

(1991) 05 DEL CK 0006

In the Delhi High Court

Case No : Civil Writ Appeal No. 289 of 1991

A.K. Gulati and Another

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 07-05-1991

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1991) 44 DLT 590

Hon'ble Judges : D.K. Jain, J;B.N. Kirpal, J

Bench : Division Bench

Advocate : Mukul Rohatagi, S.K. Tiwari and Madan Lokur, for the Appellant;

Judgement

B.N. Kirpal, J.

(1) The petitioners before us are Private Secretaries who are attached to the Judges of this Court. The claim in this writ petition is that they should be placed in the pay-scale of Rs. 3000-4500 instead of the pay-scale of Rs. 2000-3500, which they are getting at present.

(2) Briefly stated, the facts are that prior to the 4th Pay Commission report, the petitioners were in the pay-scale of Rs. 775-1200. According to the provisions of the Delhi High Court (Staff Seniority) Rules, 1971, the posts of Private Secretary are being regarded as equal status posts with those of Superintendent and Court Master. There is a joint seniority list of all the three categories which is maintained. The next higher post to which all of them are eligible for being considered for selection is that of Assistant Registrar.

(3) In June, 1986, the 4th Pay Commission gave its recommendations. Two of the recommendation which are material are that Secretaries to the Government of India who were drawing a basic salary of Rs. 3500.00 , were entitled to receive a basic salary of Rs. 8000.00 . Clause 9.39 of the said Report further provided that in order to provide satisfactory promotional avenues for members of the C.S.S.S. (Central Secretariat Stenographers Service), the posts of Private

Secretary to the Secretaries to the Government of India were to be upgraded and be given the scale of pay of Rs. 3000-4500.00 .

(4) After the recommendation of the 4th Pay Commission, the then Chief Justice of this Court, wrote to the Minister of Law and Justice, suggesting that for the officers in the pay-scale of Rs. 775-1200, including the Private Secretaries, the revised pay-scale should be Rs. 2300-3700. In the remarks column, it was stated that the Private Secretaries in the Supreme Court who were previously in the pay-scale of Rs. 775-1200, have been given the scale of Rs. 2300-3700 as per the recommendation of the 4th Pay Commission. It is for this reason that the High Court recommended the pay-scale of Rs. 2300- 3700. This scale of Rs. 2300-3700 was also recommended for the other equal status posts for the reason that the said posts were equal status posts.

(5) The Government, however, revised the pay-scale of the petitioners, Court Masters and Superintendents from Rs. 775-1200 to Rs. 2000-3500. The grievance of the petitioners in the present case is that the decision to restrict the revision of scale to Rs. 2000-3500 is contrary to the recommendation of the 4th Pay Commission.

(6) It is not in dispute that the Private Secretaries who are attached to the Secretaries to the Government of India have been placed in the pay-scale of Rs. 3000-4500. In the affidavit in reply filed on behalf of the Government of India, it is also admitted, and in our opinion, rightly so, that the averments of the petitioners that their duties involve higher integrity, confidentiality and efficiency as compared to the Private Secretary to the Secretary to the Government of India and Private Secretary to the Chief Secretary, Delhi Administration are strictly true. It is also admitted that each of the posts viz., that of the Private Secretary to the Judge of this Court and the Private Secretary to the Secretary to the Government of India carries a lot of responsibility and efficiency. The only defense which seems to be put up by the respondents is that the scale of Rs. 3000-4500 is in fact the revised scale of the Assistant Registrar of this Court. The duties and responsibilities and the status of the post of Assistant Registrar are higher than those of the Private Secretary. Furthermore, it is represented by the respondents that according to the High Court rules, the Private Secretaries have been shown as holding equal status post with those of Court Master and the Superintendent. It is, Therefore, contended that the Private Secretaries cannot get a pay scale higher than those of the incumbents, who are holding equal status posts.

(7) There is no doubt that the scale of pay now sought, viz., of Rs. 3000-4500 is also the scale of pay of the Assistant Registrar, which is a promotion post as far as the petitioners are concerned. The difficulties which have been referred to by the respondents shall be considered by us presently. What we are first to see is whether the petitioners have any right to claim the higher scale of Rs. 3000-4500.

