

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. Nos. 403/10, 404/10, 489/10 and 88/2011

Tuesday..., this the 22nd day of November, 2011.

CORAM:

HON'BLE Mr. P.R. RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

1. O.A. No. 403/2010 :

Mohammed Shah Adil. P.P
S/o. Late K. Cheriya Koya Thangal
P. Puthiya Veed, Androth Island
U.T. of Lakshadweep.

... Applicant

(By Advocate Mr. P.S. Abdul Kareem)

V e r s u s

1. Union of India represented by the
Secretary, Ministry of Human Resources
(Education), New Delhi.
2. The Administrator
Union Territory of Lakshadweep
Kavarathy.
3. Accounts Officer
Principal Pay and Accounts Office
U.T. of Lakshadweep, Kavarathy.
4. Headmaster
Government High School
Androth, U.T. of Lakshadweep.

... Respondents

(By Advocate Mr. S. Jamal, ACGSC for R-1)
(By Advocate Mr. S. Radhakrishnan for R2-4)

2. O.A. No. 404/2010 :

S.Syed Muhammed Kasim
S/o. A.B. Muthukoya
Shekiyammada House
Androth Island
U.T. of Lakshadweep.

... Applicant

(By Advocate Mr. P.S. Abdul Kareem)

Versus

1. Union of India represented by the
Secretary, Ministry of Human Resources
(Education), New Delhi.
2. The Administrator
Union Territory of Lakshadweep
Kavarathy.
3. Accounts Officer
Principal Pay and Accounts Office
U.T. of Lakshadweep, Kavarathy.
4. Headmaster
Government High School
Androth, U.T. of Lakshadweep.

... Respondents

(By Advocate Mr. M.V.S. Nampoothiry, ACGSC for R-1)

(By Advocate Mr. S. Radhakrishnan for R2-4)

3. O.A. No. 489/2010 :

1. Mohammed Ameen. M
S/o. Late Nallakoya. B.P
Moothakkada House
Androth Island
U.T. of Lakshadweep.
2. Mohammed Abdul Saleem. M.P
S/o. Kunhi Seethi Koya. K.K
Moolappura House, Androth Island
U.T. of Lakshadweep.
3. P.P.S. Meharali
S/o. L.P. Thanga Koya
Palliyete Puthiya Sarambi House
Androth Island
U.T. of Lakshadweep.
4. K.P. Anver,
S/o. K. Sayes Mohammed Koya
Kandalathuppara House
Androth Island
U.T. of Lakshadweep.
5. C.K. Anwer, S/o. K. Attakoya
Chekkikulam House
Androth Island
U.T. Of Lakshadweep.

- 6 P.P. Khaleel
S/o. Late P.P. Kidave
Pakkichiyapura House
Androth Island
U.T. of Lakshadweep.

... Applicants

(By Advocate Mr. P.S. Abdul Kareem)

V e r s u s

1. Union of India represented by the
Secretary, Ministry of Human Resources
(Education), New Delhi.
2. The Administrator
Union Territory of Lakshadweep
Kavarathy.
3. Accounts Officer
Principal Pay and Accounts Office
U.T. of Lakshadweep, Kavarathy.
4. Headmaster
Government High School
Androth, U.T. of Lakshadweep.

... Respondents

(By Advocate Mr. Thomas Mathew Nellimoottil for R-1)
(By Advocate Mr. S. Radhakrishnan for R2-4)

4. O.A. No. 88/2011 :

1. C.M. Abdul Shukoor
S/o. Aboosala. P
Chulathmadam House
Amini Island
U.T. of Lakshadweep – 682 552.
2. Hidayathulla E.K
S/o. Shaikoya
Edayakkal, Androth Island
Lakshadweep.
3. Kunchi C.C
S/o. B. Hassainar
Cheriyatta Chetta
Amini Island, Lakshadweep.
4. K.K. Kamal Hussain
S/o. Late N.C. Sayed Mohammed Koya
Keelakunnikkal House
Amini Island, Lakshadweep.

5. C.P. Najeemudheen Sayed
C/o. N.C. Sayed
Nazeema Manzil House
Amini Island, Lakshadweep.
6. K.P. Ashraf
S/o. Late N.C. Cheriya Koya
Kunjipura House, Amini Island
Lakshadweep.
7. Zuhra P.C
Pallechetta House
Amini Island, Lakshadweep.

... Applicants

(By Advocate Mr. P.S. Abdul Kareem)

V e r s u s

1. Union of India represented by the
Secretary, Ministry of Human Resources
(Education), New Delhi.
2. The Administrator
Union Territory of Lakshadweep
Kavarathy.
3. Accounts Officer
Principal Pay and Accounts Office
U.T. of Lakshadweep, Kavarathy.
4. Headmaster
Government High School
Androth, U.T. of Lakshadweep.

... Respondents

(By Advocate Mr. Sunil Jacob Jose, SCGSC for R-1)
(By Advocate Mr. S. Radhakrishnan for R2-4)

These applications having been heard on 14.11.2011, the Tribunal
on 22-11-11..... delivered the following:

ORDER

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

Having Common facts and issues , these O.As were heard together and
are disposed of by this common order.

