

**CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH  
HYDERABAD**

**OA/021/1311/2014**

Date of CAV: 9.11. 2020

Date of Pronouncement : 23.11.2020



**Hon'ble Mr. Ashish Kalia, Judl. Member**  
**Hon'ble Mr. B.V. Sudhakar, Admn. Member**

K. Krishna Rao,  
S/o. Late K. Vidya Sagar,  
Aged about 39 years,  
Working as Stenographer Gr.I (Group-B NG)  
O/o. The Chief Project Manager,  
Railway Electrification,  
4<sup>th</sup> floor, Rail Nirman Nilayam,  
Secunderabad – 500 017.

...Applicant

(By Advocate : Smt Rachna Kumari)

Vs.

1. Union of India rep. by  
The Chairman,  
Railway Board,  
Ministry of Railways,  
Rail Bhavan, Raisina Road,  
New Delhi – 110 001.
2. The Director General,  
Research, Designs & Standards Organisation (RDSO),  
Govt. of India, Ministry of Railways,  
Manak Nagar, Lucknow – 226 011,  
Uttar Pradesh.

....Respondents

(By Advocate : Sri N. Srinatha Rao)

**ORDER**  
**(As per Hon'ble Mr. B.V. Sudhakar, Admn. Member)**

2. The OA is filed for non grant of grade pay of Rs.4600 to the applicant on par with similarly situated employees working in Railway Board.



3. Brief facts of the case are that the applicant joined the Railway Designs & Standards Organisation (for short "RDSO") which was attached to the Railway Ministry, as stenographer grade 'C'/PA (Gr. B Non Gazetted) after clearing the Staff Selection Commission examination, in March 2000. Thereafter on transfer, applicant joined the Railway Electrification Project, Secunderabad in Feb. 2007 and is presently working as Stenographer Grade I in the said office. Consequent to the implementation of 6<sup>th</sup> CPC, applicant was granted pay of Rs.4200 instead of Rs.4600 paid to the Stenographers working in the same Grade in the Railway Board on the ground that the Ministry of Finance vide Memo dated 16.11.2009 permitted grade pay of Rs.4600 stating that there is an element of Direct Recruitment through All India Exam, in appointing Assistants of Central Secretariat. Applicant claimed that he has also been appointed as a direct recruit after clearing the Staff Selection Commission Exam as Stenographer Grade C and therefore, he is eligible for the grade pay of Rs.4600. As it was denied, the OA has been filed.

4. The contentions of the applicant are that the representation submitted by the applicant on 26.6.2014 to grant the grade pay of Rs.4600 on par with similarly placed employees in Railway Board was rejected vide impugned order dated 30.6.2014 on the ground that the RDSO status has been

changed to that of a Zonal Railway in Jan 2003 and therefore, applicant is no more an employee working in the Railway Board to be given the benefit sought. Though the applicant has been recruited as a direct recruit through SSC like all others working for the Railway Board in the same grade, granting higher grade pay to those in Railway Board and denying the same to the applicant working in a Zonal Railway (RDSO) is pure discrimination and that too, without application of mind. There is no change in the working of the RDSO after its status has been changed. The applicant has been posted to RDSO when it was attached to the Ministry of Railways and that the duties as Stenographer has not changed before and after zonalisation of RDSO. He holds the same position as is held by a Stenographer Grade 'C' in the Railway Board /Ministry. The service condition of the applicant in respect of the pay cannot be changed because of structural change of RDSO. Changing of the designation of the applicant from Stenographer Grade C (Non. Gaz.) to that of Stenographer Gr-I (Group C) is incorrect. No reduction of pay can be done without issue of notice. Applicant is put to severe monetary loss by not extending the Grade pay of Rs.4600 from 1.1.2006. Applicant cited the judgments of Hon'ble Supreme Court and the benches of this tribunal in support of his contentions.



