

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.3179 OF 2002

New Delhi, this the 25th day of February, 2004

HON'BLE SHRI KULDIP SINGH, JUDICIAL MEMBER
HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

Sl.No.	Name	Son/wife/of Shri
1.	Sh. G.S.Anand	D.M. And
2.	Smt.Indu Dutta	Rajender Dutta
3.	Smt.Sudesh Anand	Vinay Kumar
4.	Smt. Swarn Issar	Rajesh Issar
5.	Sh. S.L. Dhingra	Birbhan Dhingra
6.	Sh. Shashi Sapra	T.S. Sapra
7.	Sh. Madan Lal Goyal	R.S. Goyal
8.	Sh. N.K. Popli*	R.N. Popli

ALL C/o NSS (DPC) Hans Bhawan, New Delhi-110002
*Promoted as Data Processing Assistant Grade II
after 1.1.1986

9.	Salil Ghosh	Late S.C.Ghosh
10.	Anjana Bhowmick	N.C. Bhowmick
11.	Sanjit Brambha	Late M.N. Brambha
12.	Pradip Kr. Das	Rabindra Nath Das
13.	Suvendu Chatterjee	Late Sisir Kr.Chatterjee
14.	Ranjit Kr.Dey	Late Goptal Ch.Dey
15.	Aninda Sengupta	Himansu Sengupta
16.	Sambhu Nath Bose	Late S.N.Basu
17.	Bela Mitra*	T.Mitra
18.	Anath Bendhu Ray	Nirode Baran Dey
19.	Prabir Gupta	Late K.C. Gupta
20.	Pradip Ray	K.L. Ray
21.	Partha Sengupta	Late Gopal Ch.Sengupta
22.	Swapan Kr.Gupta	Late Purna Ch.Gupta
23.	Bidyut Saha	Late Panna Lal Saha
24.	Maloy Kr.Chowdhury	M.K.Chowdhury
25.	Ashim Kr.Gupta	Late Ramesh Ch.Gupta
26.	Soumen Das	Late Manmoth Nath Das
27.	J.Saha Chowdhury	Late B.K.Saha Chowdhury
28.	Mohan Bhattejee	Late K.L. Bhattejee
29.	Prasanta Mukherjee	Late Kalidhan Mukherjee
30.	Ashit Kr.Mazumdar	Shayma Kishore Mazumdar
31.	Ashim Kr. Pain	Late S. K. Pain
32.	Tapash Chatterjee*	Late B.M.Chatterjee
33.	Panna Lal*	Late Pudai Ram
34.	Manik Chandra Das*	Late H. Das
35.	Debabrata Mukherjee*	Late H. Mukherjee
36.	Bhalendu Sarkar*	Late B.N. Sarkar
37.	JayaIta Chowdhury*	Late B.M. Chowdhury
38.	Tapati Biswas*	W/o N. Biswas
39.	Lakshaman Bhandari*	Late A.K. Bhandari
40.	Adhir Chakraborty*	Late A.C. Chakraborty

ALL C/o NSSO (DPD - HQ), Mahalanobish Bhawan,
164 G.L.T. Road, Kalkata - 700108.
*Promoted as Data Processing Assistant Grade II
after 1.1.1986

41. Jayant

Ramchandra Dhume

Chakraborty



C/o NSSO (DPC), NIT Building, WHC Road,
Gokulpeth, Nagpur 440010.

.....Applicants

(By Advocate : Dr. Shyamla Pappu, senior
advocate with Shri R. Krishnaa
Morthi with Shri V.N. Pandey)

Versus

Union of India through

1. Union of India through
Secretary, Department of Expenditure,
Ministry of Finance, New Delhi.
2. Secretary, Department of Personnel
and Administration Reforms, New Delhi.
3. Secretary, Ministry of Statistics and
Programme Implementation, New Delhi.
4. Chief Executive Officer, National
Sample Survey Organisation, Ministry
of Statistics & PI, New Delhi-110001.
5. Deputy Director General, National
Sample Survey Organisation, Data
Processing Division, HQ Prof.
Mahalanobis Bhawan, 164, G.L. Tagore
Road, Kolkata 700108.

.....Respondents

(By Advocate : Shri N.S. Mehta with Ms. Meenu
Mainee)

O R D E R

SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER:

This Original Application has been filed jointly by 41 applicants under Section 19 of the Administrative Tribunals Act, 1985 claiming the following reliefs:-

- "(1) Strike down the proviso 1 to Rule 8 as which disallows the next increment on the date it becomes due in the pre-revised scale, as being discriminatory and violative of Articles 14 and 16 of the Constitution of India.
- (2) Declare that the benefit of Rule 8(1) should be available to not only those falling under Rule 7(1) but also those who fall under Rule 7(1), Note 3, so

AmBopur

that the applicants also become entitled to the next increment on the date it falls during the pre-revised scale of pay.

- (3) Pass such other order / orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.
- (4) Award costs of the present proceedings to the applicants."

