

CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.210/402/2019

with

ORIGINAL APPLICATION NO.210/403/2019

ORIGINAL APPLICATION NO.210/404/2019

Date of decision : February 11th, 2020.

Coram: Dr.Bhagwan Sahai, Member (Administrative)
R.N. Singh, Member (Judicial).

(Applicants in OA No.402/2019)

1. Smt. S. S. Kharbanda
Age 56 years,
R/a Plot No.101,
Shanti Colony,
Block C, Kalewadi,
Pune 411 017.
2. Smt. Rajni Shivdas Salunkhe
R/a A 501, Swiss Country,
Near PCMC School,
Thergaon, Pimpri Chinchwad 411 033.
3. Ms. Madhuri M. Lakra
R/a Flat No.6, Gaurav Dreamland,
Sr. No.34/2, Plot No.139,
Vidyanagar, Pune 411 032.
4. Smt. Rohini Surendra Ovhal,
R/a A-3, Heramb Apartment,
Sus-Road, Pashan,
Pune 411 021.
5. Shir Yogesh Shankar Belgude,
R/a 513, Nana Peth,
Sant Kabir Chowk,
Pune 411 002.
6. Shri Mohan V. Kale

R/a Om Residency, Flat No.A4,
Near Ved Bhavan,
Chandani Chowk,
Paud Road, Kothrud,
Pune 411 029.

7. Shri Yogesh Jayant Pawar,
R/a Swamiyog, Plot No.113,
Indrayani Vidyamandir
Colony, Chakan Road, Talegaon
Dabhade, Pune 410507.
8. Smt. Bhavana Naik
R/a Type-3 Quarters,
No.2 IITM Colony,
Pashan Pune 411 008.
9. Irfan A. Pathan,
R/a IITM Colony,
Type-III/09,
Pashan Road, Near NCL
Hostel, Pune 411 008.
10. Dilip E. Shinde
R/a Flat No.13,
B Wing, Anand Park,
Ganesh Nagar,
Vadgaonsheri,
Pune 411 014.
11. Sangita Qtari,
R/a Type 3 Quarters no.3,
IITM Colony, Pashan Pune 411 008.
12. Sandip S. Kulkarni,
R/a Type III, Quarter No.8,
IITM Colony, Panchavati Road,
Pashan, Pune 411 008.
13. Raju P. Dhanak
R/a IITM Colony Quarter No.12,
Type-III, Homi Baba Road,
Panchavati, Near NCL Hostel,
Pune-411 021.
14. Kavita B. Bharati,
R/a Type-III, Quarter No.17,

IITM Colony Panchavati Road,
Pashan Pune 411 008.

15. Sandeep B. Ghoman
R/a C-104 Varsha Co-op Hsg. Soc.,
Sr. No.53/6, Near Kalimata Mandir,
Jagtap Chowk, Wanawadi,
Pune 411 040.
16. Sachin B. Gaikwad,
R/a Sr. No.94,
Lane No.1, Jay Bhavani Nagar,
Pimple Gaurav,
Taluka Haveli,
Pune 411 061.
17. Shafi S. Sayyed
R/a Dishad Manzil, S. No. 253/
A1/1, Near Asha Vidyalaya,
Khese Park,
Lohagaon, Pune 411 032.
18. K. B. Barne
R/a A1/12 Ratan Park (PH-1)
Pashan Sus Road Pune 411 021.
19. Shanthi P. Iyer,
R/a A402, Westend Reverview
Apartment, Nagras Road,
Aundh, Pune 411 007.
20. Surekha Ramchandra Kamble
R/a A Wing Flat No.103,
Sukhwani Gracia, Near Sunny
World, Sus Gaon,
Pashan, Pune 411 021.

.. Applicants.

All are employed under respondent no.2 as
Administrative Staff/ Coordinator Staff.

(Applicants in OA No.403/2019)

1. Smt. Swati Athale,
Age 51 years,
35 Prashant Society,
Paud Road, Kothrud,

Pune 411 038.

2. Vanita V Sapre
 1A/13. Krutika Co-op. Hsg.Soc.
 Near Tejas Hall, Kothrud,
 Pune 411 038.
3. Vipin R. Mali
 Near Vishnu Mandir,
 At Post. Chandkhed,
 Tal. Maval Dist Pune 410 506.
4. Vijay H. Sasane,
 R/a Shakuntal, 342,
 Sasane Lane, Hadapsar,
 Pune 411 028.

.. Applicants.

All are employed under respondent no.2 as Scientific Support Staff/Scientific Officer Grade-II.

