

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./TA/ NO. 277 2009-~~2008~~
R.A./CP/NO.2015
E.P./M.P./NO.2015

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SECTION OFFICER (JUDL.)

21.7.2015

FORM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :
ORDERSHEET




1. ORIGINAL APPLICATION No : 277 / 2009
2. Transfer Application No : ----- / 2009 in O.A. No. -----
3. Misc. Petition No : ----- / 2009 in O.A. No. -----
4. Contempt Petition No : ----- / 2009 in O.A. No. -----
5. Review Application No : ----- / 2009 in O.A. No. -----
6. Execution Petition No : ----- / 2009 in O.A. No. -----

Applicant (S) : Sri Dipankar Chakraborty

Respondent (S) : Union of India & Ors

Advocate for the : Mr. M. Chandra
{Applicant (S)} Mr. S. Nath & Ms. L. Dutta

Advocate for the : -----
{Respondent (S)} CGSC

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form No. <u>378/2009</u> Dated <u>16/12/09</u> Dy. Registrar <u>22.12.09</u> <u>22/12/09</u></p> <p><u>22.12.09</u> Fax (611) Copies of application with envelopes received for issue notices to the Respondent Nos 1 to 6. Copy served Extra charge for Res- pondents No. 6 deposited. <u>22/12/09</u> <u>K. Das</u> Issue notice returnable within four weeks. <u>21/12/2010</u></p>	<p><u>23.12.2009</u></p> <p>/pb/</p> <p><u>08.02.2010</u></p> <p>/bb/</p>	<p>Facts of this O.A. are similar with that of O.A. No. 269 of 2009. For the reasons stated in the said order this O.A. is also admitted. Issue notice returnable within four weeks time.</p> <p>List the matter on 08th February, 2010.</p> <p style="text-align: center;"> (Madan Kumar Chaturvedi) Member (A)</p> <p>Mr. Kankan Das, learned Addl.C.G.S.C. for the Respondents seeks and allowed four weeks time to file reply.</p> <p>List on 10.03.2010.</p> <p style="text-align: center;"> (Madan Kumar Chaturvedi) Member (A)  (Mukesh Kumar Gupta) Member (J)</p>

Copies of notices along with order dated 23/12/09 send to D/Sec. forwarding to the respondents by regd-A/D post.

D/no 137 to 142

5/1/010 Dt= 06-01-2010 /pb/

10.03.2010 Mr. K.K. Das, learned Addl. CGSC appears for all the Respondents. Thus service is complete. He seeks and is allowed four weeks time to file reply.

List on 09.04.2010.

(Mukesh Kumar Gupta)
Member (J)

① Service report awaited.
5.2.2010

09.04.2010 Mrs. M. Das, proxy counsel for Mr. K.K. Das, learned Addl. CGSC for Respondents prays for time

List on 10.05.2010.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

NOTA - duly served on R-No. 2
16/2/2010

10.05.2010 On the request of proxy counsel for Respondents, time is extended by four weeks to file reply.

List the matter on 07.06.2010.

(Madan Kumar Chaturvedi)
Member (A)

No w/s filed.
9.3.2010

No w/s filed.
8.4.2010

w/s not filed.
17.5.2010

No w/s filed.
4.6.2010

No w/s filed.
11.6.2010

/pb/

07.06.2010 Further time is sought by Mr. Kankan Das, learned counsel for respondents to file reply stating that draft reply as vetted has been dispatched to learned counsel and it is in the process. Hence adjourned to 14.06.2010.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

/bb/

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O.A.277/2009
O.A.277/2009

14.6.2010

When the matter was taken up for hearing and it was pointed out to learned counsel for applicant that vide para 8 & 9 of A.O. it is sought in the nature of decision that the employees working in the cadre of stenographer Grade II in DAVP are entitled to benefit of higher revised scale, though A.O. has been filed by only one applicant. Learned counsel made a statement to the effect that : "the present application has been filed by only one applicant and the said relief para be read in respect of "only one applicant". Noticing the above, we proceed with the matter.

Short question involved in these two applications is whether applicants are entitled to extension of benefit of judgment dated 19.1.1990 in O.A.277/2009 and 240/94 decided by

seek extension of the benefit of O.M. dated 31.7.1990.

02.08.2010 Respondents in their impugned Memo dated 22.5.2009 vide para 2.3 and 4 have placed reliance on Ministry of Finance, Department of Expenditure O.M. dated 10.2.2009 and 31.7.2000 respectively, but said O.M.s have not been placed on record. Learned counsel for the respondents seek ten days time to place the same on record, which will facilitate adjudication of the issue raised, in an appropriate manner.

List on 23.8.2010. It is made clear that no further adjournment will be allowed. Applicants should also highlight as to whether they are similarly placed to applicants in said judgment relied upon, and whether the said judgment was a judgment in rem or in personam.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

14.06.2010

Mr.Kankan Das, learned counsel for respondents states that reply is being filed during the course of day. Rejoinder, if any, be filed before the next date of hearing. List on 12.07.2010.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

Last and final opportunity is granted to file rejoinder within three weeks.

List on 02.08.2010 for hearing.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

Mr.Kankan Das, learned counsel for the respondents prays for adjournment. List on 04.08.2010.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

04.08.2010

When the matter was taken up for hearing and it was pointed out to learned counsel for applicant that vide para 8.2 of O.A relief is sought in the nature of declaration that : "the employees working in the cadre of Stenographer Grade II in DAVP are entitled to benefit of higher revised scale," though O.A has been filed by only one applicant. Learned counsel made a statement to the effect that : "the present application has been filed by only one applicant and the said relief para be read in respect of "only one applicant". Noticing the above, we proceed with the matter.

Short question involved in these two applications is whether applicants are entitled to extension of benefit of judgment dated 19.1.1996 in O.A.144/93, 985/93 and 546/94 decided by ~~the court~~ also seek extension of the benefit of O.M dated 31.7.1990.

Respondents in their impugned Memo dated 22.5.2009 vide para 2.3 and 4 have placed reliance on Ministry of Finance, Department of Expenditure O.M. dated 10.2.2009 and 31.7.2000 respectively, but said O.Ms have not been placed on record. Learned counsel for the respondents seek ten days time to place the same on record, which will facilitate adjudication of the issue raised, in an appropriate manner.

List on 23.8.2010. It is made clear that no further adjournment will be allowed.

Applicants should also highlight as to whether they are similarly placed to applicants in said judgment relied upon, and whether the said judgment was a judgment in rem or in personam.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

04.08.2010

When the matter was taken up for hearing and it was pointed out to learned counsel for applicant that vide para 8.2 of O.A relief is sought in the nature of declaration that : "the employees working in the cadre of Stenographer Grade II in DAVP are entitled to benefit of higher revised scale," though O.A has been filed by only one applicant. Learned counsel made a statement to the effect that : "the present application has been filed by only one applicant and the said relief para be read in respect of "only one applicant". Noticing the above, we proceed with the matter.

Short question involved in these two applications i.e. O.A. No.277 & 269 of 2009 is whether applicants are entitled to extension of benefit of judgment dated 19.1.1996 in O.A.144/93, 985/93 and 546/94 decided by Principal Bench (Annexure 3). Applicants also seek extension of the benefit of O.M dated 31.7.1990.

Respondents in their impugned Memo dated 22.5.2009 vide para 2.3 and 4 have placed reliance on Ministry of Finance, Department of Expenditure O.M. dated 10.2.2009 and 31.7.2000 respectively, but said O.Ms have not been placed on record. Learned counsel for the respondents seek ten days time to place the same on record, which will facilitate adjudication of the issue raised, in an appropriate manner.

List on 23.8.2010. It is made clear that no further adjournment will be allowed.

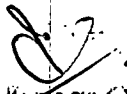
Applicants should also highlight as to whether they are similarly placed to applicants in said judgment relied upon, and whether the said judgment was a judgment in rem or in personam.


(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

23.08.2010

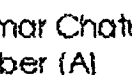
In purported compliance of order dated 04.08.2010, the respondents have produced certain O.M.s which are totally illegible. In the circumstances adjourned to 30.08.2010. It is made clear that no further adjournment will be allowed.



(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

30.08.2010

Heard Mr M. Chanda, learned counsel for applicant and Mr K.K. Das, learned Addl. C.G.S.C. for the respondents. Hearing concluded. Reserved for orders.

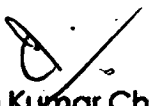

(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

06.09.2010

Judgment pronounced in open court, kept in separate sheets.

OA is dismissed in terms of common order. No costs.


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application Nos. 269 & 277 of 2009

Date of Decision: This, the 6th day of September, 2010.

HON'BLE SHRI MUKESH KUMAR GUPTA, JUDICIAL MEMBER

HON'BLE SHRI MADAN KUMAR CHATURVEDI, ADMINISTRATIVE MEMBER

O.A.269 of 2009

Sri Raghabendra Nath Das
Stenographer Grade-1
Regional Office,
Directorate of Audio Visual and Publicity,
Nabin Nagar, Janapath
Guwahati-781024.

...Applicant

By Advocate: Mr.M.Chanda with Ms. U. Dutta. 

-VERSUS -

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 Secretary to the
Govt. of India, Ministry of Finance
Department of Expenditure
North Block, New Delhi-110001.
3. The Secretary to the Government of India
Ministry of Personnel, Public Grievances
and Pension, Department of Personnel
Public Grievances & Pensions
Room No. 112, 1st Floor
North Block, New Delhi-110001.
4. The Director General
Directorate of Advertising and Visual Publicity
Ministry of Information and Broadcasting
CGO Complex, Sanchar Bhawan
Lodhi Road, New Delhi-110003

5. Deputy Director (Admn)
DAVP, Ministry of I & B.
CGO Complex, Sanchar Bhawan
Lodhi Road, New Delhi-110003
6. The Director
Regional office
DAVP, Ministry of I & B
Nabin Nagar, Janapath,
Guwahati-781024.

...Respondents

Mrs. M.Das, Sr. C.G.S.C.

O.A. 277 of 2009

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

By Advocate: Mr.M.Chanda with Ms. U Dutta.

...Applicant

-VERSUS -

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 Secretary to the
Govt. of India, Ministry of Finance
Department of Expenditure
North Block, New Delhi-110001
3. The Secretary to the Government of India
Ministry of Personnel, Public Grievances
and Pension, Department of Personnel,
Public Grievance & Pensions
Room No.112, 1st Floor
North Block, New Delhi-110001.
4. The Director General,
Directorate of Advertising and Visual Publicity
Ministry of Information and Broadcasting
CGO Complex, Soochna Bhawan
Lodhi Road, New Delhi-110003

5. Deputy Director (Admn)
DAVP, Ministry of I & B.
CGO Complex, Soochna Bhawan
Lodhi Road, New Delhi-110003
6. The Director
Regional office
DAVP, Ministry of I & B
Nabin Nagar, Janapath
Guwahati-781024

...Respondents

By Advocate: Mr. Kankan Das, Addl. C.G.S.C.

ORDER

MUKESH KUMAR GUPTA, MEMBER (J):

OA Nos. 269 and 277 of 2009 since raised common question of facts and law, were heard analogously and being disposed of by present common order.

2. Vide OA No.269/2009, applicant has challenged validity of OM dated 15.04.2004, 30.06.2005, 16.08.2005, 22.05.2009 and 24.08.2009. Direction is also sought to respondents to re-fix his pay in the revised scale of pay of Rs.1640-2900/- w.e.f. 22.08.1988 and corresponding revised pay of Rs.5500-9000/- w.e.f. 01.01.1996 with further direction to place him in next higher scale of Rs.6500-10500/- w.e.f. 24.06.2005 by necessary modification of promotion order dated 21/23.06.2005 with all consequential benefits including arrears etc.

The relief claimed vide OA No.277/2009, besides challenging communications dated 15.04.1994, 30.06.2005 and 22.05.2009 (as of OA No.269/2009), is for declaration to the effect that Stenographer Grade-II in Directorate of Advertising and Visual Publicity (hereinafter referred to as

DAVP) are entitled to higher revised scale of pay of Rs.5500-9000/- instead of Rs.5000-8000/- in terms of judgment and order dated 19.01.1996 of Principal Bench of this Tribunal in OA No.546/1994 (wrongly referred to as OA 548/1994). He also seeks grant of afore noted scale w.e.f. 09.08.1999 with modification of promotion order dated 07.08.2000.

3. Admitted facts are that applicant in OA No. 269/2009 was initially appointed as Stenographer Grade-III in General Central Service, after being selected by the Staff Selection Commission (hereinafter referred to as SSC) in the pay scale of Rs.330-560/- on 09.07.1982, in DAVP, Kolkata. Thereafter, he was promoted to next higher post of Stenographer Grade-II in the pay scale of Rs.1400-2300/- and posted at Guwahati w.e.f. 18.04.1988. He was further promoted to the post of Stenographer Grade-I at Guwahati w.e.f. 24.06.2005.

Applicant in OA No.277/2009 was also initially appointed as Stenographer Grade-III in Regional Office of DAVP, Guwahati through SSC w.e.f. 24.02.1983; granted first financial upgradation under ACP Scheme in the pay scale of Rs.5000-8000/- w.e.f. 09.08.1999 and thereafter promoted as Stenographer Grade-II in same pay scale on regular basis w.e.f. 17.04.2006 (AN).

4. Their basic grievance is that Principal Bench of this Tribunal vide common judgment and order dated 19.01.1996, in OA Nos. 144A/1993, 985/1993 and 546/1994 (wrongly referred as OA 546/1994) granted pay scale of Rs.1640-2900/- with limited arrears to applicants therein. Applicants therein were Crime Assistant and Stenographer Grade-

C in the department of CBI; Assistant in the office of Director General of Income Tax; Stenographer Grade-II, and Assistant in the Directorate of Field Publicity (hereinafter would be referred to as DFP), Ministry of Information & Broadcasting respectively. SLP filed against said judgment in OA No.985/1993 by Union of India was dismissed on 11.07.1996. They, being similarly situated, are entitled to said pay scale. Earlier, applicants herein had filed OA Nos.298 and 299 of 2005 seeking the prayer as of present OAs. Said OAs were disposed of vide, though separate, but identical, order dated 16.01.2008 remitting the matter to the respondents as well as granting liberty to applicants to put up their grievances by submitting comprehensive representation and thereafter requiring the respondents (Ministry of Information and Broadcasting) and Ministry of Finance to consider the matter afresh keeping in mind the views expressed by this Tribunal in other connected matters (namely, Principal Bench common judgment and order dated 19.01.1996). In compliance thereto, they submitted virtually identical representation dated 14.02.2008 and 18.02.2008 respectively. In terms of direction contained vide order dated 16.01.2008, on examination of afore-noted representations, the respondents passed though separate, but somewhat similar OMs dated 22.05.2009 impugned in present proceedings.

5. Mr.M.Chanda, learned counsel appearing for applicants strenuously argued following contentions:-

- (i) Applicants working in DAVP are similarly placed to applicants in OA No.546/1994. Applicants before the Principal Bench were

Stenographer Grade-II and Assistants in DFP (Ministry of Information and Broadcasting).

- (ii) Judgment and order dated 19.01.1996 has been accepted by the respondents, and even otherwise attained finality on dismissal of SLP vide order dated 11.07.1996. They, being similarly circumstanced, doing similar duties, responsibilities and nature of works, are entitled to extension of benefits of said judgment. Recruitment conditions, rank, status and scale of pay enjoyed by Stenographer Grade-II in DAVP are exactly similar to that of DFP, both being Central Government departments in the same Ministry i.e., Ministry of Information and Broadcasting.
- (iii) They fulfilled the criteria laid down vide DOPT OM No.2/1/90-CS-IV dated 31.07.1990 and as such are entitled to benefits of higher revised pay scale with all consequential benefits.
- (iv) The reasons assigned vide impugned communication dated 16.08.2005 while rejecting their claim are not sustainable in the eyes of law and benefits of judgment and order dated 19.01.1996 cannot be restricted and confined to applicants in said cases alone. It was contended with vehemence that said findings and order is judgment in rem and not personam. It is highly unjust to restrict the benefit of said judgment to applicants to said cases.

(v) As per Central Secretariat Service Rules, 1962, DAVP, Ministry of Information and Broadcasting is a participating office of Central Secretariat Service/CSSS (hereinafter referred as CSS/CSSS). Merely because applicants are recruited and posted in Regional office cannot be a ground to discriminate in the matter of pay scale. Even otherwise, impugned memorandum dated 22.05.2009 and 24.08.2009 are arbitrary, non-speaking and bald order. It is continuous wrong, and therefore, they have continuous cause of action.

(vi) Respondents' contention raised vide OM dated 15.04.1994 as well as impugned letter dated 30.06.2005 to the effect that as per extant policy, the benefits of common judgment and order dated 19.01.1996 passed by Principal Bench of this Tribunal cannot be extended to non-applicants is illegal, arbitrary and discriminatory, and therefore, the same are rendered unsustainable in the eyes of law.

6. Contesting the claim laid and by filing detailed reply in both the cases, apart from facts, as noticed hereinabove, respondents have stated that as per recommendation of 5th CPC, cadre of Stenographers in non-Secretariat Offices of DAVP were restructured. In the year 2000, there were two posts of Stenographer Grade-II, eight posts of Stenographer Grade-III, which were restructured in ratio of 40:40:20 and as per restructuring two posts of Stenographer Grade-I in the pay scale of Rs.5500-9000/- were created w.e.f. 14.01.2000 and consequently,

applicant in OA No.269/2009 was promoted against one of such post of Stenographer Grade-I, so created.

Stenographers are recruited through SCC in Secretariat offices as well as non-secretariat offices. But in Secretariat, they are recruited to CSSS and in non-Secretariat Offices, they are recruited to General Secretariat Service, having no specific cadre. Though headquarter of DAVP is participating in CSSS service, while the Regional Offices of DAVP are not participating in CSSS and recruitment is done by DAVP directly through the recruitment agency i.e., SCC. Stenographer Grade-C in CSSS in Secretariat Offices are not equivalent to Stenographer Grade-II in non-Secretariat Offices. Stenographer Grade-C belongs to Group 'B' non-Gazetted in the pay scale of Rs.5500-9000/-, while Stenographer Grade-II in Regional Offices are Group 'C' in non-Gazetted category in pay scale of Rs.5000-8000/-, and hence, the same are not equivalent or comparable post. Stenographer Grade-II in DFP were granted pay scale of Rs.5500-9000/- in compliance of Principal Bench judgment and order in OA No.546/1994. DFP was a participating office in CSSS from its inception and the post of Assistants and Stenographers in said office were included in the authorized permanent strength of the Ministry of Information and Broadcasting and manned by the personnel of said Ministry upto 1975. Thereafter, DFP was excluded from the purview of CSSS/CSSS. At that time those, who opted for DFP, were retained in said Directorate with original status/pay scale etc. Applicants therein were given the benefits in terms of judgment and order dated 19.01.1996 without consulting with Ministry of Information and Broadcasting/Ministry

of Finance/DOPT. Subsequently, matter was considered by the Ministry of Information and Broadcasting in consultation with Ministries of Finance, Law and DOPT and it was decided that all the applicants in said OAs and similarly placed persons would be placed under said scale "**on personal basis**" and the pay scale of said post was revised downwards to pay scale of Rs.5000-8000/- to all future incumbents. Representations preferred by the applicants were considered, but finding no merits, the same were rejected. Applicants did not belong to CSSS. OM dated 31.07.1990 is not applicable in their case. Vide OM dated 10.02.1999 issued by the Department of Expenditure, it was clarified that designation is not the sole determinant of pay scale. There are many factors i.e., eligibility, minimum educational qualification, nature of duties and responsibilities, work load, professional skill and proficiency, which are considered while deciding the pay scale appropriate to the post. Ministry of Finance, Department of Experience vide OM dated 15.04.2004 had clarified that pay scale of Rs.1640-2900 revised to Rs.5500-9000/- is meant for Stenographers in Secretariat Offices. In any case, it was stated that 6th CPC has recommended same pay scales for Stenographers Grade-II of GCS cadre as well as CSSS cadre w.e.f. 01.01.2006 in the pay band 2 of Rs.9300-34800 with Grade Pay of Rs.4200/-, which recommendations were accepted. Vide circular dated 28.02.2005, it was decided to revise the RRs for the post of Assistants and Stenographer Grade-II to make their pay scale to Rs.5000-8000/- and till the RRs are revised, further appointment/promotion in said grades be stopped with immediate effect.

