

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Jodhpur, this the 22nd day of April, 2014

Original Application No.416/2012

CORAM

Hon'ble Mr.Justice Kailash Chandra Joshi, Member (Judicial)
Hon'ble Ms Meenakshi Hooja, Member (Administrative)

1. All India Central Ground Water Board Employees Association (Recognized by Government of India), through the President Shri Ramniwas Choudhary s/o Shri Bhanwar Lal Choudhary, aged 45 years, resident of House No.30, Shri Ram Nagar, Near Ramdev Temple, Nandari, Jodhpur.
2. Shri Bhiya Ram Choudhary s/o Shri Bhakta Ram, aged 47 years, resident of Village Nandwan Post Salawas Tehsil Luni District, Jodhpur, presently working on the post of Driller-cum-Mechanic, Division-XI, Central Ground Water Board, Jodhpur.

.....Applicant

By Advocate: Mr. R.N.Choudhary

Versus

1. The Union of India through Secretary, Ministry of Water Resources, Shram Shakti Bhawan, Rafi Marg, New Delhi.
2. Chairman, Central Ground Water board, Bhujal Bhawan, NH-IV, Faridabad.
3. Director (Finance), Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.
4. Director (Administration), Ministry of Water Resources, Central Ground Water Board, Bhujal Bhawan, NH-IV, Faridabad.
5. The Senior Administrative Officer, Ministry of Water Resources, Central Ground Water Board, Bhujal Bhawan, NH-IV, Faridabad.

.....Respondents

By Advocate : Mr. Aditya Singhi on behalf of Ms. K.Parveen

ORDER (ORAL)

Per Justice K.C.Joshi, M(J)

The present OA has filed by the applicants challenging the order dated 4.10.2012 (Ann.A/1) by which the respondent department has kept in abeyance the upgradation of Grade Pay in respect of employees working on the posts of DCM/ADCM in Central Ground Water Board and, therefore, they have prayed for the following reliefs:-

That the applicants may be permitted to pursue this joint application on behalf of two applicants under rule 4(5) of CAT (Procedure) Rules, 1987.

In view of cause of action is same and facts and grounds mentioned in para 4 & 5, above the applicants prays for the following reliefs:-

- (i) That Original Application may kindly be allowed.
- (ii) By appropriate writ, order or direction order dated 4.10.2012 (Annexure No.A/2) may kindly be quashed and set aside.
- (iii) Respondents department be directed to make applicable the amendment made in Rules of 2008 issued by Notification dtd. 28.7.2009 to all employees working in the respondent department in workshop on the post of DCM/ADCM with all consequential benefits.
- (iv) Any other appropriate direction or order which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case may kindly be granted.
- (v) Cost of this application may kindly be awarded.

2. So far prayer regarding filing of joint application is concerned, since the cause of action arises from the same order, therefore, applicants are permitted to pursue the remedy by way of filing a joint OA.

3. Brief facts of the case, as stated by the applicants, are that applicant No.1 is recognized Union and working for welfare of the employees of the Central Ground Water Board. By order dated 4.10.2012 general direction has been passed by which upgradation of Grade Pay of all the employees working on the post of DCM/ADCM has been kept in abeyance and individual order in respect of employees working on this post has not been passed, therefore, the Union is filing the OA on behalf of the employees. Shri Bhiya Ram applicant No.2 is working on the post of Driller-cum- Mechanic, Division-XI, Central Ground Water Board, Jodhpur and due to this order his pay has also been affected and he will also not get the benefit of upgradation and his pay will be reduced from November, 2012.

