

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A. No.021/00280/2016

Date of CAV:11.01.2018.

Date of Order : 02.02.2018.

Between :

1. G.Gopala Krishna, s/o late Suryanarayana, Age:67
H.No.1-40/9, Rajnagar Colony, Uppal, R.R.District,
Hyderabad-500 039 (Telangana State).
2. P.Sambasiva Prasad, s/o late P.V.Krishna Rao, Age:66,
3-133, Opp: Uppal Bus Depot, Mallikarjuna Nagar,
R.R.District, Hyderabad-500 092 (Telangana State).
3. C.R.B.Sastry, S/o C.Visweswarudu, B-113, Age:66 yrs,
Sonata Apts, Vidyanagar, Hyderabad-500 044.
4. Lilly Mary Kuruvilla, w/o K.T.Kuruvilla, Age:70 yrs,
2-19-25, Kalyanpuri, Uppal, R.R.District,
Hyderabad-500 039 (Telangana State).
5. P.Sreedharan, s/o V.Achuthan Nair, Age: 72 yrs,
Thuruthiyath Road, Kandassankadavu Post,
Trissur Dist, Kerala.
6. Smt.A.Swarajya Lakshmi, w/o A.Ramalingeswara Rao,
Age:63 yrs, No.17-1-383/37/Prabhava Apts,
VI-Cross Road, Vinaynagar, PO Saidabad,
Hyderabad-500 059.
7. S.Yohannan, s/o S.Caraiah, Thulishala Mannil,
Age:63 yrs, Elanthur, PO, Pattanamthitta,
Kerala-689 643.
8. G.Nalini Premakumari, w/o G.Swamy Das, Age 67 yrs,
H.No.1-62/1, P & T Colony, Snehapuri, Nacharam,
Hyderabad-500 076 (Telangana State).
9. T.Susheela Devi, w/o T.V.Ashok Kumar, Age:61 yrs,
H.No.2-3-383, Sai Nagar Colony, Road No.4,
Nagole, Hyderabad-500 068, R.R. District
(Telangana State).

10. J.Meenakshi, w/o P.Krishnan, Age 50 yrs,
 33-138, Shekh Nagar, R.K.Puram,
 Secunderabad-500 056. ... Applicants

And

1. The Union of India, rep. through the Secretary,
 Dept. Of Science & Technology, Technology Bhavan,
 New Mehrauli Road, New Delhi-110 001.
2. The Surveyor General of India, Survey General's Office,
 Survey of India, HathiBarkhala Estate, P.Box NO.37,
 Dehra Dun-248 001, Uttranchal State.
3. The Additional Surveyor General,
 Indian Institute of Surveying & Mapping,
 Survey of India, Uppal, R.R.District.,
 Hyderabafbad-500 039 (Telangana State).
4. The Director, Andhra Pradesh Geo Spatial Data Centre,
 R.R.District, Uppal, Hyderabad-500 039 (Telangana State).
5. The Director, Geographical Information System &
 Remote Sensing, Survey of India, Uppal, R.R.District,
 Hyderabad – 500 039 (Telangana State).
6. The Director,
 Research & Development (Subsequently merged with
 GIS & RS Dte.), Survey of India, Uppal, R.R.District,
 Hyderabad-500 039 (Telangana State). ... Respondents

Counsel for the Applicants ... Mrs.C.Rakee Sridharan

Counsel for the Respondents ... Mr.V.Vinod Kumar, Sr. CGSC

CORAM:

**THE HON'BLE MR.JUSTICE R.KANTHA RAO, MEMBER (JUDL.)
 THE HON'BLE MRS.MINNIE MATHEW, MEMBER (ADMN.)**

ORDER

{ As per Hon'ble Mrs.Minnie Mathew, Member (Admn.) }

This OA has been filed seeking the following relief:

"To direct the respondents for implementing the decision of the letter dated 6.2.1989 in respect of upgrading the applicants to the post of Stenographer Grade II with effect from 1.1.1986. The respondents may also be directed to consider the case of the applicants for giving them the pay scale of Rs.1640-2900/- from 1.1.1986 and arrears of consequential pay fixation, by declaring the same as arbitrary, illegal and violative of Articles 14 and 16 of the Constitution of India, and pass any other order or orders as deemed fit and proper in the circumstances of the case."

2. Briefly stated the facts of the case are that the applicants are retired Stenographers in the respondent-office. They are aggrieved by non-consideration of their representations for upgrading the post of Stenographer III to Grade II with effect from 1.1.1986 in pay scale Rs.1400-2600/- and thereafter for replacing the aforesaid scale with pay scale of Rs.1640-2900/- in the light of the OM dated 6.2.1989 of the Department of Personnel & Training.