7. We have heard Mr.M.Chanda, learned counsel for applicant in both OAs; Mrs.M.Das, and Mr.Kankan Das, learned counsel for

respondents in OA Nos. 269 and 277 of 2009 respectively at length, perused the pleadings and voluminous documents placed on record very minutely. Before proceeding further, it would be expedient to notice the contents of impugned memorandum dated 22.05.2009 in OA No.269 of 2009, which reads as under:-

"OFFICE MEMORANDUM

Subject: Representation of Shri R.N.Das Stenographer Grade I for enhancement of pre-revised pay scale of Stenographer Grade II as per CAT, Guwahati Bench's order dated 16.1.2008 in O.A.No.298/05 and O.A.No.299/05.

With reference to his representation dated 14.2.2008 on the above subject, Shri R.N.Das, Stenographer Grade I is intimated as follows:

- 1) No comments are required, being statement of facts.
- 2.1) DOPT&T's O.M.No.2/1/90/CS-IV dated 31.7.1990 had indicated that the Pay Scale of Rs.1640-2900 will be applicable to Assistants and Stenographers in other organizations like Ministry of External Affairs which are not participating in the Central Secretariat Service (CSS) and Central Secretariat Stenographers Service (CSSS) but where the posts are of comparable grades with same classification and pay scales and method of recruitment through open competitive examination. In the case of Shri R.N.Das, he was occupying the posts of Stenographer Grade II which was classified as a group 'C' post, whereas the post of Stenographer Grade 'C' in CSSS has been classified as group 'B'. Therefore this benefit could not be extended to Shri Das, as the two posts are classified differently.
- 2.2) Shri R.N.Das was never appointed to the CSSS cadre of Ministry of I & B/DAVP. His initial appointment was against post Stenographer Grade III in the General Central Service in the cadre of DAVP. Therefore his case cannot be compared with those Stenographers of CSSS service.
- 2.3) Shri Das had been promoted to the post of Stenographer Grade II from 22.8.88 in the pay scale of Rs.1400-2300. The request of Shri R.N.Das, Stenographer Grade-II for revision of the pay scale of Rs.1400-2600 to Rs.1640-2900 with effect from 1.1.1986 and from Rs.5000-8000

to Rs.5500-9000 with effect from 1.1.1996 had been considered in consultation with Ministry of Finance but was not agreed to as higher scale of Rs.1640-2900 had been restricted to Assistants/Stenographers in CSS/CSSS and the same had not been extended to similar posts in autonomous offices/subordinate offices. As per Ministry of Finance, Department of Expenditure's O.M.No.12(3)/E III B/99 dated 10.2.2009, the higher pay scale of Rs.1640-2900 cannot be extended to those post of Stenographers Grade II which are not participating in CSSS cadre.

2.4) Promotion post in the subordinate cadre of DAVP of Stenographer Grade-1 is in the scale of Rs.5500-9000. Shri R.N. Das cannot be considered for the scale of Rs.6500-10,500/- Shri Das was from the very beginning appointed as Stenographer Grade-III and his offer for appointment is also against the post of Grade-III. Shri Das had accepted the offer and accordingly he joined as Grade-III in DAVP. As such, he is now estopped from claiming that he had not applied for appointment against ex-cadre post. Though DAVP is a participating office of CSSS and there are posts of Stenographers/ Assistants/LDCs/UDCs in DAVP who belong to the CSS, CSSS, CSCS, and not in the CSSS, the fact is that Shri Das was appointed against an ex-cadre post was not in the CSSS cadre of M/O I & B. Staff Selection Commission has a common proforma for sending requisition for vacancies and the name of the service is not mentioned there in the requisition as for ex-cadre post was not required to be mentioned in the requisition form. That does not prove anything in favour of Shri Das. The seniority of Shri Das is to be counted in the General Central Service of Stenographers of DAVP. The seniority of officers recruited in a particular year is calculated on the basis of their rank in the respective examination conducted by SSC. Apart from that, Staff Selection Commission has no role in fixing seniority of the officials in different cadres. In the seniority list mentioned by Shri R.N.Das, the name of Shri Das shown along with Shri G.Manidharan. Shri Manidharan though initially recruited as Language Typist was appointed as Stenographer Grade-III w.e.f. 15.1.1997 as per the provisions of the recruitment rule which was then in existence. Departmental seniority is maintained by the respective cadre authorities and SSC has no role in this. Officials recruited through different nodes can be interpolated as per rules of seniority. There is no such rule that officials recruited through other modes or through promotion cannot interpolated with officials recruited through SSC and is sought to be made out by the representationist.

3. It is again reiterated that Shri R.N.Das was appointed against the ex cadre post in this Directorate and he cannot claim pay parity and promotion at par (sic) with CSSS. Shri

Das has been appointed at the regional office of DAVP and he must have worked with officers of Joint Secretary and Deputy Secretary level. That does not entitle him to claim parity with the CSSS cadre. The seniority of officers with whom a Stenographer is working is not a factor in fixing his seniority or promotion prospects.

4) As already mentioned that Ministry of Finance did not agree to granting him parity along with CSSS though DAVP/M/o I&B had taken up the matter. A copy of their decision (N.2/1/90-CS-IV & dated 31.7.2000 is enclosed at Annexure-1) However, on the implementation of the 6th Central Pay Commission, Stenographer Grade II in DAVP has been placed in PB-2 with grade pay of Rs.4200."

(emphasis supplied)

8. The questions, which arise for consideration, are to the following effect:-

- (i) Whether the judgment and order of Principal Bench in OA No.546/1994 dated 19.01.1996 is a judgment in rem or in personam?
- (ii) Whether the applicants, who are working as Stenographers in DAVP, Guwhati are similarly placed to applicants in OA No.546/1994, and thus are entitled to extension of benefits of order dated 19.01.1996?

9. Before proceeding further, it would be expedient to recapitulate the facts in OA No.546/1994 decided on 19.01.1996 by Principal Bench, whose benefit applicants seek extension of. Judgment of the Principal Bench in afore noted case in specific reveals that applicants therein were Stenographers Grade-II and Assistants in DFP, Ministry of Information and Broadcasting, which was participating office in CSS/CSSS from its inception upto 1975 and thereafter it was excluded from the



purview of CSS/CSSS. Their grievance had been the parity maintained through out had been disturbed vide OM dated 31.07.1990. It is in such circumstances, said judgment had been pronounced. On the other hand, we may note that facts revealed in present cases are that applicants were initially appointed as Stenographer Grade-III in "**General Central Service**" in DAVP and thereafter promoted to next grade of Stenographers Grade-II. Furthermore, the post of Stenographers Grade-C in CSSS in Secretariat of the Govt. of India belongs to Group 'B' non-Gazetted category while Stenographers Grade-II in non-Secretariat Office is a Group 'C' post. Furthermore, Regional Office of DAVP are not participating in CSSS and recruitment is done by SCC. Thus, facts of cases at hand are not similar to that of judgment dated 19.01.1996 relied upon. Furthermore, impugned OM dated 22.05.2009 also reveals that applicants were appointed in the Regional Offices of DAVP against ex-cadre post in the years 1982 and 1983 respectively through SCC. For claiming parity reliance was placed by applicants on DOPT OM dated 31.07.1990, application of which had been denied by the respondents. Even if for the sake of arguments, it is accepted that said OM is applicable, we may note that para 1 of said OM prescribes certain guidelines for its application, which read thus:-

"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 OA 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-800 for duly posts included in the Assistant Grade of Central Secretarial Service and Grade 'C' Stenographers of Central

Secretariat 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."

(emphasis supplied)

10. Bare perusal of above OM would establish that pay scale revised for the Assistant cadre of CSS service and Stenographer Grade-C in CSSS w.e.f. 01.01.1986 is extendable to Assistants and Stenographers in other organizations like Ministry of External Affairs, who are not participating in CSS/CSSS subject to condition that: (i) the posts are in comparable grades; (ii) with same classification and pay scale; (iii) and method of recruitment through Open Competitive Examination **is also the same**. As noticed hereinabove, the post excluded in Assistant Grade of CSS and Stenographer Grade-C of CSSS is not "with same classification" in non-Secretariat Departments/Organisations. At the cost of repetition we may note that post of Assistant and Stenographer Grade-C in CSS is a Group-B non-Gazetted while the post of Stenographer Grade-II in non-Secretariat is a Group-C post. The pay scale is also different in Secretariat. The afore-noted post carries pay scale of Rs.5500-9000/-, while in non-Secretariat pay scale available is Rs.5000-8000/-. Furthermore, the method of recruitment is also not the same, namely, Assistant and Stenographer Grade-C in CSS/CSSS belong to cadre post, which is not the fact in case of non-Secretariat offices. We may also observe at this stage that vide circular dated 28.04.2005, respondents have decided to allow the benefits of judgment in OA No.546/1994 (wrongly referred to by both sides

as OA No.548/1994) to applicants of said case, the scale allowed by this Tribunal "**on personal basis**". We may note that validity of said circular has not been questioned by applicants.

11. It is well settled law that mere designation is not the sole determinant for granting equivalent pay scale. There are other factors, viz., eligibility, minimum educational qualification, nature of duties and responsibilities, work load, professional skill and proficiency etc., which are also considered while deciding pay scale appropriate to post. It is trite law that the party who claims equal pay for equal work has to make necessary averments and prove that "**all things are equal**". Thus, before any direction can be issued by the Court, Court must first see that there are necessary averments and there is proof. Hon'ble Supreme Court in **Union of India v. Tarit Ranjan Das, (2003) 11 SCC 658**, where the respondent serving as Stenographer Grade-II, Geological Survey of India claiming parity of pay scale with that of Stenographer Grade-C of Central Secretariat, vide para 9 observed as under:-

"The equality is not based on designation or the nature of work alone. There are several other factors like responsibilities, reliabilities, experience, confidentiality involved, functional need and requirements commensurate with the position in the hierarchy, the qualifications required which are equally relevant."

On examination of law as well as factual aspects, judgment of this Tribunal, as upheld by Hon'ble Gauhati High Court, was set aside holding that both the forums "completely lost sight of" that settled aspect.

Similarly, after noticing host of judgments and summarizing the law on this aspect, Hon'ble Supreme Court in **State of Haryana & Others v. Charanjit Singh, (2006) 9 SCC 321**, observed as follows:-

"...The principle of "equal pay for equal work" has no mechanical application in every case. Article 14 permits reasonable classification based on qualities or characteristics of persons recruited and grouped together, as against those who were left out. Of course, the qualities or characteristics must have a reasonable relation to the object sought to be achieved. In service matters, merit or experience can be a proper basis for classification for the purposes of pay in order to promote efficiency in administration. A higher pay scale to avoid stagnation or resultant frustration for lack of promotional avenues is also an acceptable reason for pay differentiation. The very fact that the person has not gone through the process of recruitment may itself, in certain cases, make a difference. If the educational qualifications are different, then also the doctrine may have no application. Even though persons may do the same work, their quality of work may differ. Where persons are selected by a Selection Committee on the basis of merit with due regard to seniority a higher pay scale granted to such persons who are evaluated by the competent authority cannot be challenged. A classification based on difference in educational qualifications justifies a difference in pay scales. A mere nomenclature designating a person as say a carpenter or a craftsman is not enough to come to the conclusion that he is doing the same work as another carpenter or craftsman in regular service. The quality of work which is produced may be different and even the nature of work assigned may be different. It is not just a comparison of physical activity. The application of the principle of "equal pay for equal work" requires consideration of various dimensions of a given job. The accuracy required and the dexterity that the job may entail may differ from job to job. It cannot be judged by the mere volume of work. There may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference. Thus normally the applicability of this principle must be left to be evaluated and determined by an expert body. These are not matters where a writ court can lightly interfere."

Similarly, in **Official Liquidator v. Dayanand & Others, (2008) 10**

SCC 1, vide para 95, Hon'ble Supreme Court held that said Court consciously and repeatedly deviated from the ruling of **Randhir Singh v. Union of India, (1982) 1 SCC 618**.

12. Law laid down in afore noted judgments, noticed hereinabove, is squarely applicable in the given facts and circumstances of present cases. We may also observe that applicants in present cases are not placed at par with applicants in OA No.546/1994 as they were recruited in the years 1982 and 1983 respectively, while applicants in said

case before the Principal Bench of this Tribunal were appointed prior to year 1975 when a departure was made and said posts were taken out from the purview of CSS/CSSS. Thus, we have no hesitation to conclude that applicants' claim for parity is not justified and they are not comparable to applicants in judgment, relied upon. Parity can be claimed when the persons are placed like and not alike. We may also observe that Hon'ble Supreme Court in **Sumtibal & Others v. Paras Finance Co. Regd. Partnership Firm Beawer (Raj.), (2007) 10 SCC 82**, has held that judgments cannot be read like a statute and a little difference in facts or additional facts may make a lot of difference in presidential value of a decision, even a single significant detail may alter the entire aspect. It is a ratio decidendi and not the final orders in the judgment, which forms a precedent. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Further it is well settled law that the courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed and judgment of courts should not be construed as statutes. [**Union of India & Another v. Major Bahadur Singh, (2006) 1 SCC 368**].

13. In the light of discussions, made hereinabove, we have no hesitation to conclude that Coordinate Bench judgment in OA No.546/1994 is, thus, not a judgment in rem but a judgment in personam and also that applicants are not similarly placed to applicants in relied upon judgment, and consequently, they are not entitled to extension of benefits of said judgment.

14. Taking a cumulative view in the matter and finding no merits,

OAs are dismissed. No costs.

Sd/- M.K. Gupta
Member (J)
Sd/-M.K. Chaturvedi
Member (A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O. A. No. 277/2009

Shri Dipankar Chakraborty

-Vs-

Union of India and Others.

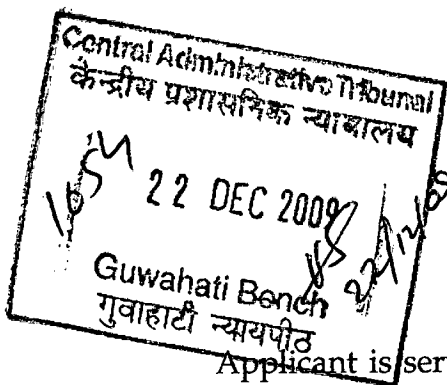
SYNOPSIS OF THE APPLICATION

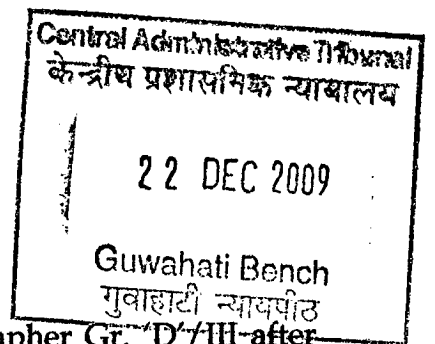
Applicant is serving as Stenographer Gr. II in the Regional Office, Directorate of Audio Visual and Publicity (in short DAVP), Guwahati. He was selected through Staff Selection Commission and appointed to the post of Stenographer Grade 'D'/III (Group 'C' non-gazetted) in the year 1982. The Govt. of India, Ministry of Finance vide OM dated 31.07.90 granted higher revised scale of pay of Rs. 1640-2900 w.e.f 01.01.1986 to the Stenographers and Assistance of CSS/CSSS and also to the Stenographers and Assistance of non participating offices who were recruited through open competitive examination. But the scale of pay of Rs. 1640-2900 denied to the applicant by the respondents.

Similarly situated Stenographers Grade-II working in the Directorate of Field Publicity and ESI Corporation had approached the Hon'ble CAT, Principal Bench through O.A No. 548 of 1994 and O.A No. 985 of 1993 for grant of higher revised scale of pay of Rs. 1640-2900 (corresponding revised scale of Rs. 5500-9000) instead of Rs. 1400-2600 (revised 5000- 8000) w.e.f 01.01.1986 in terms of OM dated 31.07.1990. Said O.As were allowed vide order dated 19.01.1996. Hon'ble Supreme Court pleased to uphold the judgment of the learned CAT, Principal Bench passed in O.A No. 548 of 1994 and O.A No. 985 of 1993.

Applicant was granted first financial upgradation under the ACP Scheme in the next higher scale of pay of Rs. 5,000-8,000/- w.e.f. 09.08.2000, 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/-.

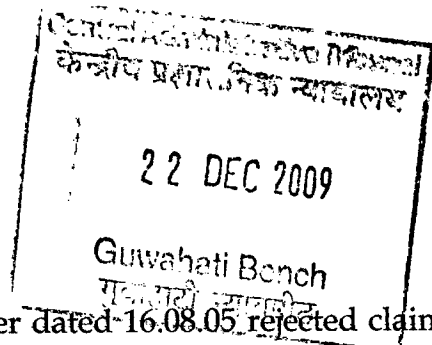
Applicant approached the Hon'ble Tribunal through OA No. 299/05, which was disposed of on 16.01.08 with the direction to the applicant to file representation before the respondents. Applicant submitted representation, but the same were arbitrarily rejected by the respondents vide impugned orders dated 22.05.2009 (Annexure- 13). Hence this Original Application.





