri Dipak Mandal,
Stenographer Grade III,
Regional Exhibition Office, DAVP,
Kolkata.

(Through Regional Exhibition Office, DAVP,
Kolkata)

Attended
for
Advocate

BY SPEED POST

No. A-12033/1/2002-Admn.I
Government of India
Directorate of Advertising & Visual Publicity
(Ministry of Information & Broadcasting)

**Soochana Bhavan, C.G.O. Complex, Lodhi Road,
New Delhi, Dated the 16th August 2005**

OFFICE MEMORANDUM

Subject : Representation of Shri R. N. Das, Stenographer Grade- II (now Stenographer Grade-I), Regional Office, DAVP, Guwahati regarding enhancement of pre-revised pay scale of Stenographer Grade – II as per CAT, New Delhi's Order in O.A. No. 548/94 filed by Assistants and Stenographers – II of DFP.

The undersigned is directed to refer to a Grievance Petition dated 03.12.2003 of Shri R. N. Das, Stenographer Grade – II (now Stenographer Grade – I), Regional Office, DAVP, Guwahati on the subject cited above and to say that the matter has been examined in consultation with the Ministry of Information & Broadcasting, Ministry of Law & Justice, Department of Personnel & Training and Ministry of Finance, Department of Expenditure. The Department of Expenditure has not agreed to this Directorate's proposal for extension of benefits of the CAT's Order dated 19.01.1996 in O.A. No.(s) 548/94, 144-A/93 and 985/93 to Shri R. N. Das, Stenographer Grade – II (now Stenographer Grade – I), Regional Office, DAVP, Guwahati for revision of the pay scale of Rs.1400-2600 w.e.f. 01.01.1986 and from Rs.5000-8000 to Rs.5500-9000 w.e.f. 01.01.1996. As per the extant policy, the benefit of any judgement/order of Court/Tribunal cannot be extended to the non-applicants. Further, the higher pay scale of Rs.1640-2900 has been restricted to the Assistants/Stenos in CSS/CSSS and the same has not been extended to the similar posts in subordinate offices/autonomous organizations. A copy of the Ministry of Finance, Department of Expenditure's U.O. No. 205/E.III dated 30.06.2005 along with their O.M. No. 6(3)-1C/95 dated 15.04.2004 is enclosed for ready reference.

Encl. As above.

(ASHOK KUMAR)
DEPUTY DIRECTOR (ADMN.)
TELE. 2371 7023

Shri R. N. Das,
Stenographer Grade – I,
Regional Office, DAVP,
Guwahati.

(Through Regional Office, DAVP, Bangalore)

*Attended
Shri Advocate*

- 2 -

Copy to :-

BY SPEED POST

1. Regional Office (Shri S. C. Talukdar, Assistant Editor), DAVP, Guwahati. It is requested that the enclosed O.M. addressed to Shri R. N. Das, Stenographer Grade I Regional Office, DAVP, Guwahati may please be got delivered to him under intimation to this Directorate.
2. Ministry of Information & Broadcasting, Admn.IV Section, Shastri Bhavan, New Delhi.
3. Ministry of Information & Broadcasting {Shri S. V. Krishnan, US (MC)}, Shastri Bhavan, New Delhi with reference to their I.D. Note No. 1/35/2003-MUC dated 06.07.2005.

(ASHOK KUMAR)
DEPUTY DIRECTOR (ADMN.)

14 FEB 2007

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O.A. No.299/2005

Sri Dipankar Chakraborty

..... Applicant

Vs.

Union of India and others

..... Respondents

COUNTER AFFIDAVIT/REPLY ON BEHALF OF
RESPONDENTS

Brief Background of the Case.

Sri Dipankar Chakraborty was appointed as Stenographer Grade-III in the Regional office of Directorate of Advertising & Visual Publicity at Guwahati in the scale of pay of Rs.330-560(pre-revised) in General Central Service through Staff Selection Commission w.e.f. 24.2.1983. He was given 1st financial upgradation under the ACP Scheme in the scale of pay of Rs.5000-8000 w.e.f. 9.8.1999. He has been promoted as Stenographer grade-II in the scale of pay of Rs.5000-8000 on regular basis w.e.f. 17.04.2006 (Afternoon).

PARA-WISE COMMENTS.


1. No comments.
2. No comments.
3. No comments.
- 4.1 No Comments.
- 4.2 & 4.3 Matter of record. Hence no comments.

प्री. एम जीजे/P. M. GEORGE
उप निदेशक (प्र.)/Dy. Dir. (A)

Filed by
the Respondents Through
Mohan K. D. Mandal
Addl. C. S. C.
14/02/07

4.4

Applicant is working in General Central Service in group 'C' post in a non-secretariat office. The pay scale for Stenographer grade-II in non-secretariat office under the 5th Pay Commission is Rs.5000-8000. After grant of 1st financial upgradation under the ACP Scheme, the applicant was given the next higher pay scale of Rs.5000-8000, which was the appropriate scale. The incumbents of the post of Stenographer Grade-II in the Directorate of Field Publicity (DFP) are drawing the pay scale of Rs.5500-9000/-(revised) at present. They were given this pay scale on the basis of the judgment of the Hon'ble CAT Principal Bench in O.A. No.548 of 1994. The consideration for giving this scale to them was that the Directorate of Field Publicity (DFP) was a participating office in the Central Secretariat Service/Central Secretariat Stenographers Service from its inception and the post of Assistants and Stenographers in DFP were included in the authorized permanent strength of the Ministry of Information & Broadcasting and manned by the personnel of the said Ministry up to 1975. Thereafter, DFP was excluded from the purview of the Central Secretariat Service/Central Secretariat Stenographers Service. At that time, those who had opted for the DFP were retained in the DFP with their original status, pay scales, etc. The applicants were given the benefit of the pay scale by DFP in pursuance of the CAT's order dated 19.01.1996 without consulting Ministry of

