

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**

No. O.A. 350/00373/2016

Date of order: 5th June, 2018.

**Present : Hon'ble Ms. Manjula Das, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member**

1. Noor Alam,
Aged about 46 years,
Son of Late Anisoor Rahman,
Residing at Flat No. 66, Type – III, Tollygunge,
Central Government Quarters,
Kolkata – 700 040 and
At present working as Senior Hindi Translator
Under control and authority of
Principal Controller of Accounts (Fys.),
Having its office at 10A,
Shaheed Khudiram Bose Road,
Kolkata – 700 001;
2. Bhim Prasad,
Aged about 47 years,
Son of Late Ramkatin Prasad,
Residing at 285/1, RBC Road,
Post Office – Garifa,
District – 24 Parganas (North),
Pin – 743 166
And at present working as
Senior Hindi Translator
Under control and authority of
Principal Controller of Accounts (Fys.),
Having its office at 10A,
Shaheed Khudiram Bose Road,
Kolkata – 700 001;
3. Mithilesh Kumar,
Aged about 47 years,
Son of Shri Panchanan Thakur,
Residing at 29/H/6, Cossipore Road,
Kolkata – 700 002
And at present working as
Senior Hindi Translator under
Control and authority of
Principal Controller of Accounts (Fys.),
Having its office at 10A,
Shaheed Khudiram Bose Road,
Kolkata – 700 001.

... Applicants

- VERSUS -

1. Union of India,
Service through the Secretary,
Ministry of Defence,
Government of India,
South Block,
New Delhi – 110 001.
2. The Controller General of Defence Accounts,
Ministry of Defence,
Government of India,
Ulan Batar Road,
Delhi Cantonment – 110 010.
3. The Secretary,
Ministry of Finance,
Government of India,
Department of Revenue,
North Block,
New Delhi – 110 001.
4. The Principal Controller of Accounts (Fys.),
Having its office at
10A, Shaheed Khudiram Bose Road,
Kolkata – 700 001.

.. Respondents

For the Applicants : Mr. P.C. Das, Counsel
Ms. T. Maity, Counsel

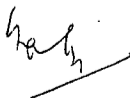
For the Respondents : Mr. P. Mukherjee, Counsel

ORDER (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

Aggrieved by non-extension of higher pay scale of Rs. 5500-9000/- in terms of O.M. No. 70.11.2000-IC dated 14.7.2003, the applicants who were initially appointed as Junior Hindi Translators have prayed for the following specific relief in the instant application.

"a) Leave may be granted to the applicants to file this application jointly under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987 as the applicants have a common grievance.



b) To pass an appropriate order directing upon the respondent No. 1 to grant the upgraded pay scale of Rs. 5500-9000 instead of 5000-8000 in terms of O.M. No. 70.11.2000-IC dated 14.7.2003 with effect from 1.1.1996 notionally (18.7.1996, 13.6.1995 & 2.8.2001 i.e. joining date of the applicants) and actual payments in the higher pay scale being made from 11.2.2003 with all consequential benefits like arrears including interest as per rule vide order of several judgment of Hon'ble CAT's O.A. No. 912 of 2004, O.A. No. 939 of 2004, O.A. No. 753 of 2004, O.A. 615/2006, O.A. No. 283 of 2007, O.A. No. 217 of 2007 of the Hon'ble Central Administrative Tribunal, Calcutta Bench and other Hon'ble Tribunal vide O.A. No. 1736 /2005, O.A. No. 402 of 2006 of the Principal Bench, O.A. No. 1336 of 2005 Hon'ble Central Administrative Tribunal, Allahabad, O.A. No. 505 / 2006 of Patna Bench, O.A. No. 363 of 2006 Hon'ble Central Administrative Tribunal, Hyderabad Bench, O.A. No. 2049 of 2004 & O.A. No. 2044 of 2007, Hon'ble Central Administrative Tribunal, Nagpur Bench, O.A. 384 of 2007 Bangalore Bench, WPCT No. 728 of 2007 and WPCT No. 632 of 2007 of Hon'ble Calcutta High Court, W.P. No. 2429/2009 of Bombay High Court and WP (C) 6663/2008(s) of Kerela High Court and finally by the Hon'ble Apex Court of India vide SLP No. 1749/2009 & 1119/2013.