LISTS OF DATES

- 24.02.1983- Applicant was initially appointed as Stenographer Gr. 'D'/III-after being selected through competitive examination conducted by the Staff Selection Commission for the post of Stenographer Grade 'D'/III (Group 'C' non-gazetted).
He was appointed as Stenographer Group 'D' in the department of DAVP, Guwahati under the Ministry of Information and Broadcasting.
- 28.01.1982- Govt. of India, Ministry of I & B conveyed sanction of President the scale of pay of Rs. 425-800 for the post of Stenographer Gr. 'C'.
(Annexure- 1)
- 07.08.2000- Applicant was granted first financial upgradation under the ACP Scheme in the next higher scale of pay of Rs. 5,000-8,000/- w.e.f. 09.08.99.
(Annexure-2)
- 04.05.1990- Ministry of Finance revised pay scale of Rs. 1400-2300 to Rs. 1400-2600.
- 31.07.1990- Govt. of India, Ministry of Finance granted higher revised scale of pay of Rs. 1640-2900 to the stenographers and Assistance of CSS/CSSS and also to the stenographers and Assistance where the method of recruitment through open competitive examination. The benefit of higher scale of Rs. 1640-2900 extended w.e.f 01.01.1986.
(Annexure- 3)
- 19.01.1996 Hon'ble CAT, Principal Bench allowed O.A No. 548 of 1994 and O.A No. 985 of 1993, filed by the similarly situated Stenographers Gr. II working in the Directorate of field publicity and ESI corporation praying for grant of 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 31.07.1990.
(Annexure- 4)
- 11.07.1996- Hon'ble Supreme Court dismissed the SLP preferred against the judgment and order dated 19.01.06 passed in O.A No. 548 of 1994 and O.A No. 985 of 1993.
(Annexure- 5)
- 07.04.2005- Applicant submitted representation praying for extension of the benefit of higher revised scale Rs. 5500-9000 (pre-revised Rs. 1640-2900) w.e.f. 09.08.99 treating the applicant with other similarly situated Stenographers working in other departments.
(Annexure-6)
- 16.02.2005- Respondents informed the applicant that the matter regarding enhancement of scale of pay is under consideration. (Annexure-7)
- 15.04.2004- Ministry of Finance vide impugned O.M dated 15.04.04 denied higher revised pays scale to the applicant. (Annexure- 9)
- 30.06.2005- Ministry of Finance, Dept. of Expenditure vide impugned letter dated 30.06.05 rejected prayer of the applicant. (Annex- 10)



- 16.08.2005- Deputy Director vide impugned order dated 16.08.05 rejected claim of the applicant. (Annexure- 8)
- 2005- Applicant approached the Hon'ble Tribunal through OA No. 299 of 2005 for grant of benefit of higher revised scale Rs. 1640-2900 (revised 5500-9000) w.e.f 09.08.1999, in terms of the OM dated 31.07.1990.
- 16.01.2008- Hon'ble Tribunal disposed of O.A. No. 298/2005 with the direction to the applicant to submit representation to the respondents. (Annexure- 11)
- 18.02.2008- Applicant submitted representation claiming higher revised scale of pay against the post of Stenographer Gr. II/Stenographer Gr. 'C'. (Annexure-12)
- 22.05.2009- Directorate, DAVP vide impugned office memorandum dated 22.05.09 rejected claim of the applicant. (Annexure- 13)

DAVP is a participating office of CSS/CSSS in terms of the First Schedule of the Central Secretariat Service Rules, 1962, the DAVP. (Annexure- 14)

P R A Y E R S

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned O.M dated 15.04.2004 (Annexure - 9), impugned letter dated 30.06.2005 (Annexure- 10), impugned memorandum dated 22.05.2009 (Annexure- 13).
2. 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.
3. 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.
4. Costs of the application.
5. 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 this application shall not be a bar for grant of relief prayed for in this application.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

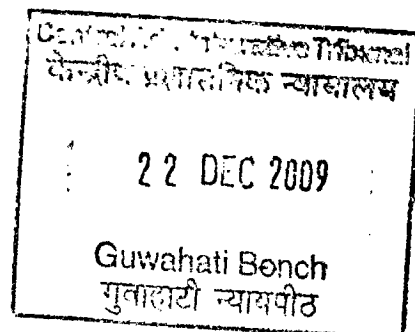
(An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O.A. No. 277 /2009

Sri Dipankar Chakraborty. : Applicant.

-Versus-

Union of India and Others. : Respondents.



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17,

N/S by R.N. 5, 4, 5 & 6

82-102

Date: - 22.12.09

Filed By:

[Signature]
Advocate

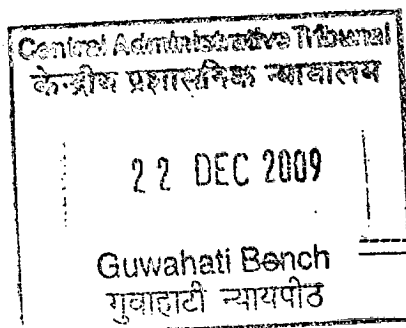
**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI**

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

O. A. No. 277 /2009

BETWEEN:

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



Applicant.

-AND-

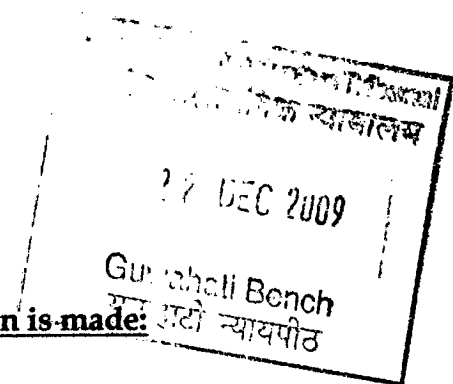
1. The Union of India,
Represented by Secretary to the
Government of India,
Ministry of Information & Broadcasting, 'A' wing,
Shastri Bhawan, New Delhi- 110001.
2. The Secretary to the
Govt. of India, Ministry of Finance,
Department of Expenditure,
North Block, New Delhi-110001.
3. The Secretary to the
Government of India
Ministry of Personnel, Public Grievances and Pension
Department of Personnel, Public Grievance & Pensions,
Room No. 112, 1st Floor, North Block, New Delhi- 110 001.
4. The Director General,
Directorate of Advertising and Visual Publicity,
Ministry of Information and Broadcasting,
CGO Complex, Shastri Bhawan,
Lodhi Road, New Delhi- 110 003.
5. Deputy Director (Admn.),
DAVP, Ministry of I & B,
CGO Complex, Shastri Bhawan,
Lodhi Road, New Delhi- 110 003.
6. The Director,
Regional Office,
DAVP, Ministry of I& B,
Nabin Nagar, Janapath, Guwahati- 781 024.

..... Respondents.

Dipankar Chakraborty

Filed by the applicant
through U. Dutta, advocate
on 22.12.09

DETAILS OF THE APPLICATION



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

This application is made against the impugned office Memorandum bearing F. No. 18011/2/2006-Admn.I dated 22.05.2009 (Annexure- 13) denying the extension of benefit 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 in the light of the decision of the Hon'ble CAT judgment and order dated 19.01.96 in O.A. No. 548/1994, 144-A/1993 and 985/1993 to the applicant with all consequential benefits and arrear monetary benefits along with consequential fixation of revised corresponding scale of pay pursuant to the Revised Pay Rules, 2008 issued by the Ministry of Finance, Govt. of India.

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. However, on 17.04.2006 the applicant has been promoted to the post of Stenographer Gr. II in the scale of 5,000-8000 (pre-revised Rs. 1400-2300) instead of Rs.

Dr. Ranjan Chakraborty

5500-9000/-. The next avenue of promotion of the applicant in the hierarchy is Stenographer Grade-I.

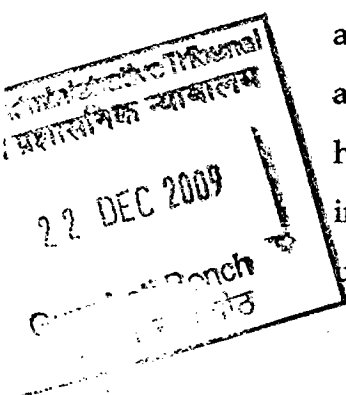
- 4.3 That it is stated that the Govt. of India, Ministry of Information and Broadcasting vide letter No. 3/8/81-Bud/DAVP/09 (I) dated 28.01.1982 conveyed sanction of President the scale of pay of Rs. 425-15-500-EB-15-560-20-EB-26-800 to the Stenographer Gr. 'C' in the Regional Office, DAVP, Guwahati. It is evident from the letter dated 28.01.1982 that the Presidential sanction of scale of pay of Rs. 425-800 was granted to the Stenographer Gr. 'C' at the Regional Office, DAVP, Guwahati, but the respondents most arbitrarily did not implement the scale of pay of Rs. 425-800 (Rs. 1400-2600/- w.e.f. 01.01.86).

Copy of the letter dated 28.01.1982 is enclosed herewith and marked as Annexure- 1.

- 4.4 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- 2.

- 4.5 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-



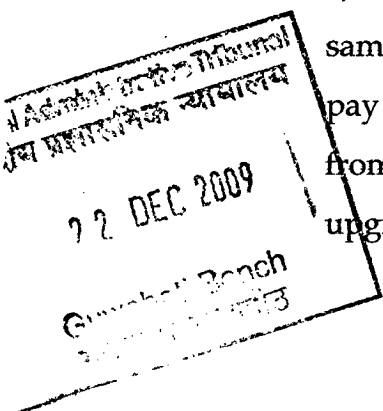
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9,000/- in terms of O.M dated 31.07.90, issued by the Govt. of India, and thereby extended the benefit of higher revised scale of pay of Rs. 1,640-2,900/- (revised Rs. 5,500-9,000/-) to the counterparts of the applicant in DEF.

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

4.7 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.

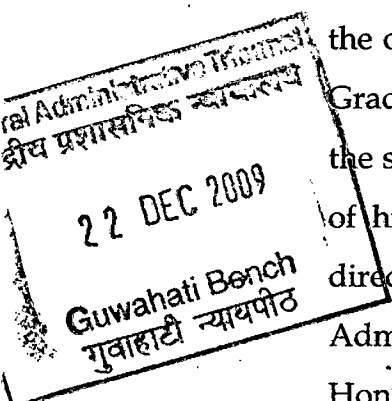
4.8 That it is stated that Stenographer Grade- II of the Directorate of Field Publicity under the same Ministry of Information and Broadcasting are getting same scale of pay of Rs. 1,640-2,900/- w.e.f. 01.01.86 (revised Rs. 5,500- 9,000/-) while the applicant being Stenographer Grade-II under the same 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.



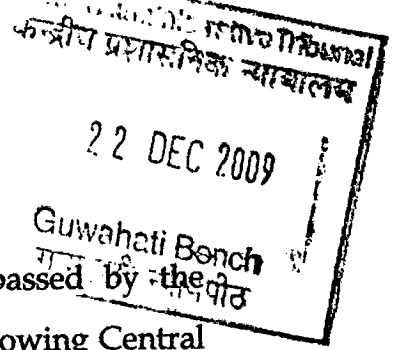
Dipankar Chakraborty

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.

- 4.9 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.
- 4.10 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.
- 4.11 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 Secretariat 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



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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.	Central Ground Water	Yes

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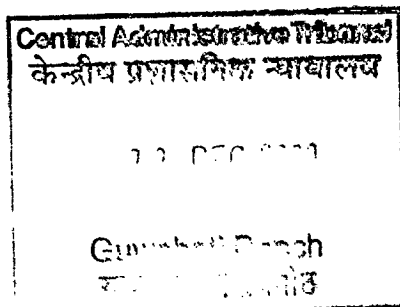
811/96 CAT, Jaipur, decided on 20.4.2001.	Board	
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LIST OF SUBORDINATE OFFICES WHERE REVISED SCALE OF Rs. 1640-2900 IMPLEMENTED BY ADMINISTRATIVE ORDER:

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.

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.



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Copy of the O.M dated 31.07.90 and judgment and order dated 19.01.96 are enclosed herewith and marked as Annexure- 3 and 4 respectively.

4.12 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 Assistants and Stenographer Grade- II (P.A) who are working in the Central Secretariat. 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 Secretariat Services and Grade- C Stenographers of Central Secretariat 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 Secretariat Services (in short CSS) and Central Stenographer Secretariat 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.

4.13 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.

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অ প্রশাসনিক ন্যায়ালয়
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Copy of the judgment and order of the Hon'ble Supreme Court is annexed herewith for perusal of Hon'ble Tribunal as Annexure- 5.

4.14 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 Secretariat 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.

4.15 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

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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 illegal, arbitrary and the same is liable to be set aside.

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- 6 and 7 respectively.

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তেওঁ প্ৰশাসনিক ন্যায়ালয়
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Guwahati Bench
গুৱাহাটী ন্যায়পীঠ
4.16

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

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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 Stenographers 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.

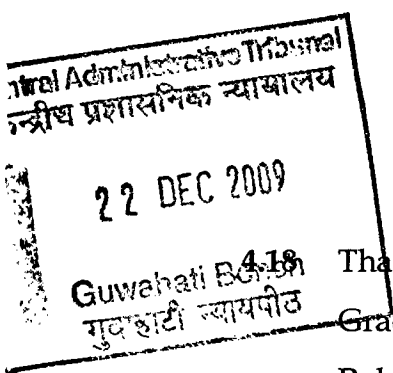
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A copy of the impugned order dated 16.08.05 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 8.

4.17 That your applicant begs 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 impugned O.M dated 15.04.2004 and impugned letter dated 30.06.2005 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure - 9 and 10 respectively.



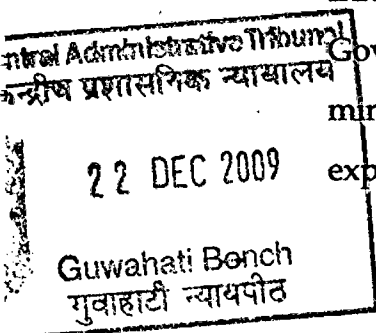
4.18 That your applicant being similarly situated like those Stenographers Grade-II, who were applicant in O.A. No. 548/94 of the Directorate of Field Publicity, as such denial of the benefit of higher revised scale of pay contained in O.M dated 31.07.1990 is highly discriminatory, arbitrary and such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

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4.19 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.

4.20 That your applicant being highly aggrieved with the impugned memorandum bearing letter No. A-12033/1/2002-Admn.I dated 16.08.2005 had approached this Hon'ble Tribunal through OA No. 299 of 2005 claiming 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 in the light of the decision of the Hon'ble Tribunal dated 19.01.1996 in OA No. 548/1994, 144-A/93 and 985/93 to the applicant in the cadre of Stenographer Gr. III (now Stenographer Gr. II) which was accepted and implemented by the respondents Union of India to the counterparts of the applicant working under the same Ministry of the Govt. of India.

4.21 That the O.A No. 299 of 2005 was disposed of by the learned Tribunal on 16.01.2008 granting liberty to the applicant to put up his grievances by submitting a comprehensive representation to the respondents/competent authorities by the end of February, 2008; then the Respondents (Ministry of Information and 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.



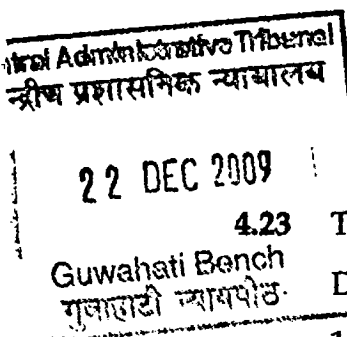
Copy of the judgment and order dated 16.01.2008 is enclosed herewith and marked as Annexure- 11.

4.22 That the applicant in compliance with the direction passed by the Hon'ble Tribunal submitted a detailed representation on 18.02.2008 claiming higher

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revised scale of pay against the post of Stenographer Gr. II/Stenographer Gr. 'C'. In the said representation applicant contended that he appeared in the open competitive examination in the year 1980 on all India basis conducted by the Staff Selection Commission for direct recruitment to the post of Clerk and Stenographer Gr. 'D'. Thereafter he was selected by the SSC and nominated his names for Directorate of Advertising and Visual Publicity (in short DAVP) under the Ministry of Information and Broadcasting, Govt. of India, Guwahati which is a participating office of CSS/ CSSS/CSCS and attached office. Be it stated that the applicant was appointed in the post of Stenographer Gr. III in DAVP, Guwahati on 24.02.1983 in the scale of pay of Rs. 330-560. It is also pointed out in the representation that there was a sanctioned post of Stenographer Grade 'C' in the scale of pay of Rs. 425-800 (Rs. 1400-2600, subsequently revised to Rs. 1640-2900) at Regional Office, DAVP, Guwahati. The scale of which was at par with the Central Secretariat Stenographer Service (CSSS).

The applicant was promoted to the post of Stenographer Gr. II on 17.04.2006 in the scale of pay of Rs. 5000-8000 (pre-revised Rs. 1400-2300). Be it stated that the applicant submitted in his representation dated 18.02.2008 that on 04.01.2008 he has been given 2nd APC in the scale of pay of Rs. 5500-9000 instead of the scale of pay of Rs. 6500-10500/- as like the Stenographers of CSSS. The applicant therefore discriminated with the matter of allotment of scale of pay at par with CSSS Stenographers/ Assistants although method of direct recruitment was the same with that of CSSS Stenographers/ Assistants.



Copy of the representation dated 18.02.2008 is enclosed herewith as Annexure- 12.

4.23 That your applicant further begs to say that the Directorate, DAVP, New Delhi vide impugned office memorandum bearing letter F. No. 18011/2/2006-Admn. I dated 22.05.2009 rejected claim of the applicant on the alleged ground that the applicant is occupying the post of Stenographer Gr. II which was classified as Gr. C post whereas the post of Stenographer in CSSS has been classified as Group B. Therefore benefit of higher pay scale could not be extended to the applicant as the two posts are classified

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differently. It is also contended that the initial appointment of the applicant was against the post of Stenographer Gr. III in the General Central Service of Stenographers of DAVP. As such it is alleged that the case of the applicant cannot be compared with those Stenographers of CSSS service.

In para 2.4 it is further alleged that the applicant was appointed against an ex-cadre post in this Directorate and he cannot claim pay parity and promotion at par with Stenographers of CSS Cadre. Applicant was given the pay scale of Rs. 5500-9000 after completion of 24 years of service as it was the pay scale of Stenographer Grade-I of GCS cadre. It was also mentioned in the impugned memorandum dated 22.05.09 that the 6th Central Pay Commission has granted pay parity amongst the Stenographers belonging to Secretariat and non-Secretariat offices.

Copy of the impugned memorandum dated 22.05.09 is enclosed herewith and marked as Annexure- 13.

- 4.24 That it is stated that on a mere perusal of the impugned memorandum dated 22.05.2009 it appears that the Directorate of DAVP could not assign any valid reason for denying the higher revised scale of pay to the applicant. Moreover, the Ministry of Finance also failed to assign any acceptable reason while denying the benefit of higher revised scale of pay at par with CSSS cadre.

