

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/00408/2019

DATED THIS THE 26TH DAY OF FEBRUARY, 2020

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI C.V. SANKAR, MEMBER (A)

Govindaiah,
S/o late Kariappa,
Aged 59 years,
Working as Technician,
Central Sericultural Research & Training Institute,
Central Silk Board, Manandavadi Road,
Srirampura, Mysore South,
Mysore 570 008Applicant

(By Advocate Shri B.S. Venkatesh Kumar)

Vs.

1. Union of India represented by
Secretary to Government,
Ministry of Textiles, Udyog Bhavan,
Moulana Azad Road, New Delhi 110 011

2. Member Secretary and Chief Executive Officer,
Central Silk Board, 5th Floor, CSB Complex,
BTM Layout, Madivala, Hosur Road,
Bangalore 560 068

3. The Director,
Central Sericultural Research & Training Institute,
Central Silk Board, Manandavadi Road,
Srirampura, Mysore South,
Mysore 570 008

.....Respondents

(By Smt. K.R. Vanita, Counsel for Respondent No. 2)

O R D E R (ORAL)
(HON'BLE DR. K.B. SURESH, MEMBER (J)

This matter seems to be covered by our order in OA No. 01284-01289/2018 dated 26.06.2019, which we quote:

"O R D E R (ORAL)
(HON'BLE DR. K.B. SURESH, MEMBER (J)

Heard. One element of the issue is covered by our order in OA No. 170/00768-810/2018 dated 02.04.2019 which we quote:

"ORDER (ORAL)
HON'BLE DR K.B.SURESH, MEMBER (J)

Heard. The matter is in a very small compass. The issue is between the promotees and direct recruits. Promotees on the way had acquired more than the requisite number of minimum career enhancement as dictated by the Hon'ble Apex Court. Then they came into a particular pay scale. To this pay scale direct recruits were also appointed and then in course of time, after 10 years they got their 1st MACP because they had not been given a promotion. Therefore, some of them had outpaced the promotees in the scale of pay as they were direct recruits who were on equivalent pay scale but now granted addition of ACP or MACP as the case may be. Therefore, on the basis of the representation the department held that the promotees were also eligible for the same benefit. It appears to us that may be the Member Secretary was little bit more liberal than warranted but applicant and others had been enjoying this benefit for more than 5 years and most of them are on the verge of their retirement now. They will come under the protective umbrella of the Whitewasher judgment of the Hon'ble Apex Court. There can be a future modification of pay scale and the pension. But what has been granted to them already cannot be taken away from them and cannot be recovered at all.

Therefore we will now declare that there cannot be any recovery but the revised pay scale if it had been made after giving an opportunity will rule the field. If they have not been heard, the respondents will issue them individual notices, hear them on this matter and fix their pay scale in accordance with law. OA is disposed of as above. No order as to costs."

2. *But then it appears that in this case no show cause notice was given before refixation. Therefore, we will now grant liberty to the respondents to issue show cause notice and refix the pay as the case may be on a prospective basis. Therefore, the impugned orders are*

hereby quashed but with liberty. Obviously, for this period, the recovery cannot be made.

3. *The OA is disposed as above. No order as to costs.*

Sd/-
(C.V. SANKAR)
MEMBER (A)

Sd/-
(DR.K.B.SURESH)
MEMBER (J)"

2. Therefore, this matter is also allowed to the same extent. All the recovered amounts shall be returned within one month next without interest or else, following the Hon'ble High Court orders, along with interest at the rate of 15%.

3. The OA is allowed as above. No order as to costs.

(C.V. SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No. 170/00408/2019

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| Annexure A1 | Copy of the memorandum dated 25.05.2004 |
| Annexure A2 | Copy of the memorandum dated 29.04.2004 |
| Annexure A3 | Copy of the intimation dated 29.06.2016 |
| Annexure A4 | Copy of the intimation refixing pay of the applicant |
| Annexure A5 | Copy of the intimation directing recovery |
| Annexure A6 | Copy of the pay slip showing recovery of Rs.45000 |
| Annexure A7 | Copy of the OM dated 02.03.2016 |

Annexures referred in reply statement

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| Annexure R1 | Copy of the audit observation |
| Annexure R2 | Copy of the internal audit dated 31.07.2012 |
| Annexure R3 | Copy of the Ministry of Textiles letter dated 24.03.2014 |
| Annexure R4 | Copy of the judgment in OA No. 273/2019 dated 16.09.2019 |
| Annexure R5 | Copy of the order in WP No. 2765/2019 dated 16.09.2019 |

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