

19

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

**O. A. No. 833 of 2010
Cuttack the 14th day of September, 2013**

**CORAM
HON'BLE MR. A.K. PATNAIK, MEMBER (J)
HON'BLE MR. R. C. MISRA, MEMBER (A)**

1. D. Mohanty, aged about 50 years, S/o. Late Rashabihari Mohanty, Working as Senior Armourer;
2. H.K. Das, aged about 48 years, S/o. Late Ramkrishna Das, Working as Senior Armourer;
3. R.C. Rout, aged about 48 years, S/o. Late Keshaba Ch. Rout, Working as Senior Armourer;
4. P. Padmanava, aged about 48 years, S/o. Late P. Basudev Rao, Working as Senior Armourer;
5. Y. Iswar Rao, aged about 42 years, S/o. Late Y. Appana, Working as Senior Armourer;
6. B.D. Sahu, aged about 49 years, S/o. Late Chandramani Sahu, Working as Senior Armourer;
7. P. Jani, aged about 46 years, S/o. Late Judhistir Jani, Working as Senior Armourer;
8. K.N. Beura, aged about 46 years, S/o. Late Jambeswar Beura Working as Junior Armourer;
9. K.C. Purty, aged about 48 years, S/o. Late Kedar Purty, Working as Junior Armourer;
10. B.K. Nayak, aged about 52 years, S/o. Late Daitari Nayak, Working as Junior Armourer;

Alles

11. B.C. Das, aged about 55 years, S/o. Late Karuna Prasad Das, Working as Junior Armourer;
12. S.R. Behera, aged about 60 years, S/o. Late Gurunath Behera, Working as Junior Armourer;
13. N. Behera, aged about 60 years, S/o. Udayanath Behera, Working as Junior Armourer;
14. P.K. Sahoo, aged about 53 years, S/o. Late Akulananda Sahoo Working as Junior Armourer;
15. A.K. Behera, aged about 44 years, S/o. Late Alekha Ch. Behera, Working as Junior Armourer

All are working under C.S.D. (Ordinance),
Charbatia, At/P.O. Charbatia, Dist-Cuttack.

...Applicants

(Advocates: M/s-C.A. Rao, S.K. Behera, A.K. Rath)

VERSUS

Union of India Represented through

1. The Secretary to Govt. Cabinet Secretariat, Bikanir House (Annexe), Sahajahan Road, New Delhi.
2. Directorate General of Security of Cabinet Secretariat, Block-V (East), R.K. Puram, New Delhi-110066.
3. The Director Finance Integrated Finance Units (Cab-Secretariat) Room No.7, Bikanir House, Sahajahan Road, New Delhi-110011.
4. Asst. Director (Per-A), A.R.C. Headquarters, East Block-V, R.K. Puram, New Delhi-110066.
5. Deputy Director, (A) A.R.C., Charbatia-754028, Dist-Cuttack.

... Respondents

(Advocate: Mr. U.B. Mohapatra, Sr. Central Govt. Standing Counsel)

Alles

ORDER**A.K.PATNAIK, MEMBER(I)**

Applicant Nos. 1 to 7 are presently working as Senior Armourers whereas applicant Nos. 8 to 15 as Junior Armourers under C.S.D. (Ordnance), Charbatia. Having a common cause of action, they have approached this Tribunal on being permitted to jointly prosecute this O.A.

2. Earlier they had moved this Tribunal in O.A.No.2/2010 which was disposed of in order dated 24.2.2010 with direction to Respondent Nos. 1, 3 and 5 to consider the representation dated 23.9.2009 and pass a speaking order regarding removal of discrimination in the Grade Pay (in short GP) consequent to the recommendations of the 6th Central Pay Commission. In compliance with the above direction of the Tribunal, the Respondents issued Memorandum dated 20.10.2010(Annexure-6), the relevant portion of which reads as under.

“As per the directions of the Hon’ble CAT, the case was examined in detail in consultation with Finance Division. In this connection, it is intimated that the Grade Pay of Rs.2000 and Rs.1900 have been granted to the post of Sr. and Jr.Armourer respectively as replacement pay structure as per the recommendation of the 6th CPC. Further, the nature of duties attached to the post of Sr.Armourer and Jr.Armourer are quite different from the duties attached to the post of Sr. Field Assistant and Field Assistant in ARC as well as that of Naik/Havildar and Armourer in SSB and SFF. As such, there is no case for upgradation of the Grade Pay of the post of Sr.Armourer and Jr.Armourer at par with Sr.Field Assistant and Field Assistant in ARC”.

