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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO. 770 OF 2013

Cuttack, this the 21st day of November, 2013

CORAM

HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)

.....

1. Harish Chandra Das, aged about 53 years,
S/o Mahendranath Das.
2. Nihar Nalini Jena, aged about 53 years,
D/o. Srustidhar Biswal.
3. Binaya Bhusan Patra, aged about 55 years,
S/o Late Taranidhar Patra,
4. Sushanta Kumar Singh, aged about 57 years,
S/o Late Sudam Charan Singh.
5. Purna Chandra Jena, aged about 55 years,
S/o Late Jagannath Jena.
6. Chhotray Marandi, aged about 46 years,
S/o Late Singhray Marandi.
7. Narayan Chandra Dash, aged about 55 years,
S/o Late Niranjana Dash.
8. Dipak Kumar Das, aged about 53 years,
S/o Late Sailendranath Das.
9. Kartik Chandra Tripathy, aged about 50 years,
S/o Late Baikunthanath Tripathy.
10. Keshab Chandra Mohanty, aged about 52 years,
S/o Late Dukhishyam Mohanty.
11. Lawrence Aind, aged about 49 years,
S/o Joseph Aind.
12. Niranjana Behera, aged about 54 years,
S/o Mukunda Behera.
13. William Kullu, aged about 51 years,
S/o Marcus Kullu.

All are working a Technical Officer- B (TO-B) in
Defence Research & Development Organization,

Proof & Experimental Establishment,
Chandipur-756025, Dist. Balasore.

14. Radhanath Barik, aged about 61 years,
S/o Late Krushna Mohan Barik (since retired), was .
working a Technical Officer- B (TO-B) in
Defence Research & Development Organization,
Proof & Experimental Establishment,
Chandipur-756025, Dist. Balasore.
15. Raj Kishore Tudu, aged about 50 years,
S/o Late Balia Tudu



16. Khageswar Sahoo, aged about 54 years,
S/o Ghanashyam Sahoo
17. Harihar Jena, aged about 46 years,
S/o Kartik Chandra Jena.
18. Bidyadhar Acharya, aged about 47 years,
S/o Brundaban Acharaya.
19. Anadi Narayan Pand, aged about 46 years,
S/o Bishnu Mohan Panda.
20. Suprakash Jena, aged about 47 years,
S/o Gangadhar Jena
21. Suman Kumar Chand, aged about 46 years,
S/o. Phanindranath Chand.
22. S. Jeyraj, aged about 48 years,
S/o S. Karuppan.
23. Chaman Minz, aged about 50 years,
S/o Budhu Bhagat Minz.
24. Gopinath Das, aged about 55 years,
S/o. Kasinath Das.

Applicant Nos. 15 to 24 are
working a Technical Officer- B (TO-B),
Defence Research & Development Organization,
Integrated Test Range, Ministry of Defence,
Chandipur-756025, Dist. Balasore.

.....Applicant

Advocate(s).....M/s. B.P. Satpathy, B.K. Nayak

VERSUS

Union of India represented through

1. Secretary to the Govt. of India,
Ministry of Defence,
New Delhi-110 011.
2. Department of Defence Research & Development,
Ministry of Defence,
Represented through its Secretary-Cum-Director General,
DRDO & Scientific Advisor to Raksha Mantri,
DRDO Bhawan, Rajaji Marg, New Delhi-110105.
3. Director Center for Personnel Talent management,
DRDO, Ministry of Defence, Metcalfe House,
Delhi-1100514
4. Director Integrated Test Range, Ministry of Defence,
Chandipur-756025, Dist. Balasore.
5. Director, Proof & Experimental Establishment,
Ministry of Defence, Chandipur-756025, Dist. Balasore.