5. Respondents, while confirming the career details of the applicant state that on the demand of RDSO staff it was made a Zonal Railway on 1.1.2003. Consequently, the grade structure of RDSO has been brought on par with the other Zonal Railways, as per Railway Board order No.208/2003 dated 4.12.2003 and hence, the designation of the applicant

was changed to Stenographer Grade –I allowing the non-gazetted status as personal to the applicant. Applicant along with others filed OA 172/2004 before the Hon’ble Lucknow Bench of this Tribunal seeking to maintain the status of RDSO as was prevailing prior to restructuring and not to lower the status of the applicants, which was dismissed for non prosecution on 7.10.2009. MOF & DOPT vide memos dated 15.9.2006 and 25.9.2006 have upgraded the pay scales of Assistants in the CSS (Central Secretariat Service) and that of Stenographers Grade C of the Central Secretariat Stenographers Services (for short “CSSS”) to Rs.6500-10500 (pre-revised) as an exception. Consequently, Railway Board upgraded the pay scales of Assistants and Steno Grade ‘C’ (PA) of the Railway Board Secretariat Service (for short “RBSS”) and Steno Grade C (PA) of the Railway Board Secretariat Stenographer Service (for short “RBSSS”) to Rs.6500- 10500, w.e.f 15.9.2006 vide order dated 19.10.2006. Assistants and Stenographer grade C of RDSO represented requesting for similar hike and when it was rejected, they filed OA 1010/2008 before the Hon’ble Principal Bench of this Tribunal. In the meanwhile, as per 6<sup>th</sup> CPC recommendations the pay scales of Rs.5000-8000, 5500-9000 & 6500–10,500 were merged with grade pay of Rs.4200 and as a result, a reply was filed in OA 1010/2008 that the OA has become infructuous. Thereafter, Railway Board vide letter dated 14.12.2009 based on MOF letter dated 16.11.2009 has granted a higher grade pay of Rs.4600 to the Assistants of RBSS and Steno Grade C of RBSSS. Applicant is not eligible for Rs.4600 grade pay since he is working in the Zonal Railway. Pay structure of Railway Board and that of the Zonal Railways are different. Hon’ble Principal Bench disposed of the OA 1010/2008 directing respondents to consider OA as a representation



and dispose. The order was complied by examining and rejecting the representation on 13.7.2009. The order of rejection was again challenged before the Hon'ble Principal Bench in OA 1248/2010 which was dismissed. Review filed was also dismissed. Respondents cited judgments of the Hon'ble Supreme Court to support their contentions.



Applicant filed Rejoinder and cited some judgments. The sum and substance of the rejoinder is that applicant was recruited by SSC like those stenographers of his grade in the Railway Board. Work done is similar. Therefore, there cannot be difference in the pay scale. Sought transfer to the Railway Ministry but was not conceded to. Applicant was not a party to the OAs referred to. 6<sup>th</sup> Pay Commission recommendations have caused adverse effect monetarily. We have gone through the other averments made and the judgments cited carefully and noted the contents.

6. Heard both the counsel and perused the pleadings on record.

7. I. It is not in dispute that the applicant passed the Staff Selection Commission exam and was appointed as Stenographer grade C (Non Gazetted) in RDSO when it was attached to the Railway Ministry. However, due to the demand made by the staff, respondents granted the status of a Zonal Railway to RDSO on 1.1.2003 and the grade structure of RDSO was accordingly brought on par with Zonal Railways vide order dated 4.12.2003. The designation of the applicant was changed to Stenographer Grade-I allowing the non-gazetted status as personal to the applicant. Pay scale of Assistants in the CSS and that of the Stenographers Grade 'C' of CSSS was enhanced to Rs.6500-10500 by GO.I. Following suit, Railway Board upgraded the pay scales of Assistants and

Stenographers Grade 'C' (PA) of RBSS and Steno Grade C (PA) of RBSSS to Rs.6500- 10500, w.e.f. 15.9.2006 vide order dated 19.10.2006.

