



**Central Administrative Tribunal
Principal Bench: New Delhi**

**O.A. No.2033/2021
M.A. No. 2589/2021**

This the 20th day of September, 2021

Through Video Conferencing

**Hon'ble Ms. Manjula Das, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

1. Karuna Shankar Dubey,
S/o Kirti Shankar Dubey
R/o MIG-1/148, Ruchi Khand-2,
Sharda Nagar, Lucknow. (U.P.).
Group-A
Nature of grievance: Illegal Recovery
2. Dr. Ramesh Chandra Shukla,
S/o Late Ram Shankar Shukla,
R/o 01/557, Shukla Ganj,
District Unnao. (U.P.).
Group-A
Nature of grievance: Illegal Recovery
3. Vishwanath,
S/o Om Prakash,
R/o A-1/001, Krishna Apar Garden,
Vaibhav Khand, Indirapuram,
District Ghaziabad . (U.P.).
Group-A
Nature of grievance: Illegal Recovery
4. Dr. Ashraf Ali Beg,
S/o Late Anwar Ali Beg,
R/o B-8, Patrakar Colony,
Ashok Nagar, District Allahabad. (U.P.).
Group-A
Nature of grievance: Illegal Recovery
5. Ms. Ujwala Srinivas,
D/o L.S. Babji,
R/o Flat No.-1, 1stFloor, Arunodaya
Apartment, Dharam Karan Road,
Ameerpet, Hyderabad, Telangana.



Group-A
Nature of grievance: Illegal Recovery

6. Brahmanand Chaudhary,
S/o Jagdish Chaudhary,
R/o 33/9, Ashoka Road, Shipra Sun City,
Indrapuram, District Ghaziabad. (U.P.).
Group-A
Nature of grievance: Illegal Recovery
7. Suhas Mohanty,
S/o Late Rakhal Chandra Mohanty,
R/o Murchhana, Infront of Biswabharti Club,
Badambadi, Cuttack -753012.
Group-A
Nature of grievance: Illegal Recovery
8. Gulab-ud-din Tahir,
S/o Hakim Ud-din Tahir,
R/o Malik Bagh (Katianwali),
Gohan, Tehsil & Distt Baramulla,
Jammu and Kashmir.
Group-A
Nature of grievance: Illegal Recovery.
9. Dr. Arvind Tripathi,
S/o Late Vachaspati Tripathi,
R/o 901, Amarawati Nikunj, Sidharth Enclave
Tara Mandal, Gorakhpur. U.P.
PIN 273017.
Group-A
Nature of grievance: Illegal Recovery
10. Smt. Kalpana S. Acharya,
D/o Shiv Prasad Acharya,
R/o T-10, Rajani Smruti
Society, Beside AMA, IIM Road,
Ahmedabad.
Group-A
Nature of grievance: Illegal Recovery.
11. Hrusikesh Panigrahi,
S/o Late Madhusudan Panigrahi,
R/o House no. 6, Ashok Nagar, 8thLane,
Berhanpur, Odisha- 76001.
Group-A
Nature of grievance: Illegal Recovery



12. Ghazala Shahnaz,
W/o Mohammad Meraj Uddin,
Flat No. 203, Silver Heights Apartment,
In Front of Shubham Cinema,
Cantt. Road. Ghasiyari Mandi,
Lucknow (U.P.) -2260001.

Group-A

Nature of grievance: Illegal Recovery

13. Sumanaspati Reddy,
S/o Ramachandra Reddy,
R/o Flat No.-202, R.K. Residency,
Beside Laxmi Residency, Jayaprakash Nagar,
Yellareddyguda, Yousufguda,
Hyderabad, Telangana -500073.

