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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO.790 OF 2013

Cuttack, this the 2nd day of December, 2013

CORAM

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

.....

1. Gayadhar Sethi, aged about 43 years, Son of Late Gajendra Sethi.
2. Arun Kumar Panda, aged about 45 years, Son of Krushna Chandra Panda.
3. Purnendu Sekhar Senapati, aged about 54 years, Son of Late Bhudhar Chandra Senapati.
4. T. Sairam Patro, aged about 42 years, Son of Late T. Raghunatho Patro.
5. Sanjeevan Bodra, aged about 51 years, Son of Johan Bodra.
6. Kunja Bihari Das Babu, aged about 48 years, Son of Late Sitaram Das Babu.
7. Nilamani Sahoo, aged about 52 years, Son of Harihar Sahoo.
8. Loknath Nik, aged about 42 years, Son of Ghasiram Naik.
9. Hemanta Kumar Bage, aged about 41 years, Son of Abhiram Bage,
10. Dayanidhi Nayak, aged about 46 years, Son of Jaladhar Nayak.
11. Ranjan Kumar Naik, aged about 41 years, Son of Duryodhan Naik,
12. Jyoti Ekka, aged about 43 years, D/o Late Libnus Ekka.
13. Bahuram Dey, aged about 42 years, Son of Bhagaban Chandra Dey.
14. Jyotsnarani Nayak, aged about 42 years, D/o. Dinabandhu Nayak.
15. Ram Chandra Majhi, aged about 44 years, Son of Maha Majhi.
16. Ranjan Kumar Naik, aged about 40 years, Son of Late Khetramohan Naik.
17. Asit Kumar Pradhan, aged about 45 years, Son of Late Janmejaya Pradhan.

Applicant Nos.1 to 17 are working as Technical Officer –A, Integrated Test Range, Chandipur, Balasore-756025.

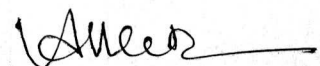
18. Laxmikanta Chand, aged about 51 years, Son of Late Satish Chandra Chand.

19. Siba Nath Paul, aged about 55 years, Son of Late Nani Gopal Paul.

Applicant Nos.18 to 19 are working as Technical Officer –A, Defence Research & Development Organisation, Proof & Experimental Establishment, Chandipur, Balasore-756025.

.....Applicants

Advocate(s)- M/s. B.P. Satapathy, B.K. Nayak, A.K. Sahoo, S. Pradhan.



VERSUS

Union of India represented through

1. The Secretary,
Ministry of Defence, South Block, New Delhi-110011.
2. Department of Defence Research & Development, Ministry of Defence, represented through its Secretary-Cum-Director General, DRDO & Scientific Advisor to Raksha Mantry, DRDO Bhawan, Rajaji Marg, New Delhi-110105.
3. Director, Center for Personnel Talent Management (CEPTAM), DRDO, Ministry of Defence, Metcalfe House, New Delhi-110054.
4. Director, Directorate of Human Resource & Development, DRDO, DRDO Bhawan, New Delhi-110105.
5. Director, Integrated Test Range, Ministry of Defence, Chandipur-756025, Balasore.
6. Director, Integrated Test Range, Ministry of Defence, Proof & Experimental Establishment, Chandipur-756025, Dist- Balasore.

..... Respondents

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

ORDER(Oral)

A.K. PATNAIK, JUDICIAL MEMBER

The Applicants who are working as Technical Officer – A in Defence Research & Development Organization, Proof and Experimental Establishment/Integrated Test Range, Chandipur, Balasore, Odisha have filed this Original Application Under Section 19 of the Administrative Tribunals Act, 1985 praying for direction as under:

- “(i) Let the directions contained with regard to reduction of grade pay and reduction of grade in the impugned communications/orders issued on dated 10.05.13, 13.05.2013 and 30.05.2013 under Annexures-A/7 to A/9 be declared as illegal and as such liable to be set-aside.
- (ii) Let the direction contained in the impugned order dated 23.10.2013 under Annexure –A/15 to implement the order in respect of all the employees excepting the applicants in O.A. pending before the Hon’ble Chandigarh Bench be also declared as illegal and discriminatory and as such liable to be set aside;



(iii) Let 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 w.e.f. 01.01.1996 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 Respondents be directed to give promotion to the eligible applicants to the post of TO-B as provided under the 2000 Rules by conducting necessary assessment within a stipulated time.

