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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.1496 of 2004

New Delhi this the 19th day of August, 2010

**HON'BLE DR. RAMESH CHANDRA PANDA, MEMBER (A)
HON'BLE DR. DHARAM PAUL SHARMA, MEMBER (J)**

1. M.N. Haider,
s/o Shri Wahid Hassan,
R/o KVS Staff quarter No.17,
Type-III, Sector 33, NOIDA.
2. Nathu Singh
S/o Late Shri Nannu Singh
R/o L-329/5, Sangam Vihar,
New Delhi-110062.
3. G.L. Vijay,
S/o Shri P.D. Vijay,
R/o 131, Katwaria Sarai,
New Delhi.
4. B.N. Bhagat,
s/o Shri Mahanth Bhagat,
r/o J-43-A, Chanakya Place,
Janakpuri,
New Delhi.
5. Kuldip Bhat,
s/o Shri J.N. Bhat,
R/o 2737, Sector 23,
HUDA, Gurgaon.
6. A.K. Nigam,
S/o Shri R.N. Nigam,
R/o 118-A, Munirka Village,
New Delhi.
7. Dalvir Singh,
S/o Late Shri Chandan Singh,
R/o A-338, Jawn Gamri
8. Dharambir Vashistha
S/o Shri Tej Ram Vashistha,
R/o FCA-48/1, Block-C,
SGM Nagar,
Faridabad.

.... Applicants

(Applicant No.1 in person)

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1. Kendriya Vidyalaya Sangathan,
Through its Commissioner,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016.
2. Ministry of Human Resource & Development,
Through Secretary,
New Delhi.
3. Ministry of Finance,
Through its Secretary,
North Block,
New Delhi.
4. Ministry of Personnel Public Enterprises,
Through its Secretary,
North Block,
New Delhi.

..... Respondents

(By Advocate Dr. Puran Chand for Shri S. Rajappa)

O R D E R (ORAL)

Dr. RAMESH CHANDRA PANDA, MEMBER (A) :

By this OA, a batch of 8 applicants sought the following
reliefs:-

- a) Declare that the applicants are entitled to the same pay scale of Rs.1640-2900 (pre-revised) 5500-9000 (revised) w.e.f. 1.1.86 and the said pay scale cannot be withdrawn.
- b) Quash the impugned communications dt. 15.4.2004 and 26.5.2004 issued by Respondent No.3, by which the Respondent No.3 has directed the Respondent No.1 to take the coercive steps to withdraw the pay scale of Rs.1640-2900 and also start recovery proceedings to recovery the arrears w.e.f. 1.1.86.
- c) Pass any other order that this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

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2. On 11.11.2004, the OA was ordered to be put in sine die with the following orders :-

"Present : Shri Maninder Acharya, counsel,
Shri S. Rajappa, counsel for respondents.

At the out set, learned counsel for applicant has submitted that in view of the judgment of the Hon'ble Supreme Court in the SLP and the judgment of Hon'ble Division Bench of Delhi High Court in the LPA the applicant is not entitled to the relief which is claimed in clause (a) and first para of clause (b), i.e., the relief against withdrawal of the pay scale of Rs.1640-2900. But it is submitted that the respondent in pursuance to the communication received by the Ministry of Finance and Ministry of Human Resource Development which is Annexure A-20, the respondent, KVS is likely to take steps for making the recovery of the overpayment made to the applicants soon. It is submitted that the only relief which survives in the OA is against recovery of over payment of salary consequent upon wrong pay fixation in the higher scale.

Counsel for respondent KVS, on the other hand, submitted that the applicant ought to have approached the KVS first for redressal of his this grievance and that the KVS has not so far decided about recovery of the overpayment. He, therefore, suggested that the applicant may file a representation with the KVS and assured on behalf of the KVS that KVS would decide this representation within a period of 3 months from the date of receipt of the representation.

On the suggestion of the learned counsel of the respondents, there were some discussion between the counsel for the parties and it has been suggested on behalf of both the applicant and the KVS that the proceeding in this case may be stayed sine die and in the meantime applicant will make a representation against the recovery of the overpayment within a period of 2 months and respondent KVS will take a decision on the representation within a period of 3 months from the date on which the representation received by them. It is further suggested that in case the applicants are still aggrieved they may approach this Tribunal for revival of the OA to decide on the issue on merit. It is also submitted that the interim stay, against the recovery and the reduction of the

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pay scale, was granted by this Tribunal on 15.6.2004. Since the applicant does not press the relief prayed for against the reducing the pay scale against lowering of the pay scale or the withdrawal of the pay scale of Rs.1640-2900, now in view of the decision of the Hon'ble Supreme Court and Hon'ble Division Bench of the High Court in LPA, the interim stay so far as it pertains to the recovery part may continue during the pendency of this OA.