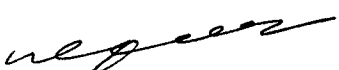

पी० एम जोर्ज / P. M. GEORGE
उप निदेशक (प्र.) / Dy. Dir. (A)

Information & Broadcasting/ Ministry of Finance/ Department of Personnel & Training. The matter was subsequently considered in the Ministry of Information & Broadcasting in consultation with Department of Personnel & Training, M/o Law and M/o Finance and it was decided to allow all the applicants and similarly placed persons, who were placed in the higher scale of Rs. 5500-9000 in consonance with CAT's order dated 19.01.1996 to continue in the said higher pay scale on personal basis and to revise the pay scales of the posts downwards to Rs. 5000-8000 for all future incumbents.

As per Para 8 of CAT, Principal Bench, New Delhi's order dated 9.7.97 in O.A. No.1629/97, it is the function of the Government to revise the pay scales on the recommendations of the Pay Commission.

4.5


It is true that Stenographers are recruited through Staff Selection Commission in Secretariat Offices as well as non-Secretariat Offices. But, in Secretariat they are recruited to the Central Secretariat Stenographers Service Cadre and in non-Secretariat offices they are recruited to General Central Service having no specific cadre. The Hqrs. of Directorate of Advertising & Visual Publicity (DAVP) in New Delhi is participating in Central Secretariat Stenographers' Service and recruitment of Stenographers in this Service in


P. M. GEORGE
Dy. Dir. (A)

DAVP is done at the level of the Ministry of Information & Broadcasting who are the cadre controlling authority. Regional offices of DAVP are not participating in the Central Secretariat Stenographers Service and recruitment of Stenographers in Regional Offices are done by DAVP directly though the recruiting agency in both the cases is Staff Selection Commission.

4.6 Most parts of the averments in this Para are accepted except the averment that Stenographer Grade 'C' in CSSS in Secretariat offices are equivalent to Stenographer Grade-II in non-Secretariat offices. The former belongs to Group 'B' non-gazetted category and the latter Group 'C' non-gazetted category in G.C.S. and, therefore, they are not equivalent posts.

4.7 The reason for granting the pay scale of Rs.5500-9000 to the Stenographer Grade-II in the Directorate of Field Publicity has been explained in reply to Para 4.4 above. The applicant is not entitled to the said pay scale as he holds a Group 'C' post in General Central Service in a non-Secretariat office. The pay scales recommended by the 5th Pay Commission for Stenographers in non-Secretariat offices are different from the scales recommended for Secretariat offices. The applicant on his financial upgradation under the ACP Scheme has been given pay scale of Rs.5000-


P. M. GEORGE
उप निदेशक (प्र.) Dy. Dir (A)

8000, which is the pay scale for Stenographer grade-II in non-Secretariat offices.

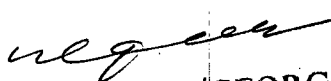
The Fifth Pay Commission had considered the issue of parity between Stenographers outside the Secretariat and in the Secretariat and had not recommended the same.

4.8 Matter of record and hence no comments.

4.9 The averment in this Para is denied. The pay scales mentioned herein are the pay scales of Stenographers and Assistants of Central Secretariat Stenographer Service and Central Secretariat Service respectively who are appointed in the Hqrs. of DAVP. Their pay scales are obviously the same as that of the Stenographers and Assistants in CSSS and CSS cadres elsewhere.


The Department of Expenditure vide their O.M. No. 12(3)-E III(B) 199 dated 10.2.99 has clarified that designations are not the sole determinant of pay scales and there are many other factors viz. eligibility, minimum educational qualifications, nature of duties and responsibilities, work load, professional skill and proficiency which are considered while deciding the pay scale appropriate to the post.

The associations of Stenographers have urged that there should be complete parity between Stenographers in non-Secretariat offices and in the Secretariat in matters relating to pay scales,


P. M. GEORGE
Dy. Dir. (A)

designations, cadre structure, promotion avenues, level of stenographic assistance to officers in technical, scientific and research organization etc. The matter was examined by the 5th Central Pay Commission.

In para 46.34 of their Report, the Commission stated as: "The Commission had observed that as a general statement, it was correct to say that the basic nature of a Stenographer's work remained by and large the same whether he was working with an officer in the secretariat or with an officer in a subordinate office. The Commission was of the considered view that the size of the stenographer's job was very much dependent upon the nature of work entrusted to that officer and that it would not be correct, therefore, to go merely by the status in disregard of the functional requirement. By the very nature of work in the secretariat, the volume of dictation and typing work was expected to be heavier than in a subordinate office, the requirement of secrecy even in civil offices of the secretariat could be very stringent. Considering the differences in the hierarchical structures and in the type of work transacted in the secretariat and in the subordinate offices, the Commission was not in favour of adopting a uniform pattern in respect of matters listed in the preceding paragraph. To our mind, the observations of the Third CPC are as relevant today as they were at that point of time and we are not inclined to overlook them totally. In


