

**Central Administrative Tribunal  
Principal Bench**

**OA No.1897/2014**

Reserved on : 11.07.2019.

Pronounced on : 26.07.2019

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

1. M. K. Kaushal, Age – 62 years,  
Foreign Trade Development Officer,  
Son of Shri D. N. Kaushal,  
R/o A-404, Amarpali Apartment,  
Sector – 3, Vaishali,  
Ghaziabad – 101010.
2. N. Vaidyanathan, Age – 51 years,  
Foreign Trade Development Officer,  
Son of Shri R. Natrajan,  
Resident of No. 49, Krishna Nagar, 3<sup>rd</sup> Street,  
Virugambakkam,  
Chennai – 600092.
3. Smt. S. Thangam, Age – 53 years,  
Foreign Trade Development Officer,  
Daughter of Shri R. Sambandam,  
Resident of No. 15, Sixth Street,  
Jai Nagar, Arumbakkam,  
Chennai – 600106.
4. Smt. L. Sreelakshmi,  
Age – 51 years,  
Foreign Trade Development Officer,  
Wife of Shri N. Krishnaprasad,  
Resident of Door No. 4-121, Sundernagar,  
Adarshnagar, Visakhapatnam – 530040.
5. S. Sunderraman,  
Age – 51 years,  
Foreign Trade Development Officer,  
Son of Shri S. Subramanian,  
Resident of Plot No. 36, Ramasamy Nagar,  
4<sup>th</sup> Cross Street, Porur,  
Chennai – 600116.

6. Achintya Kumar Roy,  
 Age – 57 years,  
 Foreign Trade Development Officer,  
 Son of Late Anil Kumar Roy,  
 R/o A- 16, Pubali Garden,  
 Ramchandrapur North,  
 Kolkata – 700103.

7. S. G. Khatri,  
 Age – 56 years,  
 Foreign Trade Development Officer,  
 S/o Shri Ganga Ram Khatri,  
 R/o Sai Ram Apartments, 201,  
 Opposite Hariom Bakery,  
 Ulhasnagar- 421004.

8. Mahadev Nankani,  
 Age – 57 years,  
 Foreign Trade Development Officer,  
 S/o Shri Mohan Lal Nankani,  
 R/o 17/897, Lodhi Colony,  
 New Delhi – 110003.

9. Deep Chand,  
 Age – 58 years,  
 Foreign Trade Development Officer,  
 S/o Shri Meelu Singh,  
 R/o 274, Mohalla Shibbanpura,  
 Patel Marg, Meerut Road,  
 Ghaziabad – 201010.

... Applicants

(By Advocate: Mr. A. K. Behera)

Vs.

1. Union of India,  
 Through its Secretary,  
 Department of Commerce,  
 Ministry of Commerce and Industry,  
 Udyog Bhavan, New Delhi.
2. Secretary,  
 Department of Expenditure,  
 Ministry of Finance,  
 North Block, New Delhi.
3. Director General of Foreign Trade,

Udyog Bhavan, New Delhi.

... Respondents

(By Advocate : Mr. Rajeev Kumar)

**: O R D E R :**

**Mohd. Jamshed, Member (A) :**

The applicants in this OA are serving and retired Foreign Trade Development Officers (FTDOs) posted in various regional offices of the Directorate General of Foreign Trade (DGFT) which is an attached office under Ministry of Commerce and Industry, Department of Commerce, Government of India.

2. DGFT is an attached office of Department of Commerce with regional office across the country in which the officers of FTDOs are posted in Group 'B' gazetted posts. It is submitted that for the post of FTDO officers of two streams are inducted. The first feeder cadre is 100% promotional from DGFT staff of LDC, UDC, Licensing Assistant and Sectional Head. The second stream is of FTDOs who are posted from the CSS feeder cadre.

3. The scales of pay of FTDOs were at par with the Section Officer of CSS and other similar organizations till 5<sup>th</sup> CPC with both being in the pay scale of Rs. 6500-10500. However, after the implementation of the 6<sup>th</sup> CPC recommendation, the FTDOs were placed in the pay band of Rs. 9300-34800 (PB-2) with Grade Pay of Rs. 4600/-,

thereby placing them at par with the Assistants of CSS and other non participating Ministry/Departments. Whereas, FTDOs (CSS) have been granted Grade Pay of Rs. 4800/- (PB-2) in Pay Band or Rs. 9300-34800/-. It is submitted that although most of the Non-CSS FTDOs are posted in the regional offices of DGFT located across the country, a few of them are also posted in the Headquarters. On the other hand, CSS FTDOs are posted only in the Headquarters of DGFT. It is contended by the applicant that whereas the work in regional offices is different from the work in Headquarters, as and when the Non-CSS FTDOs are posted in Headquarters they perform the same duty as that of CSS FTDO and therefore the anomaly in the Grade Pay is unjustified and needs to be corrected. The applicants have taken up this matter through representations to the Ministry of Commerce and also referred their case to the Anomalies Committee, after the recommendation of the 6<sup>th</sup> CPC.

