

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA No.2300/2002

New Delhi this the 8<sup>th</sup> day of May, 2003.

Hon'ble Mr. V.S. Aggarwal, Chairman

Hon'ble Mr. V.K. Majotra, Member (Admnv)

1. Shri. Madhu Sudan Marwah
2. Shri.Sreebhash Bhattacharjee
3. Shri.Arivind Cairae
4. Shri.Hemchand Mehra
5. Shri. A.C.Bhar
6. Shri.M.C.Sharma
7. Shri. Satish Chander
8. Shri.Kuldeep Sharma
9. Shri.Vimal Chawla
10. Shri.Pawan Kumar Gupta
11. Shri.Anil Kumar Chhabra
12. Shri.Anil Kumar Jain
13. Shri.N.K.Bhatia
14. Shri.Ashwani Kumar Singhal
15. Shri.R.K.Kachroo
16. Smt. Asha Prasad
17. Smt. Grace Iypoa
18. Smt.Nirmal Sachdeva

Applicants 1 to 18 working in the office of :  
National Sample Survey Organization,  
Data Processing Center - Delhi,  
Han Bhawan, Wing-II,  
New Delhi - 110002

19. Shri.Supriya Gupta
20. Shri.Monojay Ghanti,



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21. Shri. Dibakar pal
22. Shri sudhakar pal
23. Shri Partha Sarathi Bhattacharjee
24. Shri Debasish Chowdhury
25. Shri Dinesh Dalal
26. Shri Sushen Chandra Das
27. Shri Dibyendu Kumar Ghoshal
28. Smt. Santa Raha
29. Smt. Bandana Hazra
30. Shri Promode Roy Chakraborty
31. Shri Keshab Chandra Biswas
32. Shri Bijoy Lal Ghosh
33. Shri Sital Paul
34. Shri Dipankar Roy
35. Shri Sandipan Ray
36. Shri Sunil Ghosh

Applicants 19 to 36 working in the office of :  
 National Sample Survey Organization,  
 Data Processing Division (HQ),  
 Mahalanobis Bhawan,  
 164, G.L.T.Road, Kolkata - 700 108

37. Shri Pulak Kumar Dhar

Working in the office of :  
 National Sample Survey Organization,  
 Data Processing Center - Giridih,  
 Rose Villa, New Berganda,  
 Jharkhand. PIN-815301.

38. Shri. Subrata Roy
39. Shri. Sekhar Ganguly

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40. Smt. Snigdha Bose
41. Shri. Samir Kr. Mondal.
42. Shri. Suchismita Biswas
43. Shri. Mrinal Kanti Nandi
44. Shri. Buddhadev Paul
45. Shri. Sukumar Das
46. Shri. Subhangsu Ghosh
47. Shri. Subrata Bhattacharyya
48. Shri. Susanta Dutta
49. Shri. Soumendra Ku.Mohanty
50. Shri. Ashok Kr.Guha Majumdar
51. Shri. Maloy Kumar Nath
52. Shri. Gopal Chandra Raha
53. Shri. Kabindra Nath Das
54. Shri. Kamal Kumar Datta
55. Shri. Samir Kumar Chowdhury
56. Shri. Dilip Kumar Debnath
57. Shri. Gautam Mitra
58. Smt. Uma Chattopadhyay
59. Shri. Ashok Kumar Chatterjee
60. Smt. Shubha Chattopadhyay
61. Shri. Pradip Kumar Deb
62. Shri. Shyamalesh Ch.Biswas
63. Shri. Subhas Chandra Roy
64. Shri. Jyoti Ghosh
65. Shri. Ashok Kumar Bose

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66. Shri. Dipak Das
67. Shri. Biswarup Basu Mallick
68. Smt. Manju Das
69. Shri. Dhurjati Gupta
70. Shri. Panchkari Das
71. Shri. Pradip Chowdhury
72. Shri. Kumaresh Das
73. Shri. Arpan Majumdar
74. Shri. Utpal Datta
75. Shri. Dayal Kumar Ghosh
76. Smt. Kakali Deb
77. Smt. Aparna Bhaumik
78. Shri. Prasanta Bose
79. Shri. Aloke Kumar Chakraborty
80. Shri. Soumen Goswami
81. Shri. Santanu Tapadar
82. Shri. Ravi Shankar Mishra
83. Shri. Tapan Kumar Nag
84. Shri. Saures Basu
85. Shri. Prabir Bose
86. Shri. Arunava Dutta
87. Shri. Sujoy Kumar Halder
88. Shri. Janaranjan Haldar
89. Shri. Anup Chatterjee
90. Shri. Jagabandhu Chattoraj
91. Shri. Gautam Prosad Ghosh
92. Shri. Amal Das Gupta

