

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A No.351/2012

**Reserved On:07.04.2017
Pronounced On:11.04.2017**

Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Dr. Brahm Avtar Agrawal, Member (J)

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13. Smt. Usha Vij, Astt, Age:59 Yrs..
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15. Sh. Satpal Singh, Asstt, Age:57 Yrs..
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16. Sh. Naresh Kumar, Asstt, Age:55 Yrs..
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18. Sh. Mohinder Kumar, Asstt, Age:57 Yrs..
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19. Sh. S.C. Yadav, Asstt, Age:54 Yrs..

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20. Sh. S.K. Arora, Asstt, Age:58 Yrs..
S/o Shri Ram Nath
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21. Sh. Raman Kumar, Asstt, Age:57 Yrs..
S/o Sh. M.L. Verma
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23. Smt. Suman Bajaj, Asstt, Age:57 Yrs..
W/o Sh. S.K.Bajaj
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24. Sh. Dilbar Singh, Asstt, Age:55 Yrs..
S/o Sh. Bhagat Singh
42, Sector-5, R.K.Puram,
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25. Smt. Aruna Thapar, Steno 'C', Age:49 Yrs..
W/o Sh. R.K. Thapar
884, Laxmi Bai Nagar,
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26. Smt. Sarita Nagpal Steno 'C', Age:50 Yrs..
W/o Shri Rajesh Nagpal
H-32, Near Gobind Pura, Chander Nagar,
Delhi.
27. Smt.Anita Anand, Steno 'C', Age:48 Yrs..
W/o Sh. Pawan Kumar
14/16-B, Tilak Nagar, New Delhi.
28. Sh. Virender Singh, Steno 'C', Age:43 Yrs..
S/o Shri Sohan Pal
98-B, Pocket A-2, Mayur Vihar, Phase-III,
Delhi-96.
29. Sh. Madan Lal Hasija, Steno 'C' Age:55 Yrs..

S/o Sh.Milawa Ram Hasija
WZ-22, Krishna Puri, Gali No.4, Tilak Nagar,N.D.

30. Smt. Jyoti Mehta, Asstt. Age:60 Yrs..
W/o Sh. Subhash Mehta
8/33, Tilak Nagar, New Delhi-110018. ...Applicants

(By Advocate: Shri Susheel Sharma)

Versus

1. Union of India
Through the Secretary,
Ministry of Women and Child Development,
Shashtri Bhawan,
New Delhi.
2. Director,
Ministry of Women and Child Development,
Shashtri Bhawan,
New Delhi.
3. Central Social Welfare Board
Through the Chairperson,
Dr. Durgabai Deshmukh
Samaj Kalyan Bhavan,
B-12, Qutab Institutional Area,
New Delh-110016.
4. Secretary,
Ministry of Finance, Deptt. of Expenditure,
North Block,
New Delhi. Respondents

(By Advocate:Shri M.K. Bhardwaj)

ORDER

By Hon'ble Mr. P.K. Basu, Member (A)

The applicants are working as Assistants and Stenographers in Central Social Welfare Board (CSWB) under the Ministry of Women and Child Development, Government of India. Vide letter dated 11.02.1976, the Department of Social Welfare had circulated the

Central Social Welfare Board (Service) Rules, 1976, conveying the concurrence of the Ministry of Finance. Rule 7 provides as follows:-

“7. (a) The employees of the Board may draw pay as specified in Fundamental Rules and Supplementary Rules, as made applicable to Civil Servants of the Government of India.

(b) The employees of the Board may draw such scales of pay as specified in the schedule referred to in Rule 11. For the purpose of drawing and disbursement of pay, the Secretary of the Board shall be the Head of Office. Provided, however, the Board, may not sanction special pay, except with the previous consent of the Government.

(c) The Board may, with the prior approval of the Government, revise the scales of pay of the employees of the Board, to keep these on par with the scales of pay drawn by similar categories of employees of the Government of India”.

2. Learned counsel for the applicants first of all contends that it would be clear from these rules that they have to be granted the same pay scale as drawn by similar categories of employees of the Government of India.

3. It is further contended that all along, the applicants pay scale have been at par with their counter-parts belonging to the CSS (for Assistants) and CSSS (for Stenographers). This continued upto the 5th CPC when both drew the pay scale of Rs.5500-9000.

4. After the 6th CPC recommended the merger of three pay scales, i.e., Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500 into the corresponding new Pay Band of Rs.9300-34800 with Grade Pay of

Rs.4200/-, they have all been granted this Pay Grade and Grade Pay. However, the Grade Pay of Assistants and Stenographers in the CSS and CSSS were later on hiked to Rs.4600/-, but this was not granted to the applicants on the ground that CSWB is an autonomous body and the applicants do not belong to CSS and CSSS.

5. The respondents issued the following clarification vide letter dated 23.05.2011:

“I am directed to refer to DR. (Mrs.) Kiran Chadha, the then Executive Director's DO letter No.4-10/88-Prs./516 dated 05.07.1990 addressed to JS (VJ) on the above mentioned subject and to inform that CSWB's proposal for grant of grade pay of Rs.4600 to the Assistants and Steno 'C' of CSWB has not been agreed to by Department of Expenditure, Ministry of Finance on the following grounds:-

- (1) Department of Expenditure's OM dated 13.11.2009 is applicable to those posts which were in the pre-revised scale of Rs.6500-10500 as on 1.1.2006 and were initially granted Grade Pay of Rs.4200 in PB-2 and have been placed in the GP of Rs.4600. Further their OM dated 16.11.2009 is applicable for the Asstts./Stenographers working in CSS/CSSS/AFHQ, IFS(B) & RBSS.
- (2) In case of autonomous organisations like CSWB, only the normal replacement scale of the pre-revised pay scale of Rs.5500-9000 (i.e. PB-2) with Grade Pay of Rs.4200/- can be adopted for Assistants/Sr. Stenographers, in terms of their OM dated 30.09.2008”.