To Mr. P. M. GEORGE
Dy. Dir. (A)

view of the above mentioned distinguishable features, we do not concede the demand for absolute parity in regard to pay scales between stenographers in offices outside the secretariat and in the secretariat notwithstanding the fact that some petitioner stenographers Grade II have got the benefit parity in pay scale through courts. However, pursuing the policy enunciated by the Second CPC that disparity in the pay scale prescribed for stenographers in the secretariat and the non-secretariat organizations should be reduced as far as possible, we are of the view that Stenographers Grade II should be placed in the existing pay scale of Rs.1600-2660 instead of Rs.1400-2300/Rs.1400-2600. The next available grade of stenographers in non-secretariat offices is Rs.1640-2900 (Grade I)". Therefore, to say that the pay scale of the applicant and similar non-Secretariat Stenographers in the Regional Offices of DAVP is comparable to the pay scale of Stenographers of CSSS is not correct. The applicant is not similarly placed, has been explained in reply to Para 4.5 above.


The Supreme Court in judgment quoted in Para 8 of CAT, Principal Bench New Delhi's order dated 9.7.1997 in O.A. No.1629/92 has observed that it is the function of the Government which normally acts on the recommendations of Pay Commission,

ulq
 M. GEORGE
 Dy.Dr.(A)

to revise pay scales. (CA No.7127/93 in the case of Shri P.V. Hariharan & Others). (Copy enclosed).

4.10 It is true that the Ministry of Finance revised/upgraded the scale of pay of Stenographer Grade 'C' in Central Secretariat Stenographer Service from Rs.1600-2600 to 1640-2900 (pre-revised) and many subordinate offices extended the aforesaid benefits to Stenographers in their offices inadvertently. But, when the matter came to the notice of the Ministry of Finance, they issued a clarificatory Office memorandum on 15.4.2004 withdrawing the higher pay scale of Rs.1640-2900 from all autonomous bodies. Shri R.N. Das, Stenographer Grade-I in the Regional Office of DAVP at Guwahati, who is a colleague of the applicant, also represented for grant of the pay scale of Rs.1640-2900. When his case was referred to the M/o Finance (D/o Expenditure) through the M/o Information & Broadcasting, they replied that the said pay scale had been restricted to the Assistants/Stenographers in CSS/CSSS and the same had not been extended to similar posts in autonomous organization and sub-ordinate offices. A copy of M/o Finance reply dated 30.6.2005 in this regard is in Annexure- R-II .

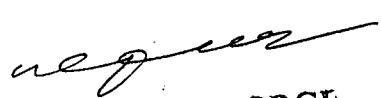
The reason for grant of the pay scale of Rs.1640-2900 to the Stenographers of Directorate of Field


P. M. GEORGE
Dy. Dir (A)

Publicity has been explained in reply to Para 4.4 above and need not be repeated.


4.11 In this Para, the applicant has tried to explain the pay scales granted by the 4th Pay Commission to Stenographers and Assistants in Secretariat offices. The 5th Pay Commission also thoroughly examined the pay scales of Stenographers of Secretariat offices and non-Secretariat offices. Paras 46.27 to 46.43 of their report contain their recommendations regarding Stenographers outside the Secretariat service. Though the Commission had observed as a general statement that the basic nature of Stenographers work remained by and large the same, whether he was working in Secretariat or in sub-ordinate office, due to various micro factors of their work, the Commission did not concede the demand for absolute parity in pay scales between stenographers in offices outside the secretariat and in the secretariat notwithstanding the fact that some petitioner stenographers Grade-II had got the benefit of parity in pay scale through courts. The 5th Pay Commission recommended different pay scales for the Stenographers working in Secretariat offices and non-secretariat offices.

4.12 The matter has been explained in reply to Para 4.4 above. No further comments are necessary.


M. GEORGE
Jt. Secy. (A)

4.13 On grant of 1st financial upgradation under the ACP Scheme, the applicant was given the pay scale of Rs.5000-8000 which is the scale approved for Stenographer Grade-II in non-Secretariat office after the 5th Pay Commission. M/o finance (D/o Expenditure) has already clarified vide their O.M. No. 6(3)-IC/95 dated 15.4.2004 (Annexure-R-I) that pay scale of Rs.1640-2900 are meant for Stenographers in Secretariat offices. Therefore, the demand of the applicant who is working in a non-Secretariat office for the pay scale of Rs.5500-9000 after the 1st financial upgradation is not proper and justified.

4.14 It is a matter of record that the applicant submitted a representation dated 7.4.2005 for extension of benefit of higher pay scale of Rs.5500-9000. As explained in reply to Para 4.10 Shri R.N. Das, Stenographer Grade-I who is a colleague of applicant had also made a similar representation, which was sent to the M/o Finance (D/o Expenditure) for advice. They advised that the pay scale of Rs.5500-9000 is not applicable to Stenographers in Autonomous/Sub-ordinate offices. M/o Finance is the Nodal Ministry in the matter of pay and other allowances of Central Govt. employees. The Respondents replied to the applicant's representation on the basis of the advice given by the M/o Finance in the similar case of Shri R.N. Das. Hence, in the respondents'


M. GEORGE
Dy. Dir. (A)

views, the said reply was appropriate and non-discriminatory to the applicant.

4.15 & 4.15(A) As explained in reply to para 4.14 above, M/o Finance (D/o Expenditure) is the Nodal Ministry in the matter of pay scales, remunerations etc. and the Respondents are bound by their advice. The reply given to the applicant on the basis of the M/o Finance advice dated 30.6.2005 (Annexure-R-II) was good and proper and there were no elements of contradiction in the matter as far as the Respondents are concerned.


