

**Central Administrative Tribunal
Principal Bench**

**OA No.1858/2013
MA No.1499/2013**

New Delhi, this the 10th day of August, 2017

**Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)**

S/Shri

1. Hari Krishan,
S/o Baljit Singh,
Language Instructor,
ITT/Nand Nagari Delhi,
R/o M-116 Naveen Shahadra,
Delhi.
2. Pragya Sharma,
W/o N.K. Sharma,
Language Instructor,
ITI/Shahadra Delhi,
R/o 8/IV Ambedkar Polytechnic,
Campus Madhuban Road,
Shakarpur, Delhi.
3. Ms. Sapna,
D/o Umesh Bahukhandi,
Language Instructor,
ITI/H.J. Bhabha,
Khichripur Delhi,
R/o 138-C MIG Flat
Mayur Vihar Phase-III,
Delhi.
4. Prem Lata,
W/o Ranjit Singh,
Language Instructor,
ITI/H.J. Bhabha,
Khichripur Delhi,
R/o 410 Arthla Mohan Nagar,
Ghaziabad (UP),
5. Prema Joshi,
W/o K.C. Joshi,
Language Instructor,
ITI/Jahangirpuri Delhi,

R/o F-14/43 Model Town-II,
Delhi.

6. Kavita Yadav,
W/o Kishan Kumar,
Language Instructor,
ITI/Dhirpur,
Delhi,
R/o C/1 East Jyoti Nagar,
Delhi.
7. Pinky Kapoor,
W/o Lalit Kapoor,
Language Instructor,
ITI/Pusa,
R/o 105, Shiv Vihar,
Inder Enclave,
New Delhi.
8. Sangeeta Bhatia,
W/o Shailender Bhatia,
Language Instructor,
ITI/Pusa,
R/o KP-354 II Floor,
Peetampura,
New Delhi.
9. Kamlesh Bhalla,
W/o Virender Kumar Bhalla,
Language Instructor,
ITI/Jain Road,
Delhi
R/o J-502,
Green Valley Aptt.,
Plot No.18 Sector 22,
Dwarkar.
10. Chhaya Sharma,
W/o Sunil Kumar Sharma,
Language Instructor,
ITI/Srifort Delhi,
R/o D-166 Gali No.6,
Laxmi Nagar,
Delhi.
11. Anita S. Arya,
W/o V.S. Arya,
Language Instructor,

ITI/Srifort Delhi,
R/o 27, Type-III,
Meerabai Polytechnic,
Maharani Bagh,
New Delhi.

12. Lily Grace,
W/o Kumud Ekke,
Language Instructor,
ITI/AKS,
Nizamuddin Delhi,
R/o A-1/11 Phase-II,
Aya Nagar,
New Delhi.
13. Alka Sharma,
W/o Anil Kumar Sharma,
Language Instructor,
ITI/Mori Gate,
Delhi,
R/o C-9/174 Sector-7,
Rohini, Delhi.

...Applicants

(By Advocate: Shri Ajit Singh)

Versus

Union of India through

1. Secretary,
Govt. of NCT of Delhi,
Delhi Secretariat,
ITO, New Delhi.
2. Secretary, DOPT,
Government of NCT of Delhi,
Delhi Secretariat,
ITO/New Delhi.
3. Chief Secretary,
Govt. of NCT of Delhi,
Old Secretariat,
Delhi.
4. Director of Training & Technical Education,
Muni Maya Ram Marg Pitam Pura,
New Delhi.

...Respondents

(By Advocate: Ms. Alka Sharma)

O R D E R (ORAL)**Mr. V. Ajay Kumar, Member (J):****MA No.1499/2013**

For the reasons stated therein, the MA filed for joining together in a single Application is allowed.

OA No.1858/2013

Heard both0 sides.

2. The applicants who are working as Language Instructors in various ITIs of the Government of NCT of Delhi have filed this OA seeking the following reliefs :-

- “(i) To revise the Pay Scales of Applicants from Grade Pay of Rs.4200/- to Grade Pay of Rs.4800/- in Pay Scale of Rs.9300-38400.
- (ii) To provide a channel of promotion for the Applicants to advance as per law as laid down by the Hon’ble Supreme Court.
- (iii) To revise the designation of Applicants from Language Instructors to Lecturers.
- (iv) To direct the Respondents to finalise the matter within a fixed period.”

