

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

**OA No 1791/2013**

**MA 1441/2013**

**MA 3904/2014**

With

**OA 1792/2013**

**MA 1440/2013**

**MA 3910/2014**

**OA 1795/2013**

**MA 1439/2013**

**MA 3887/2014**

**OA 1796/2013**

**MA 1436/2013**

**MA 3887/2014**

Reserved on : 29.07.2016

Pronounced on: 05.08.2016

**HON'BLE MR.P.K.BASU, MEMBER (A)  
HON'BLE MR.RAJ VIR SHARMA, Member (J)**

**OA 1791/2013**

1. Shri Raj Kumar,  
S/o Shri Risal Singh,  
R/o RZ-10, Vijay Park,  
Shivaji Road, Najafgarh,  
New Delhi-110043  
Working as Private Secretary,  
Ministry of Tourism,  
C-1, Hutmants, Dalhousie Road,  
New Delhi-110011
2. Smt. Sheesh Kaur,  
W/o Shri Rattan Singh Gaur,  
R/o H-381, Nanak Pura,  
Moti Bagh-II, New Delhi-110021  
Working as Private Secretary,  
Ministry of Tourism,  
C-1, Hutmants, Dalhousie Road,  
New Delhi-110011
3. Smt. Nirmala Devi Khanna,  
W/o Shri K.C. Khanna,  
R/o 1632, Vinayak Bhawan,  
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Working as Private Secretary,  
Ministry of Tourism,  
C-1, Hutmants, Dalhousie Road,  
New Delhi-110011
4. Sh. Jagdish Chander  
S/o Shri Parmanand,  
R/o A-731, Sarojini Nagar,  
New Delhi-110023

Working as Private Secretary,  
 Ministry of Tourism,  
 R.No.301, Transport Bhawan,  
 Parliament Street, New Delhi-110011

5. Smt. IIa Basu,  
 D/o Late Sh. M.L.Das,  
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 Working as Private Secretary,  
 Ministry of Tourism,  
 R.No.301, Transport Bhawan,  
 Parliament Street, New Delhi-110001

6. Shri Prasannan,  
 S/o late Shri M.D.S. Nair  
 R/o 190, Sector-2, Sadiq Nagar,  
 New Delhi-110049.  
 Working as Private Secretary,  
 Ministry of Tourism, Transport Bhawan,  
 Parliament Street, New Delhi-110001

7. Shri Madan Lal  
 S/o Late Shri Sukh Chand,  
 R/o H.No. 10, Ist Floor,  
 Type-III, Sector-01,  
 Sadiq Nagar, New Delhi-110049  
 Working as Private Secretary,  
 Ministry of Tourism, Transport Bhawan,  
 Parliament Street,  
 New Delhi-110001

..... Applicants

(By Advocate: Mr. R.N.Singh with Mr. Amit Sinha  
 for Shri R.V.Sinha)

### **VERSUS**

1. Union of India,  
 Ministry of Tourism,  
 Transport Bhawan,  
 New Delhi-110001  
 (Through: Its Secretary)

2. Ministry of Finance,  
 Department of Expenditure,  
 North Block, New Delhi-110001  
 (Through: Its Secretary )

... Respondents

(By Advocate: Mr. M.S. Reen )

### **OA 1792/2013**

1. Sh.Sunder Lal,  
 S/o Late Shri Shiv Dayal Singh,  
 R/o C-86, Minto Road Complex,  
 New Delhi-110002

Working as Assistant Director,  
Ministry of Tourism,  
C-1 Hutmants, Dalhousie Road,  
New Delhi-110011

2. Shri U.S. Mishra  
S/o Shri R.P. Mishra,  
R/o 16B/409, Vasundhara,  
Ghaziabad, UP-201012  
Working as Assistant Director  
Ministry of Tourism, Room no.115,  
Transport Bhawan, New Delhi.
3. Shri Jyotirmoy Biswas  
S/o Late Shri Bhola Nath Biswas  
R/o A-82/F-2, Dilshad Colony,  
Delhi-110095  
Working as Assistant Director  
Ministry of Tourism,  
Transport Bhawan, New Delhi
4. Shri Gopal Hembrom,  
S/o Late Shri P.R. Hembrom,  
R/o 319, Coral Apartment,  
Ramprastha Green, Sector-7,  
Vaishali, Ghaziabad.  
Working as Assistant Director  
Ministry of Tourism,  
Transport Bhawan, New Delhi
5. Shri A.S.Saxena,  
S/of Late Shri C.S. Saxena,  
R/o F-139, Sector-27,  
NOIDA, UP-201301  
Working as Assistant Director  
Ministry of Tourism,  
Transport Bhawan, New Delhi
6. Shri G.D.Bairwa  
S/o Late Shri Dhanna Ram,  
R/o S193, School Block,  
Shakarpur, New Delhi-92  
Working as Assistant Director  
Ministry of Tourism,  
Transport Bhawan, New Delhi
7. Shri Harpal Singh  
S/o Shri Jyothi Prasad,  
R/o Village & PO-Kurri,  
P.S.-Chhaprauli, Distt-Bhagpat,  
Meerut, UP