c) To quash and/or set aside the impugned order dated 29.3.2003 of Ministry of Finance along with the letter No. A-26011//1/2003 Admn.-II dated 14.8.2003 wherein the respondent has denied and issue direction to the respondents to remove the anomalous position and grant the upgraded pay scale in terms of office Memorandum F.No. -70/11/200-IC dated 14.7.2003 of Ministry of Finance to the Jr. Hindi Translator, Sr. Hindi Translator and Hindi Officer of this office by refraining from creating artificial disparity between those working in Central Secretariat Official Language Service (CSOLS) and others in outside the CSOLS and not to defeat the well meaning and studied findings of parity between them by the successive pay commissions.

d) To direct the respondent to redesignate the post of Hindi officials i.e. Junior Hindi Translator, Sr. Hindi Translator and Hindi Officer as Jr. Translator, Sr. Translator and Assistant Director (OL) at par CSOLS in terms of O.M. No. 1/1/2008-IC dated 24.2.2008 of Ministry of Finance and D.O. letter No. 15/42/2013/OL/(s) dated 2.5.2013, 1/2012/08/2008-OL(P-1) dated 21.5.2009 of the Department of Official Language vide representation dated 12.3.2014.

e) Any other appropriate relief or reliefs as Your Honour may deem fit and proper."

2. Heard both Ld. Counsel, examined pleadings and referred to judicial pronouncements as relied upon by Ld. Counsel for the applicant.

3. The applicants' case, in brief, is as follows:-

The applicants were initially appointed as Jr. Hindi Translators in the scale of Rs. 4500-7000/-, replaced with scale of Rs. 5000-8000/- with retrospective effect from 18.7.1996, 2.8.2001 and 13.6.1995 in the case of applicant Nos. 1, 2

Amr

and 3 respectively. Presently, the applicants are Sr. Hindi Translators with the respondents.

That, the Ministry of Finance, Department of Expenditure (Implementation Cell) vide Office Memorandum No. 70/11/2000-IC dated 14.7.2003, upgraded the existing pay scale of Jr. Hindi Translator, Sr. Hindi Translator and Assistant Director (OL) / Hindi Officer, who were working in the Central Secretariat Official Language Service (C.S.O.L.S.) from Rs. 5000-8000/-, Rs. 5500-9000/- and Rs. 6500-10500/- to Rs. 5500-9000/-, Rs. 6500-10500/- and Rs. 7500-12000/- respectively with retrospective effect w.e.f. 1.1.1996 and actual benefits w.e.f. 11.2.2003. Such benefits, however, were not extended to similarly situated posts in subordinate offices that were outside the C.S.O.L.S. cadre.

That, the Ministry of Finance, Department of Expenditure (Implementation Cell) vide its O.M. No. F. No. 1/1/2008-IC dated 24.11.2008 reverted its previous decision and established parity between the Offices of CSOLS and subordinate offices w.e.f. 1.1.2006.

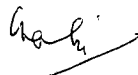
That, the applicants made individual representations before the respondents but to no effect.

That, being aggrieved, the officials approached the Administrative Tribunals all over India and the applications were settled and judged in favour of the aggrieved Hindi Officials of subordinate offices thereby quashing O.M. dated 29.3.2004 of the respondents.

That, the respondents complied with the Hon'ble Courts' orders but implemented the upgraded pay scale only with respect to those incumbents who were applicants before various judicial fora.

As the present applicants are similarly circumstanced, they are entitled to upgraded pay and consequential benefits in terms of the decision of the Hon'ble Supreme Court of India judgment in SLP No. 17419/2009 dated 25.7.2013.

Since the present applicants are similarly circumstanced persons, they have moved the instant Original Application for redressal of their grievances for



upgradation of their pay scale in terms of O.M. dated 14.7.2003 of the Ministry of Finance.