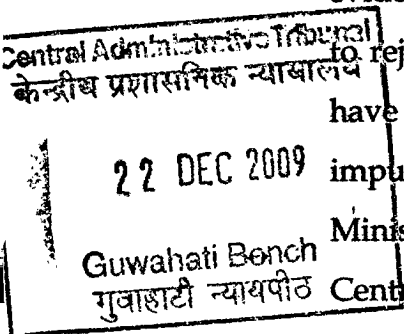
Central Administrative Tribunal
 न्द्रीय प्रशासनिक न्यायालय
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 गुवाहाटी न्यायपीठ

It would be evident that parity of pay has all along been maintained by the respondents Union of India with the post of Stenographer Grade III of Subordinate office along with the Stenographers and Assistants of CSS/CSSS/CSCS. However, subsequently the Stenographers and Assistants of Central Secretariat have been granted higher revised scale of pay. But the said discrimination in parity sought to be removed by the DOP&T vide letter dated 31.07.1990. But when such benefit of higher revised pay was denied to the similarly situated employees of the subordinate offices working as Stenographer Gr. II in spite of issuance of DOP&T letter dated 31.07.1990. In this connection it may be stated that the impugned memorandum dated 22.05.2009 is silent about the extension of benefit to similarly situated employees of the subordinate offices of Directorate of Film Publicity under Ministry of Information and

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Broadcasting who had approached the Hon'ble Tribunal through OA No. 548 of 1994 under the same Ministry of Information and Broadcasting, Govt. of India. It is stated that in OA No. 548 of 1994 similar objection was raised regarding classification of category of Group 'C' and 'B' as well as category of non-gazetted and gazetted but the learned Tribunal, Principal Bench, New Delhi after adjudication of the matter in detail pleased to held that the Assistants and Stenographers of the Subordinate offices cannot be discriminated and allowed the O.A. Since the present applicant is similarly situated employee like those applicants of OA No. 548 of 1994, 985 of 1993, as such the impugned memorandum dated 22.05.2009 is not sustainable in the eye of law more so since the judgment and order in OA No. 548 of 1994 ahs already been implemented by the respondents Union of India. As such they are estopped from raising similar objections in the instant case of the applicant and on that score alone the O.M dated 22.05.2009 is liable to be set aside and quashed.

- 4.25 That your applicant further begs to say that the Hon'ble Tribunal in the judgment and order dated 16.01.2008 directed that in the event of filing representation by the applicant the Ministry of Information and Broadcasting and the Ministry of finance should re-consider the matter afresh by keeping the view expressed by this Tribunal in other connected matters. Whereas from the impugned memorandum dated 22.05.2009 it is evident that the respondents have failed to extend any reasonable ground to reject the claim of the respondents and repeated the same ground they have extended in OA No. 299/2005. Moreover, no discussion is made in the impugned memorandum dated 22.05.2009 the reason for disagreement of Ministry of Finance to the contention of the applicant for parity with Central Secretariat Stenographer Service in respect of pay scale. It is evident from the impugned memorandum dated 22.05.2009 that the Directorate did not refer the matter of the applicant to the DOPT. In this connection it may be stated that once the judgment and order date 19.01.1996 passed in OA No. 548 of 1994, 144-A/1993 and 985/1993 has attained finality on the similar issues and the benefit of the revised higher pay scale has been extended to similarly situated employees by implementing those judgments



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by respondents Union of India. As such the respondents are duty bound to extend similar benefits to the present applicant. The applicant further relies on the decision rendered by the Hon'ble Supreme Court in the following decisions:

- (i) (2006) 9 SCC 406 (K.T. Veerappa and Ors. Vs. State of Karnataka and Ors.)
- (ii) (2006) 12 SCC 435 (Union of India and Ors. Vs. Carpenter Workers union and Ors.)

In view of the aforesaid decisions the applicant has acquired a valuable and legal right rather fundamental right for extension of benefit of higher revised scale of pay as claimed in the instant Original Application.

4.26 That the applicant states that question of treating the applicant as ex-cadre/General Central Services does not arise as because applicant entered in service through competitive examination conducted by the Staff Selection Commission in the year 1980. It is further stated that as per Sl. No. 19 of the First Schedule of the Central Secretariat Service Rules, 1962, the DAVP, Ministry of Information and Broadcasting is a participating office of CSS/CSSS. Therefore the applicant should be treated as CSSS considering DAVP is a participating of CSS/CSSS and attached office and pay scale/status for the posting in its Regional Office cannot be discriminated in a latter stage while initial pay scale and its classification of Group of post were the same. As such the impugned memorandum dated 22.05.2009 is arbitrary, non-speaking and the same are liable to be set aside and quashed.

Copy of extract of first schedule of the Central Secretariat Service Rules, 1962 is enclosed herewith and marked as Annexure- 14.

4.27 That the applicant states that he had approached the authorities for redressal of his grievances but the respondents most arbitrarily rejected his prayers as stated in the preceeding paragraphs. As such finding no other alternative 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/-

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w.e.f. 09.08.99 and the Hon'ble Court further be pleased to direct the respondents to grant the scale of Rs. 6,500-10,500/- (pre-revised) instead of Rs. 5500-9000/- after completion of 24 years of service with all consequential benefit and arrears monetary benefits.

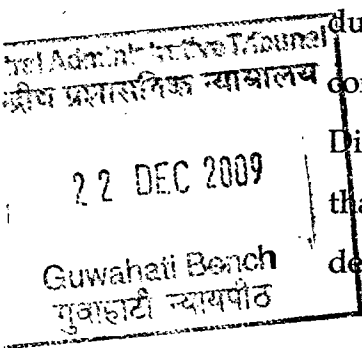
4.28 That this application is made bonafide and for the cause of justice.

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.



Di Pa Kan Chakraborty

- 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 09.08.1999 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

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the employees of the subordinate offices of the Central Government department as such contention raised in the impugned order dated 16.08.05 and 22.05.09 are 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 and 22.05.09 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 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 and 22.05.09 are 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, 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.

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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

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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 and impugned memorandum dated 22.05.09 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 the impugned memorandum dated 22.05.2009 has not assigned any valid reasons while rejecting claim of the applicant for higher revised scale of pay, as such the impugned memorandum dated 22.05.2009 is liable to be set aside and quashed.

5.15 For that grounds raised in O.M dated 15.04.2004 as well as in the impugned letter dated 30.06.05 and impugned memorandum dated 22.05.09 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

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O.M dated 15.04.2004 as well as in the impugned letter dated 30.06.05 and impugned memorandum dated 22.05.09 are liable to be set aside and quashed.

5.16 For that as per Central Secretariat Service Rules, 1962, the DAVP, Ministry of Information and Broadcasting is a participating office of CSS/CSSS. Therefore the applicant should be treated as CSSS considering DAVP is a participating of CSS/CSSS and attached office and pay scale/status for the posting in its Regional Office cannot be discriminated in a latter stage while initial pay scale and its classification of Group of post were the same and keeping in view of the rules under common seniority list on all India basis framed by the DOP&T. As such the impugned memorandum dated 22.05.2009 is arbitrary, non-speaking and the same are liable to be set aside and quashed.

Shi Pan Kar Chakraborty

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 saves and except filing of OA No. 299/2005, 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.

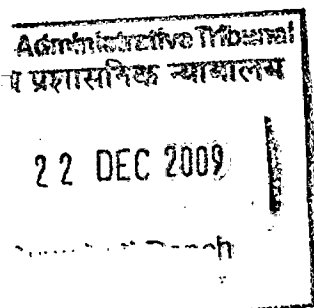
8. **Relief (s) sought for:**

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 set aside and quash the impugned O.M dated 15.04.2004 (Annexure- 9), the impugned letter dated 30.06.05 (Annexure- 10) and impugned memorandum dated 22.05.09 (Annexure- 13).

8.2 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.

8.3 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.



Dipankar Chakraborty

8.4 Costs of the application.

8.5 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 a bar to grant relief to the applicant as prayed for.

10.

11. **Particulars of the I.P.O:**

i)	I.P.O No.	: 39 G 443498 .
ii)	Date of issue	: 18.12.09 .
iii)	Issued from	: G.P.O. Guwahati
iv)	Payable at	: G.P.O. Guwahati

12. **List of enclosures:**

As given in the index.



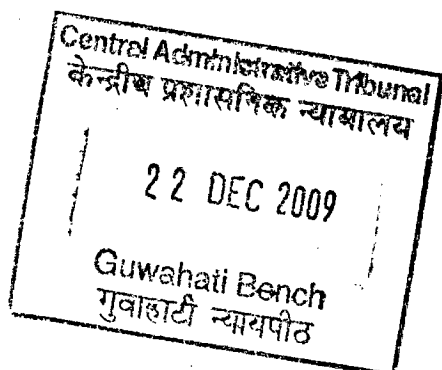
Atanar Chakraborty

VERIFICATION

I, Sri Dipankar Chakraborty, Son of late B. Chakraborty, aged about 47 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 20th day of December 2009.

Dipankar Chakraborty



No.3/8/81-Bud/DAMP/DS(1)
GOVERNMENT OF INDIA

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, dated 28th January, 1982.

To Director,
Directorate of Advertising & Visual Publicity
New Delhi.

Subject: Plan Proposals- North Eastern Region Regional Office-
Production Centre for exhibition kits and exhibits at
Gauhati, Field Exhibition Units Aizawl, Itanagar and
van for movement of exhibits.

Sir,

I am directed to convey the sanction of the President to the
creation of the following temporary posts from the dates these are
filled upto 28th February, 1982 in connection with the implementation
of plan Schemes relating to Regional office at Gauhati, Production
Centre for exhibition Kits and exhibits at Gauhati, Field Exhibition
Units at Aizawl and Itanagar and van for movement of exhibits:

S.NO	Designation	No. of Posts	Scale of pay
1	Regional office at Gauhati		
1.	Deputy Director (Now Joint Director)	1	Rs. 1510-60-1800
2.	Art Executive	1	Rs. 1100-50-1600
3.	Accounts officer	1	Rs. 840-40-1000-EB-40-1200
4.	Senior Artist	1	Rs. 650-30-740-35-810-EB-35- 880-40-1000-EB-40-1200
5.	Assistant Editor	1	Rs. -do-
6.	Asstt. Production Manager (PP)	1	Rs. -do-
7.	Technical Assistant (OP)	1	Rs. 550-25-750-EB-30-900
8.	Stenographer Gr. IC (Ex-cadre)	1	Rs. 425-15-500-EB-15-560-20- EB-26-800.
9. (i)	Upper Division Clerk (Ex-cadre)	2	Rs. 330-10-380-EB-12-500-EB- 15-560 -do-
10.	Accounts Clerk	2	-do-
11.	Stenographer Gr. III (Ex-cadre)	1	-do-
12.	Language Typist	1	Rs. 260-6-290-EB-6-326-8-366- EB-8-330-10-400
13.	Lower Division Clerk (Ex-cadre)	2	-do-
14.	Chowkidar	1	Rs. 196-3-220-EB-3-232
15.	Helper	4	-do-
16.	Sweeper	1	-do-
17.	Parasit	1	-do-
11.	Production Centre at Gauhati for exhibition Kits & exhibits	23	
1.	Exhibition Officer (Design)	1	Rs. 1100-50-1600
2.	Reach officer (Circulation)	1	-do-
3.	Senior Artist	1	Rs. 650-30-740-35-810-EB-35- 880-40-1000-EB-40-1200
4.	Technical Assistant (Model)	1	Rs. 550-25-750-EB-30-900

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Technical Assistant (Audio Visual)	1	Rs. 550-25-750-EB-30-900
Junior Division Clerk (ex-cadre)	1	Rs. 330-11-380-EB-12-500-EB-15-560
		-do-
7. Store Keeper	1	
8. Stenographer Gr. III (ex-cadre)	1	-do-
9. Lower Division Clerk (ex-cadre)	1	Rs. 260-6-290-EB-6-326-8-366-EB-8-390-10-400
10. Carpenter	2 (1)	Rs. 260-6-326-EB-8-350
11. Helper	2	Rs. 196-3-220-EB-3-232
12. Field Exhibition Unit at Aizawl and Itanagar	14	
Field Exhibition officer 2	12	Rs. 650-30-740-35-880-EB-40-960
2. Projectionist	2	Rs. 425-15-530-EB-15-560-20-600
3. Driver	2	Rs. 260-6-326-EB-8-350
4. Cleaner	2	Rs. 200-3-206-4-234-EB-4-250
5. Chowkidar	4	Rs. 196-3-220-EB-3-232.

The expenditure involved is debitable to the budget grant of the Directorate of Advertising and Visual Publicity under Demand No. 62-Information & Publicity Major Head '285' A. Information & Publicity, A-2(1) (i) salaries for the year 1981-82 (plan).

This sanction issues with the concurrence of the Finance Branch II vide their u.o.No. 101/82/Finance II, dated 15.1.82.

Yours faithfully,
Sd/-

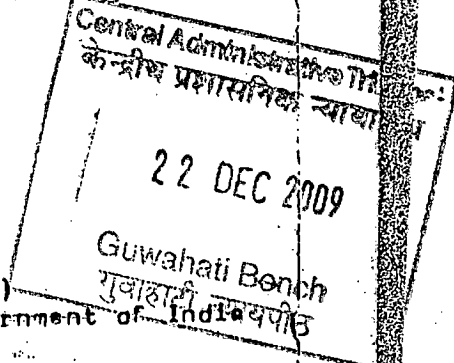
(J.C.Dangwal)
Deputy Secretary to the Government of India. Tele: 384754

Copy to:

1. Pay and Accounts officer (IRLA Group), A.G.C.R. Building, New Delhi
2. Finance Branch II, Ministry of I&B.
3. M.U.C. Ministry of I&B.
4. Pay & Accounts officer (DAVP) etc., Kasturba Ganchi Marg, New Delhi
5. Budget Section, DAVP
6. Purchase & Store Section, DAVP
7. O&M Section, DAVP
8. Cash Branch, DAVP
9. 25 spare copies.

Sd/-
(J.C.Dangwal)

Deputy Secretary to the Government of India. Tele: 384754



The pay scale mentioned above is in ad rate

-27- ACP Order of D. Chakraborty Steno-III

Annexure-2

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.

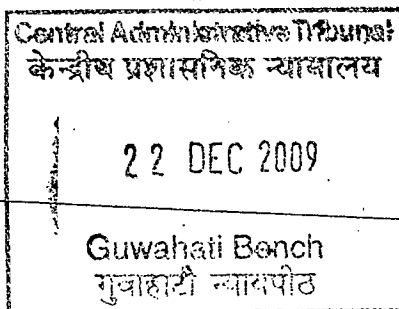
Copy to:

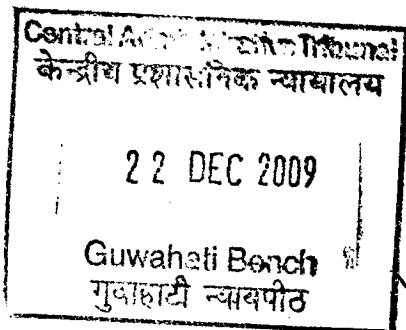
1. Shri D. Chakraborty, Steno ,RO,DAVP,Guwahati
2. DD(Admn),DAVP,New Delhi.
3. A.O.DAVP,Guwahati.
4. PAO,Dordarshan, Guwahati
- ✓ 5. Service Book.

S.K. Malviya
(S.K. Malviya)
Research Officer

S. Talukdar
(S. Talukdar)
Asstt. Editor

*Collected
Dutta
Adv*





Annexure- 3

(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.

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 &

Handwritten signature:
V. H. Arastial
M. Dutta
S. S. S.

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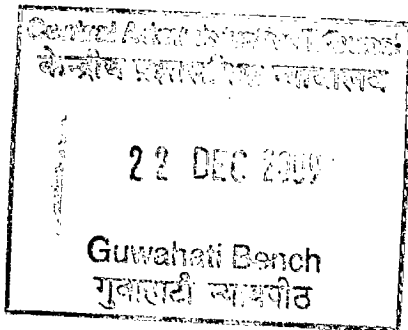
27.5.1988 in the form appended to Second Schedule of the rule ibid. This option should be exercised within three months of the date of issue of the O.M. This option once exercised shall be final.

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.



Original Application No. 144-A of 1993

THIS THE 19th DAY OF JANUARY, 1996.

BEFORE ME, JUDGE, PRINCIPAL BENCH, NEW DELHI

V.R. Prasad Rao, D/O Mr. Ravi Rao, 1/2 P-40, Phase II, 4, Andhra Road, New Delhi, working as Crime Assistant in the office of Central Bureau of Investigation, Delhi Region, Block No. 4, C.O.O. Complex, Lodi Road, New Delhi;

1. Mr. Prasad Rao, Crime Assistant/CBI, as on 1.1.1986 (now OS/CBI)

2. Mr. Prasad Rao, Crime Assistant/CBI as on 1.1.1986 (now OS/CBI).

3. Mr. Prasad Rao, Crime Assistant/CBI as on 1.1.1986 (now OS/CBI)

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

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

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

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

8. B.L. Goel, Crime Assistant/CBI as on 1.1.1986 (now OS/CBI).

9. L.G. Rao, Crime Assistant/CBI, as on 1.1.1986 (now JAO/CBI).

Sir

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22 DEC 2009

Guwahati Bench
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12. M.C. Kholia, Crime Assistant/CBI.
13. Sobha Chand, Crime Assistant/CBI.
14. P.V. Krishnamurthy, Crime Assistant/CBI.
15. K.H. Murthy, Crime Assistant/CBI.
16. L.R. Chaudhary, Crime Assistant/CBI.
17. Hareesh Kumar, Crime Assistant/CBI.
18. G.K. Garg, Crime Assistant/CBI.
19. H.S. Chakravathy, Crime Assistant/CBI.
20. R.H. Prasad, Crime Assistant/CBI.
21. Rajinder Singh, Crime Assistant/CBI.
22. L.R. Bhargava, Crime Assistant/CBI.
23. Prem Prakash, Crime Assistant/CBI.
24. H.K. Tiveri, 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. OPP. Hietia, P.A. (Steno Gr. 'C') as on 1.1.1986.
31. D.P. Vohra P.A. (Steno Gr. 'C') as on 1.1.1986 (now Sr. P.A.)

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

33. Sri Ashok Sehane, PA/CBI.

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

35. R.N. Lutha PA/CBI.

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

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

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

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

Applicants

By Advocate : Sri V.S. C. Krishna

Veriaun

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, CCO Complex, New Delhi.

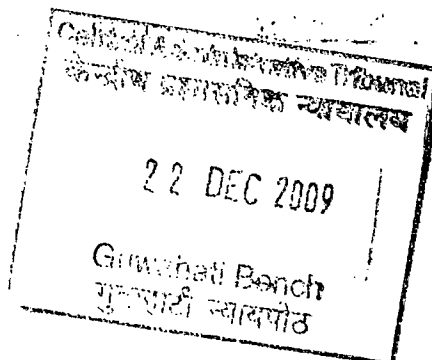
Respondents

By Advocate : Sri M.M. Sushin
With

Original Application No. 985 of 1993

Understanding that, a/o Extra Duty Commissioner, D/A No. 4/1980, R.P. Police, New Delhi.

D, Mumbai, 1st, D/A No. 1/1980, 1st, D/A No. 1/1980, 1st, Vinod Nagar, Delhi.



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 320 Munirka, New Delhi.

6. C.S. Negi, S/o Late Sri H.S. Negi, R/o S-1V, B.H. Road, New Delhi.

7. R.K. Chopra, S/o Sri Hans Raj Chopra, R/o B4, East Azad Nagar, New Delhi.

8. D.R. Khullar, S/o Late Sri Lal Chand Khullar, 1/o 30, 13, Kailash Nagar, DIZ Area, New Delhi.

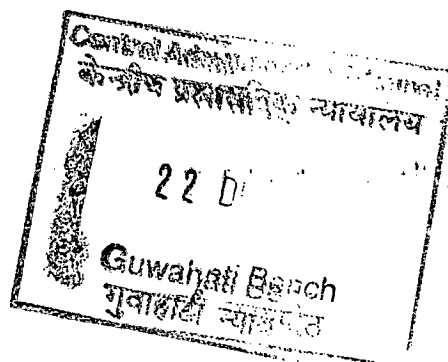
9. P.N. Chopra, S/o Late Sri B.D. Chopra, 94, Moti Bagh, TYPE 111, New Delhi.

