

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**



OA No.3512/2017

New Delhi, this the 27th Day of January, 2020

**Hon'ble Mrs. Justice Vijay Lakshmi Member(J)
Hon'ble Mr. Pradeep Kumar, Member (A)**

1. Kumar Gaurva
Aged 33 years, Group 'B'
Assistant Section Officer
S/o Shri Ramesh Chandra
R/o Flat No.C-8/201
Eastern Heights Apartment
Indirapuram, Ghaziabad-201014.
2. Ajay Kumar, Aged 27 years
Group 'B', Assistant Section Officer
S/o Shri Jagdish Kumar
R/o Flat No.B-2/303
Eastern Heights Apartment
Indirapuram, Ghaziabad-201014.
3. Manish Kumar Yadav
Aged 29 years, Group 'B'
Assistant Section Officer
S/o Shri R.S. Yadav
Gali No.78, Regharpura
Karol Bagh, New Delhi.
4. Vikas Kumar
Aged 29 years, Group 'B'
Assistant Section Officer
S/o Shri Laxmi Prasad
1566, Sector-5, R.K. Puram
New Delhi-110022.
5. Anit Shishir Kerketta
Aged 34 years, Group 'B'
Assistant Section Officer
S/o Shri Raphael Kerketta
R/o 164 'A', Vikrant Enclave
Mayapuri, New Delhi.



6. Saurav Choudhary
Aged 30 years, Group 'B'
Assistant Section Officer
S/o Shri Rajpal Singh
R/o 18-B, S.G. Pocket
Dilshad Garden, Delhi-95.
7. Kailash Chand Joshi
Aged 33 years, Group 'B'
Assistant Section Officer
S/o Shri N.C. Joshi
R/o A-22, Street No.3
Vikas Vihar, New Delhi-59.
8. Bibhuti Sinha
Aged 36 Years, Group 'B'
Assistant Section Officer
S/o Late Pramod Ban Bihari Sinha
R/o D-2/30, 2nd Floor, Jeewan Park
Pankha Road, New Delhi-110059.
9. Uttam Prakash
Aged 27 Years, Group 'B'
Assistant Section Officer
S/o Shri Batha Ram
R/o 6, Sewa Nagar, New Delhi.
10. Sandeep Maan
Aged 26 years, Group 'B'
Assistant Section Officer
S/o Shri Pyare Lal
R/o House No.6
Near CGHS Dispensary, Sewa Nagar
New Delhi.
11. Ram Babu, Aged 26 years
Group 'B', Assistant Section Officer
S/o Shri Ram Prit Sahu
R/o C-II, 166, Madangir
New Delhi-62.
12. Rajinder Kumar
Aged 48 years, Group 'B'
Assistant Section Officer
S/o Shri Bihari Lal

R/o 26/299, Prem Nagar, Near Thyagraj
Stadium, New Delhi-110003.Applicants



(By applicants in person)

Vs.

1. Union of India through Secretary
Department of Expenditure
Ministry of Finance
North Block, New Delhi-110001.
2. Union of India through Secretary
Department of Legal Affairs
Ministry of Law and Justice
Shastri Bhawan, New Delhi-110001.
3. The Secretary
Department of Legislative Department
Ministry of Law and Justice
Shastri Bhawan
New Delhi-110001.Respondents

(By Advocate: Shri R.K. Jain)

Order (Oral)

Hon'ble Mr. Pradeep Kumar, M(A)

MA No.3744/2017

MA for joining together is allowed.

OA No.3512/2017

The applicants herein are directly recruited Assistant Section Officers (ASO) working in Central Secretariat Service (CSS). They were appointed sometimes in the year 2015. On promulgation of 7th CPC recommendations which took effect from 01.01.2006, they were granted pay fixation as per the



instructions issued at that time. With respect to the replacement pay scales granted to the applicants and the multiplication formula so prescribed, the applicants came to be fixed at the minimum of the pay scale as per the 7th CPC.

2. Certain other promotee officers, working on the same post of Assistant Section Officer, were also fixed as per 7th CPC and with respect to the multiplication formula prescribed by 7th CPC, they also came to be fixed at the minimum of the corresponding replacement pay scale.

3. On the strength of a policy directive in respect of bunching, issued by Department of Expenditure on 7th September, 2016, the applicants herein were granted bunching benefits and their pay was stepped up and they came to be fixed higher salary as compared to those in para 2 above.

4. It appears that subsequently many clarifications were sought from Ministry of Finance and they issued a detailed directive on 03.08.2017 wherein the entire logic of bunching was explained. It was also brought out therein that in 6th CPC regime there were no specific increment stages in respect of pay scales.