3. The applicants submit that they have been denied the upgradation and fixation of pay in the higher scale of Rs.1400-2600/- sanctioned to the Stenographers Grade-II in subordinate offices with effect from 1.1.1986 as per Annexure-I OM. It is also submitted that the higher pay scale of Rs.1640-2900/- was also given to Stenographers II after the judgment in O.A.No.475/1998, dated 15.11.2003 to the juniors of the applicants.

4. Thereupon, the applicants made Annexure.A-VI representations to the Surveyor General of India with a request to implement the orders of the Cuttack Bench of this Tribunal in O.A.No.475/1998 read with order dated 16.01.2014 passed in C.P.No.61/2010. The applicants further submit that although the matter was taken up by the Surveyor General of India with the Ministry of Science and Technology for implementation of the higher pay scale, the request was not agreed to on the ground that even though the Government has decided to implement the higher pay scale in respect of those who filed the OA, the same was not automatically applied to the applicants and that it would be linked to the nature of jobs and the work of officers to whom they are attached and the responsibilities carried out by them.

5. The grievance of the applicants is that even after the orders of the Coordinate Bench of this Tribunal at Cuttack in O.A.No.475/1998, the respondents have implemented the order only for the applicants in the said OA. They have also drawn attention to the fact that the Writ Petition (C) No.8176/2004 filed by the respondents against the orders in O.A.No.475/1998 was dismissed. Thereafter, the respondents have filed a Review Petition, which is still pending.

6. The applicants also submit that in O.A.No.475/1998, the applicants therein got the benefit with effect from 1.1.1986 on notional basis for fixation of pay and arrears of pay only from 1.1.1998 i.e., the date of filing of the OA. Their plea is that they are willing to accept the same conditions as stipulated for the applicants in the aforesaid OA.

7. The respondents have filed a reply statement. From the reply statement, it is seen that there is no dispute on the basic facts of the case. The respondents, however, point out that the OM dated 6.2.1989, relied upon by the applicants, has been clarified in Annexure-II OM dated 9.2.1990 and Annexure-IV OM dated 25.6.1991. In these two office memorandums, it has been made clear that upgradation of the posts of Stenographer in appropriate grades will be linked to the nature of job and the work of the officers will be determined by the Staff Inspection Unit/Internal Work Study Unit. It was also clarified in Annexure-IV OM that the OM dated 6.2.1989 generally applies to offices and posts in which the work carried out is of administrative nature. In case of officers holding technical and scientific posts etc., stenographic assistance to be provided to them should be based on the study conducted by the Staff Inspection Unit/Internal Work Study Unit. The respondent-department is a Scientific Department under the Ministry of Science and Technology and the officers are holding technical and scientific posts. The scale of stenographic assistance as laid down in the Annexure-I DOP&T OM dated 6.2.1989 is applicable in the department also but stenographic assistance would be provided to the Technical and Scientific Officers based on the study conducted by the Staff Inspection Unit. On the said basis, the department has implemented the directions of OM dated 6.2.1989 by upgrading the required number of Stenographer Grade III to Stenographer Grade II with effect from 30.08.1991, vide Annexure-VIII. The applicants have also been awarded the upgraded scale on their promotion from Grade III to Grade II with effect from 30.8.1991 in accordance with the Annexure.A-I DOP&T's OM dated 6.2.1989.

8. The other main grounds taken by the respondents is that the orders of the Cuttack Bench have been implemented with the condition that the implementation is

applicable in the case of the applicants only and that arrears from 1.9.1998 will not be paid until all the appellate avenues are exhausted and that an undertaking would be taken in the event of Review Petition being upheld, their pay will be restored to the original scale and all excess payments will be recovered. In view of these orders, the question of extending the benefit to others does not arise, as the order in OA.No.475/1998 is not a common order as stated by the applicants. It has also been submitted that the Government has already decided that the benefit or order of the Cuttack Bench dated 19.11.2003 may be extended to similarly placed employees only after the outcome of the Review Petition filed in the Hon'ble High Court.

9. Heard the learned counsel on both sides and perused the record.

10. The applicants have placed heavy reliance on the orders of the Coordinate Bench of this Tribunal in OA.No.475/1998 dated 19.11.2003 and submit that they are similarly placed and that they cannot be denied the benefit of the said judgment. On the other hand, the respondents contend that the said judgment is not a common order which can be extended to persons who are not parties in the aforesaid OA.