4.16 Averments in this Para has already been replied vide reply to Para 4.4 above.

4.17 It is denied that the representation of the applicant has been rejected in an arbitrary manner. The position has been explained in reply to Para 4.10 above and needs no repetition.

4.18 The application is baseless and devoid of merit, no injustice has been done to the applicant.

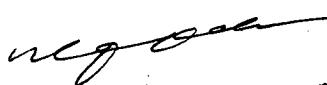
REPLY TO THE GROUNDS

5. The grounds explained by the Applicant in Para 5.1 to 5.14 are repetitions of his averments in the main Paras, which have already been replied to. It is expert bodies like the Pay Commission who


श्री० एच० टी० पी० एम० जी० जी०
अधीक्षक (प०) डी० डी० (A)

have the necessary mandate and authority to decide and recommend the pay structure, allowances and other service matters affecting the Govt. employees. The 5th pay Commission considered all aspects of the service conditions of the Stenographers in Secretariat and non-Secretariat offices and in their view there is no absolute parity between the two groups of stenographers to recommend same pay scales for the two groups. As a result, they recommended different set of pay scales for Secretariat and non-Secretariat offices. The grounds given by the applicant in all these Paras for parity in pay scales are his personal opinions, which do not confirm with the views of the Pay Commission or the M/o Finance. The grounds are generic and no specific instance of violations of his individual rights or entitlements by the Government with mala fide intentions has been brought out. The application has no merit and is liable to be rejected.

6. No comments.
7. No comments.
8. In view of the facts and explanations given above in replies to various paras, the application has no merit and this Hon'ble Tribunal may be pleased to reject it.


M. GEORGE
(A) Dy. Dir. (A)

PRAYER

In view of the facts and circumstances, as brought out above, in reply to the various Paras of the O.A., and there is no merit in the original application filed by the applicant and therefore this Hon'ble Tribunal may be pleased to dismiss it.


RESPONDENTS

प. म. जोर्जे / P. M. GEORGE
Dy. Dir. (A)

VERIFICATION

Verified at New Delhi on this 29th day of August 2006 as contents of the above Reply/Counter Affidavit are true and correct to the best of my knowledge and belief and nothing material has been concealed there from.


RESPONDENTS

प. म. जोर्जे / P. M. GEORGE
Dy. Dir. (A)

THROUGH

Dated: 29.08.2006

Counsel
Central Government Standing Counsel

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.
O.A. No.299/2005**

In the matter of

Dipankar Chakraborty

Applicant

Versus


Union of India

Respondents

AFFIDAVIT

I, P.M. George, S/o Late Shri P.T. Mathew, on behalf of Union of India, do hereby solemnly affirm and declare as under:

1. That I am competent to file the Reply/Counter Affidavit on behalf of the respondents and well conversant with the facts and circumstances of the case and competent to swear this Affidavit.
2. That Accompanying Reply/Counter Affidavit on behalf of Respondents has been drafted by my Counsel under my instructions and the contents of the same has been repeated herein for the sake of brevity, prolixity and repetition and the same may be read as part and parcel of this affidavit.



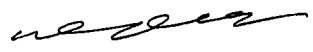
DEPONENT

(पी० एम० जार्ज/P. M. GEORGE)
उप निदेशक(प्रशा.)/Dy. Director (Admn.)
डि. ए. प्र. नि./D. A. V. P.
सू. प्र. मंत्रालय/Min. of I & B
भारत सरकार, नई दिल्ली
New Delhi

VERIFICATION

Verified at New Delhi on this 29th day of August, 2006.

contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing material has been concealed there from.



DEPONENT

(पी० एम० जार्ज/P. M. GEORGE)
उप निदेशक(प्रशा.)/Dy. Director (Admn.)
डि. ए. प्र. नि./D. A. V. P.
सू. प्र. मंत्रालय/Min. of I & B
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi

153
52

No. 12(3)-E.II(B)/99
Government of India
Ministry of Finance
Department of Expenditure

New Delhi dated 10th Feb, 1999.

OFFICE MEMORANDUM

Subj: Court case regarding revision of Pay Scale of Assistants/Stenographers in Subordinate Offices/Autonomous Bodies - regarding

The undersigned is directed to say that the scale of pay of Assistants/Stenographers of CSS/CSSS was revised to Rs. 1640-2900 (pre-revised) vide DOPT's O.M. No. 2/1/90-CS-IV dated 31.7.90 consequent upon the decision of the Government based on the judgement of Central Administrative Tribunal, Principal Bench, New Delhi. The revised pay scale of Rs. 1640-2900 was also made applicable to Assistants/Stenographers in other organisations like Ministry of External Affairs etc. subject to the conditions laid down in the above O.M. The instructions contained in the DOPT's O.M. dated 31st July, 1990 were not applicable to autonomous bodies of Central Govt. etc. as clarified vide this Ministry's O.M. No. 744/IC/90 dated 11.12.90.

It has come to notice that a large number of employees in Subordinate offices/autonomous organisations etc. have filed court cases demanding parity with the staff having identical designations/nomenclature in CSS/CSSS. In some of the cases, contempt petitions have been filed in the High Court. These cases are being defended by respective Ministries/Depts under whose administrative control these employees are functioning.

In order to ensure that these cases are defended in a uniform manner in the replies filed by the Departments, the following points may invariably be brought out:

(i) Designations are not the sole determinant of pay scales and there are many other factors viz. eligibility, minimum educational qualifications, nature of duties and responsibilities, work load, professional skill and proficiency which are considered while deciding the pay scale appropriate to the post.