We have given careful thought to the submissions made at the bar and agree with the request of the parties. Accordingly, the proceedings of this OA are stayed sine die. Applicants shall file their representation in respect of the recovery of the overpayment made to them with the respondent, KVS within 2 months. The respondent, KVS shall decide this representation within a period of 3 months from the date of receipt of the representation. It will be open to the applicants to approach this Tribunal to get the proceedings of the OA revived, if necessary, after the decision on their representation is rendered by the respondents. In the meantime, as agreed, there shall not be recovery of the overpayment made to the applicants during the pendency of this OA. Interim order stands modified accordingly."

3. The OA was taken out of the sine die list and listed for hearing on 7.5.2010 and was adjourned to 26.5.2010, and 26.7.2010. However, today when the case was called out, the Applicant No.1 Shri M.N. Haider appeared in person. He informs that not only he but all other Applicants have been granted the benefits as sought by them in the OA. In support of his claim, he produced a copy of letter No.F-12-17/97-KVS(Admn.I)/Part dated 21.9.2006 issued by the Kendriya Vidyalaya Sangathan which reads as follows:-

"In compliance to the decision taken by the Hon'ble Chairman, Kendriya Vidyalaya Sangathan, a committee comprising of 03 Officers under the Chairmanship of Shri S.K. Ray, Joint Secretary &



F.A., MHRD was constituted vide Kendriya Vidyalaya Sangathan Order of even number dated 11.07.2006 to consider the request of Assistants/Audit Assistants and Senior Stenographers of KVS for restoration of pay scale at par with their counterparts in Central Government and to waive off the recovery accrued to them due to reduction of scale of pay.

2. Taking into consideration of the recommendations of the Committee, the Hon'ble Chairman, KVS has decided to restore the scale of pay of Rs.1640-2900 w.e.f. 1.1.1986 and of Rs.5500-9000 w.e.f. 1.1.1996 to those Assistant/Audit Assistants/Senior Stenographers of KVS from whom these scales of pay were withdrawn vide Kendriya Vidyalaya Sangathan, Hqrs. Office Order of even number dated 23.12.2004 thereby reducing their pay w.e.f. 1.1.2005.

3. Accordingly, the approval of the Hon'ble Chairman, Kendriya Vidyalaya Sangathan is hereby conveyed for the restoration of the scale of pay as indicated in para (2) above.

4. All other conditions regarding re-fixation of pay etc. as provided in the instructions issued for the implementation of the revised scale of pay recommended by 4th Pay Commission and 5th Pay Commission will apply mutatis-mutandis. The pay of all concerned employees be re-fixed in the restored scale of pay of Rs.1640-2900 w.e.f. 1.1.1986 and in the scale of pay of Rs.5500-9000 w.e.f. 1.1.1996 by intimating immediate necessary steps."

4. In view of the above, the applicant no.1 seeks to withdraw the OA, as their grievances raised in the OA have been met by the Respondents.

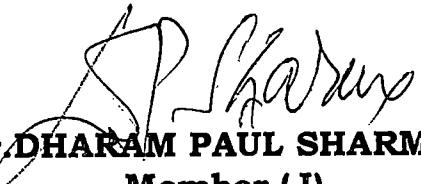
5. It is noted from the decision of the Respondents extracted above that the relief has been fairly accorded by the respondents – Kendriya Vidyalaya Sangathan. Shri M.N. Haider (Applicant No.1) also informs that the benefits, which he has got, were also granted to the other Applicants. Even though none appeared on behalf of the other Applicants, we feel the case has become

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infructuous. We are, therefore, not issuing any notice to other Applicants, as in our opinion, no prejudice would be caused to them.

6. Keeping note of the above, the OA is closed as withdrawn.


(Dr. DHARAM PAUL SHARMA) (Dr. RAMESH CHANDRA PANDA)
Member (J) 
Member (A)

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