Aggrieved, Assistants and stenographer grade C of RDSO filed OA 1010/2008 before the Hon'ble Principal Bench of this Tribunal which was

disposed directing the respondents to treat the OA as a representation,

which in turn was complied by rejecting the representation made on

13.7.2009. Further, as per 6<sup>th</sup> CPC recommendations merger of pay scales

of Rs.5000-8000, 5500-9000 & 6500-10,500 with Grade Pay of Rs.4200

took place. After the said merger, Railway Board vide letter dated

14.12.2009 based on MOF letter dated 16.11.2009 has granted a higher

grade pay of Rs.4600 to the Assistants of RBSS and Steno Grade C of

RBSSS. Applicant was not granted the higher grade pay as he was working

in the Zonal Railway. Applicant contends that he is on par with the

Stenographers Grade C of the Railway Board who have been selected as

direct recruits along with him by the SSC. Therefore, the source of

recruitment being one and the same and the nature of duties being similar,

not granting grade pay of Rs.4600 to the applicant is invidious

discrimination. Applicant further contends that the functions of RDSO

have not changed consequent on its transformation as a Zonal Railway.

However, it is on record that the grade structure of RDSO was brought on

par with that of Zonal Railways and the designation of the applicant was

also changed as Stenographer Grade –I vide Railway Board order 208/2003

dated 4.12.2003. Therefore, the applicant cannot be placed on par with

those who work in the Railway Board to be granted the benefit of grade pay

of Rs.4600. The nature of work of the Assistants and the Stenographers of

the Railway Board is that they are involved in assisting the Management in



matters that deal with policy matters. The work done by them has an all India impact and hence has to be done with great responsibility and care. The work of the Ministries is sensitive with National and International repercussions. Whereas, the Assistants and Stenographers of the field units like the Zonal Railway (RDSO) are meant for implementing the policy matters and their functioning is confined to the Zone. Those working in the Railway Ministry attend to Parliament work which is not so significant in the field units. The work handled in the Zones is not as sensitive as those handled in the Ministries. Hence the probable reason for the change in designation. Therefore, it cannot be said that the nature of work is the same between stenographers of same grade working in RDSO and the Railway Ministry, as claimed by the applicant. Consequently when the nature of work is different the pay scale would also be different. Applicant cannot thus expect parity in Grade pay as sought for. More importantly such a difference has come into place due to restructuring of RDSO. We take support of the Hon'ble Supreme Court observation in ***S.C. Chandra v. State of Jharkhand*** in Civil Appeal No.1532 of 2005 (With Civil Appeal No. 6595 of 2005, 6602-6603 & 6601 of 2005) in Writ Petition (S) No. 3666 of 2001 | 21-08-2007 as under, to state what we did.



*There should be total identity between both groups i.e. the teachers of the school on the one hand and the clerks in BCCL, and as such the teachers cannot be equated with the clerks of the State Government or of the BCCL. The question of application of Article 39(d) of the Constitution has recently been interpreted by this Court in State of Haryana & Ors. V. Charanjit Singh & Ors. [(2006) 9 SCC 321] wherein their Lordships have put the entire controversy to rest and held that the principle, 'equal pay for equal work' must satisfy the test that the incumbents are performing equal and identical work as discharged by employees against whom the equal pay is claimed. Their Lordships have reviewed all the cases bearing on the subject and after a detailed discussion have finally put the controversy to rest that the persons who claimed the parity should satisfy the court that the conditions are identical and equal and same duties are being discharged by them. Though a number of cases were cited for our*



*consideration but no useful purpose will be served as in Charanjit Singh (supra) all these cases have been reviewed by this Court. More so, when we have already held that the appellants are not the employees of BCCL, there is no question seeking any parity of the pay with that of the clerks of BCCL.*



Applicant has not satisfied the Tribunal that he is discharging the same duties as is being discharged by those whom he claims to be similarly placed in the Railway Ministry. As was brought out in the paras above, there is a significant difference in the work done by the Ministry/ Railway Board and the field units like the Zonal Railways. Therefore, he would be ineligible for the relief sought.

