

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

②

OA No.982/2002 &
MA No.785/2002

NEW DELHI, THIS THE 11TH DAY OF APRIL, 2002.

HON'BLE MR.JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MR.S.A.T.RIZVI, MEMBER(A)

- | | | | |
|-----|----------------------|-----|----------------------|
| 1. | Perdeep Kr. Kapil | S/o | D. R. Kapil |
| 2. | Bhuvana Raman | W/o | A. K. Raman |
| 3. | R. Jayalaxmi | W/o | Ram chandran |
| 4. | Swarn Issar | W/o | Rajesh Issar |
| 5. | Indu Dutta | W/o | Rajender Dutta |
| 6. | Shampa Bhattacharjee | W/o | S. K. Bhattacharjee |
| 7. | Meenu Maheshwari | W/o | Rajeev Maheshwari |
| 8. | G. S. Anand | S/o | D. M. Anand |
| 9. | G. Ravindern | S/o | Late Shri Gopalan |
| 10. | P. S. Chauhan | S/o | K. L. Chauhan |
| 11. | Som Nath | S/o | H. L. Madan |
| 12. | N. P. S. Kohli | S/o | I. S. Kohli |
| 13. | Shashi Sapra | W/o | T. S. Sapra |
| 14. | Uma Kapoor | W/o | A. Prasad |
| 15. | Raj Kumar | S/o | Late Shri Mani Ram |
| 16. | Balibr Singh | S/o | Late A. R. N. Sharma |
| 17. | Krishan Chand Gautam | S/o | R. C. Gautam |
| 18. | Vinod Kumar | S/o | G. R. Dondiyal |
| 19. | Kishan Chand | S/o | T. C. Sharma |
| 20. | Pavnesht Sharma | W/o | P. Lai |
| 21. | A. K. Gupta | S/o | Late H. C. Gupta |
| 22. | C. M. Bajaj | S/o | Late L. R. Bajaj |
| 23. | Shahid Ali | S/o | Late J. S. Ali |
| 24. | S. L. Dhingra | S/o | Birbhan Dhingra |
| 25. | Rajender Kr. Kapoor | S/o | Late H. L. Kapoor |
| 26. | Bhag Singh | S/o | Chhotey Singh |
| 27. | Satya Dev Gupta | S/o | Late S. K. L. Gupta |
| 28. | Sudesh Anand | W/o | Vinay Kumar |
| 29. | Rakesh Chander | S/o | Kishor Lal |
| 30. | Praveen Kumar | S/o | Bhagwan Das |

31.	D. S. Arora	S/o	G. S. Gandhi
32.	Anand Parkash	S/o	Ganga Asrey
33.	Narender Kr. Mishra	S/o	Pitamber Mishra
34.	Indu Raheja	W/o	S. K. Raheja
35.	Vinod Kr. Sharma	S/o	P. R. Sharma
36.	S. C. Sahni*	S/o	Late N. L. Sahni
37.	Vijay Krishan*	S/o	H. K. Bhatnagar
38.	N. K. Popli*	S/o	Sh. R. N. Popli
39.	Manorma Bahal	W/o	Leel Bahal
40.	M. L. Goel	S/o	R. S. Goel
41.	S. K. Tripathi	S/o	R. C. Tripathi
41A.	Rajender Kumar *	S/o	C. L. Azad
41B.	Jyoti Prakash *	S/o	Bhim Sen

All Data Processing Assistant Grade III working under N. S. S. O. (DPC)
Hans Bhawan, New Delhi- 110002.

