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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5968/2018 & CM No.23276/2018 (Stay)**

UNION OF INDIA & ORS

..... Petitioners

Through: Mr. Arun Bhardwaj, Mr. Nikhil
Bhardwaj and Mr. Abhinav Kaushik,
Advocates

versus

PURAN CHAND CHAWLA (GROUP-B RETIRED) Respondent

Through: Mr. Naushad Alam, Advocate
alongwith Respondent in person

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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21.10.2019

1. By this Writ Petition, the Petitioners have challenged the order dated 25th July, 2017 passed by Central Administrative Tribunal (CAT) in OA No. 3170/2014.

2. In brief the facts are that Respondent, Mr. P C Chawla was initially appointed as LDC at Rs.60.00 per month on temporary basis. Later on, he was absorbed in 1958 with increment of Rs.3.00 per annum. He joined in Ministry of Defence w.e.f. 03.01.1963 on the basic pay of Rs.122.00 per month. In 1964, after passing the exam conducted by UPSC, he was appointed as LDC in the Directorate of Estates from where he was transferred to DGS&D as Steno Typist on promotion as Stenographer III of Central Secretariat Stenographer Services (CSSS). He was put in the pay

scale of Rs.130-280 w.e.f. 01.08.1969/1971. Later on, he was promoted as Grade II Stenographer in 1975, where he was confirmed as Stenographer 'C' vide order dated 02.02.1982. On 08.09.1989, he was appointed as grade 'B' Stenographer in the pay scale of Rs. 2000-3500. The pay scales were revised w.e.f. 01.01.1996 and his pay was fixed as Rs.7500/- per month.

3. The Respondent retired from Government service on attaining the age of superannuation on 31.08.1997. His pay was refixed consequent upon grant of non-functional pay scale of Rs.8000-13500 to Private Secretaries of CSSS with 4 years service in the grade from 01.01.1996 vide DoP&T O.M. dated 25.01.2006 and order dated 31.03.2006. Hence, his last pay scale was revised from Rs.6500-10500 to Rs.8000-13500. This scale was revised on the basis of recommendation of Sixth CPC to Rs.9300-34800 with grade pay of Rs.5400.

4. The Respondent submitted a representation against the fixation of his pay and determination of his pension praying that his last pay should be fixed as Rs.15600-39100 with grade pay of Rs.5400/- and accordingly, his pension should be refixed. This representation was rejected by the Department on the ground that he was not directly appointed in Group 'A' service. So, he was not found eligible for the grant of scale of Rs.8000-13500 (Group 'A' entry) with corresponding revised scale of Rs.15600-39100 with Grade pay of Rs. 5400/-.

5. The Petitioners have further pleaded that as per OM dated 11.09.2002 issued by Department of Pension and Pensioners' Welfare, benefits of

upgradation of post would not be admissible to the respondent after his retirement. So, Respondent was not eligible for revision of his pension in Group 'A' scale of Pay Band III plus grade pay of Rs.5400/-. The Respondent felt aggrieved by the decision of the Department of not fixing his pension in pay band of Rs. 15,600-Rs.39,100 with grade pay of Rs.5400/- w.e.f. 01.01.2006, so he filed OA No. 3170/2014 before CAT to which reply was filed by the Department.

6. Vide impugned order dated 25.07.2017, said OA was allowed and it was ordered as under:

“10. In the conspectus of discussions in the foregoing paragraphs, this O.A. is allowed. Respondents are directed to re-fix the pension of the applicant considering his basic pay as PB-3 – ‘15600-39100 with Grade Pay of ‘5400/-. This shall be done within a period of three months from the date of receipt of a copy of this order. Arrears of pension, if any, may also be paid to the applicant. It is, however, made clear that the applicant shall not be entitled for any interest on such arrears.”

7. The said order of the CAT has been challenged by the Petitioners on the ground that the CAT has erred in allowing the OA in violation of notification dated 29.11.2010; the said OA has also been allowed by ignoring the OM dated 11.02.2009 issued by Department of Pension & Pensioners' Welfare; the entry at Serial No. 17 of Annexure I to the OM dated 14.10.2008 is for a new scale introduced which was not in existence earlier and this scale was of Rs.8000-13500 (Group 'A' entry) in PB-III with grade pay of Rs.5400/- and on the basis of recommendations of Sixth CPC it carried the revised pay band of Rs.15600-39100 in PB-III with grade pay of

