

**Central Administrative Tribunal
Principal Bench**

OA No.2026/2010

Reserved on: 03.09.2015
Pronounced on : 11.09.2015

**Hon'ble Mr. Justice Syed Rafat Alam, Chairman
Hon'ble Mr. P. K. Basu, Administrative Member**

1. Stenographers Association, CPWD (Regd.)
Through its Organising Secretary,
Mr. B. R. Baweja,
O/o Chief Engineer,
Commonwealth Project Zone,
PWD, 9th Floor, MSO Building,
IP Estate, New Delhi-02.
2. Mrs. Nirmala Arya,
House No.217,
Sector-7, R. K. Puram,
New Delhi-22.
3. P. R. Pattabiraman
Block-6/659, Lodhi Colony,
New Delhi 110 003. ... Applicants.

(By Advocate : Shri M. K. Bhardwaj)

Versus

1. Union of India
Through its Secretary,
Ministry of Urban Development,
Nirman Bhavan,
New Delhi 11.
2. The Secretary
Ministry of Finance
(Department of Expenditure)
Implementation Cell, North Block,
New Delhi 110 001.
3. The Secretary
Department of Personnel & Training (DoP&T)
North Block,
New Delhi 110 001.

4. The Director General (Works)
 Central Public Works Department,
 Nirman Bhavan,
 New Delhi 110 011. Respondents.

(By Advocate : Shri R. N. Singh)

: O R D E R :

P. K. Basu, Member (A) :

The applicants belong to Stenographers of Subordinate Cadre of Central Public Works Department (CPWD for short). In CPWD, stenographic assistance to their officers is provided by three separate cadres which would be clear from the following table:-

Brief position of stenographers of CPWD.

| Sl. No. | Secretariat Offices | Non-secretariat Offices | C.P.W.D. |
|---------|---|---|-------------------------------------|
| 1. | Stenographer Gr.D Rs.4000-6000 | Stenographers Gr.III Rs.4000-6000 | Stenographer Gr.III Rs.4000-6000 |
| 2. | Stenographer Gr.C Rs.6500-10500 | Stenographers Gr.II Rs.5000-8000 | Stenographer Gr.II Rs.5000-8000 |
| 3. | Private Secretary Rs.6500-10500 & after 3 years Rs.8000-13500 | Private Secretary Rs.6500-10500 | Stenographer Gr.I Rs.5500-9000 |
| 4. | Principal Private Secretary Rs.10000-15200 | Sr. Private Secretary Rs.7500-12000 | NIL |
| 5. | Sr. PPS Rs.12000-16500 | NIL | NIL |

2. The question of cadre review of stenographers of subordinate cadre of CPWD was under consideration for several years and vide order dated 30.06.2014 their cadre review was notified, which reads as under:-

| S. No . | Post | Pay Scale | Existing sanctioned strength | Revised Strength | Remarks |
|---------|--------------------------|----------------------|------------------------------|------------------|-----------------------|
| 1. | Senior Private Secretary | PB2 Grade Pay 4800/- | 0 | 06 | New post in the cadre |
| 2. | Private Secretary | PB2 Grade Pay 4600/- | 0 | 37 | New post in the cadre |
| 3. | Stenographer Grade-I | PB2 Grade Pay 4200/- | 268 | 203 | Already existing post |
| 4. | Stenographer Grade-II | PB1 Grade Pay 2400/- | 113 | 135 | Already existing post |
| | | Total | 381 | 381 | |

The grievance of the applicants is that the cadre review order should be implemented from 01.01.1996, the date from which the recommendations of the 5th CPC was implemented and not from 30.06.2014.

3. The respondents, however, insist that there is no ground for the applicants to claim implementation of this cadre review from a back date, i.e., 01.01.2006.

4. Learned counsel for the applicants has drawn our attention to certain internal notings of the CPWD, namely, a detailed note including a proposal for restructuring recorded sometime in February 2002 (**Annexure A-5**) and August 2004 (**Annexure A-7** colly). These notes indicate that there was indeed a consideration for cadre review and creation of senior level positions in the cadre bringing it at par with non secretariat staff. In fact, the order dated 30.06.2014 is exactly that, i.e., the CPWD stenographers cadre has been

restructured to bring it exactly in line with the non secretariat cadre.