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

11. P.G. Kilar, S/o Girdi Raj Parshad, 1/o LP-61-A Surya Enclave, Pitam pura, Delhi.

12. R.K. Arora, S/o Late Sri G.M. Arora, R/o 22-A, D.D.A. Flats, Naraina, New Delhi.

13. R.K. Arora, S/o Lt. Sri G.M. Arora, R/o 22-A, D.D.A. Flats, Naraina, New Delhi.



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

18. Bmt. Urmil Bhatia, W/o Sri Gulshan Bhatia, R/o
18, 5, (H) Garden, Delhi.

19. Bmt. Urmil Bhatia, W/o Sri Gulshan Bhatia, R/o
18, 5, (H) Garden, Delhi.

20. Bmt. Urmil Bhatia, W/o Sri Gulshan Bhatia, R/o
18, 5, (H) Garden, Delhi.

21. Bmt. Urmil Bhatia, W/o Sri Gulshan Bhatia, R/o
18, 5, (H) Garden, Delhi.

22. Bmt. Meelom Reichand, W/o Sri Arun Kumar Reichand,
R/o 91, Moussam Vihar, New Delhi.

23. Rajinder Kumar Arora, S/o Late Sri O.P. Arora,
R/o H.S. 494, Circular Road, Shahdara, Delhi.

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

Applicants

By Advocate : Sri R.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

V. P. J. P. A. C.

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

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with

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 Kharwala, Directorate of Field Publicity, Ministry of I & B, R.K. Puram, New Delhi.

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

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

10. Mrs. Shri Devi Arun Morelwer, Regional Officer, Directorate of Field Publicity, Ministry of I & B, Vidya Vihar, Pune

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

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

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

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

14. V. Padmanabhan, 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.N. Suman

ORDER

D.C. VERMA, MEMBER (J)

In the three O.A.s, the applicants are

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parity in the Pay-scale given to their counterparts in the Central Secretariat. As the points involved in the J.O.A.s are common, it is being disposed of by a single order.

2. In O.A. No. 144-V/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.A. No. 2/1/90 CS.4 dated 31.7.90 revised scale of pay of Rs. 1640-2900 in the pre-revised scale of Rs. 425-800/- for duty posts included in the Assistant Grade of Central Secretariat Services and Grade 'C'

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Stenographers

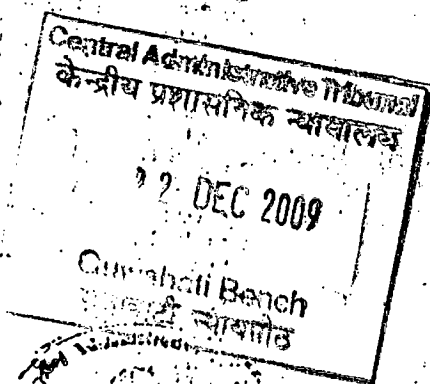
Stenographers of Central Secretariat Services w.e.f. 1.1.1986 was given. The same revised pay-scales was also made applicable to Assistants and Stenographers who are working in other organisation like Ministry of External Affairs which were not participating in the Central Secretariat Services (in short CSS) and Central Secretariat Stenographers Services (in short CSSS) but here 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 O.C./caus of grievance to employees of various Govt. departments. The cases are 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 posts, 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 being a promotional avenue for officers of the lower grade. The higher qualifications of the higher grade, which may be



either academic qualifications or experience based on length of service, reasonably sustain the classification of the officers into two grades with different scales of pay. 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 *Bandhu Singh's case* (supra) has been reiterated in the case of *Newa Kum Kanodia Vs. P. W. India Institute of Medical Sciences and others* (A.F.J. 1989 (1) page 634) 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 posts having regard to educational qualifications, duties and responsibilities of the post. The principle of 'Equal pay for equal work' is applicable when employers holding the same rank perform similar functions and discharge similar duties and responsibilities and are treated differently. The application of the doctrine would arise where employees are equal in every respect but they are denied equality in matters relating to the scale of pay."

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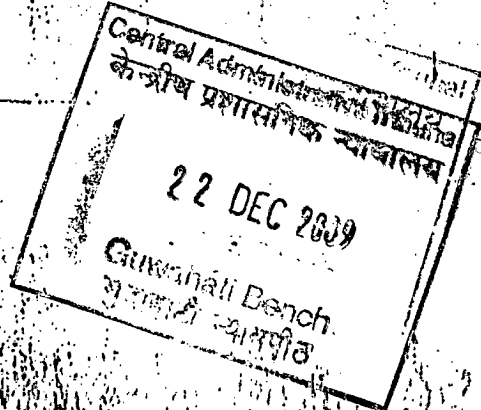
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7. In view of the above, the principle of "Equal pay for equal work" is applicable when employees holding the same rank perform similar functions and discharge similar duties and responsibilities are treated differently in the matter relating to the 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 (LJ) 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 inaction, favourable treatment has been given to some resulting unfair treatment to others, the court



may sometimes lead to interference with 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. 146-A/93

In this case, the applicants are Crime Assistants and Stenographers Grade 'C'

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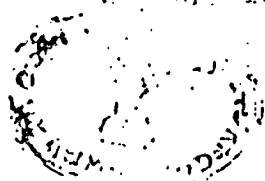
in the department of C.B.I. which is an attached office of Ministry of Personnel, Public Grievances & Pensions, Govt. of India. It is stated in the O.A. and not denied in the Counter reply that prior to 24.11.1967, all the ministerial posts in C.B.I. (Head Office) were manned by Personnel belonging to 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 4.0 of the O.A., it is clearly stated that the "quality 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' Stenographers of the department of C.B.I. and the

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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. 760/68 in the case of Purnan 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.D.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.D.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 those 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 rightly held that "equal pay should be paid for equal work".

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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-V/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.D.I. and the Assistants of CSS cadres were Rs. 425-800/- and those of Personal Assistants of the C.D.I. and Stenographers Grade 'C' of CSSS cadres were also Rs. 425-800/-. The 4th P.C. recommended the pay-scales of Rs. 1400-2600/-

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(15)

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 comrades 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 claimed as a matter of right for posts in different departments. The contention of the learned counsel

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to all the above category i.e. Crime Assistant 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 the Pay-scales was accepted by the Govt.

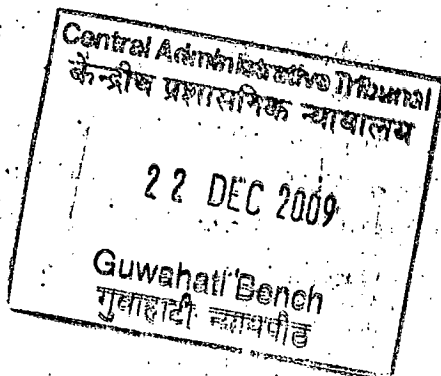
15. The recommendations of the 4th P.C. has been quoted in para 4.14 of the O.A. The relevant portion of the 4th P.C. as quoted in the O.A., are given below :

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 Co-operation and All India Radio, section 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.

6.43. 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.

6.44. Considering the duties and responsibilities of these posts and the



(17)

is merely on the ground that the applicants did not satisfy the conditions laid down in DMT 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.S.s are concerned, they are equal to that of their counterparts working in the Civil Secretariat in the courts of CSJ 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 CSJ. 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 CSJ and the applicants of this case. 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 like Ministry of External Affairs which are not participating in the Central Secretariat Services".

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(18) 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 G.P.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 over the country. We need not examine the merits of these modes for the very good reason that once the nature and functions and the work are not shown

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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 CSSB cadres.

21. O.A. No. 985/93

The applicants, in this case, are Assistants in the office of Director General of Income Tax (IN) 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 :

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Signature of
in the office

Office of the
Directorate of Central
Secretariat

- 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 been denied by the respondents in their reply. The scale of Assistant 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:

- | | | |
|--|--|---|
| 1. Classification | Group 'B' (Non-gazetted) | Group 'C' |
| 2. Method of Recruitment | Partly by Direct recruitment through UPSC and partly by promotion from UDCs. | Partly 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 CBUT not deal with any policy of duties and responsibilities of Assistants is routine and clerical. Assistants in the Directorates are eligible for promotion to the post of Sr. TTA/Technical Research Assistants in the scale of Rs. 1640-2900. |
| 4. Promotion to Higher Grade | Assistants in the Central Secretariat are eligible for promotion to the post of S.O. (Rs. 2000-3800) (Group 'B' Gazetted). | |

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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. xxxxx 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. 148-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 xxxxx 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 CBUT do not deal with any policy matter and do only routine and clerical job, as concerned. The xxxxx Ernakulam Bench in O.A. No. 1322/94 and O.A. No. 276/95 in the case of K.R. Chandrasekharan Kunji Vs. Secretary, Deptt.

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of Revenue, Ministry of Finance, Government of India, New Delhi, decided on 20.7.95, (Supra) was also considering the case of Assistant 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 Enakulam 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 Enakulam Bench on the point.

26. The fourth ground of objection 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 intermediary 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 Rs. 1400-2600/-. The annexed Assistants of the Directorates (in the scale of Rs. 1400-2600/-) are promoted to the post of Senior Technical Assistant (in the scale of Rs. 1640-2900/-) and

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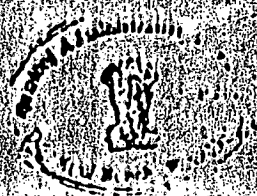
(23)

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

27. The objection of the respondents that due to intermediary scale, the applicants were not given the scales of Rs. 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. Debasish Kar & Others (1995 SCC (LUS) 1303. The apex court was dealing with the scale given to Draughtsmen Grade 11 in CMB 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 :

"Bri R.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 CMB. Inasmuch as in CMB there is no further promotion after a person reached the scale of Draughtsmen Grade 1 while in Ordnance Factories a draughtsman is entitled to be promoted as Chargeman Grade 11 and thereafter as Chargeman Grade 1 and as Foreman and that the post of Chargeman Grade 11 which is the promotional post for draughtsman was in the pay scale of Rs. 1640-2900/- and in the case of draughtsman in CMB, the post of draughtsman being placed at the same level as the promotional post of Draughtsmen Grade 11 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 1 in CMB. This question was not agitated in any of the matters before the Tribunal and we, are, therefore, unable to entertain this plea urged by Bri Goswami on behalf of the appellants/petitioners."

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As regards the post of Chergeman Gradell 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.

20. 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 Directorates, all the previous 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.

30.

O.A. No. 546 of 1994

The applicants, in this case, are

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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 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 JFP were included in the authorized permanent strength of the Ministry of Information & Broadcasting and manned by the Personnel of the said Ministry upto 1975. Thereafter, JFP was excluded from the purview of the Central Secretariat Service/Central Secretariat Stenographers Service. At that time, those who had opted for the JFP were retained in the JFP with their original status, pay, scales etc. The O.M. dated 31.7.90 is the cause of grievance to the applicants.

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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 JFP 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 8.5.90 and (iii) since 5th P.C. has been announced by the Government, the

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 pay and pay scales has been given in para 9.12 of the O.A., and is being reproduced below :

Year Pay Scale of Steno. and Assistants in the DFP Pay Scale of Assets, Pay Scale of Steno. in the Central Sectt.

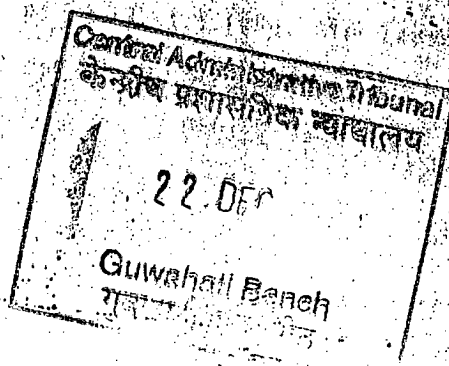
Other organizations like ITBP, CISF, Cabinet Sectt. as also in PR&D AFIO, IB, CBI, SSB RAW & NSF

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
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33. The applicants till the year 1975, were



participating in the CSS/CSSS and were discharging their duties of Stenographers Grade 11 and Assistant 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 11 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 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.

The other point is that pay-scale of Stenographers Grade-11 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 11 of LFP was subsequently revised to Rs. 1400-2600/-, by O.A. 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 Grade 11 of DFP w.e.f. 1.1.1986. The reason for doing so has not been brought on record. Whatever

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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.

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3 MARC.
XXXXXX

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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.

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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 applicants of the respective O.M.s in

and

J-1

-29-

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.B. However, the fixation of pay will be effective w.e.f. 1.1.1986. 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 from 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)

Deputy Chairman

GIRISIV-

Central Administrative Tribunal
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গুৱাহাটী ন্যায়ালয়

Affected
Writ
Adv

True Copy
Attorney
19/11/86

নথীভুক্ত
CERTIFIED TRUE COPY
Dated: 19/11/86

Section Officer
Guwahati Bench
Central Administrative Tribunal
Principal Officer

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

PARADROT HOUSE
SUPERILLOS M. RD
NEW DELHI 110001
31.1.95

From
The Registrar,
Central Administrative Tribunal
Principal Bench, New Delhi.

- To
1. Shri V. N. Upadhyay, counsel for the respondent,
C.A.T. Room, New Delhi.
 2. Shri V. N. Upadhyay, counsel for the respondent,
C.A.T. Room, New Delhi.

Central Administrative Tribunal
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Shri. Government of India

Applicant(s) U. N. Upadhyay

U. N. Upadhyay

U. N. Upadhyay

Respondent(s)

Sir

I am Directed to forward herewith a copy of order dt. 19.1.95
passed by this Tribunal in the above mentioned case for information and
necessary action, if any.
Please acknowledge receipt.

Yours faithfully
Section Officer 3-1
for Registrar.



Affected
Authority
Adm

COURT No 5

Annexure-5 SECTION XIV

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

Petition (s) for Special Leave to Appeal (Civil / Cr) 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.

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. I. Nanavati

...died to be true copy

Assistant Registrar (Jd) 122
26/7/2009
Supreme Court of India

For the petitioner (s)

Mr. R. Venugopal Reddy, Sr. Adv.,
Mr. B. Parthasarathi, Adv.,
Mr. S. N. 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 Court made the following
ORDER

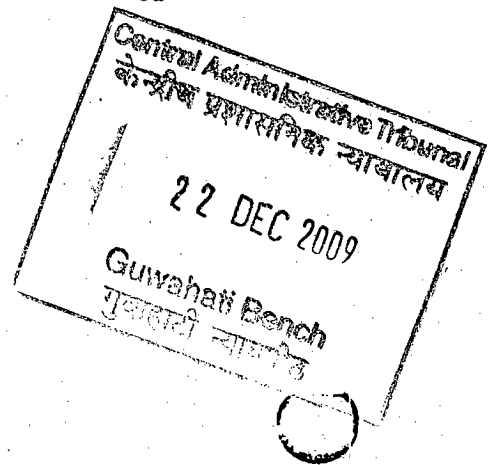
Delay condoned.

The special leave petition is dismissed on
merits.

(V. K. SHARMA)
Court Master

(S. B. SHARMA)
Court Master

Affected
With
Adv



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.

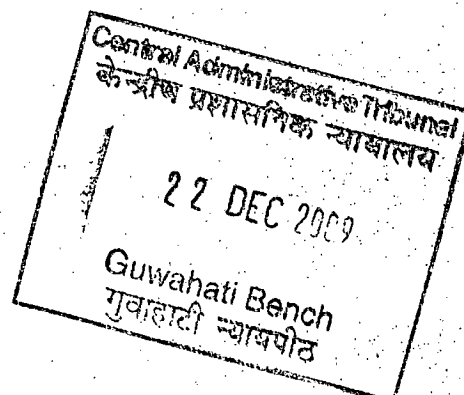
2. Accordingly, I appeared for the post of Stenographer Gr.III/'D' Examination in the pay-scale of Rs.330/- - Rs.560/- (revised to Rs.1200/- - Rs.2040/- and Rs.4000/- - Rs.6000/-). I being belong to Guwahati, Assam, the Staff Selection Commission, Guwahati, nominated my name for the Regional Office, 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 Depts./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.

Witnessed
By
AOW



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.'C'(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/CSS Rules, 1962, 1969 & 1962 A.P.S.
(Pages 11-15 and Pages 1-4)
Dt:-7.04.05

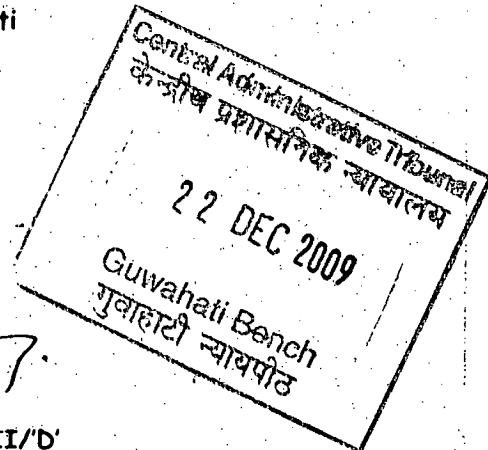
Copy for inf.&n/a please to:

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



(~~Relly of Adv.~~)

Annexure- 7

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BY SPEED POST

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

Government of India

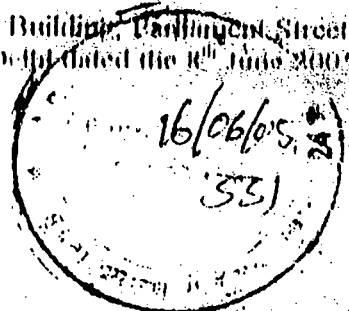
Directorate of Advertising & Visual Publicity

Ministry of Information & Broadcasting

3rd Floor, P.T.I. Building, Parliament Street,
New Delhi dated the 16th 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 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.

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

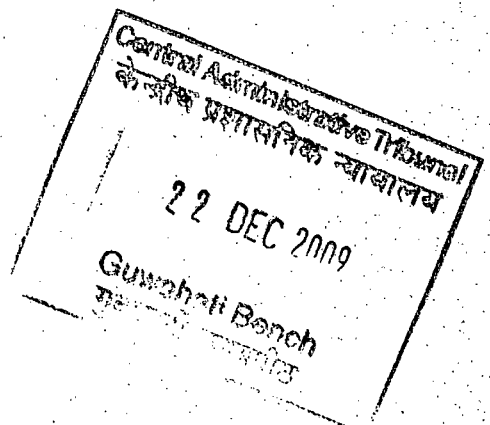
1. Shri Dipankar Chakraborty,
Stenographer Grade III,
Regional Office, DAVP,
Guwahati.

(Through Regional Office, DAVP, Guwahati)

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

(Through Regional Exhibition Office, DAVP,
Kolkata)

Attested
Adm. Secy



Annexure-8

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**

22 DEC 2009
Guwahati Bench
গুৱাহাটী ন্যায়ালয়

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.