(ii) The Fifth Pay Commission had considered the issue of parity between Stenographers outside the Secretariat and in the Secretariat and had not recommended the same. This has also been accepted by the Government. The relevant recommendations of the Fifth CPC may be ~~qu~~ quoted in the draft counter reply

152

- 16 -

(111)

The observations of the Supreme Court in judgement quoted in para 8 of CAT. Principal Bench. New Delhi's order dated 9.7.97 in O.A. No. 1629/02 that it is the function of the Govt., which normally acts on the recommendations of Pay Commission, to revise pay scales should also be highlighted in the counter reply. (CCA No. 7127/95 in the case of Sh. P.V. Hariharan & Others). (copy enclosed)

All Ministries/Departments, etc. are requested to incorporate the above points in the counter replies while defending such cases in various courts of law. Draft counter reply may invariably be shown to Ministry of Finance (Deptt.) of Expenditure before issue by respective Ministry/Deptt.

All FAs are requested to bring this to the notice of administrative Ministries concerned for compliance.

T.S. Bhatia
(T.S. Bhatia)

Under Secretary to the Govt. of India.

Copd to all State Govts.

Encl

alpoor

17 - *Amrta* *RT* 78
O.M.No.6(3)-IC/95
Government of India
Ministry of Finance
Department of Expenditure

New Delhi, dated 15th April, 2004

OFFICE MEMORANDUM

Sub: Revision of scale of pay of Assistant Grade of Central Secretarial Service and Grade 'C' Stenographers of Central Secretarial Stenographers Service.

The undersigned is directed to refer to DOPT's O.M. No.6/6/90-CS-1 dated 3.1.91 and Ministry of Finance O.M. No.744/IC/90 dated 11th December 1990 on the subject mentioned above and to state that DOPT's O.M. dated 31.7.00 was meant exclusively for Assistants/Stenographers of the CSS/CSSS and this was not to be extended to autonomous organization etc. However, it has come to the notice of the Govt. that some autonomous organizations have adopted the pay scale of Rs.1640-2900 to their Assistants/Stenographers inadvertently. In some cases, the scale has been extended to autonomous organization on the basis of order of the CAJ.

It may be stated in this connection that the hon'ble High Court of Delhi vide their judgment dated 31.5.2002 and 18.12.2003 have specifically rejected the contention of the employees of autonomous organizations (e.g. KVS/NVS, NBI and NIEPA etc.) that Assistants/Stenographers of autonomous bodies are entitled for the scale of Rs.1640-2900 (pre-revised) w.e.f. 1.1.86. Accordingly, the benefit of higher pay scale is being withdrawn from all the autonomous bodies under the control of Ministry of HRD. The same benefit may also be withdrawn from the employees of other autonomous bodies of Govt of India as well.

All the Financial Advisors are requested to take urgent corrective measures to withdraw the scale of Rs.1640-2900 (pre-revised) from Assistants/Stenographers of autonomous organizations. The amount of Pay & Allowances already paid to the employees on this account may also be recovered.

(Amrta)
Director

reger

18
S. No. 10 (R)

153
IMMEDIATE

Government of India
Ministry of Information & Broadcasting
V. P. Singh Malaviya Road, New Delhi - 110 001
'A' Wing Shastri Bhawan, New Delhi - 110 001

Subject: Upgradation of Pay Scales to Assistants and Stenographer Grade II in DFP in pursuance of CAT's order in OA No.548 of 1994 regarding.

Reference is invited to this Ministry's I.D. note of even number dated 10.08.2004 on the subject cited above.

2. The matter has been considered in the Ministry in consultation with the M/o Law and M/o Finance. It has been decided to allow all the applicants and similarly placed persons, who were placed in the higher scale of Rs. 5500-9000/- in consonance with CAT's order dated 19.01.1996, to continue in the said higher pay scale on personal basis. The pay scale of the posts be revised downwards to Rs. 5000-8000/- for all future incumbents.

3. DFP may issue necessary orders accordingly. The Recruitment Rules for the posts of Stenographers Grade II and Assistants in DFP may be revised to make their pay scale Rs. 5000-8000/-. In the meantime, till the RRs are revised, further appointment/promotion in the grade of Assistant/ Stenographer Grade II may be stopped with immediate effect.

4. This has the approval of Joint Secretary (P).

11-365/2004/Adm
12-10-04.

Dharini Mishra
(Dharini Mishra)
Officer on Special Duty (IP)

DFP (Shri Balraj Suri, Director)

M/o I&B I.D.No. 20/18/03-IP&MC

dated: 09/10/2004

reger

19

(1119)

(1119)

156

Ho A-12020/1/2002-Admin.
Government of India
Directorate of Field Publicity
(Ministry of I&B)

New Delhi-66, dated 28th April, 2005

To,

✓ The Pay & Accounts Officers,
Ministry of I&B,

New Delhi/ Mumbai/ Chennai/ Kolkata/ Guwahati/ Lucknow.

Subject:- Upgradation of Pay Scales to Assistants and
Stenographers Grade II in DFP in pursuance of CAT's order
in OA No. 548 of 1994 – regarding.