II. Moreover, restructuring was a conscious decision taken by the respondents as a policy. It is a settled legal position that structuring/restructuring of cadres fall within the purview of the respondents managerial decision making process. Measures to be taken to improve operational efficiency is the prerogative of the respondents. Judicial intervention would be warranted in such issues if the action of the respondents is unconstitutional, arbitrary, mala fide and against rules. Tribunal cannot sit on appeal over the decision of the respondents to restructure RDSO as they did. We rely on the observation of the Hon'ble Apex Court in ***Union of India v. Pushpa Rani, (2008) 9 SCC 242***, as under to state the above:

*Before parting with this aspect of the case, we consider it necessary to reiterate the settled legal position that matters relating to creation and abolition of posts, formation and structuring/restructuring of cadres, prescribing the source/mode of recruitment and qualifications, criteria of selection, evaluation of service records of the employees fall within the exclusive domain of the employer. What steps should be taken for improving efficiency of the administration is also the preserve of the employer. The power of judicial review can be exercised in such matters only if it is shown that the action of the employer is contrary to any constitutional or statutory provision or is patently arbitrary or is vitiated due to mala fides. The court cannot sit in appeal over the judgment of the employer and ordain that a*



*particular post be filled by direct recruitment or promotion or by transfer. The court has no role in determining the methodology of recruitment or laying down the criteria of selection. It is also not open to the court to make comparative evaluation of the merit of the candidates. **The court cannot suggest the manner in which the employer should structure or restructure the cadres for the purpose of improving efficiency of administration.***

The restructuring of RDSO by the respondents is not found to be malafide, arbitrary or unconstitutional and on the contrary it was done at the behest of the staff to usher in benefits that are associated with Zonal Railways.



Applicant has not given any reasons to prove that the restructuring was malafide or arbitrary. Thus by applying the above legal principle to the case of the applicant, he would not be entitled for the relief sought. In fact, respondents claimed that the applicant along with others filed OA 172/2004 before the Hon'ble Lucknow Bench of this Tribunal to maintain the status of RDSO as it was prevailing prior to restructuring and not to lower the status of the applicants, which was dismissed for non prosecution on 7.10.2009. Applicant did not state this fact in the OA for reasons best known to him.

III. It is also not out of place to observe that the Tribunal cannot direct respondents to fix a particular pay scale. It can only remit the matter to the respondents to consider as observed by the Hon'ble Supreme Court in **Chief Administrator-cum-Jt. Secy. to Govt. of India v. Dipak Chandra Das, (1999) 9 SCC 53**, as under:-

*“4. However, the Tribunal could not have directed fixing the pay scales of the respondent. On the other hand, a direction should have been issued to the authority concerned to fix a proper pay scale bearing in mind the finding recorded by the Tribunal that Divisional Accountants enjoy a higher status to that of a Senior Accountant.”*

In the instant case at the first instance, Tribunal cannot given a direction to grant the grade pay of Rs.4600 and if it wants too, it cannot, as the nature of work, duties and responsibilities of those who work in the Ministry of Railway in the grade under consideration and those working in the field units like the Zonal Railway are different as brought out supra.



IV. Applicant further contended that his service condition in regard to pay cannot be altered to his disadvantage without a notice. The altering of pay occurred due to restructuring, a policy decision of the respondents, not to be interfered with unless found to be malafide or arbitrary, which is not the case in the instant OA. Further, as held by the ***Hon'ble Apex Court in Mallikarjuna Rao v State of A.P ( SCC 1990 (2) 707)***, relied upon by the respondents, Tribunal cannot direct the respondents to frame statutory rules under Art 309 in a specific manner so as to alter conditions of the civil servants in terms of the direction. The relevant portion is extracted here under:

*“The observations of the High Court which have been made as the basis for its judgment by the Tribunal were only of advisory nature. The High Court was aware of its limitations under [Article 226](#) of the Constitution of India and as such the learned Judge deliberately used the words 'advisable' while making the observations. It is neither legal nor proper for the High Courts or the Administrative Tribunals to issue directions or advisory-sermons to the executive in respect of the sphere which is exclusively within the domain of the executive under the Constitution. [428E-F]. The power under [Article 309](#) of the Constitution of India to frame rules is legislative power. This power under the Constitution has to be exercised by the President or the Governor of a State as the case may be. [429C] The High Court or the Administrative Tribunals cannot issue a mandate to the State Government to legislate under [Article 309](#) of the Constitution of India. The Courts cannot usurp the functions assigned to the executive under the Constitution and cannot even indirectly require the executive to exercise its rule making power in any manner. The Courts cannot assume to itself a supervisory role over the rule making power of the executive under [Article 309](#). [429D-E]*