*Collected
Mitra
Adm*

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

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

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Annexure-9

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

ANNEXURE-9

New Delhi, dated 15th April, 2004

OFFICE MEMORANDUM

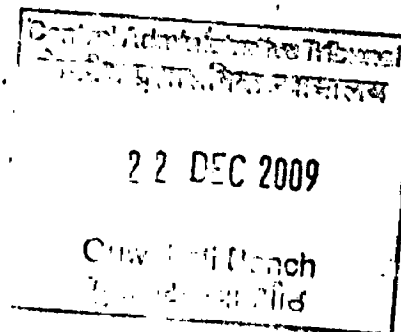
Sub: Revision of scale of pay of Assistant Grade of Central Secretariat Service and Grade 'C' Stenographers of Central Secretariat Stenographers Service.

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 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 vide 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, NB 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 measure 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.

*Attended
W. D. Thakur
Adv*



(Anuradha Mittal)
Director (E)

All F.A.s

- 65 -

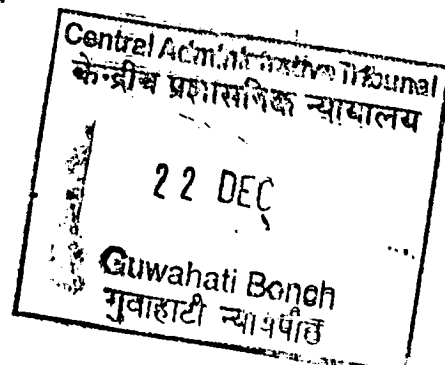
Ministry of Finance
Department of Expenditure
E.III B Branch

ANNEXURE-10

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.



(Karan Singh)

Under Secretary to the Govt. of India

FA(Information & Broadcasting)

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

All F.A's

Attested
Dutta
Adv

**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

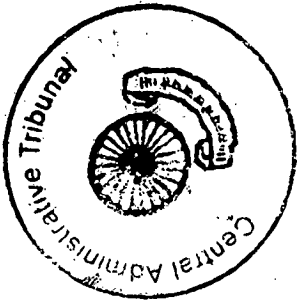
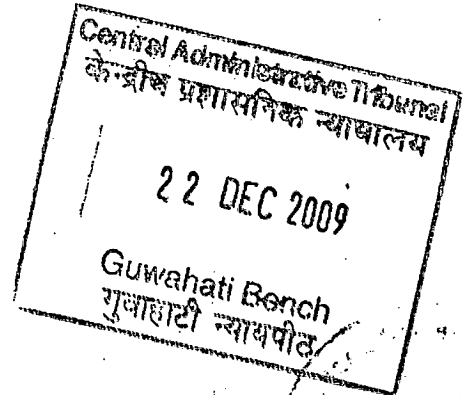
Sri Dipankar Chakraborty
Stenographer Grade-III
Regional Office, DAVP
Nabin Nagar, Janapath
Guwahati - 781 024.

..... 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.

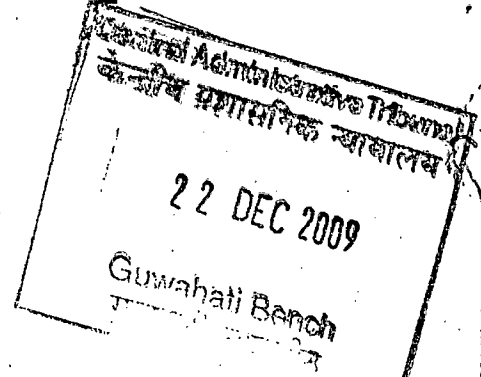


..... Respondents.

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

*Accepted
Banta
Adv*

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.

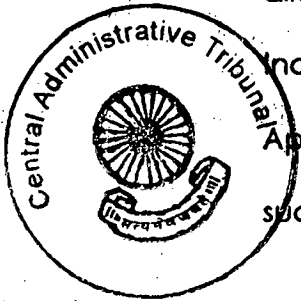
2. Claiming a higher pay scale (Rs.1,640-2,900/-; which has consequentially revised as Rs.5,500-9,000/-) the Applicant (a Stenographer of DAVP/Guwahati) approached the authorities and, as it appears, the Ministry of Information and Broadcasting sent a proposal to the Ministry of Finance; which has turned 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.

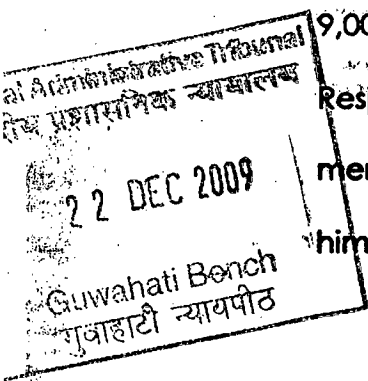
4. By filing a reply, the Administrative Department/Respondents have tried to support the views expressed in the rejection order dated 16.08.2005 and by filing a rejoinder the Applicant has tried to support his stand.



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

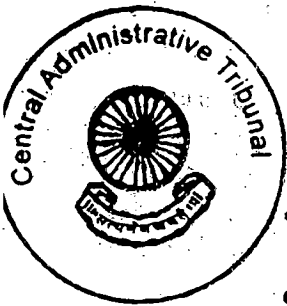


similarly placed staff of other Departments of the same Ministry/ I & B Ministry and would remove the discrimination on a review of the matter.

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 O.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.



Sd/-
Manoranjan Mohanty
Vice Chairman
Sd/-
Kushiram
Member (A)

Date of Application : 22.1.08

Date on which copy is ready : 1.2.08

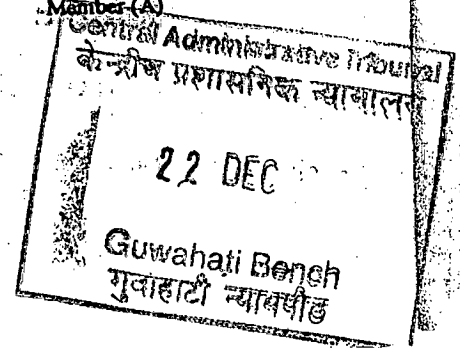
Date on which copy is delivered : 1.2.08

Certified to be true copy

Section Officer (Judl)

A. T. Guwahati Bench

Guwahati-5, 12/1/08



Collected
Date
Adv

-70-

Representation of D. Chakraborty
DAVP, Guwahati

To
The Joint Director,
Regional Office,
DAVP, Guwahati.

ANNEXURE-12

18/2/08

1690

Sub:- Forwarding of Representation of Shri D. Chakraborty,
Stenographer, Gr.II, RO, DAVP, Guwahati -reg.

Ref:- 1) O.A. No. 299/2005 at CAT, Guwahati Bench, Ghy.
2) Order (ORAL) dtd. 16.01.2008 of Hon'ble Judge, CAT,
Guwahati Bench, Guwahati.

Madam,

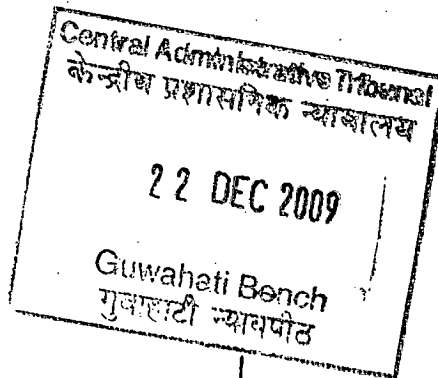
With reference to the above, I am enclosing herewith my representation/
grievances along with relevant enclosures thereof (5 sets) for your kind perusal and its
onwards transmission to the Secretary, Min. of I&B, Director General, DAVP, Hqrs.,
Secretary, Min. of Finance (Deptt. of Expenditure), Secretary, DOP&T, Min. of
Personnel, Public Grievance and Pensions.

Your kind in the matter is earnestly requested.

Thanking you,

Yours faithfully,

(D Chakraborty)
Stenographer Gr.II
RO: DAVP: Guwahati



Encls : (5 sets)

Date: 18.02.08

O/c
Chakraborty

Attested
Mita
Adv

DESPATCHER
आंचलिक कार्यालय, डी.ए.वी.पी.
Regional Office DAVP,
सू. एवं प्र. मन्त्रालय, भारत सरकार
Min. of I & B, Govt of India
जनपथ, नवीन नगर
Janapath, New Nagar,
गुवाहाटी- 781 004 Guwahati- 24

1. The Secretary to the Govt. of India,
Ministry of Information & Broadcasting,
Govt. of India,
Shastri Bhawan,
New Delhi-1.

2. The Director General,
Dte. of Advertising & Visual Publicity,
Ministry of Information & Broadcasting,
Govt. of India,
CGO Complex, Sookna Bhawan,
Lodhi Road, New Delhi-3

3. The Secretary to the Govt. of India,
Ministry of Finance,
(Department of Expenditure)
North Block,
New Delhi-110001

4. Secretary,
Deptt. of Personal & Training,
Min. of Personal, Public Grievances & Pensions,
Room No. 112, 1st Floor,
North Block
New Delhi-110001

(Through the JD, DAVP, Guwahati)

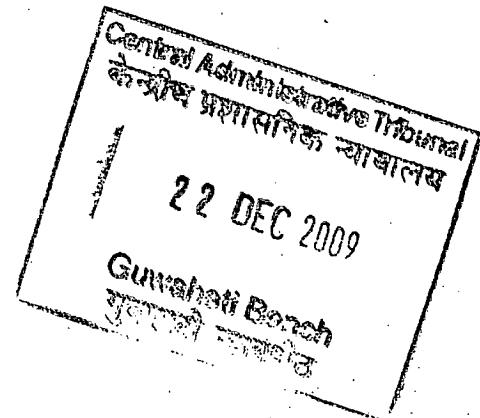
Sub:-Revision of higher pay-scale of Rs.1640/- -2900/- (Rs. 5500/- - Rs.9000/-) subsequently from Sept'06 for the stenographer, Grade-c Rs. 6500/- - Rs .10,500/- and again for the post of Stenographer Gr.I / P.S. at par with Stenographer CSSS cadre.

Ref:- As per Order (ORAL) dtd. 16.01.2008 of Hon'ble CAT, Guwahati Bench. (Copy Enclosed)
Sir, as Annexure-I

With reference to above, I have the honour to beg to your kind attention and sympathetic consideration on the subject mentioned above.

That Sir, you might kindly be aware that I had been making correspondence for revision of higher pay -scale of Rs. 1640/- - Rs.2900 on the ground that I had appeared in All India basis conducted examination by the Staff selection Commission (not on the basis of interview conducted by the Deptt. For the particular post) therefore, I prayed for deletion of my designation as Stenographer, Grade-III (Ex- cadre) at the same time I requested our Deptt. to revise our pay scale at per with the CSSS cadre who are also posted sitting in the same examination copy enclosed as Annexure-II in reply to my prayer Our Deptt. i.e DAVP, Hqrs. has consoled me stating that Since my senior Shri R.N. Das, Stenographer -II (the then), Regional Office, DAVP, Guwahati is trying for higher pay scale on the basis of OA No. 548 CAT's Principal Bench , New Delhi Order dtd. 19th January, 1996 in OA No(s) 548/94, 144-A /93 and 985/93 granting thereof the higher pay-scale of Rs. 1640/- - Rs.2900/-(revised to Rs 5500/- - Rs.9000/-) to the Stenographers Gr.II in various organizations including the Stenographers Gr.II of Dte.of Field Publicity, Min.of I&B, Govt. of India. My plea was also linked up with Shri R.N. Das, Stenographer, Grade-II, DAVP, Guwahati copy enclosed for ready reference as Annexure-III

Self



- 72 -

(2)

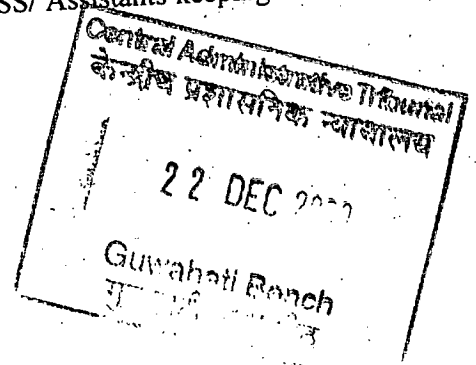
In this regard, I like to place a few points below for your kind perusal and for looking into the matter considerably and I believe that you would come to know the exact position that how I have been depriving from legitimate claims, if you take some pain to go through in details for finding out the discrimination made to me so far.

(1) Since my case was linked up with Mr. R.N. Das I was waiting for the justice from our Deptt. end. Later on I came to know that Mr. R.N. Das's case was regretted by the Finance Ministry in view of non-applicant of the case filed by the applicants of OA No mentioned above. (although our Deptt. i.e. DAVP, Min. of I&B, DOP&T, Min. of Law forwarded the file for granting the plea made by Shri R.N. Das).

(2) In terms of DOP&T's letter No. 2/I/90-CS.IV dtd. 31.07.1990 wherein clearly indicated that the benefits for the pay-scale of Rs. 1640/- - Rs. 2900/- is also applicable to the Asstts. And Stenographers in other organizations like Ministry of External Affairs which are not participating office of CSS and CSSS but where the post are in comparable grades with same classifications and the method of recruitment through open competitive examination is also the same, I should also be given the same benefit as I have been working in comparable grade.

(i) Regarding CSSS - (i) That Sir, since after Staff Selection Commission starts functioning from 1976, the SSC conducted examination for Stenographer Grade 'D' for direct recruitment through open written competitive examination on All India basis in the year 1980 and I appeared for the same. Afterwards I had been selected by the Staff Selection Commission and nominated my name for Directorate of Advertising & Visual Publicity (DAVP), Min. of Information & Broadcasting, Govt. of India, Guwahati a participating office of CSS/CSSS/CSCS and attached office too. But, I had been appointed in the post of Stenographer Gr.III(Ex-cadre) in DAVP, Guwahati on 24.2.1983. It is not known how and why I had been given for the post of Stenographer Gr.III (Ex-Cadre) instead of Stenographer Gr.'D' by DAVP while SSC conducted for the post of Stenographer Gr.'D' only. Of course the pay-scale of Stenographer Gr.'D' and Stenographer Gr.III was same i.e. Rs.330/- - Rs.560/- (pre-revised).

(ii) There was the sanctioned post of Stenographer Gr. 'C' in the pay-scale of Rs. 425/- - Rs.800/- (Rs. 1400/- - Rs.2600/- subsequently which was revised as Rs. 1640/- - Rs.2900/-) at Regional Office, DAVP, Guwahati the scale of which was at par with the Central Secretariat Stenographers Service (CSSS). Copy of Ministry's sanctioned letter NO...3/8/81-Bud/DAVP/DS(I) dtd.28.01.1982. But, I had been promoted in the post of Stenographer Gr.II in the pay-scale of Rs. 1400/- - Rs. 2300/- (Pre revised) at RO, DAVP, Guwahati and I joined in the post of Stenographer Gr.II on 17.4.2006 in the pay scale of Rs. 1400/- - 2300/- (pre revised pay-scale 425/- - Rs.700/-), which was subsequently revised it later on by the Ministry of Finance (Deptt. of Expenditure) vide its letter No. 7(18)-B-III/81 dtd. 4th May, 1990, to Rs. 1400/- - Rs.2600/- i.e. at par with the pay-scale of CSSS Stenographers/ Assistant. But, from 17.4.2006 I had been given the pay-scale Rs. 5000/- - Rs.8000/- instead of Rs. 5500/- - Rs.9000/- given to the CSSS Stenographers/ Assistants effecting them from 1st January, 1996 and according to DOP&T's letter No. 20/29/2006-CSII (CS.I) dtd. 15th September, 2006, they (Group 'B' Non-Gazetted) have been given the pay-scale of Rs.6500/- - 10500/- w.e.f. September, 2006 onwards. The reason was not known to me though at the initial appointment the pay-scale in the post of Steno.Gr.III/ Gr. 'D' was same i.e. Pre-revised Rs.330/- - Rs.560/-. Since the method for direct recruitment was the same I should have also been considered for the benefits given to CSSS/ Assistants keeping in view of my selection made by Staff Selection Commission.

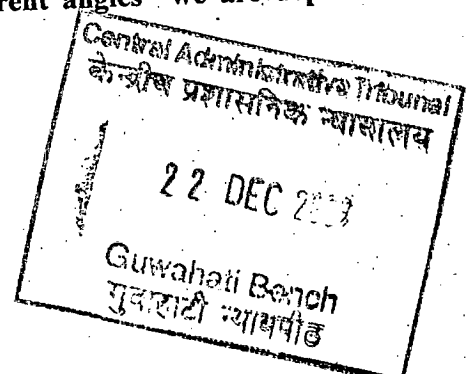


(iii) Again on 4.1.2008 after completion of 24 years of service DAVP has given me 2nd ACP in the pay-scale of Rs. 5500/- Rs.9000 instead of in the pay-scale of Rs.6500/- Rs.10500/- as like the Stenographers of CSSS placed from Gr.'D' to Gr.'C'/PA.. In my case also it should be given equal pay-scale of Rs.6500/- -Rs.10500/- in the post of Stenographer Gr.II.

Further, I like to make it clear that as per DOP&T' guide lines framed in Nabhi's Referencer for Central Government Employees, 2006 indicating therein that Seniority should be maintained in order to merit list at the time of initial appointment and as well as at higher level in case of both direct recruits and promotes.

Regarding Seniority List there is clearly indicted in Recruitment by Staff Selection Commission (SSC) of 11(iv)-Allotment of candidates by the Commission of Swamy's Master Mannual for DDOs And Heads of Offices Part -II Establishment, that every Department should ascertain the common seniority list from the concerned SSC office.

DAVP in their written statement in para 4.9 stated that (quota ting Deptt. of expenditure's O.M. No. 12(3) -E III(B) 199 dtd. 10.2.99 that "designations are not the sole determinant of pay scales and there are many other factors viz. eligibility, minimum qualifications, nature of duties and responsibilities, work load, professional skill and proficiency which are considered while deciding the pay scale appropriate to the post—In this context I am to say that I am having same eligibility, same qualification same nature of duties and responsibilities (rather I am taking much more responsibilities then the CSSS cadre like I am serving as stenographer-II presently in the regional Office, DAVP, Guwahati and since the inception attended so many senior officer's day to day secretariat works like JDs, RDs at Regional Office, DAVP, Guwahati whereas Govt. of India has specifically mentioned our duties as "Attached with Senior Officer to attend his day to day secretariat work". It would be worthwhile to mention here that I am maintaining several files, I have to make noting and make scrutiny in the files 1) At the same time I am attending care taker's duty including calling quotations without any assistance (duties of Caretaker/UDC & one Group-D) 2) processing electricity bills of RO, Guwahati including sanctions (Duty of Clerks). 3) processing telephone bills of RO, DAVP, Guwahati including sanctions. (duty of clerks). 4) processing of car hiring bills including calling quotations, issuing sanctions etc. without any helping hand (duty of clerks) 5) forwarding of ACRS 6) maintenance of computers 7) Library etc. (These are in addition to normal duties) copy of orders enclosed for ready reference as Annexure-IV) I requested our Administration to withdraw the clerical works as mentioned above as I am not conversant with calculation works as I am Stenographer by profession, If any overpayment/ mistake is made of my ignorance I will not be held responsible but I am asked to continue the same rejecting my plea. I regret to inform you that after completion of 24 years service I am offered above status at Regional Office, DAVP, Guwahati (for which I may seek justice separately). For performing caretaking job since last 10 years without any financial benefit I applied for granting me allowance @Rs. 200/- p.m. as per Rule specified by Govt. of India, on 27.9.07 (copy enclosed as Annexure-V) but no action is initiated by our Deptt as yet. from above fact I am sure that I have come to make you understand that how from different angles we are deprived off irrespective of



pay scale, status and so on in DAVP Guwahati. If any doubt, on the assignment of jobs as stated above my 24 years CRS may be verified.