(8) In our opinion, the right of the petitioners to get the higher scale of Rs, 3000-4500 is based on the report of the 4th Pay Commission itself. Even though the Pay Commission is not directly concerned with fixing the pay- scales of the staff of High Courts, nevertheless as a matter of practice, the pay-scales so fixed have, by and large, been applied for all the employees of the High Courts. Prior to the revision of the pay-scale of the Private Secretaries to the Judges, the petitioners were getting the pay-scale of Rs. 775-1200. This pay-scale was the same which was being granted to the Private Secretaries to the Secretaries to the Government of India and the Private Secretary to the Chief Secretary, Delhi Administration. Therefore, there was a parity of pay between the Private Secretaries to the Judges of this Court and the Private Secretaries to the Secretaries to the Government of India and the Private Secretary to the Chief Secretary, Delhi Administration. When, Therefore, there has been a revision of pay-scale from Rs. 775-1200 to Rs. 3000-4500 in the case of Private Secretaries to the Secretaries to the Government of India, there is no reason as to why there should not be a similar upward revision of the pay-scale of the Private Secretaries attached to the Judges of this Court. The salary of the Judges of this Court is the same as that of the Secretaries to the Government of India. We need not go into the question, with regard to the status and the other allowances which are received by the Judges of the High Courts, which are higher and more than those of the Secretaries to the Government of India. In addition thereto, the work which is performed by the Private Secretaries to the Judges is not less, and infact more onerous, arduous and confidential in nature. The Private Secretary has also to be efficient and must have the highest integrity. Therefore, the principle of Equal Pay for Equal Work is the second reason which should entitle the petitioners to get the higher scale of pay. The work performed by the petitioners is similar or possibly more responsible and arduous than the work of the Private Secretaries to the Secretaries to the Government of India. As such the principle of Equal Pay for Equal Work and also the fact that the 4th Pay Commission itself has recommended that for the Private Secretaries to those officers, who are drawing salary of Rs. 8000.00 , the pay-scale of Rs. 3000-4500 should be granted, will apply in the case of the petitioners.

(9) We will now refer to the difficulty which may be posed because of the higher scale of pay to be granted to the petitioners as compared to the Court Masters and Superintendents. We are not in this petition concerned with the question whether the Court Masters and Superintendents are also entitled to higher scale of pay or not. According to the Delhi High Court, Rules, these posts viz.. Private Secretary, Court Master and Superintendent, are not only equal status posts but they are also inter-changeable. The Court Masters are frequently posted as Superintendents and vice versa. There is a common seniority list which is maintained and all the three categories of employees are the feeder posts to the next higher post of Assistant Registrar. Therefore, notwithstanding the higher pay which may have to be paid to the Private Secretaries on the basis of the aforesaid decision of the 4th Pay Commission, the status of the petitioners

cannot become higher than that of the Court Masters and the Superintendents. That status will be governed by the provisions of the Delhi High Court Rules and a common seniority list will continue to be maintained.

(10) The result of this would be that though the petitioners would be entitled to the same scale of pay, which has been granted to the Assistant Registrar, nevertheless these petitioners and other Private Secretaries will not be entitled to be designated as or work as Assistant Registrar till they are selected for promotion to the post of Assistant Registrar in their turn and according to the Promotion Rules. It will be pertinent to note that the Court Masters and Superintendents, atleast, have rendered larger number of years of service as some of them join the Court even as a Lower Division Clerk, from which they are promoted to the next higher post of Upper Division Clerk and then as Assistant and then to the post of Superintendent or Court Masters. On the other hand, the recruitment and the channel of promotion of the Private Secretaries is that they are recruited as Junior Stenographer or Senior Stenographer and then promoted as Private Secretary. It would, Therefore, be very unfair and unjust if by reason of granting the higher pay-scale to the Private Secretaries, we were to direct that they should steal a march on their compatriots, viz. Court Masters and Superintendents as far as the status is concerned. Higher scale cannot mean that they would become senior or hold higher status than that of the Court Masters and Superintendents. The common seniority list will continue to be maintained notwithstanding the higher scale to be given to the Private Secretaries.

(11) For the aforesaid reasons, this writ petition is allowed. A writ of mandamus is issued to the respondents, directing them to fix the salary of the petitioners and other Private Secretaries who are working with the Judges of this Court in the appropriate stage in the pay-scale of Rs. 3000-4500 with effect from 1st January, 1986. The salary of the petitioners and other Private Secretaries should be fixed within three months from today and the arrears if any, should be paid to the petitioners within one month thereafter. There will be no order as to costs.