Working as Assistant Director,  
 Ministry of Tourism,  
 C-1 Hutments, Dalhousie Road,  
 New Delhi-110011 ... Applicants

(By Advocate: Mr. R.N.Singh with Shri Amit Sinha  
 for Shri R.V.Sinha)

**VERSUS**

1. Union of India,  
 Ministry of Tourism,  
 Transport Bhawan,  
 New Delhi-110001  
 (Through: Its Secretary)
2. Ministry of Finance,  
 Department of Expenditure,  
 North Block, New Delhi-110001  
 (Through: Its Secretary ) ... Respondents

(By Advocate: Mr. M.S. Reen )

**OA 1795/2013**

1. Shri Ajit Pal Singh  
 S/o Late Shri Mahendra Pratap Singh,  
 R/o S-1, C-81, Chander Nagar,  
 Ghaziabad-201011.  
 Working as Assistant Director,  
 Ministry of Tourism, R.No. 30,  
 C-1, Hutments, Dalhousie Road,  
 New Delhi-110011
2. Smt. Jisha Ashok,  
 W/o Shri Ashok Balakrishnan,  
 R/o H-701, Mayurdhawaj Apartment,  
 I.P.Ext., Delhi-110 092  
 Working as Assistant Director,  
 Ministry of Tourism, Publicity Division,  
 Transport Bhawan, Parliament Street,  
 New Delhi-110001
3. Smt. Sudeshna Ramkumar,  
 D/o Shri Dilip Kumar Bagchi,  
 R/o 32, Savarkar Apartments,  
 I.P.Extension, New Delhi-110092  
 Working as Assistant Director,  
 Ministry of Tourism, C-1, Hutments,  
 Dalhousie Road, New Delhi-110011
4. Shri Braja Behari Mukherjee,  
 S/o Late Shri Ajit Behari Mukherjee,  
 R/o 8/1B/1 Creek Lance,  
 Kolkata-700014

Working as Assistant Director,  
India Tourism, 4, Shakespeare Sarani,  
Kolkata-700071

5. Shri C.Gangadhar,  
S/o Shri Chilka Muthenna,  
R/o 503/4, A-Wing, Shri Adinath Tower,  
Nancy Colony, ST Depot, Savarkar Nagar,  
Sant Gyaneshwar Marg,  
Borivili (East), Mumbai-400066  
Working as Assistant Director,  
India Tourism, 123, M.K.Road,  
Churchgate, Mumbai-400020.
6. Shri Jagdeep Thombare,  
S/o Vithalrao Thombare,  
R/o 904/7, Vihang Shantivan,  
Mujiwada, Thane West, Mumbai,  
Working as Assistant Director,  
India Tourism, 123,M.K.Road,  
Churchgate, Mumbai-400020
7. Smt. Shobha Kumar,  
W/o Shri Sasi Kumari Pillai  
R/o 301,Anuradha Shankeshwar Krupa Society,  
Birla College Road, Kalyan West,  
Mumbai  
Working as Assistant Director,  
India Tourism,123, M.K.Road,  
Churchgate, Mumbai-400020.
8. Smt. Bhavana Shinde,  
W/o Shri Nitin Shinde,  
R/o 604, Bldg 13, Datta Parag CHS,  
Azad Nagar, Apna Bazar Lane,  
Andheri West, Mumbai-400053  
Working as Assistant Director,  
India Tourism, 123, M.K.Road,  
Churchgate, Mumbai-400020.
9. Smt. Bidisha Sengupta,  
D/o Late Shri Santosh Kumar Das,  
R/o K-2107, C.R.Park (Ist Floor),  
New Delhi-110019  
Working as Assistant Director,  
Ministry of Tourism, Transport Bhawan,  
Sansad Marg, New Delhi-110001
10. Sh.Rajendra Kumar Mishra  
S/o Late Shri Mata Sewak Mishra,  
R/o MB-137, New Indira Colony,  
Burhanpur, MP-450331  
Working as Assistant Director,  
India Tourism, 301, 3<sup>rd</sup> Floor,  
Palika Plaza, Indore, MP.