6. The applicants have made the following prayers in this OA:-

“(i) To quash and set aside the impugned orders No.F.No.1-1/2010-CSWB dated 23.05.2011 passed by the respondent No.2 true copy of which are available as Annexure A-1 to this OA.

(ii) To direct the respondent(s) to grant the applicants the Grade Pay of Rs.4600/- from the date their counter-parts in the CCS/CSS Cadre have been given.

(iii) To release the arrears of difference in Grade Pay that would accrue after grant of retrospective Grade Pay of Rs.4600/- to the applicants from the date(s) their counter-parts in the CCS/CSS Cadre have been given.

(iv) To award 12% interest on the arrears that would have accrue to the applicants, after grant of higher Grade Pay retrospectively from the date the arrears become due till the same are physically released to the applicants.”

7. The main ground for seeking enhancement of Grade Pay of Rs.4600/- is historical parity. It is further stated that the applicants prayer is squarely covered by order dated 19.02.2009 passed by this Tribunal in **OA No.164/2009 – S.R. Dheer and Others Vs. U.O.I. and Others.**

8. Lastly, it is stated that the Executive Committee of the CSWB in its 167th meeting held on 10.03.2011 has already passed and approved the Grade Pay of Rs.4600/- to the applicants.

9. The respondents in their reply have stated that since CSWB is an autonomous body under the Ministry of Women & Child Development, Rule 7(a) provides that the employees of the Board may draw pay as specified in Fundamental Rules and Supplementary Rules, as made applicable to Civil Services of the Government of India. However, as per Rule 13(b), the Committee shall reserve for the decision of the Government regarding all proposals relating to emoluments structure, i.e., adoption of pay scales, allowances and revision thereof.

10. It is further argued in the reply filed by the respondents that the Government of India had decided that Assistants belonging to four organized Headquarter Services, i.e. CSS, AFHQ Service, IFS (B) and RBSS and to Personal Assistants in their counterpart Stenographer Services be granted the Pay Grade of Rs.4600/- due to the reasons that there is an element of direct recruitment to the post and that too, through an all India Competitive Examination and for reasons clarified in the respondents letter dated 23.05.2011.

11. As per the Department of Expenditure's OM dated 30.09.2008, which pertains to implementation of revised pay scale, the normal replacement scale was to be adopted in respect of autonomous organisation and the normal replacement pay scale of Rs.5500-9000, which was the pay scale of the applicants was, therefore, to be revised to Rs.9300-34800 with Grade Pay of Rs.4200/-.

12. In short, the argument of the respondents counsel is that the Government had increased the pay scale of Assistants and Stenographers working in CSS/CSSS, AFHQ Service, IFS (B) and RBSS on the ground that there was an element of direct recruitment through an all India Competitive Examination and also that Rs.4600/- Grade Pay was granted to only those in the pre-revised scale of Rs.6500-10500 and placed in PB-2 with GP of Rs.4200. Therefore, there is no parity between these people and the applicants. In fact, the pre-revised scale also was different. The applicants were in the pre-revised scale

of Rs.5500-9000 whereas their counter-parts in CSS and CSSS were granted the pay scale of Rs.6500-10500.

13. Lastly, it is argued that the Hon'ble Supreme Court in catena of cases held that the matter of determination of pay scale is an executive function to be decided on the advice of expert bodies, such as Pay Commissions and the Tribunal should not normally interfere in that. They have relied upon an order dated 10.11.2014 passed by this Tribunal in **OA No.4254/2012 – Shri Harjeet Singh & Others Vs. U.O.I. & Others**. In the said case the Tribunal had relied upon the judgment passed by the Hon'ble Supreme Court in the case of ***Food Corporation of India and Others Vs. Ashis Kumar Ganguly (2009) 7 SCC 734***.

14. Heard the learned counsels and perused the pleadings as well as the judgments.

15. In this case, it is clear that the ground for parity is not made out for the reasons stated above. The order of this Tribunal in **S.R. Dheer** (supra) also does not apply as that related to CAT PSs and SOs. In **Harjeet Singh** (supra) the applicants were Assistants/Personal Assistants in BPR&D and made the same prayer on the grounds of parity. The applicants therein also had relied on **S.R. Dheer** (supra), but the OA was dismissed. As stated earlier, the Hon'ble Supreme Court has cautioned against Tribunal getting into the exercise of

parity, equivalence of posts etc. and matters pertaining to pay scale determination and leave it to the executive to be decided on the advice of expert bodies/Pay Commissions. In view of judgment of Hon'ble Supreme Court in ***Ashis Kumar Ganguly*** (supra), there is no ground for interference at our level.

16. In view of above, there is no merit in the OA and the same is dismissed. No costs.

(Dr. BRAHM AVTAR AGRAWAL)
MEMBER (J)

(P.K. BASU)
MEMBER (A)

Rakesh