..... Respondents

Advocate(s).....Mr. S.K. Patra

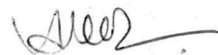


ORDER (ORAL)

HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)

All the applicants are working as Technical Officer B (TO-B) in the establishment of Defence Research & Development Organization Proof and Experimental Establishment, Chandipur, in the District of Balasore. Their grievance in this Original Application is that as per 5th CPC recommendation, their scale of pay of TO-A was revised to Rs.7500-12,000/- with GP Rs.4,800/- w.e.f. 1.1.2006 vide Government of India Ministry of Defence order dated 05.06.2009. But suddenly, Respondent No.2 reduced the grade pay of the TO -A from Rs.4,800/- to 4,600/- and consequently, order of recovery of the excess amount paid towards Grade Pay w.e.f. 1.1.2006 was issued vide order dated 13.5.2013 followed by order dated 30.5.2013 and 12.6.2013 without putting any notice to the persons who would be affected by such decision. Hence by filing the instant OA the Applicants have prayed for the following reliefs:

- (i) Let the impugned communication/order issued on dated 10.05.2013 under Annexures-A/7 and the consequential / follow up order issued on dated 13.05.2013 and 30.05.2013 under Annexure-A/8 to A/9 be declared as illegal and as such liable to be setaside.
- (ii) Let the Revision of the Grade pay at Rs.4,600/- per month w.e.f. 01.01.2006 as per Annexure-A/10 order also be declared as illegal and as such liable to be setaside;
- (iii) Let the Respondents be directed to sanction the scale of pay of Rs.7,500/- to 12,000/- in favour of the Applicants as per 5th Pay Commission Recommendation and the corresponding revised pay scale as per 6th Pay Commission Recommendation with Grade pay of Rs.5,400/- w.e.f 01.01.2006 within a stipulated time.;
- (iv) Let the Respondents be further directed to give the Grade Pay of Rs.6,600/- from the date, the applicants were promoted as TO-B with the consequential scale as per 6th Pay Commission Recommendation within the stipulated time.



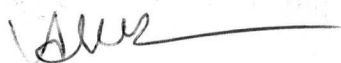
- (v) Let any other appropriate order/orders, direction/directions may kindly be passed which would be deemed fit and proper in the facts and circumstances of the case."

2. Also by filing MA No. 776 of 2013 under Rule 4 (4) of the A.T. Act and the Rules made thereunder the Applicant have prayed permission to prosecute this OA jointly.

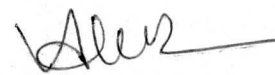
3. Copies of the OA as well as MA have been served on Mr.S.K.Patra, Learned Additional CGSC for the Union of India to appear for the Respondents.

4. Heard Mr.B.P.Satpathy, Learned Counsel for the Applicants and Mr.S.K.Patra, Learned Additional CGSC appearing for the Respondents both on OA as well as on MA and perused the records. Considering the submission of both sides the prayer made in the MA is allowed and the same is accordingly disposed of.

5. In so far as the prayers made in the OA is concerned, I find that the applicants have approached this Tribunal without availing of the opportunity available to them by way of making representation/appeal if the action taken in the impugned orders is not in accordance with Rule or law. Section 20 of the Administrative Tribunals Act, 1985 clearly provides that a Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievance. No convincing reason has also been assigned by the Learned Counsel for the Applicants so as to make departure from the provision; especially when according to the Applicant Respondents reduced the GP vide order dated 5.6.2009 and consequently orders were passed to recovery the excess amount on



13.5.2013/ 30.5.2013/ 12.6.2013. On being pointed out, Mr. Satpathy has prayed that the present OA may be disposed of by granting liberty to the applicants to file representation within seven days and till a decision is taken the Respondents be directed not to make further recovery from their salary towards excess payment of GP. I find some force in the above submission of Mr. Satpathy. Accordingly, without expressing any opinion on the merit of the matter, at this stage, this OA is disposed of with liberty to the applicants to make representation individually (enclosing thereto a copy of this order) within a period of seven days to the competent authority who on receipt of such representation shall consider the same and communicate the decision in a well-reasoned order, to each of the applicants and till then there shall be no further recovery from the pay of the applicants towards excess payment of GP. There shall be no order as to costs.


(A.K.PATNAIK)
Member (Judl.)