

डि.प्र.श. (प्रक्रिया) नियमावली के नियम 22 के अन्तर्गत नि: शुल्क प्रवि

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL

O.A. Nos.351,352,353,354,355,356,357,
358,359,360,361,362,363,364,365,366 & 367 OF 2010.

JODHPUR. THIS IS THE 25th JANUARY, 2011.

CORAM :

**HON'BLE MR. JUSTICE S.M.M.ALAM, MEMBER [J]
HON'BLE MR.SUDHIR KUMAR, MEMBER [A]**

D.K.Kharol S/o Shri Suraj Mai aged 46 years, Technician/F, Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o 19/111, Heavy Water Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA 351/2010

Mahendra Singh S/o Shri Chatura Ram, aged 48 years, Technician/F, Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o B 17/99, Heavy Water Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA 352/2010

S.S.Sisodia S/o Shri Devi Singh aged 51 years, Technician/F, Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o E-8, Heavy Water Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA 353/2010

Ghanshyam Sharma S/o Shri Gajanand Sharma, aged 46 years, Technician/F, Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o B 11/65, Heavy Water Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA 354/2010

Prahlad Mali S/o Shri Tuka Ram aged 43 years, Technician/F, Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o B20/119, Heavy Water Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA 355/2010

Arun Kumar Shrivastava S/o Shri Santosh Kumar aged 48 years, Technician/F, Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o B 23/136, Heavy Water Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA 356/2010

D.K.Pancholi S/o Shri Nand Lal aged 47 years, Technician/F, Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o B 38/228, Heavy Water Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA 357/2010



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Ashok Kumar S/o Shri Sewa Ram aged 49 years, Technician/F, Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o H-17, Heavy Water Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA 358/2010

K.L. Bhatt S/o Shri Noja Ram aged 50 years, Technician/F, Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o B66/444, Heavy Water Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA 359/2010

Ramakant Sharma S/o Shri Vishnu Dutt, aged 47 years, Technician/F, Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o J 26 A, Heavy Water Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA 360/2010

P.K. Mishra S/o Shri Kishore Chand, aged 46 years, Technician/G, Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o Heavy Water Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA 361/2010

V.K. Dewani S/o Shri Bhagwan Das, aged 46 years, Technician/F, Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o B2/7, Heavy Water Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA 362/2010

Bhagwan Lal Koshti S/o Shri H.J. Koshti, aged 43 years, Technician/F, Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o B11/65, Heavy Water Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA 363/2010

Badri Lal Meena S/o Shri Lachi Ram aged 47 years, Technician/F, Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o B28/168, Heavy Water Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA 364/2010

Sukeshwar Rai S/o Shri J. Rai aged 54 years, Technician/F, Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o B21/126, Heavy Water Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA 365/2010

Bhanwar Lal Bairwa S/o Shri Jagan Nath aged 49 years, Technician/F, Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o J/38, Heavy Water Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA 366/2010



Ratan Lal S/o Shri Narain Lal aged 48 years, Technician/G, Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o B33/196, Heavy Water Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA 367/2010

[For Applicants : Mr.Vijay Mehta]

Versus

- 1- Union of India through the Secretary to Government of India, Ministry of Atomic Energy, 4th Floor, Anushakti Bhawan, CS Nagar, Mumbai.
- 2- Administrative Officer-III, Heavy Water Plant (Kota), Anu shakti, District Chittorgarh.
- 3- Assistant Personnel Officer (R&V), Heavy Water Plant (Kota) Anushakti, District Chittorgarh.

.....RESPONDENTS.

[For Respondents:Mr.Mahendra Godara for Mr. V.Mathur]

**ORDER
[PER SUDHIR KUMAR, MEMBER (A)]**

Heard the learned counsel for the applicants and the learned counsel for the respondents. Reply has been filed in all the cases and rejoinders have also been filed by the applicants in most of these cases.



2- Through order dated 4/12.2010 (Annex.A-1st of OA No. 351/2010), fixation of pay orders issued for fixation of pay on promotion in the pre-revised merged scales of pay, through various Office Orders issued from 21.10.2008 to 28.05.2009 (12 in number) were cancelled in pursuance of the DAE OM dated 17.11.2009 read with O.M. dated 20.10.2010 in this

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regard. As a consequence, the fixation of pay on promotion in the pre-revised merged pay scales of the applicants stood withdrawn, and the pay drawn by the applicants was restored to the stage at which they were being drawn prior to the fixation of their pay on promotion in the revised pay scales.

3- Caveats in regard to these OAs were filed by the respondents on 7.12.2010, even before the OAs were filed on 20.12.2010.

4- On 22.12.2010, during the first hearing of these batch cases, the orders issued on 4.12.2010 (Annex.A/1 of the first OA) were stayed till further orders.

5- In the reply written statement submitted by the respondents on 5.1.2011, it has been stated that much before the OAs were filed, the order dated 4.12.2010 was kept in abeyance by the respondents themselves by another order dated 6.12.2010. It is seen that this document was not produced by the respondents even along with the caveats filed by them on 7.12.2010, perhaps by over-sight.

6- It has been further submitted by the respondents that now, by another order dated 1.1.2011



(Annex.R/1), the ⁽⁵⁾ impugned Office Order dated 11

4.12.2010, has itself been revoked / cancelled, due to further developments and unforeseen circumstances.

The contention of the respondents is that under these circumstances, no cause of action now survives for maintaining these OAs, and the present OAs have become infructuous.

7- In the rejoinders filed by the applicants, they have pointed-out that along side these proceedings, parallel proceedings have already been started by the respondents by issuing to them show cause notices dated 16.12.2010 in respect of the same aspect, asking the applicants to show cause as to why their pay fixation should not be changed, and stating that it had been done earlier due to discrepancy/erroneous pay fixation, and the excess payment made to the applicants is liable to be recovered.

8- It appears that the issue in question in the present OAs, no longer survives, in view of the specific order dated 1.1.2011 cited by the respondents as Annex. R/1.

9- The show cause notices issued to the applicants by the respondents afresh on 16.12.2010 have given rise to another parallel series of consequential events, which may perhaps give rise to another fresh cause of action to these applicants, if orders adverse to their interests are passed by the respondents.

10- But, for the time being, it appears that these OAs do not survive, and, having cancelled the 4.12.2010 orders of reduction of pay, perhaps for the time being, the respondents would not reduce the salaries of the applicants, or make any recoveries from their salaries, till any specific orders are passed in this regard after giving them opportunity of being heard on the basis of parallel fresh proceedings already initiated. In view of this, these OAs [No. 351,352,353,354,355,356,357,358,359,360,361,362, 363,364,365,366 & 367 of 2010] are disposed off as infructuous, as no cause of action survives as on date.

**COMPARED &
CHECKED**

Sd/-
[Sudhir Kumar]
AM

Sd/-
[S.M.M.Alam]
JM

CERTIFIED TRUE COPY
Dated: 01-01-2011

मनुष्यान् अधिकारी
Section Officer (judl.)
मनुष्यान् अधिकारी
Central Administrative Tribunal
जोधपुर न्यायपीठ, जोधपुर
Jodhpur Bench, Jodhpur.

दिनांक 21/11/11 के आदेशानुसार
मेरी उपस्थिति में दिनांक 21/11/11
को घास-1 व घास-2 किए गए।

मनुष्यान् अधिकारी
केन्द्रीय अधिकारी
जोधपुर न्यायपीठ, जोधपुर