2. It is stated that the applicants are serving on Electronic Data Processing Posts in the Data Processing Division of the National Sample Survey Organisation under the Ministry of Statistics, Government of India. The applicants are/were holding the post of Data Processing Assistants as on 1.1.1986. This Original Application has been filed in view of the decision of the Hon'ble Supreme Court dated 9.12.1996 in Hari Shamrao Nimje & Ors. Vs. Union of India & Ors. (Civil Appeal No.16741/96 arising out of SLP (C) No.18948/95) read with the order dated 25.9.1998 in Chandraprakash Madhavrao Dadwa & Ors. Vs. Union of India & Ors. (Review Petition 2096/95 in Civil Appeal No.5008/98 arising out of SLP (C) No.16646/1996). Initially the Tribunal vide order dated 9.12.1996 had rejected the claim of pay scale of the Data Processing Assistants, however, the same were allowed by the Supreme Court in the case of Hari Shamrao Nimje (supra). The grievance of the applicants is that while fixing the pay of the applicants, there has been wrong fixation, therefore, they claim the relief as stated earlier. According to the applicants, they were entitled to scale of pay of Rs.1600-2660 in view of the Supreme Court decision.

an 30/9/98



The pay fixation was to be done in terms of Note 3 of Rule 7 which reads as follows:-

"7. Fixation of initial pay in the revised scale - (1)

NOTE 3 - Where in the fixation of pay under sub-rule (1) the pay of Government servant drawing pay at more than five consecutive stages in an existing scale gets bunched that is to say, gets fixed in the revised scale at the same stage, the pay in the revised scale of such these Government servants who are drawing pay beyond the first five consecutive stages in the existing scale shall be stepped up to the stage where such bunching occurs, as under, by the grant of increment(s) in the revised scale in the following manner, namely:-

- (a) for Govt. Servants drawing pay from the 6th upto the 10th stage in the existing scale - By one increment.
- (b) for Govt. Servants drawing pay from the 11th upto the 15th stage in the existing scale, if there is bunching beyond the 10th stage - By two increments.
- (c) for Govt. Servants drawing pay from the 16th upto the 20th stage in the existing scale, if there is bunching beyond the 15th stage - By three increments."

3. However, the grievance of the applicants is that whatever is given under the aforesaid Rule 7 has been taken away by the provision contained in Rule 8 which reads as under:-

"8. Date of next increment in the revised scale - The next increment of a Government servant whose pay has been fixed in the revised scale in accordance with the sub-rule (1) of Rule 7 shall be granted on the date he would have drawn his increment, had he continued in the existing scale:

Provided that in cases where the pay of the Government servant is stepped up in terms of Note 3 or Note 4 or Note 7 to sub-rule 1 of Rule 7, the next increment shall be granted on

Carrying on

95

the completion of qualifying service of twelve months from the date of stepping up of the pay in the revised scale; (proviso 1)"

4. Learned counsel states that proviso to Rule 8 should be struck down as discriminatory. It is stated by the applicants that there was an anomalous situation, if an employee opted allowing increment after pay fixation in the revised scale. The applicants represented to the respondents requesting that their next increment be allowed on the date it was due in the pre-revised scale instead of after completion of 12 months from the date of fixation of date in the new scale. Since this was not granted, they have filed the present Original Application.

5. The respondents have opposed this application. It is stated in the reply filed on behalf of the respondents that the Rule 8 of CCS (RP) Rules, 1986 prescribes the manner in which the next increment in the new scale should be regulated. The proviso to this rule is intended to eliminate the anomalies of junior government servants drawing more pay than their seniors by the operation of the substantive part of this rule. The respondents have further stated that the applicants have not brought out any case about the senior drawing more pay in the existing pay scale getting fixed at the lower stage in the revised scale than the junior by the applicability of the above rules. Therefore, the contentions being made by the applicants are not strong enough to warrant any review of the rules that have already been framed and have

can be argued

been in force for a long time. Learned counsel of the respondents states that there is no discrimination and anomaly, therefore, the grievance made is without any valid reasons.

6. We have heard the learned counsel of the parties and have perused the material available on record.

7. After the recommendations of Pay Commission, the pay scales were revised w.e.f. 1.1.1986, the pay of the existing employees was to be fixed after considering their length of service in the pre-revised scales giving them suitable benefits of their seniority and length of service. When the pay was fixed in the revised scale, the next increment was to be given only after completion of 12 months of service. In view of the fact that certain employees who had opted for date of increment in the new scales it is claimed that the applicants be also allowed to have the same date of increment which was in the pre-revised scale. There is no question of any junior getting higher pay than his senior because of this option as extra increment has already been granted to the seniors in the new revised scale of pay. It may be that the senior as well as the junior draw the same scale for some time. It is inevitable when the revised pay scales on the recommendations of Pay Commission are implemented. In our opinion, there is

20/3/87

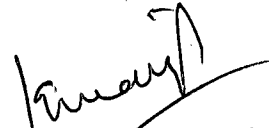
(7)

27

no reason for interference on the facts of this case.
Therefore, the present Original Application is
dismissed without any order as to costs.



(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER



(KULDIP SINGH)
JUDICIAL MEMBER

/ravi/