4. The Anomalies Committee and the Ministry of Finance, Department of Expenditure considered these references and did not agree to the proposal for placing Non-CSS FTDOs in the Grade Pay of Rs. 4800/- at par with FTDOs of CSS vide their O.M. dated 18.04.2011. A reference was once again made for consideration. Even on

reconsideration, the Ministry of Finance, Department of Expenditure vide their note dated 30.05.2013 (Annexure-R-VIII) did not agree for grant of Grade pay of Rs. 4800 to Non-CSS FTDOs. In reply to the representation made by the applicant No. 1, respondents vide their letter dated 09.07.2013 (Impugned Order) clarified the position and indicated that the proposal for placement of Non-CSS FTDOs at par with CSS-FTDOs has not been agreed to. Aggrieved by this action of the respondents, the applicants have filed this OA seeking the following relief(s):-

- “a) Call for the records of the case;*
- b) quash and set aside the impugned Office Memorandum No. A-35011/2/2008/HRD-I dated 09.07.2013, whereby the applicants’ representations for restoration of parity in pay scale with the Section Officers of the Central Secretariat Service (CSS for short) in particular and similarly situated officers in other services in general, have been rejected;*
- c) direct the respondents to restore the pay parity between the FTDO (Non-CSS) and FTDO (CSS) by granting Grade Pay of Rs. 4800 to the FTDO (Non-CSS) in PB-2 with effect from 01.01.2006 with all consequential benefits;*
- d) direct the respondents to pay the cost of the proceedings to the applicant;*
- e) pass any other order or direction which this Hon’ble Tribunal thinks fit and proper in the facts and circumstances of the case.”*

5. The respondents have opposed the OA indicating that out of the two categories of FTDOs, the Non-CSS FTDOs belonging to DGFT cadre are posted only to regional office of DGFT and the other category of CSS FTDOs are posted

only in DGFT Headquarters. Both are governed by different set of Recruitment Rules. It is subsequently stated that whereas the Non-CSS FTDOs posts are filled 100% by promotion, the channel of promotion being LDC/UDC/Licensing Assistant/Section Head with Assistant Director General of Foreign Trade (for short, ADGFT) as next promotional post. The CSS-FTDOs on the other hand have feeder cadre of Assistants and the promotional post for them is Under Secretary. The feeder cadre of Non-CSS FTDO has no element of direct recruitment and the feeder cadre of CSS FTDO has an element of direct recruitment too. The representations of Non – CSS FTDOs for grant of grade pay of Rs. 4800/- has been duly examined by the Anomalies Committee and the proposal has not been agreed to by Ministry of Finance, Department of Expenditure and the applicant has been duly advised.

6. Learned counsel for the applicants relied upon the judgment of Hon'ble Apex Court in **Alvaro Noronha Ferriera and anr. Vs. UOI & others** (1999) 4 SCC 408, **Union of India and Ors. Vs. Jagdish Pandey & Ors.** (2010) 7 SCC 689 and **Yogeshwar Prasad and Ors. Vs. National Institute of Planning an Administration and Ors.** (2010) 14 SCC 323.

7. The facts and categories of staff in the above mentioned judgments are different from that of the present OA. During the arguments, the applicants have also relied upon the judgment of Hon'ble High Court of Delhi in D.G.O.F. Employees' Association and Anr. Vs. Union of India in W. P. (C) 4606/2013 decided on 14.10.2014. The facts of this case are also different as the same was in connection with the Assistant/PS seeking parity with CSS/CSSS. In the present OA, the subject matter is of parity of two different categories of staff, working in different streams governed by different set of recruitment rules occupying post of FTDO in Headquarters and in regional offices.

8. We heard Mr. A. K. Behera, learned counsel for the applicants and Mr. Rajeev Kumar, learned counsel for the respondents, perused the records and relied upon judgments.