Instead every individual employee was having a specific stage of his own as the same was governed by 3% increment as was applicable for each individual. This circular gave certain guidelines in respect of the criteria to be followed while bunching benefits were to be given. The same was contained in para 8 thereof and is reproduced below:-

"8. Based on the above, it is clarified that the following shall be kept in view while determining the extent of bunching as also the benefits to be extended on account of bunching at the time of initial fixation of pay in the 7th CPC pay structure:-

(i) Benefit on account of bunching is to be extended when two or more stages get bunched.

(ii) Benefit of one increment is to be extended on account of bunching of every two consecutive stages.

(iii) As stipulated in MoF OM dated 07.09.2016, a difference of 3% to be reckoned for determination of consecutive pay stages, specific to each employee.

(iv) All pay stages lower than the Entry Pay in the 6th CPC pay structure as indicated in the Pay Matrix contained in the 7th CPC Report are not to be taken into account for determining the extent of bunching."

Once this clarification was issued, keeping in view para 8(iv) above, the respondents issued office orders



reducing the stepped up salary paid to the applicants (para 3 supra). Instructions were also issued to make recoveries for the excess payment which had already taken place.

5. The applicants felt aggrieved at such reduction and preferred the instant OA. The relief sought was to quash the office memorandum dated 03.08.2017 as well as interim directions were also sought in the form of directions to the respondents not to make recoveries from the applicants on the strength of OM dated 03.08.2017. Applicants pleaded that they are aggrieved with para 8(iv) of this OM (para 4 supra)

6. Interim directions to protect the applicants' salary and not to make recoveries were issued on 12.12.2017.

7. The respondents pleaded that on the strength of this stay order, they are paying much higher salary to the applicants as compared to what is otherwise due to them and they plead for early disposal of the OA. There is no merit in OA and it needs to be dismissed.

8. The applicant Shri Kumar Gaurva, represented in person and on a specific query from the court he



pleaded that he will argue the case himself on behalf of all the applicants. Shri R.K. Sharma, learned counsel represented the respondents.

9. On a specific query to the applicant, it was clarified by him that the pay fixation, granted to the applicants on promulgation of 7th CPC, was at the minimum of the relevant replacement pay scale and there was no error in the same.

On another specific query, the applicant also clarified that the other promotee ASOs also were granted pay fixation in the replacement pay scale and they also came to be fixed at the minimum of the corresponding pay scale and there is no error in this fixation.

It was pleaded that it is only subsequent to this fixation, that the bunching benefit was given to them as per OM dated 07.09.2016, which is now proposed to be withdrawn on the strength of OM dated 03.08.2017. The detailed rationale behind grant of bunching benefits has been clearly explained in OM dated 03.08.2017 and in this context the applicant pleaded that they had



already been granted the benefit of stepping up, and this was by Govt. and as such necessary approvals are deemed to be existing and it is expected to be in tune with policy on the subject. And that it cannot be withdrawn now. Apart from this, the applicant was unable to bring out anything as to what unreasonableness is contained in the OM dated 03.08.2017.

10. The Tribunal further noticed that the applicants are directly recruited Assistant Section Officers whereas the other employees with whom they are comparing themselves belong to the promotee quota of the ASOs. Further, the applicant was unable to confirm whether the promotee quota ASOs were their juniors.

11. The matter has been heard at length. The Tribunal noticed that in the 6th CPC the pay scales were defined as running band along with a grade pay. The well defined stages of increment were not indicated in these pay scales unlike the position which existed upto and including 5th CPC. These stages in 6th CPC were to be arrived at for each individual employee separately, as that depended upon what basic pay he was drawing

earlier and was to be granted 3% increment thereupon. This has been very clearly explained in the OM dated 03.08.2017.



The applicant has been unable to bring out as to what unreasonableness or unjustfulness is contained in this OM dated 03.08.2017. In view of the foregoing arguments being put forth by the applicants to simply retain their stepping up, are not finding acceptability.

12. It is, however, noted that subsequent to 03.08.2017, Department of Expenditure, Ministry of Finance, have issued another OM dated 07.02.2019, on the same subject of "Bunching of stages of pay in the pre-7th CPC pay scales consequent upon fixation of pay in the revised pay scales based on 7th CPC-regarding". The position of 03.08.2017 has been explained further with certain sample calculations.

13. The OA is disposed off with directions to respondents to revisit the pay fixation granted to the applicants on implementation of 7th CPC, keeping in view OM dated 07.02.2019. This exercise be

completed within eight weeks and advise the result to applicants.



The recoveries, if any are due, shall be worked out on this basis and advised to applicants and effected thereafter.

Pending MA, if any, also stands disposed of.

14. However, in keeping with the ratio of the judgment passed by the Hon'ble Apex Court in ***State of Punjab and others vs. Rafiq Masih, (2015) 4 SCC 334***, the recoveries as are due, shall be effected in easy installments and without any interest thereupon.

(Pradeep Kumar)
Member(A)

(Justice Vijay Lakshmi)
Member(J)

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