

Central Administrative Tribunal Principal Bench, New Delhi

O.A.No.2026/2010

Tuesday, this the 8th day of January 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)**

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

(Ms. Vibha Mahajan Sethi, Advocate)

Versus

1. Union of India through its Secretary
Ministry of Urban Development
Nirman Bhavan, New Delhi
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

(Mr. Y.P. Singh, Advocate)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

This O.A. has a chequered career. It all started in the year 2006. The applicants, an Association of Stenographers, made a grievance about restructuring of their cadre and parity of pay scales as between the Stenographers in the subordinate / attached offices of the Central Public Works Department (CPWD).

2. In the CPWD, the services of the Stenographers are utilized in different ways. Up to the post of Superintending Engineer, the Stenographers of the same Department, categorized as Stenographer Grades I, II & III with different pay scales, are provided. However, for the post of Chief Engineer and upwards, the services of the Stenographers of Central Secretariat Service (CSS) are utilized. The 6th Central Pay Commission (CPC) recommended the restructuring of the entire establishment of Stenographers in the Department on certain lines. The grievance of the applicants was that the recommendation of the 6th CPC for restructuring was not implemented. Further, they pleaded that there existed pay parity between certain posts of two streams of Stenographers up to 01.01.2006 and the same was disturbed to their disadvantage on account of issuance of an Office Memorandum (O.M.) dated 25.09.2006. It is stated that the pay scales of only the Stenographers from the stream of CSS were upgraded. It is in this background, that the applicants filed O.A.

No.1093/2006. That was disposed of on 02.04.2007, directing the respondents to consider the representation made by the applicants.

3. In compliance with the directions issued by the Tribunal in the said O.A., the Deputy Director (Administration), CPWD passed an order dated 22.10.2007 stating, *inter alia*, that the restructuring of the cadre is not possible on account of distinction between the duties of Central Secretariat Stenographers Service (CSSS) on the one hand and the Stenographers of CPWD subordinate cadre service on the other, are totally different. It was also mentioned that the method of recruitment and other conditions are substantially different. The request of pay parity was also not acceded to.

4. Challenging the said order, the present O.A. is filed. The applicants pleaded several grounds in support of their claim.

5. The respondents filed counter affidavit opposing the O.A. It is stated that the posts of the two categories, referred to above, carry different kinds of duties and their methods of appointment are also different. It is also stated that the recommendations of 6th CPC were implemented from time to time and substantial change has taken place on account of unification of the posts of Stenographers and granting a unified scale of pay of ₹6500-10500 (5th CPC).

6. The O.A. was initially dismissed on 09.12.2011 after hearing both the parties. The applicants filed W.P. (C) No.6944/2012. The same was disposed of through an order dated 09.01.2013 remanding the matter to the Tribunal for fresh consideration. After such remand, the O.A. was decided once again, on 11.09.2015. The reliefs claimed by the applicants, both as regards cadre restructuring and pay parity, were rejected. The applicants thereafter filed W.P. (C) No.9397/2016. Their principal grievance was that the issue relating to pay parity was not discussed on merits by the Tribunal. The said W.P. was disposed of leaving it open to the applicants to file a Review Petition. The applicants filed R.A. No.287/2016 in O.A. No.2026/2010 and the same was dismissed on 04.09.2017. That necessitated in filing of a third W.P. by the applicants, i.e., W.P. (C) No.12433/2018. It was disposed of through an order dated 28.11.2018, directing that the issue pertaining to the pay parity be decided. Finality was attached to the issue pertaining to restructuring of the cadre.

7. We heard Ms. Vibha Mahajan Seth, learned counsel for applicants and Mr. Y P Singh, learned counsel for respondents in detail.

8. The basis for the applicants to claim the pay parity, is an O.M. dated 25.09.2006 issued by the Department of Personnel & Training (DoPT). Through that, the pay scales of the posts of Assistants/Personal Assistants in the CSS/CSSS were upgraded to ₹6500-10500, to be on par with the pay scales of the posts of

Inspectors/analogue posts in Central Board of Direct Taxes / Central Board of Excise & Customs. It is not clear from the said O.M. as to whether the parity which was brought about as a step to remove the anomaly or whether there exists any parity between two sets of posts at an earlier point of time. Be that as it may, the O.M. became the basis for several categories of employees to seek upgradation of pay scales, attached to the posts.

9. Coming to the facts of the case, the prayer made by the applicants itself is, in general, if not vague terms. A broad relief in the form of 'pay parity', but not with reference to individual posts, is claimed. Further, the posts, as between which, the parity must be ensued, are not mentioned. This is obviously because the applicants are Assistants.

10. It is brought to our notice by learned counsel for respondents that as of now, several posts in the category of Stenographer were merged and in the course of implementation of recommendations of 6th CPC, the pay scales were also merged. As of now, the difference is only about the Grade Pay. While the Stenographers in the CSS are allowed a grade pay of ₹4600/-, those working in the CPWD are allowed grade pay of ₹4200/- Unless this aspect is specifically pleaded with reference to the relevant material, it would not be possible either for the Department or for this Tribunal to come out a definite conclusion. The changed scenario was not made part of the record. It would not be proper for us to adjudicate such an important aspect on the

basis of the pleadings, which are referable to the year 2010. Much development has taken place thereafter.

11. Added to that, the equation of the pay scales is a matter of policy and in judicial review, what becomes relevant is the decision making process and not the decision itself. If any defect or lacuna is pointed out in the order passed by the Government, the Tribunal can certainly interfere. However, by itself, the Tribunal does not intend to pass a positive order to fix the pay scales for any post, be it on the question of parity or otherwise.

12. We, therefore, dispose of the O.A. leaving it open to the applicants to make a representation stating all the relevant facts in the context of their request for pay parity alone as regards the particular posts and not in general term. The relevant orders passed by the Government as well as the Judgments rendered by the Courts or Tribunal so far, in support of their contentions, shall also be enclosed. The respondents, in turn, shall pass appropriate orders thereon within three months from the date of receipt of such representation from the applicants.

There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

January 8, 2019
/sunil/