

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

....

Original Application No.718/2000

Jabalpur, this the 30 day of April, 2004

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri A.S. Sanghvi, Member (J)

1. V.Vishwambharan Nair,  
S/o late K. Krishnankutty Nair,  
aged 55 years.
2. M. Govinda Pillais/o Late Vasudevan, Pillai,  
aged 53 years.
3. P.Mohandas s/o late U.K. Menon,  
aged 50 years.

Applicants 1 to 3 working as Stenographers  
Grade-I( Desig) with Headquarters Chief  
Engineer Jabalpur Zone, Post Box. No. 84,  
Bhagat Marg, Jabalpur-482 001(MP).

....Applicants

(By Advocate - Shri S.Paul)

-versus-

1. Union of India through  
Secretary, Ministry of Defence,  
New Delhi.
2. Engineer-in-Chief,  
Army Headquarters, Kashmir House,  
DHQ PO, New Delhi.
3. Chief Engineer,  
Central Command,  
Lucknow.
4. Chief Engineer Jabalpur Zone,  
Post Box No. 84, Bhagat Marg,  
Jabalpur.
5. MES-400563 Shri Emmanuel M.,  
Private Secretary through  
Engineer-in-Chief's Branch,  
Army Headquarters, Kashmir House,  
DHQ, PO, New Delhi.
6. MES-503591 virji Bakshi,  
Private Secretary, through  
Engineer-in-Chief's Branch,  
Army Headquarters, Kashmir House,  
DHQ PO, New Delhi.
7. MES-405287 Smt. Prabha Rao,  
Private Secretary, H.Q. Chief Engineer,  
Jabalpur Zone, Bhagat Marg, Post Box,  
No. 84, Jabalpur.

8. MES-489035 Smt. Reshma Elahi,  
Stenographer Grade-I through  
Engineer-in-Chief's Branch,  
Army Headquarters, Kashmir House,  
DHQ PO, New Delhi.
9. MES-468529 Shri John P. George,  
Stenographer Grade-I,  
Chief Engineer (Air Force),  
Allahabad.
10. MES-308461 Smt. Susy,  
Stenographer Grade-I through  
Engineer-in-Chief's Br,  
Army Headquarters, Kashmir House,  
DHQ PO, New Delhi.

...Respondents

(By Advocate- Shri B.De.Silva through Sh. Terence Borrows)

O R D E R

By A.S.Sanghvi, Member (Judicial) -

This is the second round of litigation. Earlier the applicants had moved OA No. 795 of 1995 before this Tribunal seeking directions to the respondents to fix their pay and allowances in the scale of Rs. 2000-3200/- in view of the decision of the Bombay Bench of CAT in OA No. 729/92 and other connected matters. While disposing of the said OAs bearing No. 729/92 and 1023/93, the Bombay Bench of the Central Administrative Tribunal in their judgement dated 8.8.1995 directed the respondents to grant the benefit of the letter at Exhibit A/1 w.e.f. 1.1.1986 and all consequential benefits including arrears of pay and the actual payment of arrears on the basis of pay fixation w.e.f. 1.1.1986 would be restricted to the period of one year next before filing of the OAs i.e. the applicants therein would be entitled to the payment of arrears from 2.7.1992 onwards etc. This Tribunal in OA No. 795/95 examining the decision of the Bombay Bench held that the case being similar and identical and the only difference between the applicants before the Bombay Bench and those before the Tribunal were that the applicants had approached the Bombay Bench in 1991 whereas the applicants in Jabalpur Bench of the Tribunal had approached on 29.11.1995. The Tribunal,

therefore, directed the respondents to extend the same benefits to the applicants herein restricting the monetary benefits to one year before filing of the application. After a decision of the Tribunal, since the implementation was not forthcoming and the time for implementation had expired, the respondents moved an MA No, 385/99 and the Tribunal while disposing of the said MA vide order dated 10/1/2000 observed that the respondents were sitting over the matter and order passed in OA No. 795/1995 on 25.6.1998 had not been complied with and the respondents were seeking further time, they were not inclined to grant any further time and rejected the M.A. with a direction to the respondents that the orders passed in the O.A. No. 795/1995 should be complied with forthwith. The respondents thereafter initiated the procedure for implementation of the orders of the Tribunal and it appears that the review D.P.C was convened for promotion to the applicants to the post of Stenographer Gr.II and subsequently for Stenographer Gr.I. Pursuant to the directions of the Tribunal, the applicants have been given seniority over the private respondents w.e.f. 1.1.1986 and in view of the recommendations of the review DPCs, they have also been given promotions upto the post of Stenographer Gr.I.

