

**CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH**

**OA/021/00899/2014 & MA 21/532/2017;**

**OA/021/00364/2016 & OA/021/0365/2016**

HYDERABAD, this the 2<sup>nd</sup> day of December, 2020



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

OA No.899/2014

P.Anil Kumar S/o P.Manik Rao,  
Aged about 49 years,  
Occ : Junior Hindi Translator,  
G S I (State Unit Telangana & Andhra Pradesh),  
Geological Survey of India, Southern Region,  
Bandlaguda, Hyderabad.

...Applicant

(By Advocate : Mr. K. Phani Raj)

Vs.

1.The Union of India rep by the Secretary,  
Ministry of Mines, Dept. of Mines, Shashtribhavan,  
New Delhi – 110 001.

2.The Director General,  
Geological Survey of India (CHQ),  
27, J.N.Nehru Road, Kolkata – 700 016.

3.The Additional Director General,  
Geological Survey of India, Southern Regional Office,  
Bandlaguda, Hyderabad.

....Respondents

(By Advocate : Mrs. K. Rajitha, Sr. CGSC)

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OA No.364/2016

S. A. Shukur S/o late S. Moula Saheb,  
Aged about 52 years,  
Occ : Sr. Hindi Translator,  
G S I Training Institute ,  
G S I Complex, Bandlaguda,  
Hyderabad – 560 068, R/o Hyderabad.

....Applicant

(By Advocate : Mr. V. Venkateshwar Rao)

Vs.

1. Union of India represented by Secretary to Govt. of India, Ministry of Mines, Shashtribhavan, New Delhi – 110 001.



2. The Director General, Geological Survey of India, Central Headquarters, 27, J.L.Nehru Road, Kolkata – 700 016.

3. The Dy. Director General, G S I Training Institute, G.S.I. Complex, Bandlaguda, Hyderabad-500 068.

....Respondents

(By Advocate : Mrs. K. Rajitha, Sr. CGSC)

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OA No. 365/2016

M. Ashok S/o late Sri Munna Lal,  
Aged about 61 years, Occ : Sr. Hindi Translator (Retd),  
Geological Survey of India, Southern Region,  
G S I Complex, Bandlaguda,  
Hyderabad – 560 068, R/o Hyderabad.

....Applicant

(By Advocate : Mr. V. Venkateshwar Rao)

Vs.

1. Union of India represented by Secretary to Govt. of India, Ministry of Mines, Shashtribhavan, New Delhi – 110 001.

2. The Director General, Geological Survey of India, Central Headquarters, 27, J.L.Nehru Road, Kolkata – 700 016.

3. The Dy. Director General (P), Geological Survey of India, Central Headquarters, 27, J.L.Nehru Road, Kolkata – 700 016.

4. The Dy. Director General, Geological Survey of India, G. S. I. Complex, Bandlaguda, Hyderabad-500 068.

...Respondents

(By Advocate : Mrs. K. Rajitha, Sr. CGSC)

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

**Through Video Conferencing:**

**OA 899 of 2014**



2. The OA has been filed in regard to grant of 2<sup>nd</sup> financial up gradation with grade pay of Rs.5400.

3. Applicant was appointed as Junior Hindi Translator in 1991 and was granted 1<sup>st</sup> ACP (Assured Career Progression scheme) in the pay scale of Rs.5500-9000 in 2003. After merger of the pay scales pursuant to the VI CPC, he was granted 1<sup>st</sup> financial up-gradation under MACP (Modified Assured Career progression scheme) with Grade Pay of Rs.4600 on 16.10.2009 w.e.f. 01.09.2008. Later, the grade pay was enhanced to Rs.4800 on 29.3.2010 and thereafter, the 2<sup>nd</sup> financial upgradation with grade pay of Rs.5400 was granted w.e.f. 15.3.2011. As per 6<sup>th</sup> CPC, Junior Hindi Translator (JHT) pay was fixed in the pay band of Rs.6500 – 10,500 with G.P of Rs.4200 and Senior Hindi Translator (SHT) in pay band of Rs 7450- 11500 with GP of Rs.4600/- vide Memo dated 24.11.2008. On 13.11.2009 the Dept of Expenditure has superseded the OM dated 24.11.2008 and merged the pay scales Rs.6500 -10500 and 7450- 11,500 and created the scale of Rs.9300 – 34,800 with grade pay of Rs.5400. Consequent to the merger the pay scale of JHT has to be granted in the grade pay of Rs 4600 w.e.f. 1.1.2006 and thereafter, the 1<sup>st</sup> MACP to be in grade pay of 4800 from 29.3.2010 and 2<sup>nd</sup> MACP in Rs.5400 w.e.f. 15.3.2011. Respondents correctly granted the grade pay of Rs.5400 on 25.03.2011 but on 25.4.2014 revised the grade pay under 2<sup>nd</sup> MACP to

Rs.4800 from Rs.5400 w.e.f. 15.3.2011 simultaneously proposing recovery of the excess amount paid. Aggrieved, the OA is filed.