* Promoted as Data Processing Assistant Grade II after 1.1.1996

42.	Shri Vimal	S/o	Ganendra Ch. Chakravarty
43.	Shri Sunil	S/o	Rajabhau Dani
44.	Shri Kashinath	S/o	Balkrishna Kadu
45.	Shri Anilkumar	S/o	Kunjibiharilal Mohabey
46.	Shri Jayant	S/o	Ramchandra Dhume
47.	Shri Gopal	S/o	Vithalrao Virulkar
48.	Shri Suhas	S/o	Laxman Pendharkar
49.	Shri Krishna	S/o	Gulabrao Gadge
50.	Shri Suresh	S/o	Dattatraya Pultamkar
51.	Shri Radheshyam	S/o	Ramaji Bhonde
52.	Shri Anil	S/o	Shriram Bhalerao
53.	Shri T. Chandran	S/o	V. Thiruppathi
54.	Shri Hiralal	S/o	Fatuji Babde
55.	Smt. V. Ambujam	W/o	R. Venkatraman
56.	Shri Mohanlal	S/o	Ramkisan Shivhare
57.	Shri Abhay	S/o	Sadashiv Bhalerao
58.	Shri Anil	S/o	Manoharrao Palsatkar
59.	Shri Kishore	S/o	Chintaman Bhat
60.	Shri Suhas	S/o	Ramkrishna Namojwar

61.	Shri Balkrishna	S/o	Bhausahab Kulkarni
62.	Shri Vasant	S/o	Trimbakrao Kakde
63.	Shri Suresh*	S/o	Madhavrao Panse
64.	Shri Sanjay	S/o	Digambarpant Nagarkar
65.	Shri Shyam	S/o	Khubchand Bhatia
66.	Shri Mahadeo	S/o	Parshuram Chopade
67.	Shri Raghavendra Rao	S/o	Balaji Rao
68.	Shri Ravindra	S/o	Gulabchand Agrekar
69.	Shri Vijay	S/o	Nathuji Naukarkar
70.	Shri Maniklal	S/o	Ramaji Barbate
71.	Shri Murali	S/o	Shyamrao Bawiskar
72.	Shri Kishore	S/o	Keshavrao Chande
73.	Shri Mohammad Shafi	S/o	Mohd. Fazil
74.	Shri Bandu	S/o	Rambhau Jilhare
75.	Shri Harish	S/o	Krishnarao Deshmukh
76.	Shri Kamlakar	S/o	Dattatraya Ksheersagar
77.	Shri Chandraprakash	S/o	Madhvrao Dadwe
78.	Shri Pradeep	S/o	Namdevrao Lohakare
79.	Shri Vinod	S/o	Janrao Raut
80.	Smt. Shubhangi	S/o	Shrinivas Patwardhan
81.	Shri Shashikant	S/o	Wasudeo Gothey
82.	Shri Keshav	S/o	Mahadeorao Choudhari
83.	Shri Sayeed	S/o	Nasir Khan
84.	Smt. Alka	W/o	Satish Pande
85.	Shri Prakash	S/o	Trimbakra Pathak
86.	Smt. Varsha	W/o	Hemant Dange
87.	Smt. Rohini	W/o	Ravindra Gijre
88.	Smt. Rekha	W/o	Chandrakant Hanumante
89.	Shri Noormohammad	S/o	Mehaboob Khan
90.	Smt. Maya	W/o	Diwakar Ambarkar
91.	Smt. Neelima	W/o	Mohan Mudki
92.	Shri Subhashish	S/o	Sudhirschandra Mazumdar
93.	Shri Shivkumar	S/o	Rameshwar Trivedi
94.	Smt. Vasanti	W/o	Ramesh Deshpande
95.	Smt. Sandhya	W/o	Hemant Bhagat

96.	Shri Chandrashekhar*	S/o	Haribhau Khokale
97.	Smt. Pradnya	W/o	Prakash Deopujari
98.	Smt. Ashwini	W/o	Abhay Kolwadkar
99.	Shri Uday	S/o	Kashinath Brahma
100.	Shri Brajmohan	S/o	Bansilal Rathi
101.	Miss Uma	D/o	Laxminarayan Rao
102.	Shri Vishwas	S/o	Raghunath Rishi
103.	Shri Ashok	S/o	Rambhau Pandit
104.	Shri Anil	S/o	Dattatraya Kulkarni
105.	Shri Dhanraj	S/o	Nathuji Nellikwar
106.	Smt. M.Shashaikala	W/o	M.V.Rao
107.	Shri Sharad*	S/o	Shrikrishna Kulkarni
108.	Shri Upendra	S/o	Basant Vaidya
109.	Shri Ashok	S/o	Annaji Bagaddeo
110.	Shri Ashok	S/o	Sheshrao Suryawanshi
111.	Smt. Nilima	W/o	Deepak Moharir
112.	Shri Pramodkumar	S/o	Bhalchandra Gothey
113.	Shri Kishore	S/o	Trimbakrao Chinchole
114.	Shri Shyam	S/o	Moreshwar Paunikar
115.	Shri Yashwant	S/o	Marotrao Jogi
116.	Shri Gangadhar	S/o	A. Chandankhede
117.	Smt. Usha	W/o	P.Shreedharan
118.	Smt. Madhuri	W/o	Gopal Naidu
119.	Smt. Upali	W/o	D. Nandi
120.	Smt. Shrilata	W/o	A.Pal

