

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.717/2014

Reserved on : 04.05.2016

Pronounced on :19.05.2016

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. Sudhir Kumar, Member (A)**

Ganesh Kumar S/o Ram Dhani,
Assistant (Legal)
[Presently working as Superintendent (Legal) on *ad hoc* basis],
Ministry of Law and Justice,
Legislative Department, Shastri Bhawan,
New Delhi-110011.

... Applicant

(By Advocate : Shri D. K. Sharma)

Versus

1. Union of India through
Secretary, Ministry of Law and Justice,
Legislative Department,
"A" Wing, Shastri Bhawan,
New Delhi-110011.
2. Secretary, Ministry of Finance,
Department of Expenditure,
North Block, Dr. Rajendra Prasad Road,
New Delhi-110011.

... Respondents

(By Advocate : Shri Amit Chawla for Shri H. K. Gangwani)

O R D E R

Justice Permod Kohli, Chairman :

Brief facts leading to the filing of present Application are that the applicant is working as Assistant (Legal) in the pay scale of Pay Band-2 of Rs.9300-34800 (Grade Pay Rs.4600/-) in the Ministry of Law and Justice, Legislative Department, respondent No.1. The recruitment qualification

for the post of Assistant (Legal) is degree in law with three years legal experience. The Sixth Central Pay Commission submitted its report dated 24.03.2008 and recommended structure of emoluments, allowances, conditions of service and other related issues in respect of the Central Government employees. Recommendations of the Pay Commission were accepted vide notification No.1/1/2008-I.C., dated 29.08.2008. As a consequence of acceptance of the recommendations, the Government notified the Rules, namely, Central Civil Services (Revised Pay) Rules, 2008, vide notification GSR 622(E) dated 29.08.2008. These Rules were enforced with effect from 01.01.2006.

2. The First Schedule appended to the Revised Pay Rules, 2008 contains three parts, i.e., Part-A prescribing revised Pay Bands and Grade Pays for posts carrying present scales in Groups 'A', 'B', 'C' and 'D' except posts for which different revised scales are notified separately; Part-B containing revised pay scales for certain common categories of staff; and Part-C containing revised pay structure for certain posts in Ministries, Departments and Union Territories. The applicant's post, i.e., Assistant (Legal) in the Ministry of Law and Justice is shown in Section-II of Part-C in the pre-revised pay scale of Rs.6500-10500 revised to Rs.7450-11500 in the corresponding Pay Band-2 with Grade Pay Rs.4600/-. The applicant being a law graduate, this scale has been prescribed for him in view of para (iii) of Section-I of Part-C. Same is reproduced hereunder:

“(iii) Posts in the scale of Rs.6500-10500 carrying minimum qualification of either Degree in Engineering or a Degree in Law should also be upgraded and placed in the scale of Rs.7450-11500 corresponding to the revised pay band PB-2 of Rs.9300-34800 along with grade pay of Rs.4600.”

A similar stipulation exists in para (iii) of Section-I of Part-B, which *inter alia* prescribes revised pay scales for certain common categories of staff. Part-B relates to the employees outside the Central Secretariat Service, whereas Part-C pertains to the employees working in Central Secretariat Service, including Ministry of Law and Justice.

3. The applicant is aggrieved of office memorandum dated 16.11.2009 issued by the Ministry of Finance, Department of Expenditure, Implementation Cell, whereby the Assistants in the Central Secretariat Service, Armed Forces Headquarter Service, Indian Foreign Service “B” and Railway Board Secretariat Service and Personal Assistants (PAs) in their counterpart Stenographer Services, have been placed in the Grade Pay of Rs.4600/- w.e.f. 01.01.2006. The contention of the applicant is that the Sixth Pay Commission recommended pay scale of Rs.6500-10500 in Pay Band-2 with Grade Pay of Rs.4200/- for the Assistants who do not possess degree in law, whereas Grade Pay of Rs.4600/- in Pay Band-2 was recommended for the Assistants (Legal) who possess degree in law, based upon their higher and better qualification, and thus vide the impugned office memorandum dated 16.11.2009 the respondents have tempered with the recommendations of the Pay Commission, and consequently with the Revised Pay Rules notified by the Government vide notification dated