In view of the above, I earnestly hope that you will certainly realize that I have been depriving like anything and discriminated from all corners including to as the legitimate claims as was supposed to be equal with all the candidates appeared together for the same examination wherever posted, the similar benefit had not been given to me even ignoring the DOP&T's guidelines.

I am submitting herewith keeping in view of the Order (ORAL) dtd. 16.01.2008 of Hon'ble CAT, Guwahati Bench, for your kind perusal, ready reference and reconsideration on the matter and get me relieved from such deprivation and as well as humiliation by giving higher pay-scale of Rs. 5500/- - Rs.9000/- (presently Rs. 6500/- - Rs .10,500/-) against the post of Stenographer Gr.II/Stenographer 'C' and Rs. 6500/- - Rs .10,500/- against the post of Stenographer Gd-I/ PS (as I have got 2nd ACP for the pay scale of Stenographer GD-I)

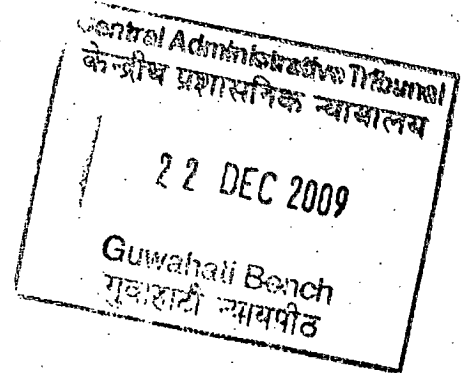
Thanking you,

Yours faithfully,

(Dipankar Chakraborty)
Stenographer Gr.II
RO: DAVP: Guwahati

Date: 18.02.08

*Collected
Dutta
Adh*



-75- Reply received
from DAVP Hqs.

F.No.18011/2/2006-Admn.I

Government of India

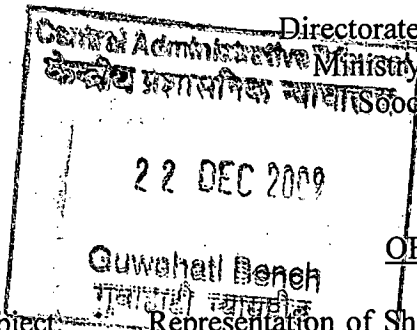
Directorate of Advertising & Visual Publicity

Ministry of Information & Broadcasting

Sochha Bhavan, CGO Complex

Lodhi Road, New Delhi

ANNEXURE-13



Dated the 22nd May, 2009

OFFICE MEMORANDUM

Subject: Representation of Shri D. Chakraborty, Stenographer Grade I for Enhancement of pre-revised pay scale of Stenographer Grade II as per CAT, Guwahati Bench's order dated 16.1.2008 in O.A. No.298/05 and O.A. No.299/05.

With reference to his representation dated 18.2.2008 on the above subject, Shri D. Chakraborty, Stenographer Grade I is intimated as follows:

- 1) No comments are required, being statement of facts.
- 2) DOP&T's O.M. No.2/1/90/CS-IV dated 31.7.1990 had indicated that the Pay Scale of Rs.1640-2900 will be applicable to Assistants and Stenographers in other organizations like Ministry of External Affairs which are not participating in the Central Secretariat Service (CSS) and Central Secretariat Stenographers Service (CSSS) but where the posts are of comparable grades with same classification and pay scales and method of recruitment through open competitive examination. In the case of Shri D. Chakraborty, he was occupying the posts of Stenographer Grade II which was classified as a group 'C' post, whereas the post of Stenographer Grade 'C' in CSSS has been classified as group 'B'. Therefore this benefit could not be extended to Shri Chakraborty, as the two posts are classified differently. As per Ministry of Finance, Department of Expenditure's O.M. No.12(3)/E III B/99 dated 10.2.2009, the higher pay scale of Rs.1640-2900 cannot be extended to those post of Stenographers Grade II which are not participating in CSSS Cadre.
- 2.1) Stenographers are recruited through Staff Selection Commission in Secretariat Offices as well as non- Secretariat Office. 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 Headquarters of DAVP in New Delhi is participating in CSSS Service and recruitment of Stenographers in this service in DAVP is done at the level of Ministry of Information & Broadcasting who are the cadre controlling authority. Recruitment of Stenographers in Regional Offices are done by DAVP directly through the recruiting agency, i.e. Staff Selection Commission.
- 2.2) Shri Dipankar Chakraborty was from the very beginning appointed as a Stenographer Grade-III of GCS cadre in the pay scale of Rs.4000-6000/- Later he was promoted as Stenographer Grade II in the pay scale of Rs.5000-8000 which is the scale approved for Stenographer Grade II of GCS cadre. The matter regarding revising the pay scale of ex-cadre Stenographers at par with Stenographers of CSSS cadre was examined by the 5th Pay Commission and the Pay Commission has not conceded to the demand of absolute pay parity in pay scale and recommended different pay scales for Stenographers of Secretariat and non-Secretariat offices.
- 2.3) Shri Dipankar Chakraborty was appointed as a Stenographer Grade-III of General Central Service in DAVP. Recruitment to CSSS cadre in all Ministries / Departments is made by DOP&T through SSC and nominations of recommended candidates are forwarded by DOP&T. But recruitment to posts in GCS is made by DAVP directly through SSC. Therefore, no common

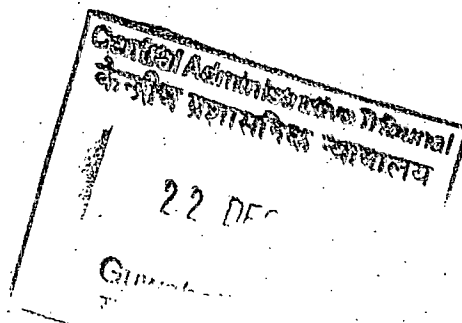
Attested
Minister
Adv

seniority list of Stenographers recruited by SSC for different Ministries and Departments is not maintained in DAVP.

- 2.4 Shri Dipankar Chakraborty was appointed against an ex-cadre post in this Directorate and he cannot claim pay parity and promotion at par with Stenographers of CSS Cadre. Shri Chakraborty was given the pay scale of Rs.5500-9000 after completion of 24 years of service as it was the pay scale of Stenographer Grade I of GCS cadre. However, it may be mentioned that the 6th Central Pay Commission has granted pay parity amongst Stenographers belonging to Secretariat and non-Secretariat offices.
- 2.5 The seniority of officers recruited in a particular year is calculated on the basis of their rank in the respective examination and the seniority list is maintained by the respective cadre authorities and SSC has no role in the seniority list.
- 2.6 Shri Chakraborty is posted at Regional Office at Guwahati and distribution of the work has been done by the competent authority. Allocation of work has nothing to do with his seniority and revision of pay scale.

Shri Dipankar Chakraborty,
Stenographer,
Regional Office,
DAVP,
Guwahati

Gandhi
22/12/09
(Chander Gandhi)
Section Officer



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

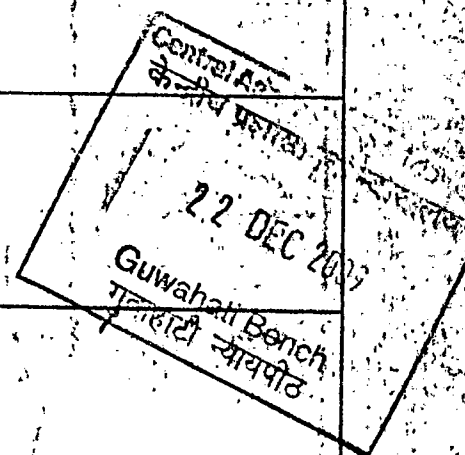
ANNEXURE-14

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/CSES	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.	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) Dir. Of Marketing and Inspection NH IV Faridabad (v) Directorate of Economics and Statistics	Directorate of Plant Protection Quarantine and Storage, NH IV Faridabad. Dir. of Marketing and Inspection (Branch head Office) New Sectt. Building Nagpur.
2.	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	Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय 22 DEC 2009 G...
3.	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

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		(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	



(vi) Prime Minister's Office.

(vii) 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, Mumbai,
Chennai, Chandigarh,
Bangalore, Raipur,
Shillong(xv) Department of Ocean
Development.(xvi) Cabinet Secretariate
(NSCS)

(xvii) Inter State Council

(xviii) 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.
- (iv) Archaeology Survey of
India

19. Ministry of Information and
Broadcasting

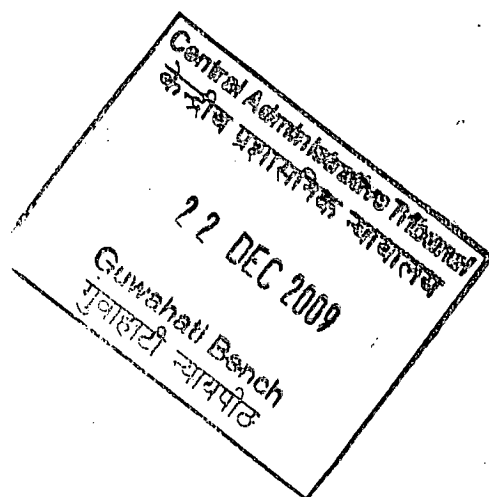
- (i) Directorate and
Adverting and
- (ii) Visual Publicity.
- (iii) Directorate
General, All India
- (iv) Radio.
- (v) Press
Information
Bureau.
- (vi) Office of the
Registrar of
Newspaper of
India.
- (vii) Directorate
General,
Doordarshan.
- (viii) Publication

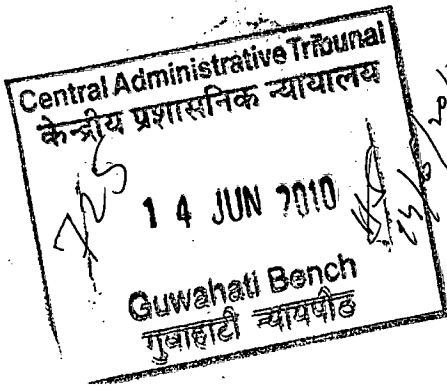
		(iv) Directorate General of Employment and Training.	Mumbai, Chennai, Kalkatta, Thiranthampuram
		(v) Protector of Immigrants.	
21	Ministry of Law, Justice and Company Affairs (Department of Legal Affairs).	(i) Department of Legal Affairs (ii) Legislative Department.	Branch Sectt., Mumbai, Kalkatta, Bangalore, Chennai
22	Ministry of Law, Justice and Company Affairs (Department of Company Affairs).		
23	Ministry of Petroleum and Natural Gas		
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 Stores (CPMIC)	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	

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
22 DEC 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

Ministry of Water Resources.	(A) 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.	

Attested
Water
Adv





IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:GUWAHATI

Filed by
the respondents
through
Kamran, as
Addl C.A.S. in CAT
on 14-6-2010

O.A. No.277/2009

In the matter of Original Application No.277/2009

Shri Dipankar Chakraborty

Applicant

Versus

Union of India & Others

Respondents

THE MATTER IN OF

WRITTEN STATEMENT SUBMITTED BY THE

RESPONDENT NOS. 1,4,5 and 6

On behalf of all respondents

WRITTEN STATEMENT

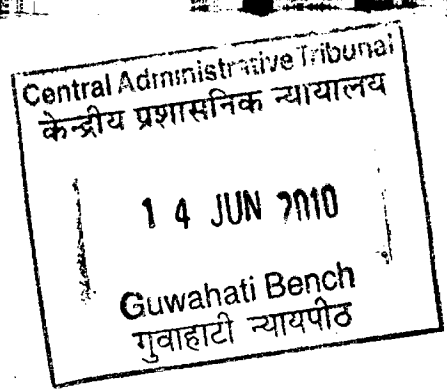
The humble answering Respondents

Submit their written statement as follows:

1. That I, Arun Kumar, S/o late Shri K. Prasad, on behalf of Union of India, and Respondent No. 5 in the above case and I have gone through a copy of the application served on me and have understood the contents thereof. Save and except whatever is

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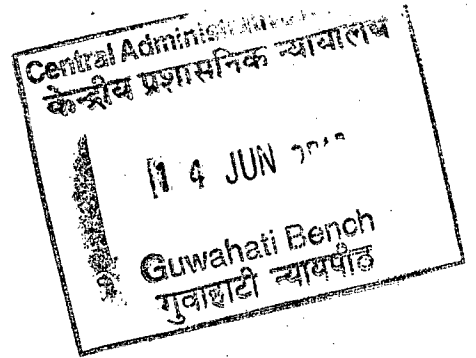


specifically admitted in the written Statements, the contentions and its statements made in the applications may be deemed to have been denied. I am competent and authorized to file the statement on behalf of all the Respondents.

2. That the application is felt unjust and unsustainable both facts and in law.
3. That the Respondents before giving the parawise reply would like to give brief history of the case which may be treated as part of the written statement.

Brief Background of the Case

Shri Dipankar Chakraborty was appointed as Stenographer Grade-III in the Regional office of Directorate of Advertising and 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. 17.4.2006 (Afternoon).

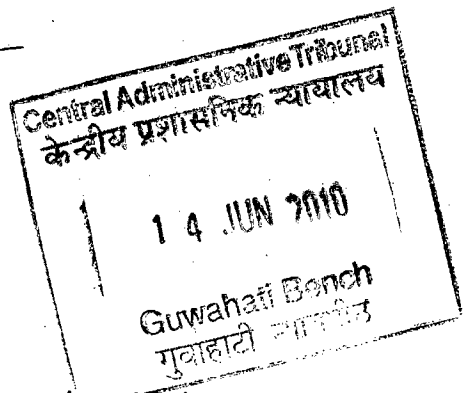


Now as per Sixth Central Pay Commission's recommendations wherein Head Clerk/ Assistants/ Steno Grade II / Equivalent Office Staff working in Organisations outside the Secretariat whose pre-revised pay scales were Rs.4500-7000/5000-8000 have been placed in the pay scale of Rs.6500-10500 which corresponds to Pay Band-II with Grade Pay of Rs.4200/-. These recommendations have been accepted by the Government and notified by the Central Civil Services (Revised Pay) Rules, 2008. As a result of the implementation of 6th CPC report in this regard, the Stenographer Grade-II in DAVP has been placed in PB-II with Grade Pay of Rs.4200/- with effect from 1.1.2006 at par with Stenographers in the Central Secretariat Stenographers Service. ✓

4. That with regard to the statement made in paragraphs 1, 2, 3 & 4.1, 4.2, 4.4, 4.9, 4.21, 4.23, 6 & 7 of the O.A. the answering respondents do not offer any comment.

5. That with regard to the statement made in paragraph 4.3 of the O.A. the answering respondent begs to state that the statement is denied to the extent that the petitioner was a Steno Grade III (ex-cadre) and not a Steno Grade 'C'. Pay scales prescribed for these two posts are different.

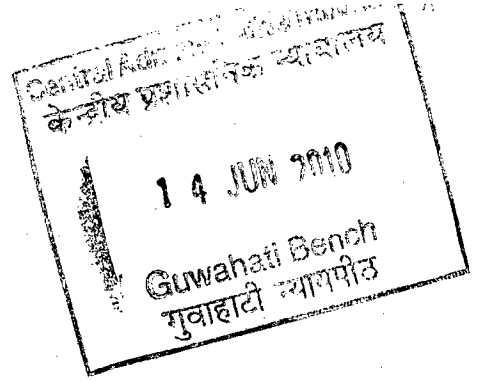
6. That with regard to the statement made in paragraph 4.5 of the O.A. the answering respondent begs to state that applicant is working in General Central Service in Group 'C' post in a non-



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 up gradation 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 and 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 19.1.1996 without consulting Ministry of Information and Broadcasting / Ministry of

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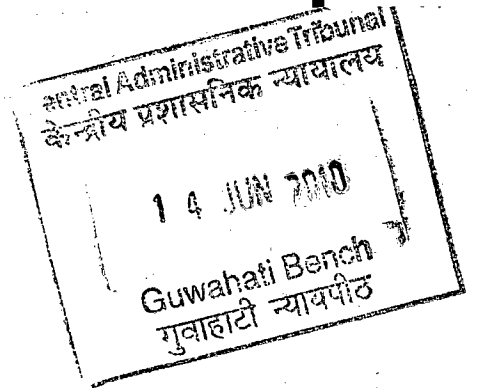


Finance / Department of Personnel & Training. The matter was subsequently considered in the Ministry of Information & Broadcasting in consultation with Department of Personnel & Training, M/o Law and M/o Finance and it was decided to allow all the applicants and similarly placed persons, who were placed in the higher scale of Rs.5500-9000 in consonance with CAT's order dated 19.1.1996 to continue in the said higher pay scales on the 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.

7. That with regard to the statement made in paragraph 4.6 of the O.A. the answering respondent begs to state that 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 the General Central Service having no specific cadre. The Hqrs. of Directorate of Advertising and Visual Publicity (DAVP) in New Delhi is participating in Central Secretariat Stenographer's Service and recruitment of Stenographers in this Service in DAVP is done at the level of

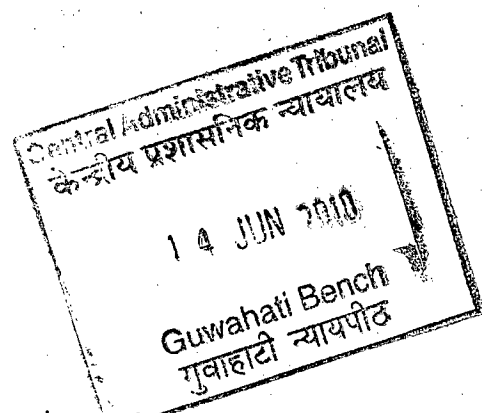
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Ministry of Information and Broadcasting who are the Cadre Controlling Authority. Regional offices of DAVP are not participating in the Central Secretariat Stenographers Service and recruitment of Stenographers in Regional Offices are done by DAVP directly through the recruiting agency in both the cases is Staff Selection Commission.

8. That with regard to the statement made in paragraph 4.7 of the O.A. the answering respondent begs to state that 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.