*The Administrative Tribunal in the judgment under appeal transgressed its limits in issuing the impugned directions. [429F] [Narender Chand Hem Raj & Ors. v. Lt. Governor, Union Territory, Himachal Pradesh & Ors.](#), [1972] 1 SCR 940; [State of Himachal Pradesh v. A parent of a](#)*

*student of medical college, Simla & Ors., [1985] 3 S.C.C. 169 and Asif Hameed & Ors. v. State of Jammu & Kashmir & Ors., [1989] Supp. 2 S.C.C. 364, referred to.”*

Therefore, based on the above verdict, the applicant's contention that his service condition has been altered without notice would not hold good. The reason is that the applicant and similarly placed employees have submitted representations which have been examined and rejected. The decision of the respondents is thus final in view of the legal principle stated above.



V. Applicant went on to contend that he was appointed in the RDSO before restructuring and that restructuring was the decision of the respondents which has adversely affected him monetarily. The decision to restructure is a policy decision and the Tribunal should not interfere in matters of policy as observed by the Hon'ble Apex Court in ***C.S.I.R. & Ors vs Ramesh Chandra Agrawal & Anr*** on 19 December, 2008 in CIVIL APPEAL NO.1716 OF 2004

*33. Indisputably, a policy decision is not beyond the pale of judicial review. But, the court must invalidate a policy on some legal principles. It can do so, inter alia, on the premise that it is wholly irrational and not otherwise.*

We do not find any reason to invalidate the policy decision of restructuring of the respondent as it is neither irrational nor any valid legal principle was professed by the applicant to have a re-look at the said policy by the Tribunal. Hence, based on the legal principle pronounced by the Hon'ble Apex Court, we do not find any scope to intervene on behalf of the applicant.

VI. It was not that the relief sought is being tested in legal waters for the first time before the Tribunal by filing the present OA. Similarly

placed employees have filed OA 1248/2010 before the Hon'ble Principal Bench of this Tribunal, which was dismissed on 11.4.2012. Even the Review Petition filed vide RA No.234 of 2012 met the same fate on 18.9.2017. Relevant portions of the verdict in the OA 1248/2010 are extracted hereunder:



*“8.1 The grievances of the applicants are essentially arising out of the restructuring of the ministerial cadre of the RDSO in the wake of the change in its status. The cause of action thus, pertains to the 04.12.2003 Circular. Hence, the appropriate time for agitating such claims was in 2003 or soon thereafter. The piecemeal raising of the grievances i.e. first about the pay scale and now about the promotional prospects would not help the applicants cross the hurdle of “delay and latches” as also limitation, by which the OA suffers. As was observed by the Hon’ble Apex Court in Union of India & Ors vs M.K. Sarkar {2010 (1) SCC (L&S) 1126}:*

*Issue of limitation or delay and latches has to be considered with reference to original cause of action and not with reference to the date on which an order is passed in compliance with a Court’s direction.*

*8.2 In the first OA (No.1010/2008) where the applicants were common to some of the ones in the instant OA (though less in number) the grievance was confined to grant of the Apex pay scale in Group ‘C’ to facilitate future advancement. The claims in the present form were not agitated. This itself makes the OA suffer from the infirmity of constructive res judicata. In The Workmen of Cochin Port Trust vs The Board of Trustees of the Cochin Port Trust & Anr {AIR 1978 SC 1283, elaborating the scope of the principles of res-judicata and constructive res-judicata, the Honble Apex Court had observed as follows:-*

*.. If by any judgment or order any matter in issue has been directly and explicitly decided, the decision operates as res-judicata and bars the trial of an identical issue in a subsequent proceeding between the same parties. The principle of res-judicata also comes into play when by the judgment and order a decision of a particular issue is implicit in it, that is, it must be deemed to have been necessarily decided by implication; then also the principle of res-judicata, on that issue is directly applicable. When any matter which might and ought to have been made a ground of defence or attack in a former proceeding but was not so made, then such a matter in the eyes of law, to avoid multiplicity of litigation and to bring about finality in it is deemed to have been constructively in issue and, therefore, is taken as decided.*