Rs.5400 and this scale was not in existence on 01.01.1996 nor it was in existence when the Respondent retired in 1997. It was introduced for the first time by the Government in 2008. The CSSS Rules show that the post of Personal Assistant and Private Secretaries are Group 'B' Ministerial Gazetted Posts whereas the post of Principal Private Secretary is shown as Group 'A' Ministerial Gazetted Post. Rule 17 indicates that the Personal Assistant in PB-II with grade pay of Rs.4600 is eligible for promotion to the post of Private Secretary in PB-II with grade pay of Rs.4800. After completion of four years of approved service in that grade, he is entitled to PB-II with grade pay of Rs.5400. But he would continue to remain in Group 'B' Gazetted post as per Rule 3. The pay scale of Rs.8000-13500 has been revised to PB-II of Rs. 9300-34800 vide O.M. dated 14.10.2008 with grade pay of Rs.5400. On the other hand, the new scale for Group 'A' direct entry i.e. Rs.8000-13500 is not for the Group 'B' Ministerial Gazetted Post. As per the Petitioners, the CAT has erred in following the notification dated 29.08.2008 as the Respondent had retired in 1997 from the post of Private Secretary which is a Group 'B' Ministerial Gazetted Post and revised pay scales corresponding to Group 'A' service cannot be extended to him.

8. Notice was issued vide order dated 21.08.2018. The Petitioners were ordered to deposit up-to-date arrears payable to the Respondent in the Registry and the said amount order was ordered to be placed in FDRs. This order was complied with and amount was kept in FDRs.

9. We heard arguments and have perused the record.

10. The case of the present Respondent, who had approached the CAT by filing the above mentioned O.A., has been detailed hereinabove. Copy of petition filed by him before CAT has been filed by the present petitioners on record. Similarly, the counter affidavit filed by the present Petitioners before CAT has also been placed on record.

11. Much reliance has been placed by the Respondent on order dated 7th December, 2011 passed by the Deputy Director of Directorate General of Supplies and Disposals (DGSD) which is reproduced here as under:

“In pursuance to his application dated 03.08.2011, on completion of 4 years of approved service in the grade of PS, Sh. Puran Chand Chawla had been granted non functional scale of PS Rs. 8,000-275-13,500 (pre-revised) {Subsequently revised to Rs.15,600-39,100/- in PB-3 with Grade Pay Rs.5400/-} vide this Directorate General Office Order no. 70/2006/A-15 dated 17th July, 2006.”

12. In the said letter, it is mentioned that the Respondent was granted non functional scale of PS at Rs. 8000-13500, he revised, subsequently, revised to Rs. 15600-39100 in PB-III with grade pay of Rs.5400. On this basis, the respondent has claimed to be entitled to PB-III and has prayed for fixation of his pension accordingly. Stand of present Petitioners is that at the time of re-fixation of pension of the Respondent under the Sixth CPC, it was inadvertently mentioned that his pay scale was of Rs.15,600-39100 plus grade pay of Rs.5400 in place of Rs.9300-34800 plus grade pay of Rs.5400.

13. The attention of this Court was drawn to the revised pay band and grade pay as per Sixth Central Pay Commission and most specifically to entry No. 16 and 17 which are reproduced as under:-

SI. No	Pay scale w.e.f. 1.1.1986	Post/ Grade and Pay Scale w.e.f. 1.1.1966	Name of Pay Band/ Scale	Corresponding 6 th CPC Pay Bands/scales	Corresponding Grade Pay	Pension = 50% of sum of min. of PB+GP /scales	Family Pension = 30% of sum of min. of PB+GP / scales
1	2	3 / 4	5	6	7	8	9
16	2200-75-2800-100-4000 2300-100-2800	S-15/8000-275-13500	PB-2	9300-34800	5400	7350	4410
17	2200-75-2800-100-4000	NEW SCALE/8000-275-13500 (Group A Entry)	PB-3	15600-39100	5400	10500	6300

14. The above two entries clearly show that the earlier pay scale of Rs.8000-

13500 in PB-II was revised to Rs.9300-34800 in Sixth CPC with grade pay of Rs.5400/- as mentioned in entry No. 16. Moreover, a new scale was introduced in Pay Band III vide entry No. 17. New scale was introduced for Group 'A' direct entry which is on the same emoluments i.e. Rs.8000-13500 for pre revised scale but in in PB-III, which was revised of Rs.15300-39100 with grade pay of Rs.5400.

15. The facts narrated above clearly show that the Respondent had reached the post of Personal Assistant by promotion from time to time and he remained in Group 'B' post till the date of his retirement and he cannot claim to be part of Group 'A' Gazetted post, which is reserved for direct entry. Hence, he is not entitled to PB-III although inadvertently in order dated 07.12.2011 his pay band has been metioned as PB-III.

