

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.2897/2013

Reserved on: 16.02.2017
Pronounced on: 23.02.2017

Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. P.K. Basu, Member (A)

Shri Manas Singha
S/o Late Sh. Arjun Prasad,
Flat No.5, Kaveri Tower,
Sector 4, Vaishali,
Ghaziabad-201010 (UP).

...Applicant

(By Advocate: Shri Rupesh Kumar)

Versus

1. Union of India through Secretary,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi – 110 001.
2. Registrar,
Customs, Excise Service Tax
Appellate Tribunal,
West Block No.2, R.K. Puram,
New Delhi – 110 066.

...Respondents

(By Advocate: Shri Rajesh Katyal)

O R D E R

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

The applicant is Court Master (Group 'B' non-gazetted) in Customs, Excise Service Tax Appellate Tribunal [hereinafter referred to as CESTAT]. He was initially in the pay scale of Rs.5500-9000 and after 6th Central Pay Commission, he was granted revised pay scale of PB-2 with Grade Pay of Rs.4200/-.

2. The post of Court Officer in Central Administrative Tribunal [CAT] is classified as General Central Service (Group 'B' gazetted) with pay scale of Rs.6500-10500. After the 6th CPC, pay scale of the post of Court officer/Section Officer in CAT was revised to Rs.4800/- GP in PB-2 and Rs.5400/- GP in PB-3 after four years. The hierarchy of the post in CESTAT is as follows:-

Name of the Post	Pre-revised scale	Post 6 th CPC
Head Clerk	Rs.5000-8000	PB-2 with GP Rs.4200/-
Court Master	Rs.5500-9000	PB-2 with GP Rs.4200/-
Assistant Registrar	Rs.8000-13500	PB-3 with GP Rs.5400/- (After four years)

The hierarchy in CAT is as follows:-

Name of the Post	Pre-revised scale	Post 6 th CPC
Assistant	Rs.5000-8000	PB-2 with GP of Rs.4600/- (At par with Assistants of CSSS)
Court Officer/Section Officer	Rs.6500-10500	PB-2 with GP Rs.4800/- (After four years PB-3 with GP of Rs.5400/-)
Deputy Registrar	Rs.10000-15200	PB-3 with GP of Rs.6600/-

3. Normal replacement pay scales of pre-revised scale of Rs.5000-8000 and 5500-9000 is PB-2 with GP Rs.4200/- in accordance with CCS (RP) Rules, 2008 on account of merger of pre-revised pay scales of Rs.5000-8000 and Rs.5500-9000. **Posts** carrying scale of Rs.6500-10500/- were later granted PB-2 with GP of Rs.4800/-. The

applicant claims parity with Court Officers of CAT and has prayed for the following relief(s):-

- (i) Quash and set aside the impugned decision dated 22.05.2013 communicated by the respondent no.1;
 - (ii) To grant the applicant herein, the benefit of enhanced grade pay of Rs.4800/- at par with the Court Officers of this Hon'ble Tribunal, as recommended by the Staff Inspection Unit in its report dated October, 2012;
 - (iii) To grant the applicant herein, costs of this original application;
 - (iv) To grant consequential relief to the applicant;
 - (v) To pass such other order or orders, as may be deemed fit and proper in the interest of justice.
4. The impugned decision dated 22.05.2013 is a letter addressed to the Registrar, CESTAT by Department of Revenue stating that the applicant's representation for upgradation of Grade Pay has been rejected.
5. The grounds on which the applicant has made the above prayers are as follows:-
- (i) The rejection letter dated 22.05.2013 is cryptic and does not assign any reason or rationale for rejection of his prayer. In this regard, the applicant has

relied on the decision of the Hon'ble Supreme Court in *Mohinder Singh Gill & Anr. Vs. The Chief Election Commissioner, New Delhi & Others* [1978 (1) SCC 505];

- (ii) The applicant deserves the same GP of Rs.4800/- as is being drawn by Court Officers of CAT in view of the Articles 14 & 39(d) of the Constitution of India. In this regard, the applicant relies on the decision in *Randhir Singh vs. Union of India* [1982 (1) SCC 618] which lays down the principle of 'equal pay for equal work'. It is further stated that the said decision has been followed in subsequent decisions of the Hon'ble Supreme Court in *Jaipal vs. State of Haryana* [1983 (3) SCC 354]; *P.Savita vs. Union of India* [1985 (Supp.) SCC 94]; *Supreme Court Employees Welfare Association vs. Union of India* [1989 (4) SCC 87]; *Mewa Ram Kanojia vs. AIIMS* [1989 (2) SCC 235] and *Arindam Chattopadhyaya vs. State of West Bengal* [2013 (4) SCC 152] etc.;