ALL Data Processing Assistant Grade III Working under NSSO
(DPC), NIT BUILDING, WHC ROAD, GOKULPETH,
NAGPUR - 440010.

*Promoted as Data Processing Assistant Grade II after 1.1.1996

121.	Shri Amar Kr. Sinha	S/o	Tribhuwan Prasad
122.	Shri Alok Kr. Gupta	S/o	Tulsi Pr. Gupta
123.	Shri Naseem Ahmed	S/o	Zainul Abedin
124.	Shri Ram Kr. Bose	S/o	Bimal Kr. Bose
125.	Raj Kishore Prasad	S/o	Bhubneshwar Prasad

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126.	Shri Ram Ch. Keori	S/o	Dev Chand Keori
127.	Shri R.K. Banerjee	S/o	Anil Krishna Banerjee
128.	Mangal Kumar*	S/o	Beni Pandit

ALL Data Processing Assistant Grade III Working under NSSO (DPC),
ROSE VILLA, GIRIDIH - 815301.

* Promoted as Data Processing Assistant Grade II after 1.1.1996

129.	Salil Ghosh	S/o	Late S.C.Ghosh
130.	Anjana Bhowmick*	W/o	N.C.Bhowmick
131.	Sanjit Brambha	S/o	Late M.N.Brambha
132.	Kausik Chowdhury	S/o	Late B.B.Chowdhury
133.	A.K. Bandhopadhyay	S/o	Deb Kr. Bandhopadhyay
134.	Rabindra Mohan Saha	S/o	Sachandra Mohan Saha
135.	Avinash Sovani *	S/o	Late K.P.Sovani
136.	Pradip Kr. Das	S/o	Rabindra Nath Das
137.	Suwendu Chatterjee	S/o	Late Sisir Kr. Chatterjee
138.	Uttam Kr. Das	S/o	Nipendra Kr.Das
139.	Ranjit Kr. Dey	S/o	Late Gopal Ch. Dey
140.	Aninda Sengupta	S/o	Himansu Sengupta
141.	Sambhu Nath Bose *	S/o	Late S.N.Basu
142.	Malay Sarker	S/o	G.L.Sarker
143.	Bela Mitra *	W/o	T.Mitra
144.	Anath Bendhu Ray	S/o	Nirode Baran Ray
145.	Chandan Kr. Ray	S/o	Late K.B.Ray
146.	Rajdeep Das	S/o	C.R.Das
147.	Prabir Gupta	S/o	Late K.C.Gupta
148.	Pradip Ray	S/o	K.L.Ray
149.	Partha Sengupta	S/o	Late Gopal Ch. Sengupta
150.	Surajit Sengupta	S/o	Amar Sengupta
151.	Debasish Kar (Sr)	S/o	Nani Lal Kar
152.	Swapan Kr. Gupta	S/o	Late Purna Ch. Gupta
153.	Soumendra Kr. Addya	S/o	Late Madan Mohan Addya
154.	Pradip Kr. Sarker	S/o	Late D.N.Sarker
155.	Bidyut Saha	W/o	Late Panna Lal Saha
156.	Maloy Kr. Chowdhury	S/o	M.K.Chowdhury