11. Shri Mrituanjay Mishra  
S/o Shri Late B.M.Mishra,  
R/o D-1/85, Janakpuri,  
New Delhi-110058  
Working as Assistant Director,  
Ministry of Tourism, India Tourism,  
Varanasi, Uttar Pradesh.
12. Smt. Bharti Kashyap Sharma,  
D/o Sh.M.c.Sharma,  
R/o F-161 (FF),Sec-57 SL-2,  
Gurgain, Haryana  
Working as Assistant Director  
Ministry of Tourism, Transport Bhawan,  
Sansad Marg, New Delhi-110001
13. Smt. Mamta Kapure,  
S/o Sh. R.M.Mehta,  
R/o UU-43, Pitampura,  
New Delhi-110034  
Working as Assistant Director  
Ministry of Tourism, Transport Bhawan,  
Sansad Marg, New Delhi-110001
14. Smt. Meenakshi Vashist,  
W/o Sh. Sanjiv Vasisht,  
R/o E-107, Sushant Lok-1,  
Gurgaon,  
Working as Assistant Director, OM & Hosp.,  
Ministry of Tourism, Transport Bhawan,  
Sansad Marg, New Delhi-110001
15. Ms. Shovana Sarangi,  
D/o Late Sh.R.N.Sarangi,  
R/o Flat No.1059, Rajnigandha Apartments,  
Plot No.4, Sector-10, Dwarka,  
New Delhi-110075.  
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Ministry of Tourism, C-1 Hutments,  
Dalhousie Road, New Delhi-110011
16. Smt. Sandhya Haridas,  
D/o Sh. T.Haridas,  
R/o H.No.43, B7 Extn.,  
Safdarjung Enclave, New Delhi.  
Working as Assistant Director  
Ministry of Tourism,  
C-1 Hutments, Dalhousie Road,  
New Delhi-110011
17. Sh.Sunil Kumar Lal Gond,  
S/o Shri Bharat Lall,  
R/o Flat No. 80 (F), New (R) Block,  
DDA Flats, Dilshad Garden,  
Delhi-110055

Working as Assistant Director,  
Ministry of Tourism,  
C-1 Hutments, Dalhousie Road,  
New Delhi-110011.

18. Ms. Sushella Tigga,  
D/o Shri T.Tigga,  
R/o Aashirwad House,  
Dharam Karan Road, Ameerpet,  
Hyderabad, A.P  
Working as Assistant Director  
India Tourism, Balyogi Paryatak Bhawan,  
Greenlands, Begumpet,  
Hyderabad, A.P.
19. Sh.Sanjiv Kumar Vashist,  
S/o Shri Madan Lal Vashist,  
R/o E-107, Sushant Lok-1,  
Gurgaon, Haryana  
Working as Assistant Director,  
Ministry of Tourism, C-1 Hutments,  
Dalhousie Road, New Delhi-110011
20. Ms. Monisha Satoeya,  
D/o Shri K.Lal,  
R/o G-08, Brahma Apartments,  
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Dwarka, New Delhi-110075  
Working as Assistant Director,  
India Tourism, 191, The Mall,  
Agra-281001
21. Ms. Kanchan K.Kukreja,  
W/o Shri Vikas Kukreja,  
R/o 163F, BHEL Township,  
Sector-17, Noida-201301, U.P  
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India Tourism, 88, Janpath,  
New Delhi.
22. Shri I.R.V.Rao,  
S/o Isthalker Venkat Bhanudas Rao,  
R/o B-3, Kohinoor Plaza, Sara Towers,  
Emerald City, Shivaji Nagar,  
Garkheda, Aurangabad, Maharashtra  
Working as Assistant Director  
India Tourism, TRC Building,  
MTDC Holiday Resort, Station Road,  
Aurangabad.
23. Shri Ramkumar Vijayan,  
S/o Shri K.E. Vijayan,  
R/o 32, Savarkar Apartments,  
I.P.Extension, New Delhi-110092

Working as Assistant Director,  
Ministry of Tourism, Transport Bhawan,  
Sansad Marg, New Delhi-110001

24. Sh. Rajendra Kumar Suman,  
S/o Shri Dasai Rai,  
R/o Flat No.29, Block F/2,  
CGS Qrs., Naraeldanga,  
Kolkatta-700054  
Working as Assistant Director,  
India Tourism, Kolkata.