- (iii) A detailed analysis of the duties, responsibilities and qualifications of the Court Masters working in CESTAT vis-à-vis the duties, responsibilities and

qualifications of Court Officers of CAT show that both were identical in all respects;

- (iv) The Staff Inspection Unit [hereinafter referred to as SIU] of the Department of Revenue also recommended upgradation of GP of Court Masters of CESTAT at par with Court Officers in CAT. It is further reiterated that findings contained in the report of SIU has always been held to be mandatory and binding. In this regard, the applicant relies on the Memorandum dated 20.11.1980, 04.08.1966 and 11.01.1988 of the Ministry of Finance;
- (v) The Grade Pay of Court Masters and Head Clerks is the same which creates an anomalous situation wherein the feeder post and the promotion post both have the same GP.
- (vi) Inspectors of Customs & Central Excise of the Department of Customs & Central Excise, who are eligible to be appointed to the post of Court Master draw GP of RS.4600/-, which is higher than the GP of RS.4200/- prescribed for Court Masters. This is an anomalous situation. In this regard, it is pointed out that qualification required to be appointed as Inspector is merely a degree in any subject whereas for Court Masters, it is degree in

any subject along with minimum of two years' experience in Courts/Tribunals with desirable qualification of degree in law. The applicant's case is that this clearly shows that the qualification required for Court Master is higher than that of the Inspector of Customs & Central Excise;

6. The learned counsel for the applicant also produced a copy of paragraph 11.18.91 and 11.18.92 pertaining to the recommendations of the 7th CPC for the posts of Head Clerk, Court Master, Assistant Registrar, Deputy Registrar and Registrar, which reads as under:-

"11.18.91 It has been demanded that the post of Registrar, CESTAT may be upgraded from GP 7600 to GP 8700/10000 on the pattern of CAT. It has also been demanded that the post of Deputy Registrar be upgraded from GP 6600 to GP 7600. The reference point in this case is National Consumer Dispute Redressal Form. Drawing parity with Debts Recovery Tribunal, it has been demanded that post of Assistant Registrar may be upgraded from GP 5400 (PB-3) to GP 6600. Pay upgradations have also been demanded for the posts of Court Master (from GP 4200 to GP 4800), Head Clerk (from GP 4200 to GP 4600) drawing parity with Court Officer in CAT and Senior Assistant in District Courts, respectively.

11.18.92 In respect of the demand for upgradation of the post of Registrar the Department of Revenue has conveyed that Staff Inspection Unit in its Report, had recommended to provide an intermediate level post of Joint Registrar with GP 7600 in CESTAT. The department has opined that the matter may not be taken up without carrying out cadre re-structuring as both the posts – Registrar and Joint Registrar – would result in the same grade pay. In respect of the demand for upgradation of posts of Assistant Registrar and Court Master, the department has stated that these matters are sub-judice before CAT, Principal Bench in OA No.1672/2014 and OA No.2897/2013, respectively. The Commission notes that different organization

*perform different functions. Enough functional justification must precede parity in pay scales. **The Commission therefore recommends normal replacement levels for these posts of CESTAT.***

7. The respondents in their reply have stressed the point of hierarchy saying that posts in CESTAT and CAT are completely different as already enumerated above and, therefore, no parity can be drawn between the two. Secondly, it is stated that the issue regarding upgradation of GP of Court Masters of CESTAT was also referred to the Department of Expenditure for consideration and the same was not agreed to by them. Learned counsel for the respondents also relies on the judgment in *S.C. Chandra & Ors. Vs. State of Jharkhand & Ors.* [2007 (8) SCC 279] specifically on the following paras:-

“35. In our opinion fixing pay scales by Courts by applying the principle of equal pay for equal work upsets the high Constitutional principle of separation of powers between the three organs of the State. Realizing this, this Court has in recent years avoided applying the principle of equal pay for equal work, unless there is complete and wholesale identity between the two groups (and there too the matter should be sent for examination by an expert committee appointed by the Government instead of the Court itself granting higher pay).