3. The applicants earlier filed OA No.2688/2011 seeking the same reliefs and the said OA was disposed of on 27.07.2011 as under :-

“2. It is stated by the applicants that they are working as Language Instructors in

various I.T.Is under the Directorate of Training & Technical Education. It is further stated that they have not been provided any promotional avenue. It is also stated by the applicants that they have not been given the same pay scale as given to their counter-parts working in the DoP&T. Being aggrieved, they have given a detailed representation to the authorities. Pursuant to which, the Anomaly Committee Meeting held in the office of Additional Secretary, Department of Training & Technical Education on 23.12.2009 at 3.00 PM wherein applicants were advised to send their consolidated request through ITI Staff Welfare Association (page-46) but till date, no final decision has been taken by the respondents. In these circumstances, they had no other option but to file the present OA.”

4. In compliance of the said orders, the respondents have passed a speaking order vide Annexure-A/1 Memorandum dated 16.12.2011. The relevant part of the same reads as under :-

“The representation of Language Instructors has been considered and discussed in the Departmental Anomaly Committee along with other anomalies arising out of the implementation of the Sixth Pay Commission.

In this regard, the Department has sent a detailed proposal to the National Anomaly Committee, DoP&T, Ministry of Home Affairs, Govt. of India vide letter dated 12.02.2010 (copy enclosed) on the recommendation of Departmental Anomaly Committee where the scale of Language Instructors were also included.

The following Pay Scales have been proposed by the Department to the National Anomaly Committee for approval. The matter is under process.

| S. No | Name of the Post | Pay Scale to be granted w.e.f. 5 th CPC | Pay Scale to be granted w.e.f. 6 th CPC at par with the Education Deptt., GNCT of Delhi |
|-------|--|--|--|
| 1. | Craft Instructor & other Instructional Staff | 5500-9000 | PB-2 of Rs.9300-34800 with GP 4600 |
| 2. | Group Instructor/ Language Instructor | 6500-10500 | PB-2 of Rs.9300-34800 with GP 4800 |
| 3. | Principal/Vice Principal | 8000-13500 | PB-3 of Rs.15600-39100 with GP 5400 |
| 4. | Deputy Director of Trg. | 12000-16500 | PB-3 of Rs.15600-39100 with GP 7600 |

| S. No | Name of the Post | Pay Scale to be granted w.e.f. 5 th CPC | Pay Scale to be granted w.e.f. 6 th CPC at par with other States & U.Ts. |
|-------|-----------------------|--|---|
| 1. | Assistant Storekeeper | 4000-6000 | PB-1 of Rs.5200-20200 with GP 2400 |
| 2. | Storekeeper | 5000-8000 | PB-2 of Rs.9300-34800 with GP 4200 |
| 3. | Store Supdt. | 5500-9000 | PB-2 of Rs.9300-34800 with GP 4600 |

Further, a Committee has also been constituted to review and propose necessary amendments in existing Recruitment Rules of different designated posts under training wing of DTTE vide order dated 13.09.2011(Copy enclosed).

The Committee in its meeting held on 23/11/2011 observed that the post of Language Instructors, Maths Instructors, Steno Instructors have no promotional avenues in their entire Service period. Therefore, the Committee has recommended to include the post of Language Instructors, Maths Instructors, Steno Instructors in the feeder channel of Group Instructors so that they may also get promotional avenues. Accordingly, the Recruitment Rules of Group Instructors will be amended with the approval of the Competent Authority.

This issues with the approval of Principal Secretary (TTE)."

5. Vide the aforesaid Memo, the respondents proposed the revision of the Grade Pay of the applicants who are working as Language Instructors along with other employees in different categories including Group Instructors, Maths Instructors etc. When the respondents failed to pass any final order, Maths Instructors filed OA No. 3305/2011, which was disposed of by this Tribunal on 10.04.2012 as under :-

"2. The respondents have filed their reply. Para 12 of the same is quite relevant and it is reproduced below :-

"12. That it is well settled by the Hon'ble Supreme Court in a catena of judgments that recruitment rules

have to be strictly followed. It is also trite that when a manner of doing a particular thing is provided in the rules, it has to be done in the same manner or not at all. Therefore, till such times the Recruitment Rules have not been amended, the Respondents cannot on their own place the names of the Applicants in the seniority list of the Feeder Cadre holders. However, as already submitted above, the proposal for amendment of the Recruitment Rules is already under active consideration of the Government of NCT of Delhi. However, as several Departments are involved, it is taking some time for finalization.”