25. Sh. Jitendra Jadhav,  
S/o Sh. Shankarrao Rambhaji Jadhav,  
R/o 3<sup>rd</sup> Floor, C-23, Type-C,  
Govt. Quarters, Near Ganesh Temple  
and College of Architecture Altinho,  
Panjim, Goa  
Working as Assistant Director,  
India Tourism, Goa. ... Applicants

(By Advocate: Mr. R.N.Singh with Mr. Amit Sinha  
for Shri R.V.Sinha )

### **VERSUS**

1. Union of India,  
Ministry of Tourism,  
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New Delhi-110001  
(Through: Its Secretary)

2. Ministry of Finance,  
Department of Expenditure,  
North Block, New Delhi-110001  
(Through: Its Secretary ) ... Respondents

(By Advocate: Mr. M.S. Reen )

### **OA 1796/2013**

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Ministry of Tourism,  
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New Delhi-110011

2. Smt. Sarla Devi,  
W/o Shri Ram Kumar,  
R/o R-125, Vakil Colony,  
Sector-12, Pratap Vihar,  
Ghaziabad, U.P.

Working as Assistant, Ministry of Tourism,  
C-1 Hutmants, Dalhousie Road,  
New Delhi-110011

3. Smt. Banaja Behera,  
W/o Shri Sushil Kumar Singh,  
R/o Y-343, Sarojini Nagar,  
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R.No.115, Transport Bhawan,  
Parliament Street,  
New Delhi-110001
4. Sh. Sharad Saxena,  
S/o Late Shri S.D.Saxena,  
R/o A-1/B-90, Janakpuri,  
New Delhi-110058  
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Transport Bhawan, Parliament Street,  
New Delhi-110011
5. Sh. Rakesh Kumar,  
S/o Shri Umesh Prasad,  
R/o A-250, DDA Janta Flats,  
Kalkaji, New Delhi-19  
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Room No. 115, Transport Bhawan,  
Parliament Street, New Delhi-110001
6. Ms. Gargi Gupta,  
D/o Shri G.K.Gupta,  
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Vasant Vihar, New Delhi-57  
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Room No. 115, Transport Bhawan,  
Parliament Street, New Delhi-110001
7. Smt. Kiran Sharma,  
D/o Late Shri J.C.Sharma,  
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Room No. 115, Transport Bhawan,  
Parliament Street, New Delhi-110001
8. Shri Ravinder,  
S/o Shri Dilbagh Singh  
R/o H.No.153, Village: Rasulpur,  
Mundka, Delhi-110081  
Working as Assistant, Ministry of Tourism,  
Room No. 115, Transport Bhawan,  
Parliament Street, New Delhi-110001
9. Shri Vivek Jasra,  
S/O Late Shri T.C. Jasra,  
R/o 64, Chinar Apartment, Rohini,  
Sector-9, Delhi-110085

Presently working as Accounts Officer  
 (on Deputation) Ministry of Tourism,  
 C-1 Hutmants, Dalhousie Road,  
 New Delhi-110001

10. Shri Ishwar Dayal,  
 S/o Late Shri Kishan Lal,  
 R/o J-717, Mandir Marg,  
 Kali Bari, New Delhi-110001  
 Working as Assistant, Ministry of Tourism,  
 C-1 Hutmants, Dalhousie Road,  
 New Delhi-110011
11. Shri P.S. Gautam  
 S/o Shri T.N.Singh,  
 R/o A2/269, Janakpuri,  
 New Delhi-110058  
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 C-1 Hutmants, Dalhousie Road,  
 New Delhi-110011
12. Shri Brijesh Gautam,  
 S/o Shri Ram Swarup,  
 R/o C-112, Hanuman Road,  
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 Transport Bhawan, Parliament Street,  
 New Delhi-110001.
13. Smt. Grace Kujur,  
 D/o Late Shri Egnus Lakra,  
 R/o 315, Coral Apartment,  
 Ramprastha Green Sector-7,  
 Vaishali, Ghaziabad, Uttar Pradesh  
 Working as Assistant, Ministry of Tourism,  
 Transport Bhawan, Parliament Street,  
 New Delhi-110001. ... Applicants

(By Advocate: Mr. R.N.Singh with Mr. Amit Sinha  
 for Shri R.V.Sinha )

### **VERSUS**

1. Union of India,  
 Ministry of Tourism,  
 Transport Bhawan,  
 New Delhi-110001  
 (Through: Its Secretary)
2. Ministry of Finance,  
 Department of Expenditure,  
 North Block, New Delhi-110001  
 (Through: Its Secretary ) ... Respondents