16. It appears that the CAT has been wrongly influenced by notification dated 29th August, 2008 and has heavily relied upon the same. In this regard, para 7 and 9 of the order of the CAT are reproduced here under:

“7. Learned counsel or Applicant drew my attention to Annexure A-4 Notification datedn 29.08.2008 issued by the Ministry of Finance, Section II of the said Notification is extracted below:

Sl No.	Post	Present scale	Revised Pay Scale	Corresponding Pay Band & Grade Pay		Para No. Of the Report
(1)	(2)	(3)	(4)	(5)	(6)	(7)
I	Office Staff in the Secretariat					

1.	Section Officer/PS/equivalent	6500- 10500	7500-12000 8000-13500 (on completion of four years)	PB-2 PB-3	4800 5400 (on completion of 4 years)	(7) 3.1.9 (Modified by Govt.)
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* This scale shall be available only in such of those organizations/services which have had a historical parity with CSS/CSSS. Services like AFHQSS/AFHQSSS/RBSS and Ministerial/Secretarial posts in Ministries/Departments organisations like MEA, Ministry of Parliamentary Affairs, CVC, UPSC, etc. would therefore be covered.

9. In view of the Notification of Ministry of Finance dated 29.08.2008, am fully convinced that the replacement scale for non-functional selection grade of PS cadre, post – 6th CPC, is Rs. 15600-39100 with Grade Pay of that of the applicant is entitled to this replacement scale.”

17. The CAT has missed the point that the Respondent is governed by Central Secretariat Stenographers Service Rules and vide notification dated 29th November, 2010, which suppressed all other earlier rules, the conditions of service including appointment, seniority, postings, promotions, confirmation, discharge, pay and transfer, etc. have been provided for. Para 17 of the said rules notified on 29th November, 2010 vide GSR 931 (E) issued by the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) deals with the pay structure of the service and the said rule is reproduced here under:

“Pay. – The scales of pay attached to the various grades of the service shall be as follows:

Sl. No.	Grade	Pay band + Grade Pay
(1)	(2)	(3)
(i)	Principal Staff Officer	(Pay Band-4) Rs.37400-6700+ (Grade Pay) Rs.8700
(ii)	Senior Principal Private Secretary	(Pay Band-3) Rs.15600-39100+ (Grade Pay) Rs.7600
(iii)	Principal Private Secretary	(Pay Band-3) Rs.15600-39100+ (Grade Pay) Rs.6600
(iv)	Private Secretary	(Pay Band-3) Rs.15600-39100+ (Grade Pay) Rs.5400* (Pay Band-2) Rs.9300-34800+ (Grade Pay) Rs.4800
(v)	Personal Assistant	(Pay Band-2) Rs.9300-34800+ (Grade Pay) Rs.4600
(vi)	Stenographer Grade 'D'	(Pay Band-1) Rs.5200-20200+ (Grade Pay) Rs.2400

* The non-functional pay scale of Rs. 15600-39100 (PB-3) + Rs.5400/- (Grade Pay) shall be admissible to the regular Private Secretaries of the service on completion of four years of approved service in that grade. The Private Secretaries who are granted the non-functional pay scale would continue to remain in Group 'B' (Gazetted) and their eligibility for promotion to Principal Private Secretary grade of the service shall be reckoned on the basis of total period, spent in both the scales of Private Secretary, counted together."

18. This rule makes it clear that in case of Private Secretaries, two pay bands have been provided under entry (iv). The pay band III of Rs.15,600-39,100+ Grade Pay of Rs. 5,400 and pay band II of Rs.9,300-34,800+Grade Pay of Rs.4,800. The explanation given below in the said rule makes it clear that the pay band III with grade pay of Rs.5,400/- is admissible only to the

regular Private Secretaries on completion of 4 years of service of that grade and it has been also clarified that the Private Secretaries who were granted non-functional pay scale would continue to remain in Grade B. Admittedly, the present Respondent had got non-functional pay scale and he continued to remain in Grade B (Gazetted). So, there is no question of him being granted pay band III of Rs.15,600-39,100 + Grade Pay of Rs.5,400/-.

19. The CAT has also not considered the effect of DOPTs order dated 25th January, 2006 wherein it was provided that Officers of CSSS, who were granted non-functional scale of Rs.8,000-13,500 will continue to remain in Group B. Another important point missed by the CAT was that as per OM dated 11th February 2019, no benefit of upgradation of post subsequent to the retirement would be admissible to the pensioners who had retired prior to 01-01-2006. It is pertinent to note that the Respondent had retired in 1997, so he is not entitled to upgradation to the scale of PS of Rs.15,600-39,100 + grade pay of Rs.5,400 as the same came into operation only with effect from 29th November, 2010.

20. For the aforementioned reasons, the impugned order of the CAT dated 25th July, 2017 cannot be sustained and the same is hereby set aside. The writ petition is allowed in the above terms. The pending application is also disposed of. No orders as to costs.

S.MURALIDHAR, J.

TALWANT SINGH, J.

OCTOBER 21, 2019

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