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93. Shri. Subir Kr. Sarkar
94. Md. Ali Asgar Mondal
95. Shri. Kalyan Munshi
96. Shri. Shomenath Chatterjee
97. Shri. Sukamal Ghosh
98. Shri. Biplab Kr. Chatterjee
99. Shri. Bikash Banerjee
100. Shri. Swapan Kr. Deb Roy
101. Shri. Ashis Kr. Paul
102. Shri. Pradipta Ray
103. Shri. Asit Datta Gupta
104. Shri. Aniruddha Paul
105. Shri. Samir Ganguly
106. Shri. Sabyasachi Ghosh
107. Shri. Smarajit Das
108. Shri. Soumendra Nath Pal
109. Shri. Asoke Kumar Santra
110. Shri. Sandip Mukherjee
111. Shri. Chandra Shekhar Mahapatra
112. Shri. Bhagabat Ghosh Hazra
113. Shri. Subrata Kumar Ghosh
114. Shri. Samar Chakraborty
115. Shri. Chandan Kumar Dey
116. Shri. Shyamal Kumar Mitra
117. Shri. Debasish Kar(Jr.)
118. Shri. Tapan Kr. Dey

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119. Shri. Dharmendra Maharana

Applicants 38 to 119 working in the office of :  
 National Sample Survey Organization,  
 Data Processing Division (HQ),  
 Mahalanobis Bhawan,  
 164, G.L.T.Road, : Kolkata - 700 108

120. Shri. Chandra Kant Thakre

121. Shri. Shyamsundar Lakhote

122. Shri. Prakesh Bapat

123. Shri. Shrikisan Rathi

124. Shri. Ishwar Zade

125. Shri. Vinayak Mahatpure

Applicants 120 - 125 working in the office of  
 National Sample Survey Organisation,  
 Data Processing Center - Nagpur, NIT Building,  
 Gokulpet, Nagpur, PIN-440010.

126. Smt. Lily De

Applicant 126 working in the office of :  
 National Sample Survey Organization,  
 Data Processing Center - Ahamedabad,  
 Nadeep House, A-Wing, 3<sup>rd</sup>. Floor, Income tax Circle, Fourth Cross,  
 Ashram Road : Ahamedabad-380014

.....APPLICANTS

(By Advocate Shri M.C. Dhingra)

VERSUS

UNION OF INDIA

1. THE SECRETARY  
 Deptt. Of Expenditure,  
 Ministry of Finance, North Block  
 New Delhi-1
2. THE SECRETARY  
 Ministry of Statistic & Programme Implementation,  
 Sardar Patel Bhawan,  
 Sansad Marg, New Delhi-110 001
3. CHIEF EXECUTIVE OFFICER  
 National Sample Survey Organization,  
 Ministry of Statistic & Programme Implementation,  
 Sardar Patel Bhawan,  
 Sansad Marg, New Delhi-110 001

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4. The Deputy Director General  
National Sample Survey Organisation,  
Data Processing Division (HQ)  
Mahalanobis Bhawan,  
164, G.L.T. Road,  
Kolkata-700 108

-Respondents

(By Advocate: Shri A.K. Bhardwaj)

**O R D E R**

Hon'ble Shri V.K. Majotra, Member (A)

Applicants, 126 in number, are employed on Electronic Data Processing Posts in offices of Data Processing Division of the National Sample Survey Organisation under the Ministry of Statistics & P.I., Government of India. They were holding the posts of Data Processing Assistant Grade-III in the scale of Rs.1600-2660 as on 31.12.1995. Their designation was later on changed to Data Processing Assistant Grade-A. They claimed that in terms of recommendation contained in Paragraph-55.71 of the Vth Central Pay Commission (Annexure A-2) whereas their existing pay scale of Rs.1600-2660 was recommended to be revised to Rs.1640-2900 they were to be accorded replacement scale of Rs.5500-9000 for the revised scale of Rs.1640-2900. They have further claimed upgradation of their basic pay in scale of Rs.1600-2660 to replacement scale of Rs.1640-2900 notionally as on 1.1.1996 and then with effect from the same date their salary should be fixed in the corresponding replacement scale of Rs.5500-9000 with all consequential benefits:

2. Applicants have challenged respondents' letter dated 27.5.2002 (Annexure A-5) whereby their fixation of pay in terms of their claim has been rejected and excess

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pay drawn by them on the basis of earlier fixation of pay is being recovered from them.