(By Advocate: Mr. M.S. Reen )

**Q R D E R****Hon'ble Mr.P.K.Basu,Member (A) :**

OA numbers 1791/2013, 1792/2013, 1795/2013 and 1796/2013, all pertain to the same issue in which Office Memorandum dated 15.05.2012 issued by the Ministry of Tourism has been challenged. By this OM, the respondents have rejected the representation received from Private Secretaries / Assistant Directors and Assistants for upgradation of Grade Pay at par with officers of Central Secretariat Service/Central Secretariat Stenographer Service (CSS/CSSS). In OA 1791/2013, the applicants are Private Secretaries. In OA nos. 1792/2013 and 1795/2013 the applicants are Assistant Directors and in OA no. 1796, the applicants are Assistants. In concrete terms, they are demanding the following:-

- i. Grade Pay of Rs.4600 in Pay Band-2 for Assistants at par with CSS.
- ii. Grade Pay of Rs.4800 and non- functional Grade pay of Rs. 5400 after completion of four years of regular service for Assistant Directors and Private Secretaries at par with Section Officers of CSS.

2. Learned counsel for the applicants states that another OA, namely, OA 1794/2013 -**Ms. Anusuya Rawat and Others Vs Union of India and Others** was filed by Senior Stenographers for grant of pay at par with CSSS. But during the pendency of the OA, the respondents granted them the Grade Pay of Rs.4600 in Pay Band-2.

3. For convenience, we take up the facts of OA no. 1791/2013 to decide the issue.

4. In OA 1791/2013 filed by Private Secretaries, it is stated that they have been historically at par with Private Secretaries of CSSS and both were in the pay scale of Rs.6500-10500/- before Sixth Central Pay Commission (6<sup>th</sup> CPC). It is stated that the feeder post of the post of Private Secretary in CSSS and Ministry of Tourism is the same i.e. Personal Assistant/Senior Stenographer and the method of recruitment, educational qualifications, nature of work, duties and responsibilities of both the cadres are the same. But vide Ministry of Finance Notification dated 29.08.2008, the Private Secretaries of CSSS were granted the Grade Pay of Rs.4800/- and Rs.5400/- after 4(four) years of regular service and those in Ministry of Tourism were granted only Grade Pay of Rs.4600/-.

5. It is stated that the footnote below Sl.No.1 of Part B Section II of Notification dated 29.08.2008 provides as under:-

"This scale shall be available only in such of those organizations/services which have had a historical parity with CSS/CSSS, Services like AFHQ/S AFHQ/SSS /RBSS and Ministerial/Secretarial posts in Ministries/Departments organizations like MEA, Ministry of Parliamentary Affairs, CVC, UPSC, etc. would therefore be covered."

In view of the above note, it is argued that since there was historical parity between CSS/CSSS and Ministry of Tourism post and also the fact that the note states that the posts in Ministries/Departments etc. would be covered by this, there is no

way that the Pay Grade and Grade Pay granted to CSS/CSSS can be denied to applicants.

6. Our attention was also drawn to para 7.44.6 (Annexure A-4) of the 6<sup>th</sup> CPC report in which 6<sup>th</sup> CPC had recommended as under in respect of Private Secretaries working in Ministry of Tourism:

"7.44.6..The non-functional scale of Rs.8000-13500/-given to PS of CSSS has been demanded for PS (Gazetted Group 'B'). The Commission is separately recommending parity of this category with that of CSSS/CSS. This will address the demand of the administrative Ministry. No specific recommendation is therefore necessary."

7. Learned counsel for the applicants also drew our attention to the minutes of Anomaly Committee to consider the up-gradation of pay scale of Senior Stenographer and Private Secretary in the Ministry of Tourism (Annexure A-3) in which the Anomaly Committee had recommended the following for consideration of the Ministry of Finance:-

"(i) Grant of Grade Pay of Rs.4600/-for Sr. Stenographers of this Ministry in place of existing Grade pay of Rs.4200/-

(ii). Grant of Grade Pay of Rs.4800/- for PS of this Ministry in place of the existing Grade Pay of Rs.4600/- with the non-financial Grade Pay of Rs.5400/-on completion of four years of regular service in the grade w.e.f. 1.1.2006 on the pattern of PS of CSSS."

