

OA.No.170/00337/2019/CAT/BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00337/2019

DATED THIS THE 16TH DAY OF OCTOBER, 2019

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI C.V. SANKAR, MEMBER (A)

K. Sampath,
Aged about 60 years,
S/o late G. Kuppusamy,
Administrative Officer (Retired),
NCC Directorate (TN, P & AN),
Residing at No. 208, Block I,
II Floor, B.S. R. Paradise Apartment,
Bhoganahalli,
Bangalore 560 103
(By Advocate Shri B.S. Venkatesh Kumar)

..... Applicant

Vs.

1. Union of India represented by
Secretary to Government,

Ministry of Defence,
DHQ PO,
New Delhi 110 011

2. The Director General of NCC,
West Block IV,
R.K. Puram,
New Delhi 110 066

3. The Deputy Director General,
NCC Directorate (TN, P & AN),
Fort St. George,
Chennai 600 009

4. Secretary to Government,
Ministry of Finance,
Department of Expenditure,
North Block,
New Delhi 110 001Respondents

(By Shri Vishnu Bhat, Counsel for the Respondents)

O R D E R (ORAL)

(HON'BLE DR. K.B. SURESH, MEMBER (J))

The matter seems to be covered by our order in principle. The slight distinction is that that matter related to persons working with Navy and this

matter relates to persons working in NCC Directorate. But then, when the Ernakulam Bench had passed an order and it is said to be implemented, in this case the respondents seem to have taken the matter to the Finance Ministry, Department of Expenditure and they have raised an objection that it may create a problem in the hierarchy. Apparently there are only 16 persons of this type in the entire nation, therefore, they cannot create any hierarchical problem and even if a hierarchical problem arises, under the aegis of Article 14, a parity must be maintained on all similarly situated persons. We quote from the order of the Ernakulam Bench in OA No. 868/2014 dated 09.03.2017:

“ORDER

By P. Gopinath, Administrative Member

The applicants are aggrieved by the failure on the part of the respondents in fixing their pay in PB-2 with Grade Pay of Rs.4800/- and GP Rs.5400/- on completion of 4 years service in the post of Administrative Officer Grade-II in accordance with Clause I (1) of Section II Part B of CDS (Revised Pay) Rules, 2008. Applicants 1 to 7 are working as Administrative Officer Grade II and applicants 8 to 13 retired on superannuation holding the same post. It is stated that the applicants who joined the Indian Navy as LDC earned successive promotions as UDC, Assistant, Office Superintendent and Administrative Officer Grade-II on different dates. Their demand is to get Grade Pay of Rs.4800/- instead of Rs.4600/- based on pay parity as approved and upheld by various judicial pronouncements. Administrative Officer Gr.II is in the rank of a Gazetted Officer whereas non-gazetted officers are in receipt of Grade Pay of Rs.5400/-, contend the applicants. The applicants seek a declaration that they are identically situated as those of Section Officers/Private Secretaries and similar grades of CSS Cadre and thus entitled to receive Grade Pay of Rs.4800/- PB-2 and with GP of Rs.5400/- in PB 3 on completion of 4 years of service in the grade of AO-II. Copy of the order passed by this Tribunal in OA 314/2010 and Annexure A9 judgment of the Delhi High Court are produced to buttress the case of the applicants.

2. Respondents in their reply statement contend that post 6 th CPC Administrative Officer Gr.II in Navy was granted GP of Rs.4600 in PB-2. Section Officers of AFHQ/CSS were granted GP of Rs.4800 in PB-2 and after completion of 4 years, Rs.5400, as per the table below:

CPC	SO of AFHQ/CSS Cadre (Pay Scale)	AO-II of Indian Navy (Pay Scale)
6th CPC	Rs.9300-34800, PB-2 + GP 4800 (GP 5400 on completion of 4 years	Rs.9300-34800, PB-2 + 4600

3. It is contended that a number of officers represented to upgrade the pay scale of AO-II (Grade Pay) at par with Section Officer of CSS and AFHQ. A proposal to that effect was submitted by Naval Headquarters to MoD for their approval. However, MoD rejected the proposal with the following observations:-

b A similar proposal for upgradation of pay scale of Coast Guard's Section Officer and Private Secretary seeking parity with Section Office/PS of AFHQ/CSS, was examined in consultation with MoF. The proposal was rejected by MoF stating that 6th CPC has given two sets of recommendations, one for the common category of Ministerial Staff existing in HQs Organizations of Govt of India (Para 3.1.9) and the other for common category of Ministerial Staff existing in offices outside the Secretariats (Para 3.1.14). Since the instant case is similar in nature in which MoF had given clear instructions, therefore, the proposal in the instant case is not acceded to'.

4. Consequent to judgment of High Court of Delhi dated 6 th Sept. 2013 in WP No.116/2013 and Supreme Court of India order dated 3 rd March 2014 in SLP No.3402/2014 allowing upgradation of Staff Officer of Coast Guard at par with SO of AFHQ with effect from 1st Jan 2006, the case was taken up again by bringing out the historical parity and duties/ responsibilities attached with the post of AO-II and PS of Navy with that of SO and PS of AFHQ as desired by MoD(Fin) duly approved by MoD. MoD (Fin) had recommended the case to Ministry of Finance/Department of Expenditure. However, Ministry of Finance/ Dept of Expenditure vide their UO No.10(13)/E-IIIB/2014 dated 16 th October 2015 again rejected the proposal. The case of P.K.Sehgal and Ors Vs. Union of India decided by CAT (PB) on 19 th January 1996, according to the respondents, is not applicable to this OA, as the same pertains to the duties and responsibilities of Assistant of CSS and Steno Grade-II.

