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**(2013) 05 DEL CK 0464**

**Delhi High Court**

**Case No:** Writ Petition (C) 6522 of 2012

Manoj Kumar and Others

APPELLANT

Vs

High Court of Delhi and Others

RESPONDENT

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**Date of Decision:** May 2, 2013

**Citation:** (2013) 200 DLT 353 : (2013) 138 FLR 416

**Hon'ble Judges:** V. Kameswar Rao, J; Pradeep Nandrajog, J

**Bench:** Division Bench

**Advocate:** Jyoti Singh and Mr. Rajat Aneja, Mr. Vaibhav Jairaj and Ms. Swati Gupta, in W.P. C 6522/2012 and W.P. C 6751/2012, for the Appellant; Viraj R. Datar and Mr. Vikram Pradeep, Advocates for the Respondents No. 1 in W.P. (C) 6522/2012 and W.P. (C) 6751/2012, Mr. Sumeet Pushkarna, Advocate for the Respondents No. 2 in W.P. (C) 6522/2012, Mr. Arjun Pant, Advocate for the Respondents No. 3 in W.P. (C) 6522/2012, Mr. Jatan Singh and Mr. Soayib Qureshi, Advocates for the UOI in W.P. (C) 6751/2012, for the Respondent

**Final Decision:** Allowed

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### **Judgement**

Pradeep Nandrajog, J.

Petitioners of W.P. (C) No. 6522/2012, working as Personal Assistant, Judicial Assistant, Junior Translator and Assistant Librarian, all posts in Pay Band-II (PB-II Rs. 9300-34800) have joined together in a common action marching under the banner of Manoj Kumar. The grievance is to give them Grade Pay in sum of Rs. 4,200/-. They claim grade pay to be paid to them in sum of Rs. 4,600/- with effect from January 1, 2006. Marching under the banner of Shrawan Kumar Tanwar, Senior Judicial Assistants, Senior Personal Assistants, Senior Judicial Translators, Senior Assistants Librarians and Readers, also receiving salary in PB-II but with grade pay Rs. 4,600/- claim a right to be paid grade pay in sum of Rs. 4,800/- in PB-II with effect from January 1, 2006 and after rendering the requisite length of service, on being granted non-functional scale, to be placed in PB-III and paid grade pay in sum of Rs. 5,400/- instead of the current grade pay in sum of Rs. 4,600/- and placing them in PB-II.

2. Way back on August 8, 1996, deciding W.P. (C) No. 1174/1999, K.K. Sharma & Ors. v. UOI & Ors., a Division Bench of this Court, considering the nature of work and duties perform by Personal Assistants and Junior Stenographers in the Delhi High Court Vis-a-vis Assistants and Stenographers of the Central Secretariat Service and Central Secretariat Stenographers Service opined that the pay scale in which Stenographers and Assistants working in the Central Secretariat and who were members of the Central Secretariat Service and Central Secretariat Stenographers Service should be made applicable to their brethren, holding analogous posts in the Establishment of the Delhi High Court.

3. On said basis, as against the pay scale Rs. 1400-2300 paid to Personal Assistants and Junior Stenographers in the Establishment of the Delhi High Court, they were directed to be paid salary in the pay scale Rs. 1640-2900 with effect from January 1, 1986 i.e. at par with Assistants and Stenographers working in the Central Secretariat. The decision was followed when W.P. (C) No. 7231/2003 was allowed by another Division Bench of this Court according parity to equal status posts in the Establishment of the Delhi High Court Vis-a-vis the Central Secretariat.

4. On September 25, 2006, an office memorandum was issued by the Government of India upgrading the pay scale of Assistants and Stenographers Grade "C" (PA) of the Central Secretariat Service and Central Secretariat Stenographers Service from Rs. 5500-9000 to Rs. 6500-10500. The result thereof, upon implementation of the recommendations of the 6th Central Pay Commission, is that Assistants, Personal Assistants and Stenographers in the Central Secretariat who are members of the Central Secretariat Service and Central Secretariat Stenographers Service have been placed in PB-II with Grade Pay Rs. 4,600/-, but their counterparts in the Delhi High Court, on being placed in PB-II, have been granted Grade Pay in sum of Rs. 4,200/-. It is obviously the result of the previous upgradation effected by the Government of India on September 25, 2006.