8. It is stated that in the case of Senior Stenographers, the recommendation has actually been implemented by the Government and they have been granted Grade Pay of Rs.4600/- vide order dated 12.10.2015. However, this was

OA Nos 1791/2013, 1792/2013, 1795/2013 & 1796/2013 granted only to 16 posts of Senior Stenographers which is stated to be existing in the Secretariat Organization of the Department of Tourism holding that there was parity between the 16 posts of Secretariat of Department of Tourism with Personal Assistant of CSSS prior to 01.01.2006 since beginning. However, the higher Grade Pay of Rs.4600/- was not made applicable to any post existing in attached offices/ subordinate offices/ Autonomous bodies of the Department of Tourism. In fact, it is pointed out that since the post of Senior Stenographer is in feeder grade of Private Secretary, this has in fact, disturbed the cadre structure as both the basic grade and the promotion grade are now drawing the same Grade Pay.

9. It is further stated by learned counsel for the applicants that the department has not implemented the recommendation of the Anomaly Committee with respect to PSs. In fact, learned counsel for the applicants laid lot of stress on the fact that the proposal cleared by the Anomaly Committee headed by Senior Officer was rejected at the level of Under Secretary, Department of Expenditure which is against the propriety and procedure for normal disposal of business. In fact, in this regard, he stated that in the case of Senior Stenographer, when the matter was referred to Department of Finance (Expenditure), approval was granted by the Secretary (Expenditure). It is argued that this further shows that rejection at the level of Under Secretary in their case was improper and should be ignored.

10. Learned counsel for the applicants drew our attention to Annexure A-1 (in OA 1796/2013) which are the Recruitment Rules (RRs) notified in 1964 for Class II posts in which for Assistants/Senior Stenographers, it states that the educational and other qualifications required for direct recruit shall be the same as for Assistants of CSS/Stenographers in CSSS. In Col.10 the same Rule, the method of recruitment (75% DR + 25% promotion) is indicated for the two posts which it is stated is the same as for CSS/CSSS. We quote this below:-

Name of Post	Method of rectt. whether by direct rectt. or by deputation/transfer & percentage of the vacancies to be filled by various methods.
1	10
Assistant	<p>(1) 75% shall be filled by direct recruitment on the results of the Assistant's Grade Examination conducted by the U.P.S.C.</p> <p>(2) 25% by promotion on the basis of seniority subject to rejection of the unfit.</p>
Senior Stenographers	<p>(1) 75% shall be filled by direct recruitment on the results of the Stenographers Examination conducted by the U.P.S.C.</p> <p>(2) 25% by promotion on the basis of seniority, subject to rejection of the unfit.</p>

11. Learned counsel also referred to the RRs for CSS of 2009 in which "Ministry" has defined as follows:-

"(o) Ministry" means a Ministry in the Government of India and includes a Department of a Ministry or other Offices specified in columns (2), (3) and (4) of the First Schedule."

It is, therefore, stated that the Ministry of Tourism is also Ministry in the Government of India and, therefore, footnote mentioned at para 5 above has to apply.

12. It was further argued that OM dated 16.11.2009 of Department of Expenditure by which Grade Pay of Rs.4600 in Pay Band-2 was granted to Assistants and PAs in CSS, in para 4 states as follows:-

'...However, one of the reasons due to which Assistants of Central Secretariat are being granted grade pay of Rs.4600 is the fact that there is an element of direct recruitment to the post and that too, through an All-India Competitive Examination..."

13. It is stated that in the case of Ministry of Tourism also, for the post held by the applicants, there is an element of direct recruitment through an All India Competitive Examination and, therefore, the Grade Pay of Rs.4600 should also apply.

14. In regard to Assistant and Assistant Director, learned counsel for the applicants states that the Anomaly Committee had recommended as follows in its meeting held on 3.02.2012:-

'Accordingly, the committee has made following recommendations for consideration of the Ministry of Finance, Department of Expenditure:-

- (i). Grant of Grade Pay for Rs.4600/-for Assistant of this Ministry w.e.f. 1.1.2006 in place of the existing Grade pay of Rs.4200/- on the pattern of Central Secretariat Service.
- (ii) Grant of Grade Pay of Rs.4800/- for Assistant Director of this Ministry in place of existing Grade Pay of Rs.4600/- with the non-functional Grade Pay of 5400/- on completion of four years of regular service in the grade w.e.f. 1.1.2006 on the pattern of Central Secretariat Service."

15. Learned counsel for the applicants relied on the following judgments:-

"(1). Order / judgment dated 19.02.2009 of CAT,PB, New Delhi in OA No. 164/2009 titled "S.R.Dheer & Ors Vs. UOI & Anr."- This matter was filed by CAT employees seeking parity with CSS/CSSS and the OA was allowed on the ground of historical parity. Whether or not, on the issue raised, the Tribunal should interfere in such matters, the Tribunal held that there has been unreasonableness and accepted recommendations have not been followed and applied to the applicants and thus there was enough ground for interference.