5. Heard arguments on both sides and perused written submissions made.

As per the specific recommendation of the 6 th CPC, the Govt has extended a dual pay structure for SOs - basic Grade Pay of Rs.

4800/- in PB-2 and Grade Pay of Rs.5400/- in PB-3 after 04 years of service thereafter (non- functional). The 6th CPC also recommended that this may be given to Services which have had a historical parity with Central Secretariat viz. AFHQ, RBSS, MEA, M/o Parliamentary Affairs, CBEC, UPSC etc.

6. The Central Secretariat, referred to as the Headquarters Organization of the Government of India, has been dealt with by the 6th CPC on a different footing vis-a-vis Non-Secretariat Organization. The Commission specifically recommended that the two-tier pay structure for Section Officer/PSs with a initial pay scale of Rs. 7500-12000 and the non-functional grade of Rs. 8000- 13500 after 04 years, be extended to the Central Secretariat Stenographer service in all Secretariat Organizations, like the Railway Board, Armed Forces Headquarters, Ministry of External Affairs, Ministry of Parliamentary Affairs, CVC, .UPSC, etc. This recommendation, according to respondent, is not applicable to posts in Non-Secretariat Organizations without arguing why such a disparity is perpetuated or awaits a judicial intervention.

7. The judgment in OA No.527/1997 of 28 th Sept. 1998 of CAT (PB) pertains to pay parity between Assistant working in Central Secretariat and in other lower formations. Respondent has not made out a case why a similar treatment cannot be extended to applicants, as this is also a case for extending parity to lower formations or field formations. The VI CPC had recommended grade pay of Rs.4800 in PB-2 and 5400 in PB-3 on completion of 4 years service to services which have had a historical parity with CSS/CSSS. Services like AFHQCS/AFHQSS and Ministerial/Secretarial posts in organizations like MEA, Ministry of Parliamentary Affairs, CVC, UPSC etc are covered but not AO-II in MoD (Navy). And the respondent does not make out a case, why such a historical parity cannot be established now, on the same argument of extending HQ Secretariat service pay benefits to officials in lower formations and why the applicants are denied the benefit.

8. The respondent has no case that the nature of duties performed by applicants in the lower formations are any different from that performed by the headquarters' offices, thereby making out a case of non-entitlement on the ground of functional differentia. The historical distinction of Secretariat vis-a- vis non-Secretariat appears to be one perpetuated merely to deny the pay similarity, as the nature of duties has over several years after independence, grown and expanded to read like each other. The tendency to look down attitude of the Secretariat on the non-Secretariat has outlived, as the work in non-Secretariat has not only equalled the nature of duties and services in headquarters offices, but has overtaken the decentralized and delegated functions arising out of an expansion of organizations in the last 60 plus years of independence. This is a normal trend in the

growth of any democracy in one of the largest populated country in the world. Such a growth would not normally end in a dilution but expansion of functions of government departments, and an increasing downward devolution and sharing of functions with the lower formations. Instead of aggregating and consolidating the same in the headquarters secretariat, in the interests of functional efficiency and decentralization, a delegation has been perpetuated to the lower levels. Such a downward devolution of power among the officer cadre away from the Secretariat formations would also reflect in the nature of duties assigned and performed by the non-Secretariat cadre. This should also reflect in the need to remove the distinction between Secretariat and non-Secretariat cadres.

9. We note that similarity of treatment has been extended to those who pursued their case through the judicial arm, it is denied to those who did not. Instead of maintaining and perpetuating such a disparity, an endeavour should have been made to extend the benefit to those who are denied the benefit only because they did not approach the Tribunal. The judgment of High Court of Delhi in WP(C) No.116/2013 has been extended to Staff Officer (Civilians) of Indian Coast Guard Organization. Just because nomenclature of applicants is Administrative Officer of Navy in non-headquarters organization, the decision to deny benefits is unacceptable.

10. For the reasons stated above, this OA is to succeed. Accordingly we declare that the applicants are entitled to Grade Pay of Rs.4800/- in PB-2 and Rs.5400 in PB-3 on completion of 4 years service in PB-2. The OA is allowed directing the respondents to provide the benefits within a period of two months from the date of receipt of a copy of this order. No order as to costs."

2. We are in respectful agreement with it. Therefore, the OA is allowed.

The order to be implemented within the next two months. No order as to costs.

(C.V. SANKAR)

MEMBER (A)

(DR.K.B.SURESH)

MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No. 170/00337/2019

- Annexure A1: Copy of the communication dated 08.08.2018
- Annexure A2: Copy of the note dated 11.07.2018
- Annexure A3: Copy of the Delhi High Court judgment dated 06.09.2013
- Annexure A4: Copy of the order dated 09.03.2017 passed by Ernakulam Bench in OA No. 868/2014
- Annexure A5: Copy of the letter dated 08.02.2018
- Annexure A6: Copy of the typed copy of Annexure-A5
- Annexure A7: Copy of the letter dated 17.11.2015

Annexures referred in rejoinder

- Annexure A8: Copy of the letter dated 17.06.2019
- Annexure A9: Copy of the Civilian Establishment list dated 21.02.2018
- Annexure A10: Copy of the pay fixation proforma granting grade pay of Rs. 4800
- Annexure A11: Copy of the pay fixation proforma granting grade pay of Rs. 5400

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