The applicants have relied on the final judgment pronounced in support of their contention being judgment of Central Administrative Tribunal passed in O.A. No. 912 of 2004, O.A. No. 939 of 2004, O.A. No. 753 of 2004, O.A. 615 of 2006, O.A. No. 283 of 2007 and O.A. No. 217 of 2007 of the Central Administrative Tribunal, Calcutta Bench and that of other Tribunals' vide O.A. No. 1736 of 2005, O.A. No. 402 of 2006 of the Principal Bench, O.A. No. 1336 of 2005 of Central Administrative Tribunal, Allahabad Bench, O.A. No. 505 of 2006 of Central Administrative Tribunal, Patna Bench, O.A. No. 363 of 2006 of Central Administrative Tribunal, Hyderabad Bench, O.A. No. 2049 of 2004 & O.A. No. 2044 of 2007 of Central Administrative Tribunal, Nagpur Bench, O.A. 384 of 2007 of Central Administrative Tribunal, Bangalore Bench, WPCT No. 728 of 2007 and WPCT No. 632 of 2007 of Hon'ble Calcutta High Court, W.P. No. 2429/2009 of Hon'ble Bombay High Court and WP (C) 6663/2008(s) of Hon'ble Kerala High Court and finally by the Hon'ble Apex Court of India vide SLP No. 1749/2009 & 1119/2013.

4. Per contra, the respondents have argued that the applicants, three in number, were initially appointed as Junior Hindi Translator in the scale of Rs. 4500-7000/- which was subsequently replaced with Rs. 5000-150-8000/- at par with 5th CPC with effect from 1.1.1996 by way of direct recruitment from their date of appointment in the Defence Accounts Department. The Ministry of Finance, Department of Expenditure (Implementation Cell) had issued an O.M. No. 70/11/2000-IC dated 14.7.2003, which considered upgraded pay scales of the Junior Hindi Translator, Assistant Director (OL)/Hindi Officer respectively, working in Central Secretariat Official Language Services i.e. C.S.O.L.S. from Rs. 5000-8000/-; Rs. 5500-9000/- and Rs. 6500-10500/- respectively to Rs. 5500-9000/- / Rs. 6500-10500/- and Rs. 7500-12000/- respectively with effect from 1.1.1996 notionally and with actual payments in the higher pay scale from

hdf

11.2.2003. Thereafter, Ministry of Finance, Department of Expenditure (Implementation Cell) has issued another OM No. 70/05/2003-IC dated 29.03.2004, under which it has been clarified that the upgraded pay scales approved by the government are specified for the posts of Central Secretariat Official Languages Services (C.S.O.L.S.) which cannot be extended to similarly designated posts elsewhere. The pay fixation of all applicants has been settled accordingly. In compliance to Ministry of Defence (Finance) ID dated 15.04.2004, the Headquarter's Office cancelled/ amended the previous circular dated 07.07.2003 vide the Headquarters Office letter No. AN/XIV/14162-III/5TH PC/Hindi/Cir-III dated 19.04.2004 and directed all PCDA/CDA to place the Junior/ Senior Translators in the pay scales applicable to them just before the issue of upgraded pay scales and to recover the amount overpaid to Junior/ Senior Hindi Translators, due to re-fixation of pay in higher grade and that the communication issued by Ministry of Finance letter F. No. 7-11/2000-IC dated 14.07.2003 pertains to Central Secretariat Official Languages Services.

A summary of the case regarding the pay scales of the Junior Hindi Translators and Senior Hindi Translators has been documented by the respondents as below:

Under 4th CPC:

Designation	Pay Scales
Hindi Translator Grade II	1400-40-1800-50-2300
Hindi Translator Grade I	1600-50-2300-60-2600

They were re-designated as Junior and Senior Translator vide CGDA New Delhi letter No. AN/VIII/8066/2/XXXII/Cir dated 01.02.1996 and their scales were changed as:

Designation	Pay Scales
Junior Hindi Translator	1400-40-1600-50-2300-60-2600

hsh

Senior Hindi Translator	1640-60-2600-75-2900
-------------------------	----------------------

Under 5th CPC, their pay was in the new revised scales from 01.01.1996

as:

Designation	Pay Scales
Junior Hindi Translator	4500-125-7000
Senior Hindi Translator	5000-150-8000

Again the scales were upgraded from 01.01.1996 under 5th CPC as:

Designation	Pay Scales
Junior Hindi Translator	5000-150-8000
Senior Hindi Translator	5500-175-9000

That, as per CGDA, New Delhi letter No. AN/XIV/14142/OA 699/2013/Hindi/SK DT 5/10/2015 the matter was taken up with the Ministry of Finance/Department of Expenditure and it has been confirmed by the Ministry that the Central Administrative Tribunal, Patna Bench's order dated 26.05.2015 of O.A. No. 699 of 2013 can be implemented with regard to the petitioners only provided it is similar to the Hon'ble Apex Court order dated 25.07.2013 in SLP (Civil) No. 17419/2009.

