

# LIBRARY

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH  
KOLKATA

OA. 355 of 2012

Date of Order: 8.3.16

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Mr. P. K. Basu, Administrative Member

Anup Mitra, son of late K.L. Mitra, aged about 42 years, working as Private Secretary to the Hon'ble Chairperson, in the office of the Debts Recovery Appellate Tribunal, Kolkata under the Ministry of Finance, Department of Financial Services( Banking Division), New Delhi and residing at 5/14, Nisit Sen Sarani, Baidyapara, Baidyabati, Post Office Baidyabati, District- Hoogly, Pin- 712222.

.....Applicant

-Versus-

1. Union of India service through the Secretary, Ministry of Finance, Department of Financial Services (Banking Division), Jeevan Deep, Parliament Street, New Delhi- 110001.
2. The Secretary, to the Government Of India, Ministry of Finance, Dept. Of Expenditure, North Block, New Delhi- 110001.
3. The Secretary, Department of Personnel and Training, Government of India, North Block, New Delhi- 110001.
4. The Learned Registrar, Debts Recovery Appellate Tribunal, Kolkata, 9, Old Post Office Steet, 7<sup>th</sup> Floor, Kolkata – 700001.

.....Respondents.

For the Applicant

: Mr. PC Das, Counsel

For the Respondents

: Mr. BB Chatterjee, Counsel

ORDER

Per Mr. P. K. Basu, AM:-

The applicant is a Private Secretary in the Debts Recovery Appellate Tribunal in Kolkata in the erstwhile pay scale of Rs. 6500-10500/- After implementation of the 6<sup>th</sup> Central Pay Commission's recommendation the pay grade and grade pay were fixed at Rs. 9300-34800 and Rs. 4800/- respectively vide order dated 02.09.2008. However, in 2009 the grade pay was reduced from Rs. 4800/- to Rs. 4600/- and deduction was ordered.

2. When his pleas were not heard, the applicant filed OA. 1276 of 2009 and vide order dated 15.09.2009 the Tribunal passed an interim order not to reduce the applicant's grade pay from Rs. 4800/- to Rs. 4600/- This OA was finally disposed of vide order dated 03.06.2010 and basically the Tribunal had directed the respondents to take up the matter with the Ministry of Finance to which the matter had been referred.

3. The Respondents thereafter issued an office letter dated 29.07.2010 stating that the proposal of grant of upgraded revised pay structure of grade pay of Rs. 4600/- in the pay band -2 to Section Officer and Private Secretaries of DRATs/DRTs was considered in consultation with Department of Expenditure. Department of Expenditure did not agree to the proposal.

Another letter dated 05.09.2011 was issued cited the letter dated 29.07.2010 and requesting the DRAT to intimate the action taken by them. Thereafter, Ministry of Finance issued order dated 20.03.2012 wherein it was clarified that the grade pay of Rs. 4600/- would be admissible to the applicant with effect from 01.01.2006 and consequential recoveries, if any, are made as per rules. This was followed by an order dated 03.04.2012 by the DRAT, Kolkata intimating that the admissible grade pay of the applicant will be Rs. 4600/- instead of Rs. 4800/- with effect from 01.01.2006.

4. The applicant is aggrieved by this order and filed this OA praying for quashing of the letter dated 29.07.2010, 05.09.2011 and 20.03.2012 and grant of grade pay of Rs. 4800/-.

5. The learned counsel for applicant relies an order of Principal Bench of CAT dated 19.02.2009 in OA. 164 of 2009 along with MA. 141 of 2009 in which the Tribunal allowed the grade pay of Rs. 4800/- in PB-2 to the Private Secretaries and Section Officers of CAT initially and grade pay of Rs. 5400/- in PB-3 on completion of four years service keeping in view their historical parity with their counterparts in Central Secretariat Service and Central Secretariat Stenographer Service (CSS/CSSS).