29.08.2008. Based upon the upgradation of the Grade Pay of Assistants bringing them at par with the applicant, he made a representation dated 16.05.2013 to the respondent No.1 seeking further upgradation of the Grade Pay of Assistant (Legal) from Rs.4600/- to Rs.4800/-. This representation has been rejected vide the impugned order dated 19.07.2013 (Annexure A-1).

4. The respondents in their counter have opposed the claim of the applicant, and also defended the order dated 16.11.2009 (Annexure A-4). It is submitted that the pay scale and Grade Pay as recommended by the Sixth Central Pay Commission for the post held by the applicant has not been altered in any manner to his disadvantage or otherwise, and thus he cannot have any grievance in respect of the office memorandum dated 16.11.2009 whereunder the Grade Pay of Assistants working in the Central Secretariat and other Services has been replaced with the Grade Pay of Rs.4600/-. Referring to para 2.2.21 of the recommendations of the Pay Commission, it is stated that general recommendations were made by the Commission for merger of hierarchical pre-revised pay scales of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500 in the Grade Pay of Rs.4200/-. It is further mentioned that the Commission while taking note that the merger will include some posts which presently constitute feeder and promotional grades, recommended that it was not possible to merge the posts due to functional disturbance, and one course of action could be to place pre-revised pay scale of Rs.6500-10500 in the Grade Pay of Rs.4600/- along

with the next higher pay scale of Rs.7450-11500. It is contended on behalf of the respondents that the Commission left it open for the Government to allow higher Grade Pay of Rs.4600/- to the posts which were in the pre-revised pay scale of Rs.6500-10500 as against the Grade Pay of Rs.4200/- recommended in common for the pre-revised scales of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500. From the office memorandum dated 16.11.2009 also it appears that the Assistants who were beneficiaries of the enhancement of the Grade Pay of Rs.4200/- to Rs.4600/- were granted upgradation on the basis of various references received from Administrative Ministries and Departments.

5. The moot question that arises for consideration of the Tribunal is whether the applicant can be said to be aggrieved by the upgradation of Grade Pay of Assistants working in various Ministries and are governed by Part-C. Admittedly, the applicant belongs to a different Service and Assistants belong to different Services. Neither they have common seniority nor common promotional avenues. Both the Services are unrelated. The pay scale and Grade Pay as recommended by the Sixth Central Pay Commission for the post held by the applicant has not been altered in any manner whatsoever. Merely because another section of employees have been granted some financial upgradation bringing them at par with the pay scale/Grade Pay of the applicant, though belonging to different Services, the applicant cannot have any grievance, much less a right or claim to seek further upgradation of his emoluments/pay. The

Grade Pay of Rs.4800/-, for which the applicant is attempting to lay his claim, is attached to the promotional post of Superintendent (Legal) in the hierarchy of the Service to which the applicant belongs. Promotion can be granted on the basis of seniority and consideration through the prescribed mode, i.e., Departmental Promotion Committee. The applicant's seniority is not known, nor is he claiming to have been considered by any competent authority for promotion. As a matter of fact, the applicant is seeking his own financial upgradation merely because Assistants who do not possess the qualification of degree in law have been granted the benefit of the Grade Pay at par with the applicant. The applicant is not holding any promotional post over the Assistants in the hierarchy of the Service. His demand and claim is totally unjustified and without any legal basis.

6. We fail to understand how the applicant can claim higher Grade Pay on upgradation of the Grade Pay of Assistants working in Central Secretariat and other Services as notified vide office memorandum dated 16.11.2009.

7. This Application is totally misconceived and is liable to be dismissed. We order accordingly. No costs.

(Sudhir Kumar)
Member (A)

(Permod Kohli)
Chairman

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