4. The contentions of the applicant are that the reply statement is vague.

The pay has been rightly fixed in the grade of Rs.5400 w.e.f. 15.3.2011.



The revision is being effected for no fault of the applicant. Grade pay cannot be changed by executive instructions. Articles 14 & 16 of the Constitution have been violated.

5. Respondents, *per contra*, in OA 899/2014 state that as per the 6<sup>th</sup> CPC the pay scales of Rs.5000- 8000 and Rs.5500 – 9000 were merged into the pay scale of Rs.9300 – 34,800 with the grade pay of Rs.4200. The 1<sup>st</sup> MACP was wrongly granted with grade pay of Rs.4800 instead of grade pay of Rs.4600. The mistake occurred due to non receipt of guidelines in time. The cabinet approval is to grant Rs.4600 grade pay against 1<sup>st</sup> MACP, Rs.4800 for 2<sup>nd</sup> MACP and Rs.5400 for the 3<sup>rd</sup> MACP, which was circulated vide Ministry of Mines letter dated 12.11.2009 and the DDG (P) letter dated 22.4.2013. Realizing the mistake, a memo was issued on 25.4.2014 to reduce the grade pay from Rs.5400 to Rs.4800 and on receipt of reply, an Office Order to reduce the grade pay was issued on 20.6.2014. Similar cases in regard to 2<sup>nd</sup> MACP, fell for consideration before the Tribunal in OAs 606 & 365 of 2013 and as directed therein on 28.10.2014, the relief sought was examined and rejected by issuing speaking orders dated 27.1.2015 and 28.1.2015 respectively.

Applicant filed a rejoinder reiterating the fact that the Dept. of Expenditure has merged the scales by its letter dated 13.11.2009 and as a result the JHT is placed in the grade pay of Rs.4600 as on 1.1.2006. The

Hon'ble Ernakulam bench of this tribunal has allowed a similar issue in OA 107/2011 pertaining to the Fishery Survey of India under Ministry of Agriculture , which was also upheld by the Hon'ble Kerala High Court in OP (CAT) 467/2012 and not interfered with by the Hon'ble Supreme Court.



The matter was also dealt by a Full Bench of Hon'ble Ernakulam Bench of this Tribunal in OA 656 & 953 of 2012 on 14.10.2013 wherein it was held that the JHTs are entitled for the grade pay of Rs 4600 w.e.f 1.1.2006 based on O.M dated 13.11.2009. Applicant's case is thus fully covered by the verdicts of the Hon'ble Ernakulam Bench judgments.

Respondents have filed MA 532/2017 pleading to vacate the stay in regard to the recovery, by claiming that the benefit has been erroneously granted and that for years the recovery could not be effected.

### **OA 364/2016**

It is also pertinent to mention that OA 364/2016 was filed which is interrelated to the above OA, as elaborated below:

This OA is filed seeking similar relief as in OA 899/2014 i.e. to direct the respondents to grant GPs of Rs.4800/- and Rs.5400/- towards I and II financial upgradations w.e.f. 01.09.2008 and 21.02.2009 under MACP.

The applicant in this OA was appointed as Hindi Translator in 1989 and the pay scale was upgraded to Rs.5000-8000 w.e.f. 01.01.1996 under V CPC. He was granted I ACP in the pay scale of Rs.5500-9000 w.e.f. 21.02.2001 on completion of 12 years. Later, the posts of Hindi Translator and Superintendent (Hindi) of GSI were designated as Jr. Hindi Translator

and Sr. Hindi Translator. The applicant was promoted as Sr. Hindi Translator in the pay scale of Rs.5500-9000 w.e.f. 12.08.2005. Consequent to the VI CPC, the pay scales were revised and he was placed in the pay scale of Rs.7450-11500 in PB-2 with GP of Rs.4600/- w.e.f. 1.1.2006.



Upon the MACP being introduced, the applicant was granted II MACP w.e.f. 01.09.2008 with GP of Rs.4800/- vide order dt. 14.10.2009. The claim of the applicant is that he is entitled to the GP of Rs.4800 and Rs.5400 as I and II financial upgradations under MACP w.e.f. 01.09.2008 and 21.02.2009, by ignoring the I ACP granted to him. He has advanced similar arguments like the applicant in OA 899/2014, referring the judgments of the Hon'ble Ernakulam Bench in OA No. 107/2011, Full Bench judgment in OA Nos. 656/2012 and 953/2012.