5. It is further pointed out that in reply to para 5 (b) of OA No.1093/2006, the respondents had stated that proposal for restructuring the cadre of stenographers of CPWD is already under consideration. In fact, said OA was disposed of vide order dated 02.04.2007 with direction to the respondents to take a final decision regarding restructuring within a period of three months from the date of the receipt of the order.

6. Learned counsel's argument is that in ***Union of India and another vs. Hemraj Singh Chauhan and others*** reported in (2010) 4 SCC 290, the Hon'ble Supreme Court has held that the Government in a welfare state like India is supposed to act as a model employer; right of an eligible employee to be considered for promotion is virtually a part of his fundamental right under Article 16; Guarantee of fair consideration for promotion flows from guarantee of equality under Article 14 and Legitimate expectation for being considered for promotion defeated due to inaction on the part of State Government in conducting cadre review in time despite reminders from Central Government. It is argued that the matter was going on since 2002 and it was only because of the delay by the Government that the restructuring could not take place and thus the applicants' case is fully covered by the

ratio of the judgment in ***Hemraj Singh Chauhan's case (supra)*** and, therefore, they should be given the benefit of restructuring from 01.01.1996 itself. In this regard, learned counsel for the applicants also relied upon the judgment of Delhi High Court in the matter of ***Secretary, Govt. of India and ors. vs. Sanjay Kumar and Ors.*** WP(C) No.1873/2007 and CM No.3451-3453/2007 decided on 12.03.2007, wherein, the High Court has again directed to revise the pay scale from 01.01.1996 as the respondents had failed to furnish any reason as to why they approved grant of revised pay scale from 10.04.2005 and not 01.01.1996. Similarly, in WP(C) No.2771/2003, in the matter of ***Meena Roy & Anr. vs. Delhi Development Authority***, the Hon'ble High Court vide its order dated 26.04.2004 again took a similar view in case of Private Secretaries working in DDA who had been denied benefit of upgraded pay scale w.e.f. 01.01.1986. It is further pointed out by learned counsel that in OA No.3335/2011, this Tribunal vide order dated 15.07.2015 in the matter of ***Sudesh Kumar and ors. vs. Union of India & Ors.***, gave them the benefit of their equivalence in pay with the Central Secretariat Stenographers Service (CSSS for short) cadre with effect from the date pay revision was allowed to CSSS employees.

7. Learned counsel for the applicants argued that in light of the above judgments, there is no ground for the respondents

to refuse the applicants the benefit of restructuring from 01.01.1996.

8. Learned counsel for the respondents drew our attention to the prayer clause of the applicants and stated that in prayer 8 (b), the applicants have prayed for allowing the prayers made in OA No.1093/2006, but that was regarding parity of pay scales of the subordinate stenographers cadre with the CSSS employees. In fact, even prayer 8 (c) relates to equivalence of stenographers cadre with CSSS, whereas the order dated 30.06.2014 has no link whatsoever with the CSSS cadre. Even during the arguments, learned counsel for the applicants had stressed that the applicants should be brought at par with non secretariat service. It was further pointed out that in case they are seeking parity with CSSS employees then the applicants should have made CSSS a party to this OA, which they have failed to do. In fact, the order dated 30.06.2014 has not even been challenged by the applicants.

9. It has further been argued that in case of ***Union of India vs. P. V. Hariharan*** reported in 1997 (3) SCC 568, the Hon'ble Supreme Court has held that in the matter of pay scales, the Tribunal should normally not interfere in deciding it and this should be left to the Government to take decision in this regard on the advice of the expert bodies, such as Pay Commission. It is stated that the matter of equivalence of

CSSS and subordinate stenographers' cadre had been examined in consultation with the Ministry of Finance and it was found that the two cadres differ in terms of hierarchy, nature of duties, responsibilities and pay scales etc. and, therefore, it may not be appropriate to mix up the stenographers of different grades working in an attached office or subordinate office especially when both are qualitatively and quantitatively different in nature of their duties and responsibilities .