157.	Ashim Kr. Gupta	S/o	Late Ramesh Ch. Gupta
158.	Soumen Das	S/o	Late Manmoth Nath Das
159.	J.Saha Chowdhury	S/o	Late B.K.Saha Chowdhury
160.	Narayan Ch. Bag	S/o	Sagar Ch. Bag
161.	Samar Deb Ray	S/o	J.R.Deb Ray
162.	Dilip Kr. Lenka	S/o	D.L.Lenka
163.	Debi Das	S/o	Mrinal Kanti Das
164.	Mohan Bhattejee	S/o	Late K.L.Bhattejee
165.	Prasanta Mukherjee	S/o	Late Kalidhan Mukherjee
166.	Ashit Kr. Mazumder	S/o	Shyama Kishore Mazumder
167.	Ashim Kr. Pain	S/o	Late S.K.Pain

ALL Data Processing Assistant Grade III Working under
NSSO,(DPD - HQ), Mahalanobish Bhawan, 164 G.L.T.Road
KOLKATA - 700108

*Promoted as Data Processing Assistant Grade II after 1.1.1996

(BY DR. SHYAMALA PAPPU, SENIOR ADVOCATE WITH
SHRI R. KRISHNAAMORTHY, ADVOCATE)

APPLICANTS

VERSUS

1. Union of India through
Secretary, Ministry of Statistics
Sardar Patel Bhawan, Sansad Marg,
NEW DELHI - 110001
2. Chief Executive Officer & Director General
National Sample Survey Organisation
Ministry of Statistics
Sardar Patel Bhawan, Sansad Marg,
NEW DELHI - 110001
3. Deputy Director General,
National Sample Survey Organisation,
Data Processing Division, H.Q.,
Professor Mahalanobis Bhawan,
164, G.L.T. Road, Baranagar,
KOLKATA - 700108

RESPONDENTS

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O R D E R (ORAL)

Justice Ashok Agarwal:-

MA No.785/2002 for joining together in a single OA is granted.

2. Applicants who are 167 in number are all working on Electronic Data Processing posts in the Data Processing Division of the National Sample Survey Organisation. The Fifth Central Pay Commission had recommended replacement scale of Rs.5000-150-8000 for the applicants. The Government, however, upgraded the scale of the applicants from Rs.5000-150-8000 to Rs.5500-175-9000 which was given effect to from 1.1.1996. Applicants as on 1.1.1996 were already drawing higher pay in the replacement scale than the upgraded pay scale of Rs.5500-175-9000. Applicants, in the circumstances, claim that on application of Fundamental Rule 22 and Rule 10 of the CCS (Revised Pay) Rules, 1997, they are entitled to be placed at a higher pay than the one granted to them. Respondents by the impugned order of 4.3.2002 at Annexure IX have rejected the aforesaid claim by, inter alia, providing that the aforesaid Fundamental Rule 22 is not applicable.

2. We have perused the aforesaid decision of the respondents and we find that apart from making a bald assertion that the aforesaid Fundamental Rule is not applicable, no reasons whatsoever have

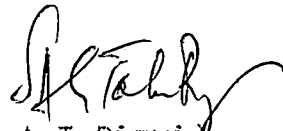
V.S.P.

been assigned as to why the same is not applicable.. Respondents are proceeding to recover/adjust the excess pay drawn, if any, over the years since 1.1.1996 due to fixation of pay in the normal pay scales ^{and} through arrears of bills/future salary.

3. In the circumstances, we find that the interests of justice will be duly met by disposing of the present OA at this stage itself even without issue of notices with a direction to the respondents to pass an additional and more detailed order giving their reasons as to why the aforesaid Fundamental Rule 22 is not applicable and if according to them, some other Fundamental Rule or ^{some other} rule is applicable to indicate the same. This be done expeditiously and within a period of three months from the date of service of a copy of this order.

4. Pending compliance of the aforesaid directions, respondents are restrained from making further recoveries in respect of the alleged excess payment.

5. Present OA is disposed of in the aforestated terms.


(S.A.T. Rizvi)
Member (A)


(Ashok Agarwal)
Chairman

/sns/