Group – A

Nature of grievance: Illegal Recovery

...Applicants

(By Advocates: Mr. M.K. Bhardwaj with Ms. Tanya Agarwal)

Versus

1. Ministry of Information and Broadcasting,
Through Secretary,
Shastri Bhawan, Rajendra Prasad Marg,
New Delhi.

2. Prasar Bharti,
Through Chief Executive Officer (CEO),
Prasar Bharti Bhawan,
Copernicus Marg, New Delhi.

3. Director General,
All India Radio,
Akashvani Bhawan, Parliament Street,
New Delhi.

4. Director General,
Doordarshan Bhawan,
Copernicus Marg, New Delhi.

...Respondents

(By Advocates: Mr. Hanu Bhaskar for R-1, Ms. Vertika Sharma
for R-2 & 4 and Mr. S.M. Arif for R-3)

ORDER (ORAL)**Hon'ble Ms. Manjula Das, Chairman****MA No.2589/2021**

This MA has been filed by the applicants under Rule 4(5)(a) of CAT (Procedure) Rules 1987, seeking permission to join in a single O.A. For the reasons stated in the MA, the same is allowed.

OA No.2033/2021

2. This Application has been filed by the applicants under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief(s):-

- "A. To declare office order dated 07.04.2015 at Annexure A-1 as non-est in the eyes of law and inoperative qua the applicants herein and to issue a suitable direction to the Respondents to restore the pay of the applicants herein as fixed in compliance of letter dated 21.05.2004 at Annexure-6 with all consequential benefits.
- B. To issue suitable order or direction, to extend the application and benefit of order dated 28.11.2019 in OA No. 060/01067/2017 passed by Ld. CAT, Chandigarh Bench at Annexure A-2. Order dated 04.02.2020 in OA No. 1467/2015, OA No. 1956/2015 and OA NO. 1974/2015 passed by this Hon'ble Tribunal at Annexure A-3 and order dated 02.11.2020 in OA No. 4253 of 2018 passed by this Hon'ble Tribunal at Annexure A-4 to the applicants herein and direct the respondents to repay/release the illegally recovered/withheld amount from the applicants pension and retiral dues in the garb of downward re-fixation of pay within a period of 3 months.



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- C. To issue suitable order or direction to the respondents to consider the applicants at par with the applicants of (i) OA No. 060/01067/2017 before Ld. CAT, Chandigarh Bench, (ii) OA No. 1467/2015 and other connected OA. i.e. O.A. 2483/2018 O.A. No. 1665/2015, OA No. 1956/2015 and OA No. 1974/2015 before this Ld. Tribunal and to amend the communication dated 28.07.2021 at Annexure A-25, so as to include the Applicants herein and exempt them from re-fixation like the applicants in the O.As mentioned.
- D. To issue suitable order or direction, to the respondents to repay/release the illegally recovered/withheld amount to the applicants and pay them their retirement dues and pension as and when due month to month, as the present applicants are on the same footing.
- E. To issue suitable order or direction, directing the respondents not to withhold the Pension and retirement dues of the applicants based on the last pay drawn by them and release the same in the favour of the applicants without any downward re-fixation of pay and recovery of any alleged amount of excess payment.
- F. To issue suitable order or direction, directing the respondents to withdraw the downward re-fixation of pay against the applicants issued on the basis of order dated 07.04.2015 or any order issued as a sequel to that particularly communication dated 08.11.2019 which have become infructuous upon quashing of the order dated 07.04.2015.
- G. To issue any other suitable order or direction which this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of this case.
- H. To award cost of the application in favour of the applicants.”



3. At the outset, Mr. M.K. Bhardwaj, learned counsel for applicants submitted that the impugned order dated 07.04.2015 passed by respondent No.3- the Dy. Director of Admn. (P) for Director General, on the subject 'Alleging wrong stepping up of pay of Direct Recruit PEXs vis-à-vis Promotee PEXs' was challenged by similarly situated employees before the Chandigarh Bench of this Tribunal by filing O.A. No.1067/2017, with a prayer to set aside the order. That O.A. was allowed vide order dated 28.11.2019, by setting aside the impugned order dated 07.04.2015. Some other similarly situated employees also approached the Principal Bench of this Tribunal by filing various O.As., such as, OA No. 1467/2015 and batch; and O.A. No. 4253/2018 etc., challenging the order dated 07.04.2015. The same were disposed of, in terms of order dated 28.11.2019 in O.A. No.1067/2017 by the Chandigarh Bench. Learned counsel for the applicants, accordingly, prays that similar order be passed in the present case also.