(Applicants in OA No.404/2019)

1. H. K. Trimbake,
 Age 56 years,
 R/a C-1/902,
 Shivranjan Towers,
 Someshwardwadi Road,
 Pashan, Pune 411 008.
2. S. M. Thorat
 R/a Jadhav Chawl Ward No.3,
 Dapodi, Pune 411 012.
3. R. A. Paradkar,
 R/a Type-II/2,
 IITM Colony,
 Dr. Homi Bhabha Road,
 Pashan, Pune 411 008.

.. Applicants.

All are employed under respondent no.2 as Technical Support Staff.

(By Advocate Shri P. J. Prasadrao)

Versus

(Respondents in all the above OAs)

1. Union of India
Thorugh the Secretary,
Ministry of Earth Science,
Prithvi Bhawan, IMD Campus,
Opp. India Habitat Centre,
Lodhi Road, New Delhi-110003.
2. Director
Indian Institute of Tropical
Meteoroology, Dr. Homi Bhabha Road,
Pashan, Pune 411 008.

.. Respondents.

(By Advocate Shri S. Ravi).

O R D E R (O R A L)
Per : R. N. Singh, Member (Judicial)

Present.

1. Shri P. J. Prasadrao, learned counsel for the applicants in all the above OAs.
2. Shri S. Ravi, learned counsel for the respondents in all the above OAs.
3. Heard the learned counsels for the parties.
4. The aforesaid OAs have been filed by the applicants working on different posts under the respondents under Section 19 of the Administrative Tribunals Act, 1985 seeking the identical reliefs. The learned counsels for the parties submit that the grievances of the applicants in all the three OAs are identical and the facts therein the OAs are also identical. In

such circumstance with the consent of the parties, aforesaid OAs have been heard together and being disposed of by a common order.

5. As facts and grievances stated in the aforesaid OAs are admitted to be identical, the facts are being taken from the one of the aforesaid OAs i.e. OA No.402/2019.

6. It is not in dispute that while the applicants have been working on various posts, the respondents framed new recruitment and promotion rules (herein after referred as Rules) of IITM keeping in view the guidelines issued by the DoPT and the same was done in consultation with IITM, Pune.

7. The rules were approved by the governing council of the respondent no.2 at its third meeting held on 30.08.2011 and the same were ratified by the respondent no.1 i.e. ministry of Earth Sciences, Union of India on 23.11.2011. The said Rules were circulated to the employees of the respondent no.2 vide letter/circular dated 26.05.2012 (Annexure A-3). It was provided therein Rules that any queries/concerns may be mailed to the officer notified in the letter

dated 26.05.2012 on the email indicated in the said letter.

8. The learned counsel for the applicants submits that the applicants were having no objection and the same was accepted by the applicants and similarly placed persons. It is further contended by the learned counsel for the applicants that the rules were given effect to and in view of the provisions of these rules the applicants have got the benefits of promotion, fixation of pay and they started getting higher pay scale. He further contends that without issuing any show cause notice, the respondents have issued a letter dated 07.11.2016 (Annexure A-5) whereby it was decided by the respondents to keep the scheme notified by letter dated 26.05.2012 in abeyance till further orders and to review the same in terms of the guidelines issued by the Nodal Department for continuation of such scheme in autonomous bodies.

9. Keeping in view the said letter dated 07.11.2016 the applicants were having bonafide apprehension that the benefit accorded to them in terms of rules in the year 2012 were likely to be

withdrawn by the respondents and also recovery was to be enforced, the applicants had made representation(s) to the respondents. Such representation(s) of the applicants, was disposed of vide letter dated 24.05.2019 (Annexure A-1) and the same reads as under:

"Sub: Reply to the representation placed before Special Committee:
Reg.

This is to inform you that the Competent Authority has duly considered your representation regarding withdrawal of CPP Scheme and stated the following:

(ii) The Ministry has taken up the matter with the Department of Expenditure for one time relaxation for promotion availed under CPP Scheme to avoid any hardship to concerned employees.

(iii) The D/Expenditure has not agreed to the one-time regularization of promotion/up-gradations availed under Career Progression Scheme (CPP) by employees of Autonomous Institutes. All the Autonomous Institutes are directed to take action to withdraw the promotion/up-gradation availed, recovering the pay and allowance.

(iv) The Ministry is in the process of framing/formulating necessary scheme for the promotion avenue for Scientific, Technical and Administrative Support Staff for the Autonomous Bodies under Ministry of Earth Sciences.

(v) The proposal containing draft promotion scheme shall be taken up with the nodal Department - D/Expenditure for approval and its implementation in all the Autonomous Bodies under Ministry of Earth and Sciences.

(vi) The Ministry will be issuing the O.M. For recovery of over payment due to implementation of CPP Scheme in due course.

(vii) This note is for information."