2. The grievance of the applicants, however, is that the orders of the Tribunal have half-heartedly/<sup>been</sup> implemented by the respondents and though the private respondents have been given promotions to the cadre of Sr. Personal Assistant (SPA) w.e.f. 1.4.1997, the benefit of this promotion has been denied to the applicants even though the applicants are shown senior to the private respondents as per the directions of the Tribunal. The allegation is that the respondent no. 2 have deliberately, to protect the interest of the private respondents, not convened the DPC for assessing their suitability for further promotion to the post of SPA(PS) and thereby not fully complied with the directions of the Tribunal. They have, therefore, sought further direction to

the respondents to consider them for promotion to the post of SPA(PS) from the date the private respondents were promoted i.e. 1.4.1997.

3. The official respondents as well as the private respondents while admitting that to the extent of giving promotions to the applicants to the post of Stenographer Gr.I, the directions given by the Tribunal have been implemented, and advanced new contentions that the applicants had opted for promotion only in clerical cadre and, therefore, their names were not shown in the seniority list of PA promotees right from the year 1975, and as such now they cannot claim promotion to the post of SPA. The official respondents in para 19 of their reply have come out with the following reasons for not promoting the applicants further to the post of SPA.:

"The answering respondents reiterate that the earlier DPCs have been reviewed in compliance of the directions of this Hon'ble Tribunal and there has been no injustice caused to the applicants. For the reasons already brought on record, the applicants cannot be promoted as Senior Personal Assistants (now designated as Private Secretaries). It is specifically denied ~~that~~ on behalf of respondent no.2 that the relief sought by the applicants have been denied to them for sheer prejudice and the action of the respondents has been purposely planned."

The respondents have denied the allegations of unfairness, unjustness or discrimination and acting arbitrarily so far not convening the review DPC for considering the applicants for further promotion to SPA is concerned.

4. We have heard the learned counsel for both the parties and duly considered the rival contentions.

5. It is quite obvious from the above narrated facts that the short question for decision in this O.A. is whether the compliance of the directions / orders passed in OA No. 795/1995 can be said to be carried out fully by the respondents or not. So far the ground given by the respondents for not promoting the applicants to the post of SPA(PS) is concerned, it clearly appears that the respondents have tried

to give twist to the facts of the case and tried to defend their action of not convening the review DPC for considering the promotion of the applicants for the post of SPA. Their contention that the applicants had opted for clerical cadre and as such their names did not appear in the seniority list of PA promotees right from 1975 cannot be accepted at this juncture when the Tribunal had already decided this question in the earlier OAs and given the directions to assign the seniority to the applicants above the private respondents and consider them for promotion to the relevant grades of Stenographers. Since the private respondents were given promotions to Stenographer Grade - II and Grade-I as well as to the post of SPA(PS), the applicants could not have been denied promotions to those posts and they were required to be considered for promotion by convening review DPCs and if found suitable to be extended the promotions from the date their juniors were given the promotion. It does not lie in the mouth of the respondents to contend that the applicants cannot ask for further promotion to the post of SPA(PS) as this promotion is in the channel of promotions available to the applicants and their juniors have already been promoted by the respondents. We, therefore, reject the contention of the respondents and hold that the respondents have not fully complied with the directions given by the Tribunal in OA No. 795/1995 and are required to be further directed to convene the review DPC for promotion of the applicants to the post of SPA(PS) and if found suitable by the review DPC, to promote them from the date their juniors i.e. private respondents were promoted to this post.

6. For the foregoing reasons, we allow the O.A. and direct the respondents to convene a review DPC to consider the applicants for promotion to the post of SPA(PS) and if found suitable to extend the promotion to the applicants from the date their juniors i.e. private respondents were

post of promoted to the SPA(PS) with all consequential monetary benefits but the monetary benefits shall stand restricted to one year of difference of arrears prior to the filing of this O.A. This exercise be completed within four months from the date of receipt of a copy of this order.

7. With the above directions, the O.A. stands allowed with cost.

*A.S. Sanghvi*  
(A.S. Sanghvi)  
Member (Judicial)

*M.P. Singh*  
(M.P. Singh)  
Vice Chairman

/na/

पृष्ठांकन सं ओ/व्या.....जबलपुर, दि.....

परिचय : .....

(1) उक्ति, .....

(2) अन्वय, .....

(3) प्रत्यक्ष, .....

(4) संश्लेषण, .....

सूचना एवं आवश्यक कार्यवाही हेतु

*S. Paul*  
*B. Dantre*  
*Rajmudas*  
15/5/14

*Fused*  
*10.5.14*