4. Per contra, Mr. Hanu Bhaskar, learned counsel for respondents submitted that the O.A. is time barred as the impugned order was passed way back in the year 2015, and there is no application filed by the applicants seeking condonation of delay. The Chandigarh Bench as well as the Principal Bench disposed of various O.As. in the years 2019



and 2020, respectively. The applicants were sleeping over their rights and have approached this Tribunal by filing the instant O.A. in 2021. It is also submitted that the applicants do not come within the territorial jurisdiction of the Principal Bench, as they are not working and stationed at Delhi. It is further submitted that since the Hon'ble High Court is seized of the matter, this Tribunal may not interfere. Learned counsel for respondents contended that the respondents passed order dated 28.07.2021 in implementation of the interim order dated 17.05.2021 passed by the Hon'ble High Court of Delhi in Writ Petition No.10476/2020 against recoveries from pay and retiral dues on account of withdrawal of stepping up of pay and there is no recovery order passed against the applicants.

5. Mr. S.M. Arif, learned counsel for respondent No.3 opposed the contention of the applicants that the issue has already been settled by the Chandigarh as well as the Principal Benches of this Tribunal, whereas the issue is still pending before the Hon'ble Punjab & Haryana High Court and the matter is coming up on 22.11.2021. Thus, he submitted that since the Hon'ble High Court is seized of the matter, the case of the applicants cannot be entertained. It is further submitted that there is no order, denying the benefit to the applicants till date. Accordingly, he requested that the



respondents may be granted time to file counter affidavit in the O.A. to bring on record the facts.

6. Ms. Vertika Sharma, learned counsel appeared on behalf of respondents No.2 to 4 also raised similar objections.

7. In response to the aforesaid contentions, Mr. M.K. Bhardwaj, learned counsel for applicants submitted that the Hon'ble High Court did not interfere with the decision of this Tribunal, and rather the Government implemented the orders passed by this Tribunal. Further, since no order subsists denying the benefit to the applicants, there is no question of limitation. He submitted that the applicants filed the O.A. challenging the order dated 28.07.2021, wherein it is stated that the benefit of the judgment would be extended only to those employees, who were parties to the litigations. Learned counsel for applicants further submitted that as per the settled law on the issue, similarly situated persons should be extended the similar benefit.

8. We heard Mr. M.K. Bhardwaj with Ms. Tanya Agarwal, learned counsel for applicants, Mr. Hanu Bhaskar, learned counsel for respondent No.1, Ms. Vertika Sharma, learned counsel for respondents No.2 & 4 and Mr. S.M. Arif, learned counsel for respondent No.3.



9. In view of the submission made by learned counsel for the applicants and since the Hon'ble High Court neither stayed nor set aside or modified the order passed by this Tribunal, the contention of Mr. Hanu Bhaskar, learned counsel for respondents cannot be accepted.

10. In **State of Karnataka & Ors. vs. C. Lalitha**, (2006) 2 SCC 747, it was held, "Service jurisprudence evolved by this Court from time to time postulates that all persons similarly situated should be treated similarly. Only because one person has approached the court that would not mean that persons similarly situated should be treated differently." Similarly, in **Inder Pal Yadav & Ors. vs. Union of India & Ors.**, 1985 (2) SCC 648, it was held, "Relief granted by the Court is to be given to other similarly situated employees without forcing them to go to court for similar benefits".

11. From the perusal of the record, we find that the applicants are similarly situated to the applicants in O.A. No. 1067/2017 of Chandigarh Bench. In view of the settled principle of law and for parity of reasons, the applicants are also entitled for the similar benefit, and we deem it fit and proper to pass similar order in this case also.



12. Accordingly, the O.A. is disposed of in terms of order dated 28.11.2019 in O.A. No. 1067/2017 passed by the Chandigarh Bench of the Tribunal, as well as order dated 02.11.2020 passed by the Principal Bench in O.A. No.4253/2018, and direct the respondent authority to give similar benefit to the applicants herein. This exercise shall be carried out within a period of three months from the date of receipt of a copy of this order. The applicants are directed to communicate this order along with copies of the judgment of the Chandigarh Bench as well as the Principal Bench to the respondents, so as to enable them to verify whether they are similarly situated to the applicants in the aforesaid O.As., and to pass a reasoned order, as directed in the foregoing paragraphs, under intimation to the applicants.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Manjula Das)
Chairman

September 20, 2021
/jyoti/ankit/dd