(2). Order/judgment dated 19.02.2010 of CAT, PB, New Delhi in OA No.3052/2009 titled "Sudesh Kumar & Ors. Vs. UOI & Ors"- Again in this, PSs and PAs working in AIIMS sought parity with CSSS and the OA was allowed on the ground of parity and also that the claim of the applicants was found in pari-materia with the case of PSs and PAs in the CAT.

(3) Order/judgment dated 6.9.2013 of a DB of Hon'ble Delhi High Court in WP (C) No.116/2013 titled "Sh.Kaushik Paik & Ors Vs. UOI & Ors"- This was a matter pertaining to Indian Coast Guard Organization. Applicants who were LDCs, Assistants and Stenographers in the Indian Coast Guard Organization sought parity with CSS/CSSS. The claim of the applicants was rejected by this Tribunal which was under challenge in this Writ and the Writ was allowed.

(4) Order/judgment dated 24.9.2014 of a DB of Hon'ble Delhi High Court in WP (C) 4606/2013 titled "D.G.O.F. Employees Association & Anr. Vs. UOI & Ors- Again, challenge was to the order passed by the Tribunal in OA No.39/2011 rejecting the claim of the applicants for parity with CSS/CSSS. The Writ was allowed and Assistants working in Ordinance Factory were allowed the parity with CSS/CSSS, Army Headquarters, UPSC, CAT, MEA, Ministry of Parliamentary Affairs, etc.

(5) Order/judgment dated 25.4.2013 of Hon'ble High Court of Delhi in WP (C) No.21357-59/2005, etc.etc., titled "UOI & Ors Vs. J.C.Gonsalvez & Ors, etc. etc."- This was not a question of parity but whether the Government can selectively make applicable the recommendations of the 5<sup>th</sup> CPC to some and deny the same to a few identically situated persons and the Hon'ble High Court held that the answer has to be '**NO**'.

(6) Order/judgment dated 5.12.2014 of this Hon'ble Tribunal in OA No.2206/2013 titled 'Narinder Singh Puria Vs. UOI & Anr.'- This OA had been filed by Accountants, a Group 'B' Gazetted post in the office of Ministry of Law and Justice seeking parity with Assistants Grade Pay in CSS. The OA was allowed.

(7) **Official Liquidator Vs. Daya Nand & Ors, 2008**

(10) SCC1. This is cited to emphasize on judicial discipline of following Coordinate Bench orders.

16. The primary argument of the learned counsel for respondents is that the post of Private Secretary in Ministry of Tourism belongs to the staff outside the Secretariat and the 6<sup>th</sup> CPC had recommended the Grade Pay of Rs.4600 and 4800 and after 4 years 5400 will be applicable to Secretariat staff and not to staff outside the secretariat. It was further clarified that now PSs have been granted the Grade Pay of Rs.4600/- as they were in the pre-revised pay scale of Rs.6500-10500. Therefore, the anomaly between Senior Stenographers and PSs also no longer exists.

17. It is further argued that Assistants/Senior Stenographers in Ministry of Tourism who were in the pre-revised scale of Rs.5500-9000 are not covered by the Department OM dated 16.11.2009 and have been rightly given the Grade Pay of Rs.4200 in PB-2. The promotional post of Assistant is Assistant Director/Manager, which is in the grade pay of Rs.4600 in PB-2. Therefore, the vertical hierarchy would be disturbed if the grade pay of the post of Assistants/Senior Stenographer is upgraded to GP of Rs.4600. It is further stated that the 6<sup>th</sup> CPC vide para 7.44.5 had observed regarding Stenographer (Non gazetted Group B) that:

"Higher scale of Rs.6500-10500 has been sought for the posts of Assistant (Non-Gazetted Group B) and Sr. Stenographer (Non-Gazetted Group B) which are presently in the scale of Rs.5500-9000/-. The Commission is separately recommending merger of the pay scales of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500. No specific recommendation is, therefore, necessary in this regard."

It is stated that those in pre-revised **scale** of 5000-8000, 5500-9000 and 6500-10500, post merger are all in PB-2 with Grade Pay Rs.4200. Only those **posts** which were in 6500-10500 have been granted PB-2+ Grade Pay Rs.4600.