Sir,

The Ministry of I&B in consultation with Ministry of Law and Ministry of Finance has decided vide their ID No. 20/18/03-IP&MC dated 7.10.2004 (copy enclosed) to allow all the applicants and similarly placed persons, who were placed in the higher scale or Rs. 5500-9000 in consonance with CAT's order dated 19.11.1996 in OA No. 548 of 1994, to continue in the said higher pay scale on personal basis and the pay scale of the posts to be revised downwards to Rs.5000-8000 for all future incumbents. Ministry of I&B has further decided to revise the Recruitment Rules for the posts of Assistants and Stenographer Gr. II to make their pay scale to Rs.5000-8000 and till the Recruitment Rules are revised, further appointment/ promotion in the grades of Assistant/ Stenographer Gr. II be stopped with immediate effect.

Yours faithfully

Madhu Dolela

(Madhu Dolela)

Dy. Director(Admin.)

Copy to

1. All Regional Heads, DFP alongwith its enclosure for information and necessary action.
2. All Section Heads, DFP (Hqrs.)
3. Shri J.K. Garg, Asstt. C&A Section, DFP (Hqrs) for necessary action.
4. All dealing assistants in Admin. I Section.
5. Guard file.

Handwritten: 100/100

ncp

PTO

20 -
Ministry of Finance
Department of Expenditure
E.III B Branch

Ministry of Information & Broadcasting may please refer to their notes on pre pages relating to the extension of the benefit of CAT's order dated 19.1.96 in OA Nos. 548/94, 144-A/93 and 985/93 filed by Assistants and Stenographers Gr. II of DFP(M/o I&B), CBI and CBDT respectively, to Sh. R.N. Das, Stenographer Gr. II (ex-cadre) of DAVP for revision of the pay scale of Rs. 1400-2600 to Rs. 1640-2900 w.e.f. 1.1.86 and from Rs. 5000-8000 to Rs. 5500-9000 w.e.f. 1.1.96.

2. The matter has been examined in this Department and the same has not been agreed to since as per the extant policy, the benefit of any Judgment/order of Court/CAT cannot be extended to the non-applicants. Further, the higher pay scale of Rs. 1640-2900 has been restricted to the Assistants/Stenos in CSS/CSSS and the same has not been extended to the similar posts in autonomous organizations/subordinate offices. The enclosed OM dated 15.4.2001 issued in this regard may also be perused.

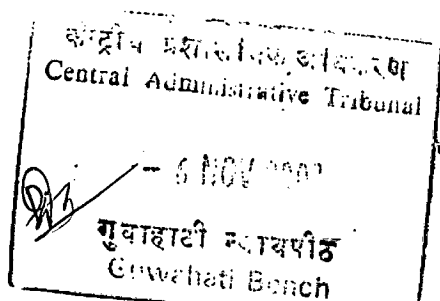
3. JS(Per) has seen.

(Karan Singh)

Under Secretary to the Govt. of India

IA (Information & Broadcasting)

M/o Finance, Deptt. of Exp. U.O.No. 205/E-III/6736/05 dated 30/6/05



158

Filed by the applicant -
Through: S. Nath
Advocate
05/11/2007.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

In the matter of: -

O.A. No. 299 of 2005

Shri Dipankar Chakraborty.

-Vs-

Union of India and Others.

-And-

In the matter of: -

Rejoinder submitted by the applicant in
reply to the written statements
submitted by the respondents.

The applicant above named most humbly and respectfully begs to state as
under; -

1. That with regard to the statement made in paragraph 4.4 of the written statement the applicant begs to state that the similarly situated Stenographer Gr. II of Directorate of Field Publicity under the Ministry of Information and Broadcasting were initially denied the scale of pay of Rs. 1640-2900/-, however on being approached before the Hon'ble CAT Principal Bench by those Stenographer Gr. II through OA No. 548/1994 the similarly situated Stenographer Grade-II in the Directorate of Field Publicity are getting the scale of Rs. 5,500-9,000/- by virtue of the judgment and order dated 19.01.1996 in OA No. 548/1994 of Hon'ble CAT Principal Bench, the present applicant being similarly situated Stenographer Grade- II under the same Ministry of Information and Broadcasting cannot be denied the benefit of the scale of pay of Rs. 5,500-9,000/-. It is relevant to mention here that once a benefit is given in terms of direction passed by a competent Court in that event the employees identically situated are also entitled to the same benefit. In the instant case the applicant is identically situated in terms of rank, status, scale of pay of

to his counterparts working in the Directorate of Field Publicity under the same Ministry who were granted the scale of Rs. 5,500-9,000/- in compliance to the direction passed in OA No. 548/1994 by the learned CAT Principal Bench, New Delhi, as such the present applicant is also entitled to the benefit of Rs. 5,500-9,000/-.

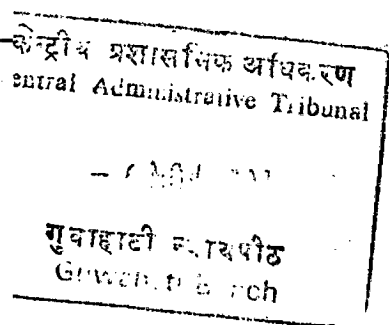
2. That the applicant categorically denies the statement made in paragraphs 4.5, 4.6 and 4.7 of the written statement and begs to state that he is performing the same duties and responsibilities as that of employees of Headquarters of DAVP in New Delhi. Moreover, the Directorate and Adverting and Visual Publicity under the Ministry of Information and Broadcasting is a participating department under the CSS/CSSS/CSCS Scheme which is evident from "The Central Secretariat Service Rules, 1962". Therefore, when the DAVP is participating office under the CSS/CSSS/CSCS Scheme as per the Central Secretariat Service Rules 1962, in that event it's Regional/branch offices will be automatically part of it, especially when the applicant was appointed through Staff Selection Commission after being qualified through all India competitive examination, as such classifying the Hqrs. of DAVP in New Delhi is a participating office of CSS/CSSS and it's Regional Offices at various places are not participating in Central Secretariat Scheme that too without any supporting document is vague, arbitrary, and such classification is opposed to the Central Secretariat Service Rules, 1962 as well as principle laid down in Article 14 and 16 of the Constitution of India.