*8.3 Taking necessary steps for improvement of the organization, as also determining service conditions of its employees has been held to be within the legitimate domain of the executive. Xxxxx*



*The present case is one such instance. The applicants are challenging certain decisions i.e. in the nature of policy decisions taken in the overall organizational interest. As is revealed from the respondents submissions, majority of the employees in the RDSO wanted the change of status. The claims being agitated through the instant OA for retention of the service conditions of the applicants at the time of the recruitment, in disregard of the changes in the governing Rules brought about in the meanwhile, would not be in consonance with law. The coordinate Benches exposition on the subject relying upon the Apex Courts judgment in its order in OA No.1234/2006 and OA No.1868/2006, referred by the respondents, reinforces the settled proposition of law on the subject.*

8.4 *Even if within its limited scope judicial intervention in policy decisions has been held to be permissible, the case in hand is clearly not one in that category. Considering the entire gamut of facts i.e. re-designation in the same pay scale; retention of Group (B) Non Gazetted status in personem till their promotion to Group (B) Gazetted; acceding to the demand for the higher pay scale (Rs.6500-10500 instead of 5500-9000) after the VI CPC, the plea of arbitrariness is not found to be tenable.*

8.5 *The two fold main planks of the applicants claims i.e. loss in status and adverse impact on promotional prospects have been effectively rebutted by the respondents by factual submissions. Even accepting the applicants contentions about adverse impact on promotional prospects at its face value, the law would not be in their form. The settled proposition of law as reiterated by the Apex Court in its recent judgment in Registrar General, High Court of Judicature of Madras Vs R. Perachi & Ors ({2011) 2 SCC (L&S) 643:*

*“32. Besides, there is no right of promotion available to an employee. He has a right to be considered for promotion which has been held to be a fundamental right (see para 13 of S.B. Bhattacharjee v. S.D. Majumdar; (2007) 10 SCC 513). However, though a right to be considered for promotion is a condition of service, mere chance of promotion is not (see para 15 of the Constitution Bench Judgment in Mohd. Shujat Ali v. Union of India; (1975) 3 SCC 76)”*

9. *To conclude, neither on facts nor on law the case goes in favour of the applicants. The OA is therefore, found to be bereft of merits and dismissed with no orders of costs.”*

The judgment of the Hon’ble Principal Bench has covered the entire ambit of the case and requires no further elaboration. In fact the case is to be dismissed by applying the principle of Res Judicata, since there is no evidence placed on record claiming that the judgment of the Hon’ble Principal Bench has been modified by the superior judicial fora. There is



not even a whisper in the OA about the decision of the Hon'ble Principal Bench in the cited OA.



VII. Lastly, equation of posts or pay is not for the Tribunal to decide but for the respondents and they have decided by giving reasons while rejecting the representation of the applicant and that of the other similarly placed employees. Applicant contended that earlier he was getting the same grade pay when he was working in RDSO along with those who were working in the Railway Ministry. However, restructuring has caused the difference. Even if it were to be similar on a historical basis but once a difference in work arises, as is seen in the instant case, applicant cannot claim parity. We take support of the Hon'ble Apex direction in ***Union Of India & Ors vs Hiranmoy Sen & Ors*** on 12 October, 2007 in Appeal (Civil) 7232 of 2003, as under, to assert the above.