2. The applicants are teachers in the Government High Schools at Androth and Amini under the Lakshadweep Administration. They joined service before 01.01.2006. Consequent to the VI Central Pay Commission, their basic was stepped up and fixed at Rs. 12540/- plus Grade Pay of Rs. 4600/-. Till filing of the O.As, they were receiving the stepped up salary. But the audit party of the Principal and Pay and Accounts Office, Kavaratti, objected to the said stepping up of pay stating that no instruction is there in the VI CPC recommendations to step up the pay. The Accounts Officer directed the Headmasters of the Government High Schools concerned to recover the excess payment from the applicants and to remit the same to the Government account as per rules. In the case of teachers in the School at Amini, recovery was ordered as per Annexure A-1 dated 25.01.2011 in O.A. No. 88/2011. Aggrieved, the applicants have filed these O.As.

3. Interim orders were issued to the effect that recovery, if any, from the applicants shall be subject to the outcome of the OAs.

4. According to the applicants, the drawal by the juniors of higher pay than the applicants, who are seniors, is clearly violative of Article 14 of the Constitution. The juniors are having the same designations, same posts, same qualifications and are direct recruits, like the seniors. As both the seniors and the juniors are similarly situated, there is no question of unequal treatment. To relegate the applicants to a lower pay as per the Audit Enquiry No.3 in O.A. Nos. 403/10, 404/10, 489/10 and Audit Enquiry No. 5 in O.A. No. 88/2011 is arbitrary and negation of rule of equality. Hence they pray for a declaration that Annexure A/2 in O.A. Nos. 403/10 and 404/10 and

Annexure A/1 in O.A. Nos. 489/10 and 88/11 are illegal and devoid of merit and is not applicable to the applicants.

5. In the reply statements filed by the respondents, they submitted that allowing stepping up on the basis of Note 10 below Rule 7 of the CCS (Revised Pay) Rules, 2008, to the applicants was a mistake as objected by the audit party vide audit enquiry Nos. 3 and 5, which are as per rules. The applicants are not eligible for stepping up of pay with reference to entry pay in the revised pay structure for direct recruits appointed on or after 01.01.2006 as laid down in Section-I of Part-A of First Schedule of CCS (RP) Rules, 2008.

6. We have heard the learned counsel for the parties.

7. During the pendency of these O.As, the respondents have received a letter dated 25.11.2010 from the Ministry of Human Resource Development, which is extracted as under:

" No. 7-3/2010-UT.I
Government of India
Ministry of Human Resource Development
(Department of School Education & Literacy)
B. Wing, Ground Floor, Shastri Bhawan

New Delhi dated 25th November, 2010.

To:

- 1 Secretary, Department of Education
Andaman & Nicobar Administration, Port Blair.
- 2 Secretary, Department of Education
UT Administration of Lakshadweep,
Kavaratti - 682 555.
- 3 Secretary, Department of Education
Dadra & Nagar Haveli Administration, Silvassa.

4 Secretary, Department of Education
Daman & Diu Administration, Daman - 396 210.

Subject:- Stepping up of pay of senior teachers w.r.t. Such directly recruited junior teachers recruited on or after 1.1.2006 - Clarifications Reg.

Sir,

I am directed to say that it has been decided in consultation with the D/O Expenditure, M/o Finance that the stepping up of pay of senior teachers will be permitted w.r.t. such of their directly recruited junior teachers recruited on or after 1.1.2006 and whose basic pay is more than that of seniors, subject to following conditions;

(i) Stepping up the basic pay of seniors under the above provision can be claimed only in the case of those cadres which have an element of direct recruitment and in cases where a directly recruited junior is actually drawing more basic pay than the seniors. In such cases, the basic pay of the seniors will be stepped up with reference to the basic pay of the junior.

(ii) Using the above provision, Government servants cannot claim stepping up their revised basic pay with reference to entry pay in the revised pay structure for direct recruits appointed on or after 1.1.2006 as laid down in Section II of Part A of First Schedule to the CCS (RP) Rules, 2008, if their cadre does not have an element of direct recruitment, or in cases where no junior is drawing basic pay higher than them.

(iii) Stepping up of pay of the seniors in accordance with the above provision shall not be applicable in cases where direct recruits have been granted advance increments at the time of recruitment.

Yours faithfully,

Sd/--

(Aditya Chamoli)

Under Secretary to the Government of India

Tel. No. 23381434"

8. The stepping of pay of senior teachers, like the applicants, is permitted by the above O.M. In the circumstances, we declare that Annexure A/2 in O.A. Nos. 403/10 and 404/10 and Annexure A/1 in O.A. Nos. 489/10 and

88/11 are illegal and devoid of merit and is not applicable to the applicants. Annexure A-1 dated 25.01.2011 in O.A. No. 88/2011 is set aside. The applicants are eligible for the stepped up pay fixed at Rs. 12540/- plus Grade Pay of Rs. 4600/-

9. The O.As are allowed as above with no order as to costs.

(Dated, the 22nd November, 2011)

K. GEORGE JOSEPH
ADMINISTRATIVE MEMBER

JUSTICE P.R. RAMAN
JUDICIAL MEMBER

cvr.