Copy of extract of First Schedule of the Central Secretariat Service Rule 1962 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- A.

3. That with regard to the statements made in paragraph 4.9, 4.10 and 4.11 of the written statement the applicant begs to state that the duties and responsibilities of Stenographer Gr. II in the Headquarter, DAVP, New Delhi and duties and responsibilities of the applicant is same, as such denial of scale of pay of Rs. 5,500-9,000/- to the applicant is highly discriminatory. Moreover, the applicant is not comparing with the duties

160

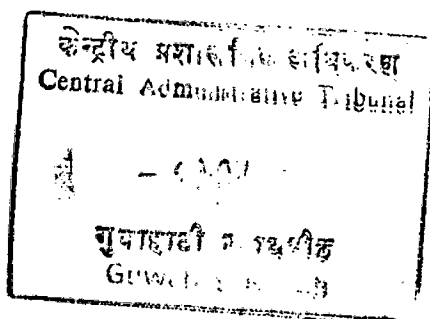
responsibilities of Stenographers of other departments but praying for same scale of pay of Rs. 5,500-9,000/- of Stenographer Gr. II who are working in the same department i.e. Headquarter DAVP, New Delhi since the duties and responsibilities of the Stenographer Gr. II in the Headquarter, DAVP and the applicant is same. It is also relevant to mention here that the Directorate and Adverting and Visual Publicity under the Ministry of Information and Broadcasting is a participating department under the CSS/CSSS/CSCS Scheme which is evident from "The Central Secretariat Service Rules, 1962". Therefore, when the DAVP is participating office under the CSS/CSSS/CSCS Scheme as per the Central Secretariat Service Rules 1962, in that event it's Regional/branch offices will be automatically part of it and any classification between the Headquarter, DAVP and the regional office as done by the respondents is not permissible under "The Central Secretariat Service Rules 1962".

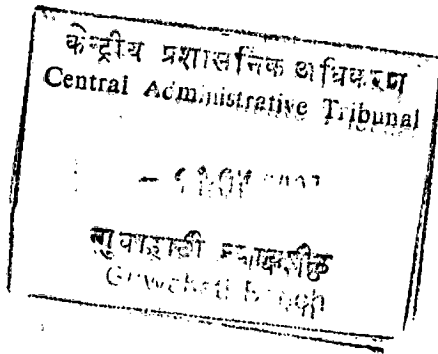


4. That the applicant categorically denies the statements made in paragraph 4.13, 4.14, 4.15, 4.15A, 4.16, 4.17 and 4.18 of the written statement saves and except which are borne out of record and further begs to state that he is entitled to the benefit of scale of pay Rs. 5500-9000/- w.e.f. 09.08.1999 with all consequential benefits since the respondents have accepted and implemented the judgment dated 19.01.1996 passed in OA No. 548/1994 in favour of the identical situated employees working in the subordinate offices like DFP and other Central Government departments. As such denial of the said benefit to the applicant attracts violation of Article 14 and 16 of the Constitution of India.
5. That the applicant categorically denies the statements made in paragraph 5 of the written statement save and except which are borne out of record and further submits that when the respondents have extended the benefit of scale of pay of Rs. 1,640-2,900/- (revised Rs. 5,500-9,000/-) to the identically situated Stenographer Gr. II, working in the Directorate of Field Publicity under the same Ministry in terms of the direction passed by a competent Court of law in that event the applicant being identically situated entitled to the same benefit. Therefore, the respondents are duty bound to extend the benefit of scale of pay of Rs. 1640-2900/- (revised Rs.

5500-9000/-) with all consequential benefits to the present applicant. It is also stated that the applicant has not made an attempt for parity of pay scales rather he has claimed the scales of pay which has been extended to the similarly situated employees working in the Headquarter DAVP as well as the employees working in the DFP under the same Ministry.

6. That in the facts and circumstances, the applicant reiterates the submission made in the Original Application and further submits that he is entitled to the reliefs prayed for and the O.A. deserves to be allowed with costs.





VERIFICATION

I, Sri Dipankar Chakraborty, Son of late B. Chakraborty, aged about 44 years, working as Stenographer Grade - III, in the office of Regional Office, DAVP, Guwahati, do hereby verify that the statements made in Paragraph 1 to 6 of the rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 23rd day of October 2007.

Dipankar Chakraborty.