9. The applicants are serving and retired FTDOs with various regional offices of the DGFT. Most of the posts of FTDOs are in various DGFT regional offices located across the country and also in the DGFT Headquarters in Delhi. FTDOs are posted from two stream i.e. one is the category of FTDOs Non-CSS belonging to DGFT cadre which is to be filled by 100% promotion. Their channel of promotion is of

LDC/UDC/Licensing Assistant/Section Head with Assistant Director General of Foreign Trade (for short, ADGFT) as next promotional post, whereas in the case of FTDOs of CSS the feeder post is Assistant in pre revised scale and the promotional post is Under Secretary. Both these categories are governed by different set of rules. It is a fact that there has been parity in scales of pay of the Section Officer of the CSS and that of the FTDOs till 5<sup>th</sup> CPC, however, based on the 6<sup>th</sup> CPC recommendations various grades were merged and the grade pay were re-fixed. Accordingly, the Grade Pay of Non-CSS FTDO was fixed at Rs. 4600/- and the FTDO (CSS) were granted Grade Pay of Rs. 4800/-. The Pay Commission maintained a clear distinction between the posts at the level of SO in Secretariat and the so called corresponding post in non-Secretariat.

10. The respondents referred the matter to the Anomalies Committees proposing upgradation of Grade Pay of FTDOs (Non-CSS) in the subordinate offices of DGFT at par with revised Grade Pay of FTDO (CSS). The Anomalies Committees considered the representation and referred the same to the Ministry of Finance, Department of Expenditure. The same was considered by Ministry of

Finance, Department of Expenditure and the proposal was not agreed to. The OM. Dated 18.04.2011 reads as under:-

*"Sub: Upgradation of Pay Scale of FTDO (Non CSS) in the Regional Offices of DGFT at par with Revised Pay Scale of Section Officers of (CSS) Cadre.*

*The undersigned is directed to refer to the DGFT's letter No.A-35011/2/2008/HRD-I(Pt.)5274, dated 24.9.2010 on the subject cited above and to say that the recommendation of the Departmental Anomaly Committee for upgradation of pay scale of FTDOs (Non CSS) was forwarded to the Department of Expenditure for consideration/approval. They have examined the proposal and observed as under:*

- i) The Sixth CPC has recommended separate pay scale for the Secretariat staff and the staff outside the Secretariat. Therefore, the pay scale applicable to the Section Officers/FTDOs(CSS) cannot be extended to the FTDOs of non-CSS.*
- ii) The post of FTDOs (non-CSS) is filled 100% by promotion and the channel of promotions LDC, UD, LA, SH with Assistant DGFT (GP Rs. 5400) as the next promotional post whereas in the case of FTDO of CSS, the feeder post is Assistant in the pre-revised pay scale of Rs.6500-10500/- (revised pay scale is PB-2 with Grade Pay of Rs. 4600/-) and the promotional post is Under Secretary of CSS in the revised pay structure of PB-3 with Grade Pay of Rs.6600/-. Therefore, the post of FTDO of CSS and FTDO of non-CSS are governed by different set of Recruitment Rules. Thus, there is no wholesale identity established between these posts.*
- iii) It has been noted in the file that none of the 82 FTDOs of Non-CSS cadre is posted in the headquarters of DGFT. All of them are deployed in the Regional Authorities performing various functions.*
- iv) The feeder posts of FTDOs (non-CSS) is presently in the Grade Pay of Rs.4200/- . On upgradation of the post of FTDO (non-CSS), its feeder post would also demand the upgradation to the Grade Pay equivalent to the Grade Pay of Assistants.*
- v) As per this department's O.M. dated 13.11.2009, the posts which were in the pre-revised pay scale of Rs.6500-10500 have been*

*placed in the revised pay structure of PB-2 with Grade Pay of Rs.4600/-.*

vi) *The proposed upgradation would have wider repercussions as post existing in the pre-revised pay scale of Rs.6500-10500 outside the Secretariat would also demand parity with CSS.*

2. *In view of above, Department of Expenditure have not agreed to the proposal for placement of FTDOs of non-CSS in the Grade Pay of Rs.4800/- at par with the FTDOs of CSS.*

Sd/-

*(S.K. Sharma)  
Under Secretary to the Government of India”*

11. Ministry of Commerce referred the matter once again for reconsideration to the Ministry of Finance. The matter was reconsidered by the Ministry of Finance, Department of Expenditure and the same was not agreed to for reasons given in the letter dated 30.05.2013, as under;

*“Ministry of Finance  
Department of Expenditure  
E-III (B) Branch*

*Department of Commerce may refer to their proposal for upgradation of the Grade pay of the Foreign Trade Development Officer (Non -CSS Group 'B' Gazetted) in attached/sub-ordinate office of DGFT from Rs. 4600/- to Rs. 4800/- at par with SO, CSS.*