ISSUE

5. Having considered the submissions on behalf of the applicants and the respondents, in our view, the only issue that needs to be adjudicated in this case is whether the applicants are similarly circumstanced as that of the Hindi Officials who have been accorded the upgraded pay scales in terms of Finance Department's O.M. dated 14.7.2003.

hch

FINDINGS

6. Our views, in this regard, are as follows:-

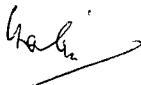
(i) The respondents have admitted in their pleadings that as per CGDA, New Delhi letter No. AN/XIV/14142/O.A./699/2013/Hindi/SK dated 5.10.2015, the matter was taken up with the Ministry of Finance/Department of Expenditure and it has been confirmed by the said Ministry that the Central Administrative Tribunal, Patna Bench's order dated 26.5.2015 in O.A. No. 699 of 2013 can be implemented in the case of petitioners in O.A. No. 699 of 2013 provided it is similar to the Hon'ble Apex Court's order dated 25.7.2013 in SLP (Civil) No. 17419/2009.

(ii) The Hon'ble Apex Court, in its order dated 25.7.2013, while dismissing the SLP filed by the respondent department, had observed as follows:-

"The respondent in this appeal was working as a Junior Hindi Translator in the office of the Commissioner of Central Excise-I, Kolkata. He claimed parity of pay with the Junior Translators who were working in the Central Secretariat. In his case also, what we find is that there is no functional distinction as far as the work of these translators is concerned. Therefore, we do not take a different view. The Civil appeal is dismissed."

Hence, the Hon'ble Apex Court had unambiguously directed that there should be no discrimination between the employees under the same Government in the absence of any functional difference in their service. Nowhere, in their arguments or in the pleadings, the respondents have pointed out any functional distinction between the work of the officials of C.S.O.L.S. and those in the subordinate offices and particularly with respect to the applicants. Nowhere, have the respondents cited any evidence that the duties of the C.S.O.L.S. cadre are more arduous as compared to the duties of the applicants. Even during oral submissions, no rationale was cited before us to establish the functional distinction between the duties of the C.S.O.L.S. and those of the applicants.

(iii) The respondents have been advised by the Ministry of Finance/Department of Expenditure that petitioners can be granted the benefits of O.M. dated 14.7.2003 provided similarity is established to the Hon'ble Apex



Court's judgment in SLP (Civil) No. 17419/2009. The Special Leave petition filed by the Union of India was also dismissed on the grounds that there was no functional difference in the work of Sr. Translators/Assistant Directors in the Offices under the Ministry of Defence vis-à-vis Translators in the Central Secretariat. While disposing of Civil Appeal No. 1119 of 2013, the Hon'ble Apex Court found that there was no functional distinction in the work of Jr. Hindi Translators in the Office of Central Excise I, Kolkata vis-à-vis Jr. Hindi Translators working in the Central Secretariat. This being the ratio laid down by the Hon'ble Apex Court, and given the fact that the respondents have not been able to substantiate any functional distinction between the duties of the applicants and that of the Hindi Translators working under C.S.O.L.S., we feel that the respondents ought to have themselves extended the benefits to the applicants as the matter had reached the finality upon the decision of the Hon'ble Apex Court.

7. Accordingly, we direct the respondents to extend similar benefits as in the order of Central Administrative Tribunal, Kolkata Bench dated 23.11.2015 in O.A. No. 617 of 2011 and order dated 8.2.2016 in O.A. No. 1064 of 2014 and grant all consequential benefits as per rules.

8. With this, the O.A. is disposed of. There will be no orders as to costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Manjula Das)
Judicial Member

SP