3. In view of the above submissions of the Respondents that the amendment in the recruitment rules is under their active consideration, the learned counsel for the Applicants have submitted that the Applicants will be satisfied, for the time being, if a direction is given to the Respondents to finalize the proposed amendment in the Recruitment Rules within a stipulated period so that their promotion prospects will not get further delayed.

4. In view of the above position, we dispose of this OA with a direction to both the respondents to finalize the proposed amended Recruitment Rules within a period of four months from the date of receipt of a copy of this order. With the above directions, the OA is disposed of. There shall be no order as to costs.”

6. In pursuance of the above, respondents have passed order in respect of the Maths Instructors revising their pay scales and by

amending the relevant Recruitment Rules. The respondents vide their counter filed on 28.11.2013 in the instant OA also stated as under :-

“The Deptt. passed a speaking order date 16-12-2011, stating that a detailed proposal has been sent to the national anomaly committee, DoP&T through MHA, GOI on 12-02-2010, on the representation of the Departmental anomaly committee where the pay scales of the language instructor were also included as claimed by the applicant in the present OA and further stated in the speaking order that the RRs for the post of Group Instructor will be amended with the approval of the Competent Authority by including the posts of Language Instructor, Instructor Mathematics and CI(Stenography) in the feeder channel. The Deptt. mooted a proposal for amendment in RRS to the post of Group Instructor etc. by including the posts of Instructor Mathematics and CI(Stenography) in the feeder channel since 2009-10. Meanwhile, the Instructor Mathematics also filed an OA no 3305/2011 with a prayer to include them in the feeder channel of Group Instructor etc. to provide promotional avenues. The Tribunal disposed of the OA with the direction to respondents to finalize the proposed amendment in RRs within a period of four months from the date of receipt of this order i.e. 10-04-2012.

There after the Deptt. pursued the matter of inclusion of the post of Instructor Mathematics and CI(Stenography) in the feeder channel of Group Instructor etc. vigorously with the Services Deptt. GNCTD. But the services Deptt. after a protected correspondence agreed to include the post of Instructor Mathematics in the feeder channel to the post of Group Instructor etc. but did not agree to include the post of CI (Stenography) in the feeder channel despite being a non engineering trade and having similar duties and responsibilities to other craft instructors but having slightly

different qualification, on the grounds that “*the promotion may be kept as a method recruitment depending upon the availability of the field of consideration. Care should be taken to see that the base for the promotion is strong i.e. the departmental candidates are fully qualified for the responsibility of the higher post*”. Meaning thereby for promotion to the post of Group Instructors etc. the persons who are in feeder channel must have strong technical background i.e Degree/Diploma/NTC/STC in Engineering/Technology without this it is not possible for them to supervise the work of subordinate staff having technical qualification. Though the post of the C1 (Stenography) is a non engineering technical post, still it did not find favour of the services Deptt. for inclusion in the feeder channel of Group Instructor etc. Therefore, it is pertinent to state here that once the post of C1 (Stenography) which is a non-engineering technical post could not be included in the feeder channel then how the Deptt. can propose/include the post of the Language Instructor, having the qualification of MA/BA with B.Ed. i.e. totally non technical qualification. Hence, the claim of the applicants to include/provide them the promotional avenues is not tenable.”

7. A perusal of the above indicates that the respondents vide their letter dated 16.12.2011 recommended the case of the applicants also i.e. Language Instructors along with other categories such as Group Instructors, Maths Instructors etc. for revision of their pay scales. However, vide counter, it is stated that once the post of C1 (Stenography), which is a non-engineering technical post could not be included in the feeder channel then how the Department can propose/include the post of the Language

Instructor having the qualification of MA/BA with B.Ed. i.e. totally non technical qualification and hence, the claim of the applicants to include/provide them the promotional avenues is not tenable.

8. The contradictory stand of the respondents cannot be acceptable, as per the settled principles of law that every employee should have same promotional avenues. It is also the case of the applicants that once the respondents themselves i.e. the Services Department, GNCTD granted the benefits to certain categories, without waiting orders/clarification/direction from any other authorities, cannot simply ignore the claim of the applicants by stating that their recommendations are pending before some other Authority.

9. In the circumstances, The OA is disposed of with a direction to the Government of NCTD to take a final view on the claims of the applicants and to pass appropriate speaking and reasoned orders thereon, keeping in view their own recommendations made vide Memorandum dated 16.12.2011 (Annexure A/1), in accordance with law, within 90 days from the date of receipt of a certified copy of this order. No costs.

(Nita Chowdhury)
Member (A)

'rk'

(V. Ajay Kumar)
Member (J)