The learned counsel also relies on the order passed by CAT, Principal Bench dated 15.07.2015 in OA. 3335 of 2011 in which the Tribunal held that the Private Secretaries and Personal Assistants working in AIIMS are entitled to same non-functional pay scale (5<sup>th</sup> CPC) and upgraded pay scale (5<sup>th</sup> CPC) and corresponding 6<sup>th</sup> CPC Pay Bands and Grade Pay as has been granted to the Private Secretaries and Personal Assistants working in the Central Secretariat.

6. According to the applicant the Section Officers and Private Secretaries of DRAT also enjoying pay parity with CSS/CSSS. Therefore, in the light of the above judgments the applicant should also be allowed pay grade of Rs. 4800/-

7. The learned counsel for applicant also points out that before issuing the letter dated 20.03.2012 the Ministry of Finance did not issue any show cause to the applicant thus violating the principles of natural justice.

8. The learned counsel for applicant also relies upon the judgment dated 14.10.2014 in W.P. ( C ) 4606/2013 of the Hon'ble High Court, Delhi in the case of **D.G.O.F. Employees Association & Anr. vs. Union of India & Ors.** which was regarding the grant of parity of pay scale to employees of Ordinance Factories with that of identical rank of employees in the CSS and CSSS and their Lordships allowed the writ.



The applicant has also filed an order dated 23.11.2015 in OA. 617 of 2011 by CAT, Calcutta Bench in which the question of granting the higher scale of Rs. 5500-9000/- instead of Rs. 5000-8000/- to junior Hindi Translators was the issue. The OA had been allowed by the Tribunal.

9. Learned counsel for respondents argued that in its final order 03.06.2010 in OA. 1276 of 2009, the CAT, Calcutta Bench had noted that :

“.....This duties and responsibilities of DRAT and CAT cannot be compared and it has to be done by an expert body constituted for the purpose. In a catena of decisions the Hon'ble Supreme Court has held that in the matter of pay fixation the Court or Tribunal should not interfere and that this is the function of an expert body. Pay scale revisions have financial implications and cascading effects. Therefore, there is need for circumspection.”

10. Thereafter, it had directed for the matter to be referred to Ministry of Finance, being the experts in the matter. Therefore, it is stated that the Tribunal may not interfere in view of the fact that in catena of decisions the Hon'ble Supreme Court has held that in the matter of pay fixation the Court or Tribunal should not interfere and this is the function of expert bodies. It is also clarified that the grade pay of Rs. 4600/- to Private Secretaries and Section Officers are being paid in all other DRAT officers.

11. Heard both the learned counsels and perused the pleadings.

12. All the judgments/orders that have been cited by the applicant namely in OA. 3335 of 2011, OA. 164 of 2009 and OA. 617 of 2011 by CAT and W.P. (C) 4606/2013 by the Hon'ble High Court, Delhi, deal with cadres which are different and, therefore, though these orders/judgments had been passed based, inter alia, on grounds of parity it does not mean that these judgments will act as precedent in this case. The facts and circumstances of those cases are different. This is a separate office namely DRAT and, according to the direction of CAT in OA. 1276 of 2009, the Department had consulted with the Ministry of Finance and taken a decision that in the DRAT, the Private Secretaries and Section Officers will be entitled to only the grade pay of Rs. 4600/-. DRT/DRAT are offices outside the secretariat placed in the common category posts of Ministerial staff working in offices outside the Secretariat; hence the pay scale

approved for personnel working in offices outside the Secretariat will not be applicable in the case of DRT/DRAT employees.

Further, as stated earlier, the Hon'ble Apex Court has held that Court/Tribunal should not interfere in the matter of fixation of pay scales as these have financial implication and cascading effect and, therefore, should be left to expert bodies such as Pay Commissions. Moreover, since this was a case of erroneous pay fixation, there was no need to issue any show cause notice. The Government has acted on the direction of the CAT in OA. 1276 of 2009 and consulted Ministry of Finance and passed the order.

13. In view of above, we do not wish to interfere in the matter. The OA is dismissed. No costs.

~~P. N. Basu~~  
Member (A)

(Bidisha Banerjee)  
Member (J)

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