FIRST SCHEDULE
[Sec Rules 2(c) and 2(f) and (5)]

ANNEXURE - "A"

Names of Ministries/Offices to whom the Central Secretariat Service Rules, 1962, Central Secretariat Stenographers' Service Rules, 1969 Central Secretariat Clerical Service Rules, 1962 apply

S.No.	Name of Cadre controlling Authority of CSS/CSSS/CSCS	Name of participating Office under the Cadre Controlling Authority mentioned in Column 2	Remarks if any Name of office with address located outside Delhi
1.	2.	3.	4.
1.	Ministry of Agriculture (Department of Agriculture and Cooperation).	(i) Department of Animal Husbandry and Dairying. (ii) Department of Agriculture Research and Education (iii) Directorate of Plant Protection Quarantine and Storage, NH IV Faridabad. (iv) Dte. Of Marketing and Inspection NH IV Faridabad (v) Directorate of Economics and Statistics	Directorate of Plant Protection Quarantine and Storage, NH IV Faridabad. Dte of Marketing and Inspection (Branch head Office) New Seett. Building Nagpur.
	Ministry of Chemicals and Fertilizers (Department of Fertilizers)	(i) Office of the FICC 8th Floor, Sewa Bhavan, New Delhi (ii) Department of Chemicals and Petro-Chemicals. (iii) National Pharmaceutical Pricing Authority (NPPA), 2E/21, Jhandewalan Extn., New Delhi	
	Ministry of Civil Aviation.	(i) Directorate General of Civil Aviation. (ii) Bureau of Civil Aviation Security (iii) Commissioner of Railway Security. (iv) Fin.H Section of M/o Tourism (v) CSSS posts of	Railway Safety Section 10 Ashoka Road Lucknow

Attested
Secy.
Advocate

169

		(iv) Tariff Commission. (v) Ministry of Agro and Rural Industries. (vi) Office of Economic Adviser. (vii) Ministry of Food Processing (viii) Ministry of Small Scale Industries	
8	Ministry of Commerce and Industry (Department of Commerce (Supply Division))	(i) Directorate General of Supply and Disposal.	1. Integrated Finance Wing, Kolkata. 2. Integrated Finance Wing, Mumbai
9	Ministry of Communications (Department of Telecommunication)		
10	Ministry of Communication (Department of Posts)	i) Department of Posts (Secretariat) ii) Postal Life Insurance Directorate iii) Business Development Directorate	
11	Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs).		
12	Ministry of Consumer Affairs, Food and Public Distribution (Department of Food and Public Distribution).	i) Directorate of Sugar ii) Dir. of Vanaspathi Veg. Oils & Fats	
13	Ministry of Defence (Main Sectt)		
14	Ministry of Environment and Forests.	i) National Afforestation and Eco Development Board ii) National River Conservation Directorate	
15	Ministry of Finance (Department of Expenditure).	(i) Department of Expenditure (ii) Department of Economic Affairs. (iii) Department of Revenue (iv) Banking Division (v) Ministry of Disinvestment.	
16	Ministry of Health and Family Welfare (Department of Health)	(i) Directorate General of Health Services (ii) Department of Family Welfare. (iii) Department of Indian systems of Medicine and	

(vii) Prime Minister's Office.

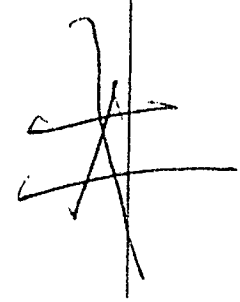
(viii) Department of Justice.

(ix) Directorate of
Coordination Police
Wireless &

(x) Computers Centre.

(xi) Office of the Registrar
General of India.(xii) Institute of Secretariat
Training & Management.(xiii) Staff Selection
Commission.Regional
Offices at
Calcutta,
Cheenai,
Bangalore,
ShillongOffices at
Mumbai,
Chandigarh,
Raipur.(xv) Department of Ocean
Development.(xvi) Cabinet Secretariate
(NSCS)

(xvii) Inter State Council

(xvii) Department of
Development of North
Eastern region18. Ministry of Human
Resources Development
(Department of Secondary
and Higher Education)(i) Ministry of Culture
(ii) Department of Women
and Child Development
(iii) Ministry of Youth
Affairs and Sports,
(ii) Archaeology Survey of
India19. Ministry of Information and
Broadcasting(i) Directorate and
Adverting and
(ii) Visual Publicity.
(iii) Directorate
General, All India
(iv) Radio.
(v) Press
Information
Bureau.
(vi) Office of the
Registrar of
Newspaper of
India.
(vii) Directorate
General,
Doordarshan.
(viii) Publication


✓		(iv) Directorate of General Employment and Training.	Mumbai, Kalkatta, Thrianthapuram
21	Ministry of Law, Justice and Company Affairs (Department of Legal Affairs).	(v) Protector of Immigrants.	
22	Ministry of Law, Justice and Company Affairs (Department of Company Affairs).	(i) Department of Legal Affairs	Branch Sectt., Mumbai, Kalkatta, Bangalore, Chennai
23	Ministry of Petroleum and Natural Gas	(ii) Legislative Department.	
24	Planning Commission		
25	Ministry of Power.		
		(i) Ministry of Power (ii) Central Electricity Authority (iii) Ministry of Non-Conventional Energy Sources	
26	Ministry of Road Transport and Highways	(i) Ministry of Road Transport & Highways (ii) Ministry of Shipping.	
27	Ministry of Rural Development (Department of Rural Development)	(i) Department of Land Resources. (ii) Department of Drinking Water Supply. (iii) Central project Management Cell for UNICEF Storet(CPMC)	Office at Mumbai
28	Ministry of Science and Technology (Department of Science and Technology).	(i) Department of Science and Technology (ii) Department of Scientific and Industrial Research. (iii) Department of Bio-technology.	
29	Ministry of Social Justice and Empowerment.	(i) Ministry of Tribal Affairs. (ii) National Commission for Scheduled Castes and Scheduled Tribes. (iii) National	

166

33.	Ministry of Water Resources.	(v)	Land & Development office	Central Water Commission has regional offices in various parts of the country
		(i)	Central Water Commission.	
		(ii)	Central Soil and Research Institute.	