*4. This Court in S.C. Chandra and Ors. vs. State of Jharkhand and Ors. JT 2007(10)4 SC 272 has held that the Court cannot fix pay scales as that is the purely executive function. In the aforesaid decision one of us (Markandey Katju, J.) has discussed in detail the principle of equal pay for equal work and has observed that the said principle has been considerably watered down in recent decisions of this Court, and it is not applied unless there is a complete and wholesale identity between the two groups, and even there the matter should be sent for examination by an Expert Committee appointed by the Government instead of the Court itself granting the higher pay scale. The entire case law on the subject has been discussed in the said decision. Following the aforesaid decision in S.C. Chandras case (Supra) this appeal has to be allowed. It cannot be said that there is a complete and wholesale identity between the Senior Auditors in the office of Accountant General, Assam and Meghalaya and Assistants in the Central Secretariat.*

*5. Learned counsel for the respondents submitted that the auditors and assistants have been historically treated at par in the matter of pay scales. Although this fact has been denied by the appellant, we are of the opinion that even if it is correct, that will not be of any help to the respondents. To give an illustration, if post A and post B have been carrying the same pay scales, merely because the pay scale of post A has been increased that by itself cannot result in increase in the pay scale of Post B to the same level. It is entirely on the Government and the authorities to fix the pay scales and to decide whether the pay scale of post B should be increased or not.*

*The judiciary must exercise self restraint and not encroach into the executive or legislative domain.”*



VIII. The applicant did make some contentions in the rejoinder which need to be addressed. Primarily, judgments annexed by the applicant along with the rejoinder will not be of any assistance in view of the observations of the Hon'ble Apex Court in issues related, as discussed above. The issue of grant of grade pay of Rs.5400 after rendering required period of service in grade pay of Rs.4800 by the Hon'ble Madras Bench of this Tribunal has no bearing on the instant OA, since the issue in question relates to grade granted on restructuring. Pay Commission recommendations being a mammoth exercise, there is a possibility that some of the recommendations may not be helpful to some and it can be no basis to question the recommendations of the Pay Commission since they have the approval of the cabinet and that it is generally favourable to a large segment of the employees. Same is the case in respect of the 6<sup>th</sup> Pay Commission recommendation in respect of merger of pay scales. If the applicant had a grievance about the merger, then the forum to agitate is the Anomalies Committee. Applicant's posting in any wing of the respondents organisation as per restructuring policy and as per rules cannot be called into question unless any malafide is attributed, which is not the case in the instant dispute. Applicant sought for a transfer to the Ministry which was not agreed to since it is within the competency of the respondents. Restructuring is a policy, which not only affects the applicant, but all those who work for the RDSO. Once the applicant joins the respondents Organisation, he is bound by the policies and the rules that flow from the



policies. Applicant cannot claim that his service condition should be the same as they were at the time of his joining the service. It is not correct, since respondents being part of the State, can change them as held by the Hon'ble Supreme Court in ***P.U. Joshi & Ors. Vs. The Accountant General, Ahmedabad & Ors., 2003 (2) SC ATJ 624.***



*“10. We have carefully considered the submissions made on behalf of both parties. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of Policy and within the exclusive discretion and jurisdiction of the State subject to course, to the limitations or restriction envisaged in the Constitution of India and it is not for the Statutory Tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by underrating further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing existing cadres/ posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a Government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service.”*

An organisation cannot be static but has to be dynamic responding to the changing environment. Organisational interests are paramount and not individuals. Applicant may not be a party to the OAs referred to by the respondents as claimed, but applicant has not denied that he was not aware of the judgments of the OAs cited by the respondents. It would have been proper to refer to the judgments cited, which were unfavourable to the applicant and place his arguments as to why the judgment were not applicable to his case. Other averments made in the rejoinder were repetitive which have been looked into, in the previous paras and require no relook.

IX. Finally, by considering the legal principles laid down by the Hon'ble Supreme Court which have been discussed at length in paras supra, the citations relied upon by the applicant in the OA/rejoinder would not come to his rescue. The decision of respondents in negating the grant of grade pay of Rs.4600 has been made applicable to all those similarly situated, by the respondents. Hence, it cannot be said there has been hostile or invidious discrimination of the applicant. The verdict of the Hon'ble Principal Bench in OA 1248/2010 has discussed the issue on hand threadbare and finally rejected the relief sought.



X. Therefore, keeping the above discussions in view, when viewed from any angle, we do not find any merit in the OA and hence, it has to be dismissed. Accordingly, we dismiss the OA, with no order as to costs.

**(B.V. SUDHAKAR)**  
**ADMIN MEMBER**

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

/evr/