11. We have carefully considered the orders of the Cuttack Bench in the aforesaid OA. The prayer of the applicants therein is for a direction to the respondents to implement the DOP&T OM dated 6.2.1989 with effect from 1.1.1986 and declare that the applicants be upgraded as Stenographer Grade II with effect from 1.1.1986 or 6.2.1989 and to give them the scale of pay of Rs.1640-2900/- from the date on which they have been declared as Stenographer Grade II. The prayer of the applicants in this OA is also the same.

12. In the aforesaid OA, the respondents filed a reply statement stating that though the Government had issued the OM dated 6.2.1989, for the grant of different scales of pay for Stenographers attached to different officers in the subordinate offices, they were eligible to get the higher pay from the date they were promoted or upgraded. This was done in the year 1991 and accordingly the benefits have been given to the applicants when they were promoted. Further, the request for grant of higher pay scale was not agreed to by the Ministry of Science and Technology. It was also submitted before the Tribunal that the upgradation would not automatically apply to the applicants and would be linked to the nature of jobs and the work of officers to whom they are attached and the responsibilities thrust on them. We note that these are precisely the same arguments that have been advanced by the respondents in this OA also. However, after considering the relevant aspects of the case in O.A.No.475/1998, the Coordinate Bench at Cuttack issued directions to the respondents to consider the case of the applicants as per the OM dated 6.2.1989 and upgrade them to the post of Stenographer Grade II with effect from 1.1.1986. The respondents were also directed to consider the case of the applicants for giving them the pay scale of Rs.1640-2900/- from 1.1.1986 and that the pay fixation would be only notional with effect from 1.1.1986 and that the applicants would be entitled to draw arrears of pay only from 1.9.1998, i.e., the date of filing of the original application. It is also an admitted fact that this order of the Tribunal was assailed by filing W.P.(C) No.8176/2004 before the Hon'ble High Court of Orissa and that the Writ Petition was dismissed and that the respondents have decided to implement the judgment only in respect of the applicants therein subject to the outcome of the Review Petition.

13. The respondents contend that the judgment in OA.No.475/1998 is applicable only to the applicants therein. We are unable to accept this contention in view of the

fact that the judgment discusses the recommendations of the 4th Pay Commission for upgradation of Stenographers Grade III to Grade II in respect of those who are attached to Senior Officers. There is nothing to suggest that the OA was allowed taking into consideration any special circumstances which are peculiar to the applicants therein. As regards the grant of revised enhanced pay scale, the Tribunal has relied upon an earlier judgment of the Coordinate Bench of this Tribunal and held that the applicants are fully justified in demanding similar treatment on the same lines. Thus, from the language, it is clear that the OA has been allowed taking into consideration the recommendations of the 4th and 5th Pay Commissions. Therefore, this is a judgment in rem and not a judgment in personam and therefore there is no merit in the argument that this judgment will be applicable only to the applicants in the aforesaid OA.

14. The contention of the applicants herein is that they are similarly situated and that the applicants in OA.No.475/1998 are juniors to them. These contentions have not been denied by the respondents. Thus, the respondents have no case that the applicants are not similarly situated to the applicants in OA.No.475/1998.

15. It is a well settled position of law that the benefit of a decision cannot be denied to similarly placed persons merely on the ground that they have not approached the Court. In ***Gopal Krishna Sharma v. State of Rajasthan*** (1993 SCC (L&S) 544), it has been held as follows:

“If a benefit is given by a Court to an official in a case and if there are other employees who are similarly situated, they are also entitled to get a similar treatment/benefit without approaching the Court.”

16. The same view has been reiterated by the Hon'ble Apex Court in **Ram Prakash Dhawan v. State of Punjab** (1997 (2) SCT 589 in which it has been held as follows:

“When the same relief is granted to a few persons who approached the Court and there are several others who are similarly situated, State Government can on its own grant the same relief to others as well and should not force them to approach the Court. It would not only save the precious time of the Courts but also avoid unnecessary litigation expenditure incurred by the State because of callousness.”

17. Thus, following the aforesaid ratio and order of the Coordinate Bench of this Tribunal at Cuttack in OA.No.475/1998, we allow this OA with a direction to the respondents to upgrade the applicants to the post of Stenographer Grade II with effect from 1.1.1986 and also grant them the pay scale of Rs.1640-2900/- from 1.1.1986. However, the applicants will be granted the benefit of pay fixation with effect from 1.1.1986 on a notional basis and for the purpose of pensionary benefits, and will be entitled to draw the arrears only from the date of filing of this OA on 11.03.2016.

18. Three months time from the date of receipt of a copy of this order is granted for compliance. There shall be no order as to costs.

(MINNIE MATHEW)
MEMBER (ADMN.)

(JUSTICE R. KANTHA RAO)
MEMBER (JUDL.)

Dated: this the 2nd day of February, 2018

Dsn.