It is seen that this applicant had earlier filed OA No. 365/2013, which was disposed on 28.10.2014 with a direction to reconsider the claim of the applicant in the light of the order in OA No. 107/2011 of the Hon'ble Ernakulam Bench. Incidentally, this is the OA referred to by the respondents in their reply in OA 899/2014. In compliance of the said order of this Tribunal, the respondents passed a "Speaking Order" on 23/28.01.2015, rejecting the claim of the applicant. As seen from the OA, the applicant filed CP No. 39/2015 which was closed on the ground that speaking order dt. 23/28.01.2015, which is impugned in the present OA, has been passed, with liberty to file a fresh OA. That is how, the present OA 899/2014 has been filed.

The respondent filed a short reply in OA 364/2016 stating that the applicant held the post of Hindi Translator in the pay scale Rs.1400-2300

(IV CPC) which was revised to Rs.5000-8000 under V CPC. He was initially granted I ACP to the grade of Rs.5500-9000 on completion of 12 years w.e.f. 21.02.2001. The post held by him was redesignated as Jr. Hindi Translator and he was promoted as Sr. Hindi Translator w.e.f. 12.08.2005, without any benefit of fixation as the same was granted while granting I ACP. He was subsequently granted II MACP with GP of Rs.4800/- w.e.f. 21.02.2009 on completion of 20 years. The respondents contend that the Ministry of Finance OM dt. 13.11.2009 and the judgments of the Hon'ble Ernakulam Bench referred by the applicant are not applicable to his case.



### **OA No. 365/2016**

The applicant in this OA is also similarly placed as in OA 365/2016. He seeks a prayer to direct the respondents not to reduce and recover arrears from the GP of Rs.4800 and Rs.5400 already granted to him as MACP I & II. He had earlier filed 606/2013, the one referred to by the respondents in their reply in OA 899/2014 supra, which was disposed on 28.10.2014 to reconsider the claim of the applicant in the light of the order in OA No. 107/2011 of the Hon'ble Ernakulam Bench. In compliance thereof, the respondents passed a "Speaking Order" on 27.01.2015, rejecting the claim of the applicant. The applicant filed CP No. 38/2015 which was closed stating that speaking order 27.01.2015 had already been passed. The said order is impugned in the present OA. The applicant also cited the judgment of the Hon'ble Supreme Court in Rafiq Masih case.

The respondents filed a reply and additional reply and the applicant filed a rejoinder, which we have gone through. In the rejoinder, the



applicant raises a plea that as per the order in the previous OA filed by him, the Ministry of Mines has to take a decision in the matter, whereas the impugned order has been passed by the DDG, GSI, Southern Region, Hyderabad.



6. Heard both the counsel and perused the pleadings on record in all the OAs.

7. I. Applicants claim that they are eligible for the grade pay of Rs.5400 relying on the Dept of Expenditure (DOE) memo dated 13.11.2009 and the judgment of the Full Bench of the Hon'ble Ernakulam Bench in OA 656 & 953/2012 dated 14.10.2013 wherein it was held that JHTs are eligible for grade pay of Rs.4600 as per DOE memo cited w.e.f. 01.01.2006. The respondents have not stated their stand in regard to full bench judgment referred to. They have relied on the decision of this Tribunal in OAs 606 & 365 of 2013 wherein it was directed to dispose of the OAs in the light of the decision of the Hon'ble Ernakulam Bench decision in OA 107/2011 dated 27.9.2011 wherein the Ministry of Agriculture & Fishery Survey of India were the respondents. Respondents rejected the request of the applicants therein by distinguishing the Ernakulam verdict in OA 107/2011 cited. It was also pointed that the said benefit has not been extended to similarly placed employees in Southern region and in other regions of the respondents organisation.

II. We have further observed that the Ministry of Mines has issued the memo dated 12.11.2009 where in the grade pay fixed for different levels is shown as under:



Junior Hindi Translator -- grade pay of Rs 4200.

Senior Hindi Translator – grade pay of Rs 4600

Hindi Officer -- grade pay of Rs 5400.



The grade pays as cited above were fixed by obtaining the concurrence of the Ministry of Finance. Therefore, there are two memos emerging from the same Ministry offering differing grade pays to the Junior Hindi Translator.

This has to be got clarified. Further, in the light of the Hon'ble Ernakulam Bench Full Bench judgment referred to, respondents need to re-examine the issue and take a decision.

III. Consequently, we direct the respondents to keep the above in view and dispose of the request of the applicants by issuing a speaking and reasoned order within a period of 16 weeks from the date of receipt of this order. The stay granted vide order dated 7.8.2014 in OA 899/2014 will hold good till the respondents take decision in the matters, as directed.

IV. With the above directions, the OAs are disposed with no order as to costs. Consequently, the MAs stand disposed.

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

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

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