The applicants have further stated that in exercise of the power conferred by proviso to Article 309 of the Constitution, amendment was made in CCS (Revised Pay) Rules, 2008 by which additional entries at Sl.No. 4 and 5 under Serial No. XIX in Section-II Part-II of the first schedule related to workshop was added and in this respect notification dated 28.7.2009 (Ann.A/3) was issued. In accordance with Part-B Section-II of the Notification dated 28.7.2009, the Government has duly approved the upgradation and the same has been published in the Gazette. Accordingly order dated 17.2.2010 was issued by the department and benefit of upgradation was granted to the employees working in the workshop w.e.f. 1.1.2006. There was a confusion in respect of implementation of upgradation, therefore, clarification was issued by the respondent department vide letter dated 7.1.2010. The

applicants have placed various orders of the respondent department to show that in pursuance to the amendment made in the Rules of 2008 the benefit of upgradation of pay to the employees working in workshop has been granted and arrears have also been paid. According to the applicants, the respondents issued order dated 4.10.2012 by which it was provided that the upgradation of grade pay given to employees working as DCM/ADCM in Central Ground Water Board as per the amendment in Rules of 2008 has been kept in abeyance on the ground that the upgradation is pending consideration with the Ministry and it was made that approval is also required from the Department of Expenditure, Ministry of Finance. The applicants have averred that once the order has been issued and implemented then respondent department has no authority or jurisdiction to keep the order in abeyance that too without giving any opportunity to the affected employees. Soon after issuance of order dated 4.10.2012, the applicant No.1 filed representation dated 12.10.2012 to the respondent department but the respondents have neither taken any step nor reply has been given to the representation and due to passing of the impugned order all the employees who are working in the workshop and whose salary has been upgraded as per amendment, will not get the benefit and their pay will be reduced. Therefore, the applicants have filed this OA praying for the reliefs as extracted in para-1 above.

4. By way of reply to the OA, the respondents have submitted that although as per amendment of CCS (Revised Pay) Rules, 2008 the workshop staff and Master Craftsman, falling in the category of Highly

Skilled Grade-I and II, their pay grade and pension have been upgraded, but after objection of the PAO, the same was refixed according to the scales prevailing before amendment for the pensioners. Seeing the disparity vide letter dated 22.3.2012, the Ministry of Water Resources, Government of India objected for different stand taken by the department whereby the pensioner's case was refixed as per the scale prevailing before amendment of the Rules of 2008 and the employees in service were being given upgraded pay scale as per amendment of the Rules of 2008. It has been further submitted that due to disparity in the case of employees in service as well as pensioners, the upgradation of Grade Pay in respect of DCM/ADCMs of CGWB were kept in abeyance as the matter is under consideration of the Government of India and, therefore, as and when the same is finalized, the benefit of upgradation as per amended rules will be granted to the employees. The respondent department has requested the Ministry of Water Resources to expedite the matter regarding upgradation as per amended Rules of 2008 but the matter is under consideration of the Government of India. Since the matter is pending for active consideration, therefore, the present OA deserves to be dismissed.

5. After giving sufficient opportunities to the applicants, they have not filed rejoinder to the reply filed by the respondents.

6. Heard both the parties. Counsel for the respondents submits that matter for which the OA has been filed is pending and is under active consideration of the Ministry of Water Resources, Govt. of India,

therefore, as and when the Ministry finalises the matter, the benefit will be granted to the concerned employees. Further, the Ministry of Water Resources will take concurrence from the Ministry of Finance and Department of Personnel and Training, and after taking such concurrence, the Ministry of Water Resource will pass the final order. Counsel for the respondents also admits that representation filed by the applicant is pending before the competent authority.

7. In view of the submissions made by both the parties and the averments made in para No.vi) and vii) of the reply, it is clear that the matter is pending for active consideration before the concerned Ministry of the Govt. of India. Therefore, we are proposing to dispose of this OA with certain directions:-

The respondents are directed to finalize the process of active consideration regarding upgradation within 3 months from the date of receipt of this order and interim relief granted by this Tribunal shall remain operative for 4 months. If the applicants have any grievance even after passing the order by the appropriate authority, they may approach appropriate forum. Accordingly, the OA is disposed of with no order as to costs.


(MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER


(JUSTICE K.C. JOSHI)
JUDICIAL MEMBER

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