

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/01284-01289/2018

DATED THIS THE 26TH DAY OF JUNE, 2019

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

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

1. S.N. Sreenivasa Rao,
Aged about 59 years,
S/o late S.V. Nagaraja Rao,
Retired Superintendent (Admn),
Central Silk Board,
Residing at No. 23,
Sanjeev Krupa, CSRTI Layout,
Reshme Nagar,
Behind JUSCO Water Tank,
Srinagara Main Road, N. Kuppalur,
J.P. Nagar Post,
Mysore 570 031

2. Smt. C. Mahalakshmi,
Aged about 59 years,
W/o late G.N. Ramakrishna,
Working as Assistant Superintendent (Admn),
Central Sericultural Research &
Training Institute,
Central Silk Board,
Manandavadi Road,
Srirampura, Mysore 570 008

3. Syed Salaraddin,
Aged about 58 years,
S/o Syed Hasham,
Superintendent (Admn),
Central Sericultural Research &
Training Institute,
Central Silk Board,
Manandavadi Road,
Srirampura, Mysore 570 008

4. N. Unnikrishnan,
Aged about 55 years,

S/o late K.E. Kunhanandan Nambiar,
Working as Upper Division Clerk,
Central Sericultural Research &
Training Institute,
Central Silk Board,
Manandavadi Road,
Srirampura,

5. S. Suresh,
Aged about 56 years,
S/o S. Shivalingappa,
Working as Assistant Superintendent (Admn),
Regional Sericultural Research Station,
CS&RTI, Central Silk Board,
Nanjangud Road,
Chamarajanagar 571 313

6. Smt. S. Vijayalakshmi,
Aged about 55 years,
W/o G. Krishnaswamy,
Assistant Superintendent (Admn),
P-2 Basic Seed Farm,
National Silkworm Seed Organization,
Central Silk Board, Rathnapuri Colony,
Dharmapura, Hunsur Taluk

..... Applicants

(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,
National Silkworm Seed Organization,
4th Floor, CSB Complex,
BTM Layout, Madivala,

Hosur Road,
Bangalore 560 068

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

....Respondents

(By Shri Vishnu Bhat, Senior Panel Counsel)

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 recruitees. 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 recruitees 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 recruitees 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.

(C.V. SANKAR)
MEMBER (A)

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

/ksk/

Annexures referred to by the applicant in OA No. 170/01284-01289/2018

Annexure-A1 to A6: Copies of the Memorandum extending higher pay scale dated 28.04.2004

Annexure-A7: Copy of the intimation dated 22.04.2016 to applicant 1

Annexure-A8: Copy of the intimation dated 17.05.2016 to applicant 2

Annexure-A9: Copy of the intimation dated 22.04.2016 to applicant 3

Annexure-A10: Copy of the intimation dated 16.05.2016 to applicant 4

Annexure-A11: Copy of the intimation dated 18.05.2016 to applicant 5

Annexure-A12: Copy of the intimation dated 16.05.2016 to applicant 6

Annexure-A13: Copy of the intimation dated 08.05.2016 to applicant 1

Annexure-A14: Copy of the intimation dated 17.05.2016 to applicant 2

Annexure-A15: Copy of the intimation dated 08.05.2016 to applicant 3

Annexure-A16: Copy of the intimation dated 17.05.2016 to applicant 4

Annexure-A17: Copy of the intimation dated 08.01.2016 to applicant 5

Annexure-A18: Copy of the intimation dated 08.05.2016 to applicant 6

Annexure-A19: Copy of the representation of 1st applicant dated 24.05.2018

Annexure-A20: Copy of the representation of 2nd applicant dated 22.05.2018

Annexure-A21: Copy of the representation of 3rd applicant dated 24.05.2018

Annexure-A22: Copy of the representation of 4th applicant dated 22.05.2018

Annexure-A23: Copy of the representation of 5th applicant dated 21.07.2018

Annexure-A24: Copy of the representation of 6th applicant dated 21.07.2018

Annexure-A25: Copy of the DoPT OM dated 02.03.2016

Annexures with Reply Statement

Annexure-R1: Copy of the DoPT OM dated 09.08.1999

Annexure-R2: Copy of the DoPT OM dated 02.03.2016

Annexure-R3: Copy of the DoPT OM dated 06.02.2014

Annexure-R4: Copy of the Ministry of Textiles communication dated 24.03.2014

* * * * *