9. That with regard to the statement made in paragraph 4.8 of the O.A. the answering respondent begs to state that 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 4.5 above. The applicant is not entitled to the said pay scale as he holds a Group 'C' 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

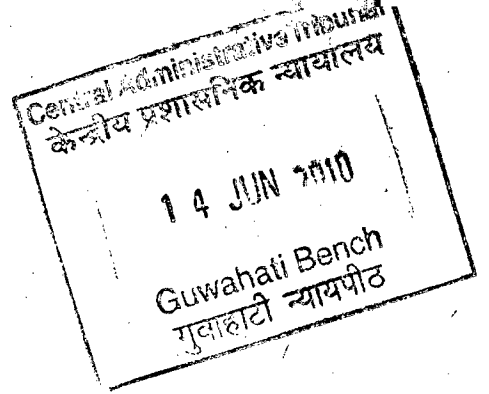


financial upgradation under the ACP Scheme has been given pay scale of Rs.5000-8000, which in the pay scale for Stenographer Grade-II in non-Secretariat offices. The Fifth Pay Commission had considered the issue of parity between Stenographers outside the Secretariat and in the Secretariat and had not recommended the same.

Matter of record and hence no comments.

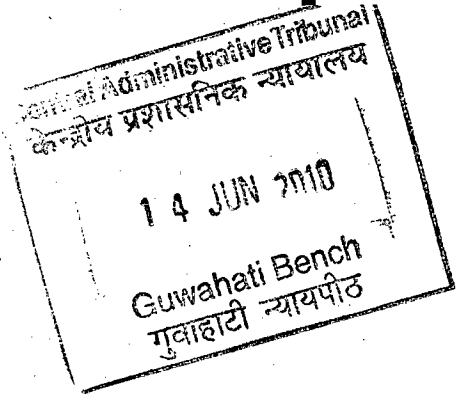
10. That with regard to the statement made in paragraph 4.10 of the O.A. the answering respondent begs to state that the averment in this Para is denied. The pay scales mentioned herein are the pay scales of Stenographers and Assistants of Central Secretariat Stenographer Service and Central Secretariat 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, 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.

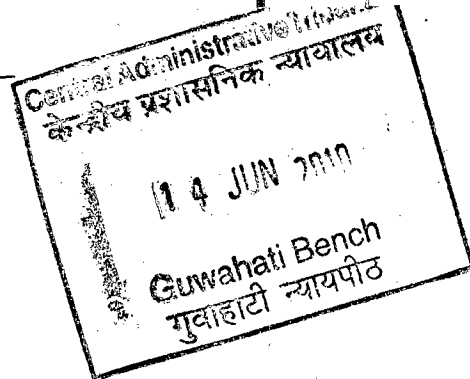
In Para 46.34 of their Report, the Commission stated that "The Commission had observed that as a general statement, it was correct to say that the basic nature of a Stenographer's work remained by and large the same whether he was working with an officer in the secretariat or with an officer in a subordinate 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 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 has got the benefit of parity in pay scales 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 scales 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 scales 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 4.6 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 recommendation of the Pay Commission, to revise pay scales. (CA NO.7127/93 in the case of Shri P.V. Hariharan and others).

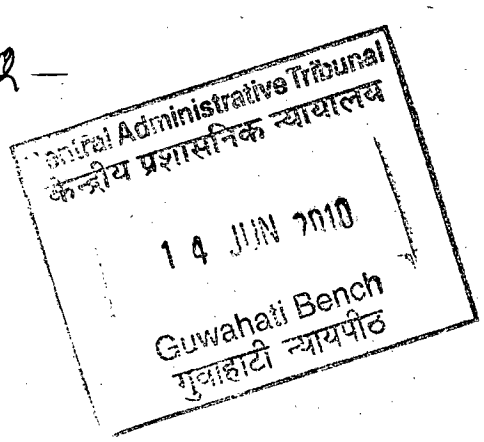
Photostat copy of Department of Expenditure



O.M. No.12 (3)E III (B) 199 dated 10.2.1999 is annexed
And marked as (Annexure I)

11. That with regard to the statement made in paragraph 4.11 of the O.A. the answering respondent begs to state that It is true that the Ministry of Finance revised/ upgraded the scale of pay of Stenographer Grade 'C' in CSSS from Rs.1600-2600 to Rs.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 pay scale of Rs.1640-2900/- When his case was referred to the Ministry of Finance (Department of Expenditure) through the Ministry of Information and 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 the similar posts in autonomous organizations and subordinate offices

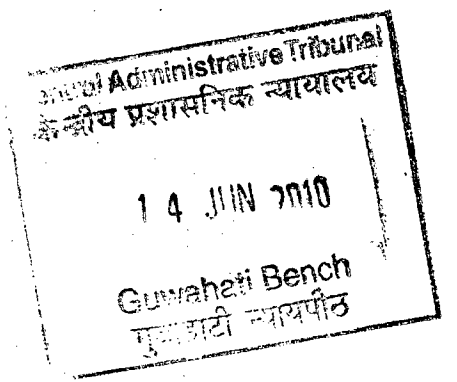
The reason for grant of the pay scale of Rs.1640-2900 to the Stenographers of Directorate of Field Publicity has been explained in reply to Para 4.5 above and need not be repeated.



Photostat copy of Ministry of Finance, Department of
Expenditure U.O. No.205/E-III CB/2005 dated 30.6.2005
is annexed here and marked as (Annexure-II)

12. That with regard to the statement made in paragraph 4.12 of the O.A. the answering respondent begs to state that In this Para, the applicant has tried to explain the pay scales granted by the Fourth Pay Commission to Stenographers and Assistants in Secretariat offices. The Fifth Pay Commission also thoroughly examined the pay scales of Stenographers of Secretariat offices and non-Secretariat offices. Para 46.27 to 46.43 of their report contained their recommendations regarding Stenographers outside the Secretariat service. Though the Commission had observed as a general statement that the basic nature of duties of Stenographers were remained by and large the same, whether he was working in Secretariat or in subordinate 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 petition Stenographers Grade-II had got the benefit of parity in the pay scale through courts. The Fifth Pay Commission recommended different pay scales for the Stenographers working in Secretariat offices and non-Secretariat offices.

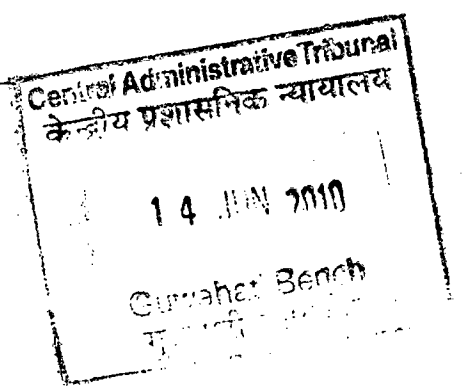
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13. That with regard to the statement made in paragraph 4.13 of the O.A. the answering respondent begs to state that the matter has been explained in reply to Para 4.5 above. No further comments are necessary.

14. That with regard to the statement made in paragraph 4.14 of the O.A. the answering respondent begs to state that on grant of 1st financial up-gradation 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 Fifth Pay Commission. Ministry of Finance (Department of 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 up-gradation is not proper and justified.

15. That with regard to the statement made in paragraph 4.15 of the O.A. the answering respondent begs to state that 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 4.11 Shri R.N. Das, Stenographer Grade-I who is a colleague of the applicant had also made a representation, which was sent to the Ministry of Finance (Department of Expenditure) for advice. They advised that the pay scale of Rs.5500-9000 is not applicable to Stenographers in



Autonomous / Subordinate offices. Ministry of Finance is the nodal ministry in the matter of pay and allowances of Central Government employees. The Respondents replied to the applicant's representation on the basis of advice given by the Ministry of Finance in the similar case of Shri R.N. Das. Hence, in the respondents' views, the said reply was appropriate and non-discriminatory to the applicant.

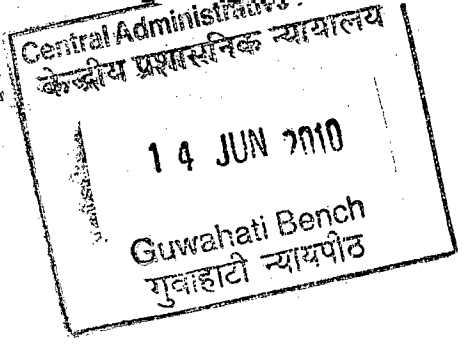
16. That with regard to the statement made in paragraph 4.16 of the O.A. the answering respondent begs to state that as explained in reply to Para 4.15 above, Ministry of Finance (Department of Expenditure) is the Nodal Ministry in the matter of pay scales, remunerations etc. and the Respondents are bound by their advice. The reply given to the applicant on the basis of Ministry of Finance advice dated 30.6.2005 (Annexure R-II) was good and proper and there were no elements of contradictions in the matter as far as the Respondents are concerned.

Photostat copy of the Ministry of Finance's letter dated 30.6.2005 is annexed here and marked as Annexure-III

17. That with regard to the statement made in paragraph 4.17 & 4.18 of the O.A. the answering respondent begs to state that averments in this Para has already been replied vide reply to Para 4.5 above.

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18. That with regard to the statement made in paragraph 4.19 of the O.A. the answering respondent begs to state that 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 4.11 above and needs no repetition.

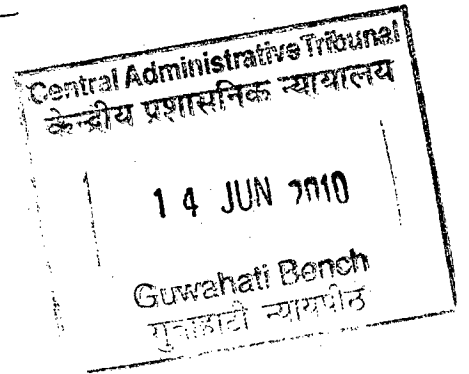
19. That with regard to the statement made in paragraph 4.20 of the O.A. the answering respondent begs to state that this averment has already been replied vide reply at Para 4.5 above.

20. That with regard to the statement made in paragraph 4.22 of the O.A. the answering respondent begs to state that statement is correct to the extent that a detailed representation of the petitioner dated 18.2.2008 was received by the Respondent, DAVP, Ministry of I&B for reconsideration in compliance to the directions passed by Hon'ble CAT vide their Order on 16.1.2008.

21. That with regard to the statement made in paragraph 4.24 of the O.A. the answering respondent begs to state that the averments in this para has already been replied vide the reply at Para 4.10 above.

A handwritten signature in black ink, appearing to be 'Ranjan' or similar, written diagonally.

22. That with regard to the statement made in paragraph of the O.A. the answering respondent begs to state that the statement is denied. Contrary to the contention of the Petitioner, his Memorandum dated 22.5.2009 was considered by the Ministry of Finance, Department of Expenditure before rejecting the claim of the Petitioner.



Photostat copy of the Ministry of Finance (E&P) U.O. No.44/S-O
E-III OB/2009 dated
31.2.2009 is annexed here and marked as Annexure-IV

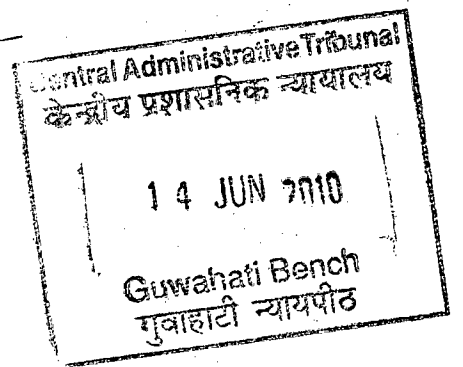
23. That with regard to the statement made in paragraph 4.26 of the O.A. the answering respondent begs to state that the averment in this para has already been replied vide our reply at para 4.6.

24. That with regard to the statement made in paragraph 4.27 of the O.A. the answering respondent begs to state that the statement is denied to the extent that the Petitioner's prayer was considered and rejected by the Respondent rightfully as stated in preceding paragraphs of this affidavit.

25. That with regard to the statement made in paragraph 4.28 of the O.A. the answering respondent begs to state that the application is baseless and devoid of merit, no injustice has been done to the applicant.

26. That with regard to the statement made in paragraph 5.1 to 5.16 of the O.A. the answering respondent begs to state that the ground explained by the applicant in para 5.1 to 5.16 are repetitions of his averments in the main paras which have already been replied to. It is expert bodies like the Pay Commission who have the necessary mandate and authority to decide and recommend the pay structure, allowances and other service matters affecting the government employees. The Fifth

Signature



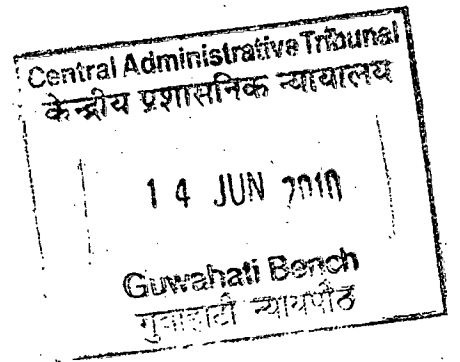
Pay Commission considered all aspects of the service conditions of the Stenographers in Secretariat and non-Secretariat offices and in their view there is no absolute parity between the two groups of Stenographers to recommend same pay scales for them. As a result, they recommended different pay scales for Secretariat and non-Secretariat offices. The ground given by the applicant in all these paras for parity in pay scales are his personal opinion which do not conform with the view of the Pay Commission or Ministry of Finance. The grounds are generic and no specific instance of violations of his individual rights or entitlements by the Government with malafide intentions has been broke out. The application has no merit and is liable to be rejected.

27. That the application is devoid of merit and deserved to be dismissed.

28. That the reply had been made bonafide and for the ends of justice and equity.

It is therefore humbly prayed before this Hon'ble Tribunal that the present application filed by the applicant may be dismissed with posts.

A handwritten signature in black ink, located at the bottom left of the page.



VERIFICATION

I, Arun Kumar. S/o late Shri K. Prasad aged about 58 years,
resident of 258, Laxmi Bai Nagar, New Delhi working as
Deputy Director (Admn.) in Directorate of Advertising and
Visual Publicity, Ministry of Information and Broadcasting
duly authorized and competent officer of the answering
respondents to sign this verification, do hereby solemnly
affirm and verify that the statements made in paras 10, 11, 16, 22, 23 & 28

are true to my knowledge, belief and information and those
made in para 10, 11, 16, 22. Being matter of
record are true to my knowledge as per the legal advice and

I have not suppressed any material facts and I sign this
verification on this 4-6-2010 day of at
.....


Deponent

(अरुण कुमार/ARUN KUMAR)
उप निदेशक (प्रशासन)
Deputy Director (Admn.)
वि. व. प्र. वि./D. A. V. P.
प्र. मंत्रालय/Min. of I & B
राष्ट्र सरकार, नई दिल्ली
Govt. of India, New Delhi

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Government of India
Ministry of Finance
Department of Expenditure

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

14 JUN 1999

Guwahati Bench
गुवाहाटी न्यायालय

New Delhi dated 10th Feb, 1999.

OFFICE MEMORANDUM

Sub: Court cases regarding revision of Pay Scales 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.

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 quoted in the draft counter reply

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(iii)

The observations of the Supreme Court in the judgement quoted in para 8 of CAT Bench 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. 7127/83 in the case of Sh. P.V. Hariharan & others). (copy enclosed)

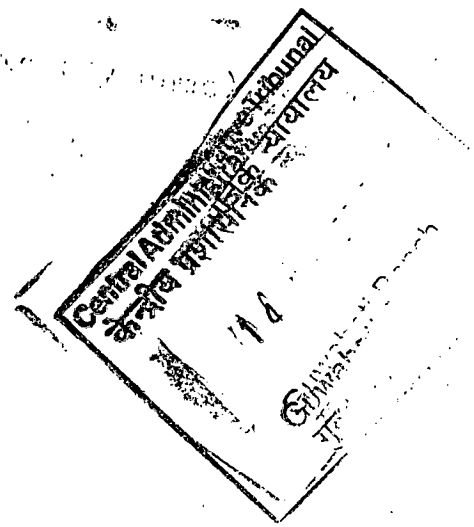
All Ministries/Departments etc. are requested to incorporate the above points in the counter replies while defending such cases in various courts of law. Draft counter reply may invariably be shown to Ministry of Finance (Deptt.) of Expenditure before issue by respective Ministry/Deptt.

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

(T.S. Bhatia)

Under Secretary to the Govt. of India.

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Ministry of Finance
Department of Expenditure
E.III B Branch

Central Adm. Serv. Bd.
केन्द्रीय प्रशासनिक न्यायालय
14 JUN 1996
Guwahati Bench
गुवाहाटी न्यायपीठ

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 18B), 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 15.4.2000 issued in this regard may also be perused.

3. JS(Per) has seen.

*Certified to be
true copy
14-6-2000*

Karan 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/936/05 dated 30/6/05

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Ministry of Finance
Department of Expenditure
E.III.(B) Branch

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

14 JUN 2010

Guwahati Bench

Ministry of Information & Broadcasting may please refer to their notes for rejecting the claims of the applicants of OA No.298/05 (filed by Shri R.N. Das) and OA No.299/05 (filed by Shri D.Chakravathy), Stenographers Gr.II in DAVP, for the grant of the pre-revised pay scale of Rs.1640-2900.

2. The draft speaking order has been examined in this department and it is stated that vide their OM No.2/1/90-CS.IV dated 31.7.90, DOPT had extended the pay scale of Rs.1640-2900 to the Assistants/Stenographers Gr.C of CSS/CSSS w.e.f. 1.1.86 consequent upon the decision of the Govt. based on the judgment of CAT, Principal Bench. This dispensation was made applicable to Assistants and Stenographers in other organisations like MEA which are not participating in CSS/CSSS but where the post are in comparable grades with same classification and pay scales and the method of recruitment through open competitive examination is also the same.

3. The pay scale of Rs.1640-2900 was not extended to the employees in subordinate offices/autonomous organisations etc. In this connection, Department of Expenditure vide their OM No.12(3)/E.III.B/99 dated 10.2.99 had issued instructions to defend the Court cases regarding revision of pay scales of Assistants/Stenographers in subordinate offices/autonomous bodies. Since the post of Stenographer Gr.II in DAVP, does not participate in CSSS, the higher pay scale of Rs.1640-2900 cannot be extended to them. The AM is advised to incorporate the relevant points as indicated in this Department's OM dt. 10.2.99 in the draft speaking order.

4. In this regard, attention is also invited to the 6th CPC recommendations wherein Head Clerk/Assistants/Steno Gr.II/equivalent office staff working in organisations outside the Secretariat whose pre-revised pay scales were Rs.4500-7000/5000-8000 have been placed in the pay scale of Rs.6500-10500 which corresponds to PB-2 with Grade Pay of Rs.4200/-. The said recommendation have been accepted by the Government and notified vide CCS(RP) Rules 2008. As a result of the implementation of the 6th CPC report in this regard, the Stenographer Gr.II in DAVP may be placed in PB-2 with Grade Pay of Rs.4200/- w.e.f. 1.1.2006 at par with Stenographer in CSSS. This fact should also be brought out in the draft speaking order.

5. Further, it may be mentioned in the reply that the matter has been reconsidered afresh in compliance of CAT order dt.16.1.2008 in OA No.298/299 of 2005 keeping in mind the view of the Tribunal in similar connected matters. Paraphrasing needs to be done in accordance with paras in the representations.

6. Subject to the above and some corrections made in pencil, the draft speaking order has been approved.

7. JS(Per) has seen.

(R.K. Thapar)
Under Secretary (E.III.B)

FA(I&B)

M/o Finance (Exp.) U.O. No. 114/S.O.E-II/CB/09 dt. 31/3/09

AS+PS (M/T)

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