IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8252 of 2016

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Baidya Nath Sinha son of Late Ram Surat Singh, resident of Plot No.C-20, A.G. Colony, P.O.- Ashiana Nagar, P.S.- Shashtri Nagar, District- Patna- 800025.

.... Petitioner/s

Versus

1. The Union of India through the Comptroller & Auditor General of India, Pocket -9, Deen Dayal Upadhyay Marg, New Delhi- 110124.
2. Deputy Comptroller & Auditor General of India, Comptroller & Auditor General of India Office, Pocket -9, Deen Dayal Upadhyay Marg, New Delhi- 110124.
3. Principal Director (Staff), Comptroller & Auditor General of India Office, Pocket -9, Deen Dayal Upadhyay Marg, New Delhi- 110124.
4. Accountant General (Accounts & Entitlement), Bihar, Birchand Patel Path, Patna- 800001.
5. Director (Legal & CPIO), Comptroller & Auditor General of India Office, Pocket -9, Deen Dayal Upadhyay Marg, New Delhi- 110124.
6. Senior Administrative Officer (PC Cell), Comptroller & Auditor General of India Office, Pocket -9, Deen Dayal Upadhyay Marg, New Delhi- 110124.
7. Senior Administrative Officer (GE-II), Comptroller & Auditor General of India Office, Pocket -9, Deen Dayal Upadhyay Marg, New Delhi- 110124.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gautam Saha, Advocate
For the Accountant General	:	Mr. Madhuresh Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL

CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)
Date: 08-05-2017

Petitioner was applicant before the Central Administrative Tribunal, Patna Bench, Patna ("CAT" for brevity). O.A. 392 of 2011 was filed after two years of his retirement to give him the benefit of non-functional pay-scale of Rs. 8000-13500 w.e.f. 24.06.2005, since from that date such a pay-scale was extended to Private Secretaries of

CAG Headquarters Office in New Delhi as a fall out of DOP&T's order, dated 24.06.2005. He made several representations before the authorities, but they were rejected on the ground that the pay-scale of Rs. 8000-13500/- was admissible to Private Secretaries of Central Secretariat Stenographers Services as per DOP&T's order, dated 24.06.2005 and not for the field offices or staff. The Tribunal having heard the matter, both on limitation and the merit, dismissed the O.A. application, vide, order, dated 05.05.2015, and, therefore, this writ application.

2. Learned counsel representing the petitioner makes similar, if not identical submissions, which were made before the CAT that there is no difference between Private Secretaries, working in the field viz-a-viz the Private Secretaries, working in the CAG Headquarters in New Delhi. It is a case of discrimination and, therefore, the Tribunal was in error by dismissing the OA, both on the ground of limitation as well as on merit.

3. The stand of the respondents before the CAT as well as before this High Court is that ***"that CAG Headquarters office in Delhi is a policy making body, which is treated as Secretariat, whereas the field offices are the executive offices that execute the policies framed by the Headquarters and are treated as non-secretariat formations"*** and ***"that the equation between posts***

and pay is best left to the executive domain. In view of the different nature of role of CAG Head office and various field offices under CAG, the work of the employees and staff are not of equal value. Accordingly, except the Indian Audit Accounts Services Group "A", there are separate recruitment rules and pay-scale structure for Headquarters and the field offices for Group "B", "C" and "D' employees".

4. From the reading of the impugned order, passed by the CAT, it seems that different Recruitment Rules were also produced to show similarity between the Headquarters and the field offices. But the Tribunal after going through the Indian Audit and Accounts Department (Senior Personal Assistant) Recruitment Rules, 1988 found that the first paragraph of the said Recruitment Rules itself indicates that it was meant for the field offices of Indian Audit and Accounts Department. If the Senior P.A.s of the Headquarters were a part of the integrated cadre of Stenographer service then there would have been no need to limit the recruitment or the rule to the field offices.

5. When that limb of argument failed, an effort was made on behalf of the petitioner to show methodology of recruitment to draw parity. But this too seems to have not impressed the Tribunal, because the Tribunal has found flaw in the logic of such a submission on the ground that if CAG Headquarters and the field office were one cadre, there

would be no question of sending people on deputation. A simple case of transfer and posting between headquarters and the field offices would do which is not so. This has been the reason why the previous representations for higher pay-scale of Rs. 8000-13500/- has been negated by the respondent authorities.

6. The Tribunal thereafter has reached the conclusion in the following words:

> ***"7. Respondents in their written statement have highlighted the difference between the filed offices and its headquarter by stating that the eligible Private Secretaries in the pay-scale of 6500-10500 working in the field offices were promoted to the grade of Senior Private Secretary in the scale of 7500-12000, but this benefit was not given to the Private Secretaries working in the Headquarters. The respondents have also submitted a number of orders of DOP&T and CAG to establish that separate orders are issued from time to time in respect of pay-scale of staffs in the field offices and Headquarters.***
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> ***8. It is well-known that the Central Government comprises various Ministries and its field offices whose pay-scales are determined by expert bodies like Pay Commission and accordingly, orders are issued by the DOP&T, Ministry of Finance and different ministries. We find no reason to interfere with the categorical submission of the respondents and the circulars submitted by them. The documents submitted by the***

> ***applicant also clearly establish that the field staff and the secretariat staff are separate cadres. Accordingly, the application is dismissed on merit as well. No order as to costs."***

7. After having heard learned counsel for the petitioner and the counsel for the respondents and having closely gone through the impugned order and the annexures, the Court reaches the same conclusion as the Tribunal that the petitioner has no case for a different pay-scale or higher pay-scale, which are meant for Private Secretaries, working in the Headquarters of the CAG office as there is no parity or rule to support so.

The rational and reasoning for dismissal of the OA are legal and valid. Therefore, the writ application is dismissed.

(Ajay Kumar Tripathi, J)

Nilu Agrawal, J **I agree.**

(Nilu Agrawal, J)

SKM/-

AFR/NAFR	AFR
CAV DATE	02.02.2017
Uploading Date	08.05.2017
Transmission Date	Not applicable