18. The learned counsel for the respondents further stated that as per RRs for Private Secretaries a total of 8 posts of PS exists under the Directorate of Tourism and it is not a part of the CSSS. It is further argued that the pay scale of Rs.8000-13500 was granted to PSs of CSSS in 2005 as part of cadre restructuring with the approval of the Government w.e.f 3<sup>rd</sup> October, 2003. Further, in 2006, the Government decided to provide Non-Functional scale of Rs.8000-13500 to the regular Private Secretaries of CSSS w.e.f. 1st January, 1996 on notional basis with actual benefit on account of such re-fixation of pay with effect from 3<sup>rd</sup> October, 2003. The two tier pay structure i.e. GP of Rs.4800 in PB-2 and Rs.5400 in PB-3 was granted to Private Secretaries of CSSS on the basis of a specific recommendation of Sixth CPC ( para 3.1.9).

19. It is further argued by learned counsel for the respondents that now since the Seventh CPC has also given its recommendations which have been implemented, a deviation from the accepted recommendation of the Sixth CPC at this juncture would not be appropriate and would have wider repercussions.

20. Learned counsel for the respondents also placed before us order dated 16.01.2015 in OA Nos.1373/2010, OA 921/2010, OA 4568/2011 and 916/2013.These OAs were filed by Civilian Section Officers of ITBP, BSF and CISF seeking parity with Section Officers of CSS. The Tribunal had examined the issue in the light of S.R.Dheer (Supra), **P.C.Chinhara, SO & Others Vs. Union of India & Ors** (OA No.3319/2009 decided on 13.08.2010) and **Harjeet Singh & Others Vs. Union of India & Ors** (OA 4254/2012 decided on 10.11.2014) and came to the conclusion that the issues before the Tribunal were not covered by S.R.Dheer (supra) and they were dismissed.

21. Heard the learned counsel for the parties and perused the pleadings/judgments cited.

22. In view of the pleadings and facts of the case, what transpires is as follows:

Ministry of Tourism has a small cadre of Private Secretaries and Assistants with cadre strength of 8 and 19 respectively. The post of Assistant Directors (Manager) is outside the Secretariat and come under the Directorate of Tourism and hence will not get covered by order dated 29.08.2008, Sl.No.1 of Part B, Section II as that pertains to Secretariat. With regard to Assistants/PSs, while there was historical parity between the PSs of Tourism and CSSS and Assistants with CSS, we have seen that through a conscious decision, the Government of India had upgraded the pay scale of Assistants in CSS to Rs.6500-10500 and

OA Nos 1791/2013, 1792/2013, 1795/2013 & 1796/2013 PSs to Rs.8000-13500 and thereafter the 6<sup>th</sup>CPC granted higher grade pay of Rs.4800/5400 to Section Officers and Private Secretaries of CSS/CSSS. Later on, however, all employees (including those applicants who are PSs), who were in the erstwhile scale of pay of Rs.6500-10500, were granted the Grade pay of Rs.4600. The Assistants in the Ministry of Tourism were in the erstwhile scale of Rs.5500-9000. The Assistants of CSS were granted the higher scale of Rs.6500-10500 as a special dispensation. Similarly, as stated in para 18 the PSs in CSSS pre-revised scale was also revised. The scenario that emerges is that while there might have been parity till Fifth CPC, the situation changed thereafter with CSS/CSSS getting better dispensation from Government and thereafter PSs and Assistants in the recommendations of 6<sup>th</sup> CPC. Therefore, the parity argument does not hold good. The cadres of Assistants and PSs in the Ministry of Tourism are small cadres which do not form part of CSS/CSSS and, therefore, are not comparable. The judgment cited by the learned counsel for the applicants, all pertain to different cadres and facts of the case differ from the present case. Therefore, this would require de novo exercise comparing the RRs, duties, responsibilities, hierarchical structure of the small cadre of Assistants, Private Secretaries and Assistant Directors in the Ministry of Tourism and thereafter decide what pay scale they deserved. Clearly this is much beyond the scope of this Tribunal, especially in the light of law settled by the

OA Nos 1791/2013, 1792/2013, 1795/2013 & 1796/2013 Hon'ble Supreme Court that Tribunal should not engage themselves in deciding pay scales which should be best left to the executive to be decided on the advice of the Expert Body, such as Pay Commission (see **Union of India & Another Vs. P.V.Hariharan & Anr.** (JT 1997 (3) SC 569) and we refrain from interfering.

23. In our view the applicants have not been able to make out a case of discrimination and violation of Article 14 of the Constitution.

24. OAs are, therefore, dismissed. No costs.

**(RAJ VIR SHARMA)  
MEMBER (J)**

**( P.K.BASU)  
MEMBER (A)**

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