3. Learned counsel of the applicants stated that the Registrar General vide Annexure A-4 dated 6.1.1998 had granted them the upgraded pay scale of Rs.5500-175-9000 as demanded by them which was later on withdrawn in terms of Annexure A-3 dated 18.9.2001.

4. Learned counsel further stated that they had earlier filed OA 1509/2002 which was withdrawn by them with liberty vide Tribunal's order dated 5.6.2002. According to the applicants, the applicants should have been granted upgradation in the scale of Rs.1640-2900 and then their pay should have been fixed in the corresponding scale of Rs.5500-175-9000. It means that applicants claimed benefit of fixation of their pay as on 1.1.96, first in the scale of Rs.1640- 2900 notionally as on 1.1.96 and then from the same date in the revised scale of Rs.5500-9000. :

5. On the other hand, respondents have maintained that applicants who were holding the post of Data Processing Assistant Grade-III with pre-revised scale of Rs.1600-2660 were granted the normal replacement scale of Rs.5000-8000 w.e.f. 1.1.96 as an interim measure in the CCS (RP) Rules, 1997, pending examination of the recommendations of the Vth CPC for higher replacement scale as per approved decision of Government contained in Explanatory Preamble to Part-B of the first schedule. was granted 1b  
The higher replacement scale of Rs.5500-9000 instead of

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5000-8000 with retrospective effect, i.e., 1.1.96 as per Annexure A-3 dated 18.9.2001. According to the respondents, the question of fixation of pay in the scale of Rs.1640-2900, in case of the applicants, does not arise at all as they were holding the post of DPA Grade-III with pre-revised scale of Rs. 1600-2660 on 31.12.95 and not as DPA Grade-A and as such they were granted normal replacement scale of Rs.5000-8000 as an interim measure which was replaced by higher scale of Rs.5500-9000. It was pointed out that applicants and their similarly placed employees have earlier approached this Tribunal, the High Court and the Hon'ble Supreme Court praying for pre-revised scale of Rs.1600-2660 w.e.f. 1.1.1986 followed by Vth CPC revised scale of Rs.5000-8000 w.e.f. 1.1.1996. This Tribunal vide its judgment dated 7.8.2000 had granted the relief which was extended by the respondents to the applicants. The learned counsel of the respondents also contended that respondents have fixed the pay of the applicants properly on the basis of the recommendations of the Vth CPC and their claim for fixation of their pay, first in the scale of Rs.1640-2900 ~~rationally and then in the replacement scale of~~ <sup>11</sup> ~~11~~ Rs.5500-9000 is misconceived. They cannot be given the benefit of fixation under FR-22 of upgradation twice over, first in the pay scale of Rs.5000-8000 and then Rs.5500-9000.

6. We have carefully gone through the recommendations of the Vth CPC relating to the post of Data Processing Assistant contained in paragraph-55.71 of the Vth CPC report, CCS (RP) Rules, 1997 (Annexure A-4) dated January 6, 1998 and Annexure A-3 dated

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18.9.2001. Annexure A-4 dated January 6, 1998 had been issued by the office of the Registrar General granting the revised scale of Rs.5500-9000 to Data Processing Assistant Grade-A in replacement of upgraded scale of Rs.1640-2900. This Memorandum had been issued without the approval of the Ministry of Finance, Department of Expenditure. Annexure A-3 dated 18.9.2001 has been issued by Ministry of Statistics and Programme Implementatin on approval of Ministry of Finance, Department of Expenditure sanctioning grant of higher replacement pay scale recommended by Vth CPC in the Government of India. As this order has been issued on sanction of the competent authhoriy, we do not find any infirmity in this. We have also taken into consideration the recommentations of the Vth CPC; these do not provide for fixation of applicants' pay first in the pay scale of Rs.1640-2900 and then in the revised higher pay scale of Rs.5500-9000. We are also concious of the law laid down by the Hon'ble Supreme Court in the matter of **State of Haryana and another Vs. Haryana Civil Secretariat Personal Staff Association JT 2002 (5) SC 189** to the effect that courts have to be slow in interfering in the matter of pay fixation.

7. Having regard to the discussion made above, we do not find any merit in this OA which is dismissed accordingly.

V.K. Majotra  
(V.K. Majotra)  
Member (A)

cc.

V.S. Aggarwal  
( V. S. Aggarwal)  
Chairman