5. Learned Counsel for the respondent states that a conscious decision has been taken by the Full Court after obtaining information from the Supreme Court with regard to placement in the applicable Grade Pay by the Supreme Court of its employees and would further urge that any tinkering with the existing Grade Pays would have a cascading effect. To which learned senior Counsel for the petitioners would urge that in the Central Administrative Tribunal the Assistants and Stenographers in PB-II are receiving Grade Pay Rs. 4,600/- with effect from January 1, 2006 as per an order dated July 6, 2010 passed by Government of India, DOPT, in compliance with the decisions of the Tribunal in OA No. 164/2009, S.R. Dheer & Ors. v. UOI & Ors. decided on February 19, 2009, followed by another decision dated April 9, 2010 allowing OA No. 1165/2010, Mrs. Sunita Devi v. The Secretary, DOPT. Learned Senior Counsel would highlight that the decisions of the Tribunal were unsuccessfully challenged by the Union of India before the Delhi High Court and on the issue attaining finality, office order dated June 6, 2010 was issued.

6. It indeed would be an incongruous situation if Assistants, Stenographers and Personal Assistants in the Delhi High Court would receive Grade Pay Rs. 4,200/- and their counterparts in the Central Administrative Tribunal would receive Grade Pay Rs. 4,600/-. On the issue of parity, we need not trouble ourselves much for the reason the decision of the Division Bench of this Court pronounced on August 8, 1996 in W.P. (C) No. 1174/1994, K.K. Sharma & Ors. v. UOI & Ors. went into the issue of qualitative and quantitative parity between Assistants and Stenographers as also Personal Assistants in the Establishment of the Delhi High Court Vis-a-vis Assistants and Stenographers working in the Central Secretariat and being members of the Central Secretariat Service and Central Secretariat Stenographers Service.

7. Thus as regards those who march under the banner of Manoj Kumar i.e. the petitioners of W.P. (C) No. 6522/2012, we see no obstacle in granting relief prayed for by the petitioners therein, making it clear that since a question of law has been decided by us, the implementation of the decision would be to the benefit of all Personal Assistants, Judicial Assistants, Judicial Translators and Assistant Librarians in the Establishment of the Delhi High Court whom we direct would be paid Grade Pay in sum of Rs. 4,600/- per month with effect from January 1, 2006.

8. W.P. (C) No. 6522/2012 is allowed in terms of para 8 above requiring arrears to be paid within 12 weeks from today and if not paid within 12 weeks to be paid with interest @ 9% per annum reckoned 12 weeks from today.

9. As regards W.P. (C) No. 6751/2012, the undisputed position is that working in the Central Secretariat, members of the Central Secretariat Service and Central Secretariat Stenographers Service working as Private Secretary/Section Officers were hitherto fore in the pay scale Rs. 6500-10500 which was the same pay scale in which Senior Personal Assistants, Senior Judicial Assistants, Senior Judicial Translators, Senior Assistant Librarians and Readers in the Establishment of the Delhi High Court were placed when the recommendations of the 5th Central Pay Commission were implemented and prior thereto when the recommendations of the 4th Central Pay Commission were implemented the parity was in the pay scale Rs. 2000-3200. That those working in the Central Secretariat hold Gazetted posts and their brethren in the Delhi High Court do not work on Gazetted post would make no difference firstly for the reason the pay rules do not draw any such distinction, secondly historically when non-functional upgradation by placing them in non-functional scale of Rs. 8000-13000 was granted to those working in the Central Secretariat, similar benefit was granted to the petitioners in the Delhi High Court in the past. And lastly when in the past when recommendations of the 5th Pay Commission were implemented by the Central Government pertaining to those working in the Central Secretariat the pay was fixed in sum of Rs. 6,900/- in the pay scale Rs. 6500-10500 i.e. with benefit of two increments and similar was the position in the Delhi High Court. This would be evidenced from the orders dated August 25, 2006 and April 23, 2007 annexed as Annexures PX-3 and PX-4 to the rejoinder

affidavit filed in W.P. (C) No. 6751/2012.

10. Accordingly, it has to be held that writ petitioners of W.P. (C) No. 6751/2012 would be entitled, on being placed in PB-II, to be granted Grade Pay in sum of Rs. 4,800 with effect from January 1, 2006 instead of Rs. 4,600/- and after rendering 4 years" service to be granted the non-functional scale at par with their counterparts working in the Central Secretariat, and for which the Establishment of the Delhi High Court would ascertain as to what is the Pay Band and Grade Pay applicable when non-functional scale benefit on rendering 4 years" service is accorded to by the Central Government to Section Officers and Private Secretaries. W.P. (C) No. 6751/2012 is disposed of accordingly requiring arrears to be paid with effect from January 01, 2006 within 12 weeks from today and if not paid within 12 weeks to be paid with interest @ 9% per annum reckoned 12 weeks hereinafter till date of payment. Parties shall bear their own costs.