3. Questioning the legality and validity of the above Memorandum, the applicants have approached this Tribunal in the present O.A. wherein they have sought for the following relief.

Alled

i) The Respondents be directed to extend Grade Pay of Rs.2000 and Rs.2400/- to the applicants Junior(Armourer) and Senior(Armourer) w.e.f. 1.1.2006 instead of Rs.1900 and Rs.2000 respectively, as was given and implemented in cases of Fas, SFAs of same ARC Organization as (Annexure-3) keeping in view (Annexure-7) under the same Directorate General Security; and quash the order dated 20.10.2010(Annexure-6).

ii) The Respondents be directed to pay the differential arrear money accrued out of said change of Grade Pay within specified time.

iii) And any other relief/reliefs or orders as would be deemed just and proper be passed.

4. It is the case of the applicants that the impugned order dated 20.10.2010 is bald and sketchy since it does not disclose the basis on which the Respondents have come to a conclusion that the nature of duties attached to posts of Sr. Armourers and Jr. Armourers are quite different from the duties attached to the posts of SFA and FA in A.R.C. Therefore, the findings of the Respondents in that behalf ~~are~~ are based on mere conjecture and surmises.

5. It is the further case of the applicants that since 2nd CPC till 5th C.P.C., parity in the pay scales between Junior Armourer, Senior Armourer and Field Assistant and Senior Field Assistant respectively was being maintained. According to applicants, based on the recommendations of the 6th CPC although Junior Armourer, Senior Armourer, Field Assistant and Senior Field Assistant are in put in the same Pay Band (PB-1) but so far as GP is concerned, whereas Junior Armourer and Senior Armourer have been granted GP Rs.1900 and 2000, the Field Assistants and Senior Field Assistants have been granted GP Rs.2000 and

Alor

23

Rs.2400/- respectively for all intents and purposes on the recommendations of 6th CPC, thus thereby disrupting the long established parity and creating disparity in GP between Junior Armourers, Senior Armourers and Field Assistants and Senior Field Assistants. In order to buttress their stand that there has been established parity between Junior Armourers, Senior Armourers and Field Assistants and Senior Field Assistants, the applicants have placed reliance on the decision of this Bench in O.A.NO. 667 of 1997, O.A.NO. 389 and 390/1992.

6. In the circumstances, the applicants have reiterated their prayer for direction to respondents to extend Grade Pay of Rs. 2000/- and Rs. 2400/- being Junior Armourers and Senior Armourers w.e.f. 01.01.2006 as has been given to F.As and S.F.As.

7. Respondents have filed their counter opposing the prayer of the applicants. The main thrust of the counter is that up-gradation of Grade Pay of Field Assistants and Sr.Field Assistants in ARC has been done in accordance with the recommendations of the 6th Pay Commission and acceptance of the Government of India in respect of specific posts depending on its functional and operational requirements, except for the posts of Junior and Senior Armourers. According to Respondents, the nature of duties of Field Assistants and Sr.Field Assistants being different from that of the duties of the Junior Armourers and Senior Armourers, the applicants are not entitled to Grade Pay of Rs.2000 and Rs.2400 respectively. Therefore, the Respondents have prayed that the O.A. being devoid of merit is liable to be dismissed.

Allet

24

6

OA No.833/2010
DMohanty-Vrs-UOI&Ors

8. Heard Shri C.A.Rao, learned counsel appearing for the applicants and Shri U.B.Mohapatra, learned Senior Central Government Standing Counsel appearing on behalf of the Respondents and perused the materials on record. We have also gone through the rejoinder and note of arguments filed by the applicants.

9. From the pleadings of the parties, the short point that emerges for our consideration is whether the applicants are entitled to GP Rs.2000 and Rs.2400/- on par with Field Assistants and Senior Field Assistants.

10. Upon our directions, the Respondents have produced the file for dealing with the grievance of the applicants for perusal. We have also gone through the same.

11. In order to determine the point in issue, it would be pertinent to focus our attention to letter No.1/1/2008-IC dated 5th September, 2008, as referred to by the applicant in his representation addressed to the Special Secretary, A.R.C.Headquarters, New Delhi (Annexure-4), wherein the applicant has quoted as under.