36. It is well settled by the Supreme Court that only because the nature of work is the same, irrespective of educational qualification, mode of appointment, experience and other relevant factors, the principle of equal pay for equal work cannot apply vide Government of West Bengal vs. Tarun K. Roy and others (2004) 1 SCC 347.

37. Similarly, in State of Haryana and another vs. Haryana Civil Secretariat Personal Staff Association (2002) 6 SCC 72, the principle of equal pay for equal work was considered in great detail. In paragraphs 9 &

10 of the said judgment the Supreme Court observed that equation of posts and salary is a complex matter which should be left to an expert body. The Courts must realize that the job is both a difficult and time consuming task which even experts having the assistance of staff with requisite expertise have found it difficult to undertake. Fixation of pay and determination of parity is a complex matter which is for the executive to discharge. Granting of pay parity by the Court may result in a cascading effect and reaction which can have adverse consequences vide Union of India and others vs. Pradip Kumar Dey (2000) 8 SCC 580.”

On the basis of this judgment, it is argued that the Tribunal may not like to interfere in matters of pay scales, as prayed for by the applicant. The respondents also rely on order dated 31.07.2014 in OA No.3866/2011 which was regarding upgradation of pay scales of Meteorological Assistants in Indian Meteorological Department. The said OA was dismissed relying on the decisions in *S.C. Chandra & Ors. Vs. State of Jharkhand & Ors.* (supra) and *Union of India vs. Hiranmoy Sen* [2008 (1) SCC 630].

8. We have heard the learned counsels, perused the pleadings, and judgments cited by both sides.

9. Normally, we would not have interfered in pay scale matters keeping in view the judgment of the Hon'ble Supreme Court in *S.C. Chandra (supra)* and *Hiranmoy Sen (supra)*. However, in this case, the 7th CPC, while recommending the pay scales of Registrar, Deputy Registrar, Assistant Registrar, Court Masters and Head Clerks, observed that in respect of the demand for

upgradation of post of Assistant Registrar and Court Master, the Department has stated that these matters are *sub judice* before the Central Administrative Tribunal, Principal Bench, New Delhi in OA No.1672/2014 and OA No.2897/2013 (the present OA) and, therefore, the Commission recommended the normal replacement scale for these posts of CESTAT. In October, 2012, SIU had made its recommendation and specifically recommended Rs.4800/- GP for Court Masters of CESTAT. Since this OA was filed, the 7th CPC held that it was *sub judice* and, therefore, recommended normal replacement levels.

10. We agree with the contention of the respondents that parity of CAT is not made out as the hierarchy of posts and pre-revised pay scales were different. However, since only replacement scales have been granted, the anomalous situation that has been created is that the feeder post of Head Clerk and promotion post of Court Master both now have the same GP as Rs.4200/- whereas the next promotional post of Assistant Registrar is in pay structure of PB-3 with GP of Rs.5400/-. Therefore, while we do not accept the argument of parity with CAT, there is certainly a case for the Court Masters to be in a higher GP than the feeder grade of Head Clerk. Unfortunately, the 7th CPC was

held back for making any recommendation due to this pending litigation and, therefore, it will only be fair to decide this issue on merits.

11. In our considered opinion, granting GP of Rs.4600/- to the Court Masters of CESTAT would resolve this issue of feeder grade and promotional grade being in the same pay scale. We say this also because the Head Clerks were in the pre-revised pay scale of RS.5000-8000 whereas the Court Masters were in the pre-revised scale of Rs.5500-9000/-. It is the merger that has created this problem which the SIU sought to rectify. We differ with the SIU opinion to the extent that instead of GP of Rs.4800/-, which would be granting parity with CAT, it will serve the interest of justice, if the Court Masters in CESTAT are granted the GP of Rs.4600/-.

12. The instant OA is thus partly allowed with direction to the respondents to grant the Grade Pay of Rs.4600/- to the Court Masters (including the applicant) in CESTAT w.e.f. 01.01.2006. This direction be complied with by the

respondents within 90 days of receipt of a certified copy of this order. There shall be no order as to costs.

(P.K. Basu)
Member (A)

(V. Ajay Kumar)
Member (J)

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