2. *The matter has been reconsidered in this department. It is observed that no fresh justifications have been provided by the AM which prima-facie have the potential to be treated as adequate for proposed upgradation. Pay Commission is an expert body which makes recommendations on pay and allowances of Central Govt. Staff keeping in view all relevant factors like hierarchy, educational qualification, duties and responsibilities, pre-revised scales, vertical and horizontal relativities, etc. The 6<sup>th</sup> CPC, in their considered judgment, made a clear distinction between the pay scales of Secretariat and non-Secretariat staff. The FTDOs (Non-CSS) are working in Regional Offices of DGFT, which is not a Secretariat Organization. Further, the pay scale of Rs. 9300-34800, PB-2 GP of Rs. 4800/-and (after completion of 4 years in the Pay Band of Rs. 15600-39100, PB-3, GP of Rs. 5400/-) has been extended to Section Officer/PS of only some of the organized cadres like CSS/CSSS, AFHQSS/AFHQSSS/RBSS and Ministerial/Secretarial posts in*

*Ministries/Departments/Organizations like MEA, Ministry of Parliamentary Affairs, CVC, UPSC, etc. on the basis of specific recommendation of 6<sup>th</sup> CPC vide Para 3.1.9. In the past this department has been denying the benefit of the aforesaid recommendation to various posts in other Ministries/Departments/Organizations which were in the pre-revised scale of Rs. 6500-10500/-on the ground that they have had no historical parity with the Organizaed Cadres mentioned in para 3.1.9 of 6<sup>th</sup> CPC. As such, agreeing to the instant proposal would generate demands from other Organizations involving huge financial implications.*

3. *In view of above, advice as communicated, vide U.O. of even number dated 08.04.2011 is reiterated.*

4. *JS (Pers.) has seen.*

*(Vijay Kumar Singh)  
Director (E.III B)*

*FA. Department of Commerce*

*M/O Fin. (Expd.) UO No.5 (7)/E.III (B)/2011 dated 30.05.2013"*

12. This position was also conveyed to applicant No. 1 in this OA by respondents vide OM dated 09.07.2013. It is evident from the above that the proposal of the DGFT for grant of Grade Pay of Rs. 4800/- to Non-CSS FTDO has been considered at length and was not agreed to by the respondents. It has been indicated that this decision has been taken keeping in view factors like hierarchy, educational qualification, duties and responsibilities, vertical and horizontal relativities and different sets of recruitment rules which govern the two sets of staff posted as FTDO.

13. Most of the Non-CSS FTDOs with different assigned responsibilities and duties were posted in the regional

offices and those coming from CSS are posted only in DGFT Headquarters primarily for secretarial work. Thus, the nature of work and duties are also different in both these cases and the parity only for the sake of a few FTDOs of Non-CSS category, who may sometimes get posted to Headquarters with that of another category with different sets of recruitment rules is not tenable.

14. In this case the channel for promotion of Non-CSS FTDO is 100% on promotional basis from LDC/UDC/Licensing Assisatant/Section Head whereas in the category of CSS FTDOs, it is from Assistant to SO which also has direct recruitment component. Both the feeder category and also the promotional post of non-CSS FTDO and CSS FTDOs are also different. The Non-CSS FTDOs are from DGFT and continue to move up as Assistant Director General of Foreign Trade and Deputy Director General of Foreign Trade whereas the FTDOs of CSS have the promotional avenues as Under Secretary, Deputy Secretary and Joint Secretary. It has also been stated that the CSS FTDOs are only posted in the Headquarters and the Non-CSS FTDOs are posted across the country in the regional offices and thereby their job assignment is different from those from CSS. Pay Commission has also considered in detail, the job

description, qualification, experience, promotional avenues, channels of promotion for various services and made recommendation which can not merely be for maintaining the status quo but for deciding and revising existing pay structure as needed and, therefore, the claim of parity herein is not tenable.

15. At the same time, grievance, if any, arising out of the recommendation of the pay commission is taken up through Anomalies Committee. In this case, the applicants' representation has been processed through DGFT to the Anomalies Committee and was not agreed to by the respondents. The proposal was resubmitted for reconsideration and once again after examination, the same was not agreed to.

16. In the instant case, the applicants have already availed of remedies available like Anomalies Committee, not once but twice. 7<sup>th</sup> Central Pay Commission's recommendations have already been implemented. At this point of time, seeking any parity once again on the basis of recommendation of the 6<sup>th</sup> Central Pay Commission and the Government decision is totally misplaced.

17. In view of the above mentioned, we are of the view that the present OA is devoid of merit and the same is accordingly dismissed. There shall be no order as to costs.

**(Mohd. Jamshed)**  
**Member (A)**

**(Justice L. Narasimha Reddy)**  
**Chairman**

/ankit/