“This recommendation will be extended to all the posts in R&AW as well as in the other various organizations under Cabinet Secretariat that have had an established parity with the posts of Constable, Head Constable and ASI in the police and equivalent post in Intelligence Bureau”.

12. It is the case of the applicants that based on the above letter the scales of Rs.3200-4590 and Rs.3200-4900/- in the pre-revised pay scale has been revised/upgraded to Rs.3200-4900 and Rs.4000-6000, respectively, in so far as Field Assistants and Senior Field Assistants are concerned whereas they have been



25

7

OA No.833/201
DMohanty-Vrs-UI&O

deprived of the said revision/upgradation. So far as continual established parity of Junior Armourers and Senior Armourers with that of Field Assistants and Senior Field Assistants is concerned, Respondents have not whispered a single word anywhere that this established parity has ceased to operate from a particular date by a certain decision of the Government of India by the reason that the nature of duties of Sr.Armourers and Jr.Armourers ^{is} ~~are~~ quite different from the duties attached to the post of Senior Field Assistants and Field Assistants in ARC as well as that of Naik/Havildar and Armourer in SSB and SSF. Thus, the plea that the nature of duties of the post of Sr.Armourers and Jr.Armourers ^{is} ~~are~~ quite different from the duties attached to the post of Senior Field Assistants and Field Assistant being unsubstantiated and uncorroborated is not tenable.

13. The next point to be considered is whether the GP Rs.2000 and Rs.2400 as has been granted to Field Assistants and Senior Field Assistants based on the recommendations of the 6th CPC could be granted to the applicants, who are Junior Armourers and Senior Armourers and having had an established parity with that of Field Assistants and Senior Field Assistants right from the 2nd CPC.

14. Indisputably, it is to be noted that in the pre-revised scale the pay of Field Assistant and Senior Field Assistant was Rs.3050-4590 and Rs.3200-4900, which was at par with the pay scale of Junior and Senior Armourers. While the matter stood thus, by virtue of order dated 5.9.2008 issued by the Cabinet Secretariat, pay scales of Rs. 3050-4570 and Rs.3200-4900/- in so far as Field Assistants and Senior Field Assistants are concerned were upgraded/revised to




Rs.3200- Rs.4900/- and Rs.4000-Rs.6000/- respectively, whereas the pay scales of Junior and Senior Armourers stood unrevised and this is how, the Field Assistants and Senior Field Assistants in PB-1 could be granted GP Rs.2000 and Rs.2400/- whereas the applicants being Junior and Senior Armourers were granted GP Rs. 1900 and Rs.2000/- respectively having regard to pre-revised pay scale of Rs.3050-4590 and Rs.3200-4900/-. This action of the Respondents conspicuously makes it clear that while dealing with the representation of the applicants, they ought to have considered applicability of the contents of Order No.1/1/2008-IC dated 5th September, 2008 issued by the Cabinet Secretariat in so far as applicants are concerned. Therefore, non- application of mind while dealing with the representation vide Annexure-4 in pursuance of the order of this Tribunal in O.A.No.2/2010 is writ large. In the circumstances, we cannot but conclude that until and unless the applicants are governed by the order dated 5.9.2008 of the Cabinet Secretariat in the matter of revision/upgradation of pay from Rs.3050-4590 and Rs.3200-4900 to Rs.3200-4900 and Rs.4000-Rs.6000/- in the pre-revised scale as has been done in the case of FA and SFA is concerned, it is but natural that the claim of the applicants to GP Rs.2000 and Rs.2400 respectively, would remain in a state of impasse. We would also like to put it in black and white that neither of the parties has produced the Order dated 5.9.2008 issued by the Cabinet Secretariat albeit the entire matter hinges on it. However, since the legality and validity of order dated 5.9.2008 is not the subject matter of dispute, we do not like to express any opinion on its applicability to the case the applicants herein. In the

Alec

27

circumstances, we direct the Respondents, particularly, Respondent No.1 to a consider the applicability of order dated 5.9.2008 issued by the Cabinet Secre in so far as applicants are concerned. It is however, made clear that if Respoi No.1 comes to a conclusion that order dated 5.9.2008 is not applicable to the of the applicants, he should, in a clear and unambiguous term, spell ou reasons thereof, which should be based on the decision of the Government. exercise shall be completed within a period of three months from the dat receipt of this order.

15. With the observation and direction as indicated above, the O.A disposed of. No costs.


(R.C.MISRA)
MEMBER(A)


(A.K.PATNAIK)
MEMBER(J)