10. In the aforesaid background, the applicants have preyed for the identical reliefs in all the aforesaid OAs which reads as under:

"a. Allow this Application.

b. To quash and set aside the order dated 24.05.2019 and 09.08.2018 as cancellation of recruitment rules after lapse of 7 years is bad in law.

c. This Hon'ble Tribunal be pleased to direct the Respondents to retain the CPP Scheme and not to downgrade the promotions and project the present pay without recovering any arrears.

d. This Hon'ble Tribunal be pleased to grant ad-interim relief in terms of prayer cause (c) above pending enactment of new recruitment rules and accepted by the applicants such rules if they are in their favour.

are in their favour.

e. Any other order(s) as deemed fit may be passed in the interest of justice.

f. Cost of this application be granted to the Applicant."

11. In response to the notice issued by this Tribunal, the respondents have filed detailed reply wherein they have opposed and disputed the claim of the applicants.

12. The learned counsel for the applicant argues that once the rules have been formulated and notified by the Competent Authority vide their letter dated 26.05.2012 (Annexure A-3) and the benefits have been accorded to the applicants, the respondents are estopped from withdrawing the benefits from the applicants. He further argues that even as per the contentions of the respondents, the respondents are yet to substitute the said rules by any other rule(s) and therefore the respondents are not entitled to withdraw the benefits accorded to the applicants in accordance with the rules which is in force till date.

13. Per Contra, the learned counsel for the respondents argues that the letter dated

07.11.2016 (Annexure R-5) was issued by the Government to keep the scheme in abeyance till further orders and to review the same keeping in view the audit objections given by the Ministry of Finance. However, it is not in dispute that the rule was notified on 26.05.2012. It is also not in dispute that vide letter dated 09.08.2019 (Annexure A-2) it has been decided to withdraw the promotion/up-gradation availed by the applicants and similarly placed persons under the autonomous institutes and to recover the pay and allowances accorded to the applicants and similarly placed persons in view of the rules and further directions to implement the provisions of MACP scheme subject to certain conditions as provided in the order dated 09.08.2018.

14. We have heard the learned counsels for the parties and we have also perused the pleadings on record.

15. In the letter dated 07.11.2016 (Annexure R-5) the respondents have notified their decision to keep the scheme formulated under the rules notified on 26.05.2012 under abeyance and to review the same in terms of guidelines issued by

the Nodal Department. It is pertinent to note that once the rule has been framed and issued by the Competent Authority and has been given effect to in favour of the applicants, it is surprising to note how that can be kept in abeyance. At the best the same can be superseded by the competent authority by a new rule framed and notified. Further, vide letter dated 09.08.2018 it is ordered to withdraw the promotion/up-gradation availed by the applicants in terms of the rules under the CPPS Scheme. Recovery from the pay and allowances have been ordered whereas while disposing of the applicants' representations vide impugned letter dated 24.05.2019, the respondents have themselves contended that the respondent no.1 is in the process of framing/formulating the necessary scheme for the promotional avenue to the Scientific, Technical and Administrative support staff under the autonomous body under the Ministry of E.Sciences. They have further contended that the proposal containing the draft promotional scheme shall be taken with the Nodal Department i.e. Department of Expenditure for approval and its implementation in all the

Autonomous Bodies under Ministry of Earth Sciences and the Ministry will be issuing the OM for recovery of over payment due to implementation of CPPS Scheme in due course.

16. From these facts it is evident that the respondents are yet to formulate draft scheme and notify any other scheme in place of scheme formulated by them vide their letter dated 26.05.2012 (Annexure A-3) which has already been given effect to in favour of the applicants.

17. In the aforesaid facts and circumstances, we are of the considered view that any decision of the respondents to withdraw the benefits of CPPS scheme from the applicants without substituting the same by any other scheme formulated and notified by the competent authority is contrary to the respondent's own decision vide their letter dated 24.05.2019 and therefore such decision is arbitrary.

18. In view of the aforesaid, the OA is partly allowed with directions to the respondents not to withdraw the benefits of CPPS scheme, issued by the respondents vide their letter dated 26.05.2012 (Annexure A-3) from the applicants

till a final promotional scheme, if any, is formulated and notified by the Competent Authority of the respondents and a decision and a decision is taken and notified by the respondents if any, with regard to the recovery of over payment due to modification of CPPS Scheme issued by the respondents. Further, it is made clear that in case the respondents notify any scheme or OM which may be disadvantageous to the applicants for recovery of the payment already accorded to the applicants, the applicants shall be at liberty to challenge the same in accordance with law.

19. The OA is partly allowed. However, No order as to costs.

(R. N. Singh)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

V.

JD
25/01/2020