10. On the judgments cited by learned counsel for the applicants it is argued that the judgment in ***Hemraj Singh Chauhan's case (supra)*** cannot be made applicable in the present case as the facts of that case are different. That case related to cadre review of State Civil Service Officers for promotion to Indian Administrative Service under the promotion quota governed by Indian Administrative Service Cadre Rules, 1954, which stipulates certain time period after which cadre review has to be done and which was not done due to delay by the Government of Uttar Pradesh and Government of India. The Hon'ble Apex Court has held that the word "ordinarily" in Rule 4(2) which mandated that "the Central Government "ordinarily" at an interval of five years re-examine the strength and position of each such cadre" would not be applied to the situation in that case, as there was delay

by the Government which cannot be justified within the meaning of “ordinarily” in the facts of that case.

11. Learned counsel for the respondents, therefore, argued that the judgment in ***Hemraj Singh Chauhan's case (supra)*** is in a completely different background of interpretation of Rule 4 (2) by the Hon'ble Supreme Court. In the present case there was no provision or any rule that the cadre of stenographers of subordinate cadre had to be restructured. Such restructuring of cadres in different departments of government are examined from time to time keeping in view the changing nature of work, and as and when such decisions are finalised, the cadre review takes place. Learned counsel for the respondents further argued that the judgment of Hon'ble High Court in ***Sanjay Kumar*** (supra) and ***Meena Roy & Anr.*** (supra) also will not apply as these relate to pay revisions and what the Hon'ble High Court has basically held is that if the pay has been revised from a particular date, i.e., 01.01.1996 in the case of ***Sanjay Kumar (supra)*** and 01.01.1986 in the case of ***Meena Roy & Anr (supra)***, then for all similarly placed persons, the pay has to be revised from the same date. Similarly, in OA No.3335/2011, again the issue was applicability of pay scale between Private Secretaries and Personal Assistants working in AIIMS and CSSS after the 5th and 6th CPC.

12. We have heard learned counsel for the parties and perused the judgments cited by learned counsel for the applicants.

13. First of all, the distinction which is to be made in this case is that this is not a benefit which accrues as a right to the applicants, but is a result of Government restructuring the stenographers' subordinate cadre of CPWD, keeping in view the changing nature of work, load of work, etc. Learned counsel for the respondents has rightly pointed out that such restructuring of cadres has to be undertaken by Government from time to time as the nature and scope of government functioning changes over the years. This is not to benefit a particular cadre or any individual employee but to improve government functioning. In this case, the cadre review was under consideration for a long time from 2002 onwards as pointed out by the learned counsel for the applicants and finally after considering all aspects, the government introduced the cadre review vide order dated 30.06.2014. No dates can be associated with this except the date from which this cadre review is made effective, which in this case is 30.06.2014. The applicants demand that it should be made effective from 01.01.1996 or at least from 2002, when the restructuring exercise started. One could equally argue that this should be made effective from 01.01.2006 or 01.01.1986, these being the dates from which 6th CPC and 4th CPC had

been made effective. There is no justification or logic for such a demand. In fact, it is for this reason, we agree with learned counsel for the respondents that the ***Hemraj Singh Chauhan's case (supra)*** is not relevant in this matter at all. That was regarding provision of Indian Administrative Service (Cadre) Rules, 1954 and the interpretation of the word "ordinarily" by the Hon'ble Apex Court. It was a statutory provision which had been violated. In the present case, there is no statutory provision. There is no policy under which the restructuring had to be done and claimed as a matter of right. Similarly, the other three judgments cited by the learned counsel for the applicants, i.e., ***Sanjay Kumar and Ors., Meena Roy & Anr. vs. Delhi Development Authority and Sudesh Kumar (supra)*** are also not relevant because they related to parity of pay scales and basically what was held in these matters is that if two cadres are to be given the same pay scales then unless there is a specific justification for not giving them from the same date, the pay scales would be applicable from the same date whether it is 01.01.1986, 01.01.1996 or 01.01.2006.

14. In view of the above, we are of the opinion that there is no merit in the prayer made by the applicants and the OA deserves to be dismissed. The OA is, therefore, dismissed.

(P. K. Basu)
Member (A)

/pj/

(Syed Rafat Alam)
Chairman