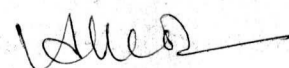
(v) Let any other appropriate order/orders, direction/directions may kindly be passed which would be deemed fit and proper in the facts and circumstances of the case."

2. They have also prayed for, by way of ad interim measure, the following order/direction:

"Pending final disposal of the Original Application, the operation of the impugned communications/orders issued on dated 10.05.2013, 13.05.2013, 30.05.2013 and 09.09.2013 under Annexures-A/7 to A/9 and the order dated 23.10.2013 under Annexure-A/15 be stayed"

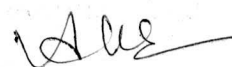
3. This matter has been listed today for considering on the question of admission and interim order prayed for, as above.

4. The case of the Applicants in nut shell is that they were initially appointed as ISA-II/STA-A and are at present continuing as TO-A. On the recommendation of the 5th CPC, the scale of pay of TO-A was revised to Rs.7,500-12,000/- w.e.f. 01.01.2006. The Government of India, Ministry of Defence vide order dated 05.06.2009 allowed the grade Pay of Rs.4,800/- w.e.f. 01.01.2006 and accordingly the said GP was extended to the Applicants from the date they were promoted as TO-A. Government of India, Ministry of Defence issued a set of Rules in the year 2000. Government of India allowed the said GP of Rs.4,800/- with classifications of different posts to the TO-A vide order dated 08.06.2009. But without any notice or opportunity to the Applicants, Respondent No.2 issued an order dated 10.5.2013 reducing the GP of the Applicants to Rs.4,600/- based on



the said order dated 10.5.2013. Subsequently, another order dated 13.05.2013 was issued by the Respondents directing recovery of the excess amount paid towards the Grade Pay w.e.f. 1.1.2006. Further vide order dated 30.5.2013 the Grade of TO-A was reduced by equating them with STA-C and for review of assessment from the year 2006 to 2012. Mr.B.P.Satpathy, Learned Counsel for the Applicants contended that similarly situated employees, working within the jurisdiction of the Chandigarh Bench of this Tribunal, being aggrieved by such action, filed OA Nos.846/CH/2013 before the CAT, Chandigarh Bench, in which stay order has been issued. Further it was contended by Mr.Satpathy that in pursuance of the order of this Bench dated 10th October, 2013 in OA No. 695 of 2013 the Applicants submitted representation on 15.10.2013 but no decision has been taken on the same till date. Hence, Learned Counsel for the Applicants has sincerely prayed for issuance of notice and grant of interim order prayed for in this OA.

5. This was vehemently objected to by Mr.S.K.Patra, Learned CGSC appearing for the Respondents on the ground that when representation submitted by the applicants in compliance of the order of this Tribunal are still pending and no decision has been taken the applicants should have availed of the opportunity in appropriate proceeding but not certainly by filing the present OA with the selfsame relief. Hence, he contended that this OA is not maintainable and is liable to be dismissed.

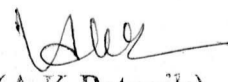


6. I have considered the rival submission of the parties and perused the records. The relevant portion of the order dated 10th October, 2013 in OA No. 695 of 2013 is extracted herein below:

“.....However, as agreed to by the applicant no.6, without expressing any opinion on the merit of this case, we dispose of this OA at the stage of admission itself by granting liberty to all the applicants to make individual representations to Respondent No.2 with copy to Respondent No.3 within a period of 7 days and if such representations are made within 7 days then Respondent Nos.2 and 3 are hereby directed to consider their representations keeping in mind the extant rules and provisions and communicate them the result thereof by way of reasoned and speaking order within a further period of four weeks from the date of receipt of copy of representations.”

7. The representations were submitted by the Applicants on 15.10.2013 and the present OA has been filed by the Applicants on 10.11.2013 which is before expiry of the four weeks as directed by this Tribunal. In view of the above and as agreed to by Learned Counsel for the Applicants in course of hearing without expressing any opinion on the merit of the matter this OA is disposed of with direction to the Respondent Nos.2 and 3 that if in the meantime no decision has been taken and communicated on the representations of the Applicants, as directed by this Tribunal they may do so and until then there shall be no recovery from the pay of the applicants towards the excess payment of the Grade Pay as held in the order under Annexure-A/15. MA filed for joint prosecution of this OA is accordingly disposed of. There shall be no order as to costs.

8. Copy of this order be sent to the Respondent Nos. 2 & 3 by the registry for compliance.


(A.K.Patnaik)
Member (Judicial)