

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

**Original Application No. 540 of 2012
with
O.A. Nos. 840/2012 and 841/2012**

Thursday, this the 21st day of March, 2013

CORAM:

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

1. O.A No. 540/2012

M. Sugathan IPS (Retired),
S/o. K. Marthandan,
Retired Chief Vigilance and Security Officer,
(Superintendent of Police),
Travancore Devaswom Board,
Thiruvananthapuram. Residing at
"Nishani", T.C 76/1758-2,
Highway Gardens, Chacka, Anayara (P.O). - Applicant

(By Advocate Mr. R. Sreeraj)

Versus

1. Union of India represented by its
Secretary to Government of India,
Ministry of Home Affairs,
New Delhi – 110 001.
2. State of Kerala represented by its
Chief Secretary to Government of Kerala,
Secretariat, Thiruvananthapuram – 695 001.
3. The Director General of Police,
Kerala, Thiruvananthapuram – 695 013.
4. The Accountant General (A&E),
Kerala, M.G. Road,
Thiruvananthapuram – 695 039. - Respondents

[By Advocate Mr. Sunil Jacob Jose, SCGSC for R-1
By Advocate Mr. M. Rajeev, GP for R2&3
By Advocate Mr. V.V. Asokan for R-4]



2. O.A No. 840/2012

T.V. Kamalakshan IPS,
 S/o. Late K. Chandu,
 (Retired) Superintendent of Police,
 Residing at "Siva Priya", Ramanattukara,
 Kozhikode – 673 633.

- Applicant

(By Advocate Mr. R. Sreeraj)

Versus

1. Union of India represented by its
 Secretary to Government of India,
 Ministry of Home Affairs,
 New Delhi – 110 001.
2. State of Kerala represented by its
 Chief Secretary to Government of Kerala,
 Secretariat, Thiruvananthapuram – 695 001.
3. The Director General of Police,
 Kerala, Thiruvananthapuram – 695 013.
4. The Accountant General (A&E),
 Kerala, M.G. Road,
 Thiruvananthapuram – 695 039. - Respondents

[By Advocate Mr. Thomas Mathew Nellimoottil for R-1
 By Advocate Mr. M. Rajeev, GP for R2&3
 By Advocate Mr. V.V. Asokan for R-4]

3. O.A No. 841/2012

K. Balakrishnakurup IPS (Retired)
 S/o. Late Kunhiramakurup,
 Residing at IA, Crescent Cascade,
 Therveed Road, Calicut Beach – 673 032.
 Kozhikode.

- Applicant

(By Advocate Mr. R. Sreeraj)

Versus

1. Union of India represented by its
 Secretary to Government of India,
 Ministry of Home Affairs,
 New Delhi – 110 001.



2. State of Kerala represented by its
Chief Secretary to Government of Kerala,
Secretariat, Thiruvananthapuram – 695 001.
3. The Director General of Police,
Kerala, Thiruvananthapuram – 695 013.
4. The Accountant General (A&E),
Kerala, M.G. Road,
Thiruvananthapuram – 695 039.

- Respondents

[By Advocate Mr. S. Jamal, ACGSC for R-1
By Advocate Mr. M. Rajeev, GP for R2&3
By Advocate Mr. V.V. Asokan for R-4]

These applications having been heard on 28.02.2013, the Tribunal on
21-03-13 delivered the following:

ORDER

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

The applicants in these O.As are aggrieved by the inaction on the part of the respondents to extend the benefit of the judgement of the Hon'ble Supreme Court in **Union of India Vs. T.M. Somarajan & Ors., 2010 (1) SCC 129** to them thereby setting right the anomaly in fixing their pay in the cadre of Indian Police Service (IPS). Having common issues involved, these O.As were heard together and are disposed of by this common order:

2. **O.A. No. 540/2012** : The applicant in this O.A was drawing a basic pay of Rs. 15225/- plus Special Pay of Rs. 100/- in the pay scale of Rs. 12600-15600 on 01.01.2004 as Superintendent of Police (non-IPS). Upon his induction to the IPS by promotion vide notification dated 08.04.2004, his pay was fixed at Rs. 12925/- in the scale of pay of Rs. 10000-15200. His juniors who were inducted to the IPS 03 years later got their pay fixed at Rs. 14550/-



as on 25.01.2007, while the applicant was drawing a basic pay of Rs. 13575/- only.

3. **O.A. No. 840/2012** : The applicant also was inducted to the IPS vide notification dated 08.04.2004 whereupon his pay was fixed at Rs. 14550/- in the pay scale of Rs. 10000-15200 in the IPS as against his basic pay of Rs. 15600/- plus Special Pay of Rs. 100/- in the pay scale of Rs. 12600-15600 in the State cadre.

4. **O.A. No. 841/2012** : This applicant also was inducted to the IPS by promotion vide notification dated 08.04.2004. He was drawing a basic pay of Rs. 14850/- in the pay scale of Rs. 12600-15600 when he was in the State cadre. His basic pay in the IPS was fixed at Rs. 12925/- in the pay scale of Rs. 10000-15200.

5. The applicants contended that they are eligible for the benefit of judgement of the Hon'ble Supreme Court (supra) as they are similarly placed. The drop in the pay on fixation of their pay on their induction to the IPS is an anomaly. The respondents did not rectify the same inspite of repeated representations. The applicants relied on the decision of this Tribunal in O.A. No. 118/2009 also in support of their contention.

6. In the reply statement filed on behalf of the 2nd respondent, it was submitted that the representations submitted by the applicants have been forwarded to the Accountant General (A&E), Kerala, Thiruvananthapuram, for necessary action, based on the clarification issued by the Department of

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personnel & Training, Government of India vide letters dated 11.01.2012 and 14.08.2012.

7. In the reply statement filed on behalf of the respondent No. 1, it was submitted that the fixation of the pay of the applicants is in accordance with the provisions of IPS (Pay) Rules according to which the basic pay of a promoted officer shall not at any time exceed the basic pay he would have drawn in the IPS time scale as a direct recruit on that date if he had been appointed to the IPS on the date on which he was appointed to the State Police Service. The higher pay of the junior officer was due to the fact that he was drawing higher pay than his seniors even in the non-IPS grade. The subject matter of fixation of pay of the officer promoted to IPS from the State Police Service falls within the purview of the State Government.

8. We have heard the learned counsel appearing for the parties and perused the records.

9. The Hon'ble Supreme Court in the case of **Union of India Vs. T.M. Somarajan & Ors., 2010 (1) SCC (L&S) 15**, held as under :

"14. We have considered the order of the Tribunal in detail. We are in agreement with the Tribunal's well considered order as also of the High Court. In our opinion, after entering into the IPS cadre from the State Cadre Service, the pay of such an officer should not be reduced. With these observations, we feel that there is no infirmity in the orders of the Tribunal and the High Court. We do not see any merit in this appeal which is, accordingly, dismissed."

10. In O.A. No.118/2009, this Tribunal held as under :

"13. The induction of an officer of the State Police Service into the IPS is a prestigious promotion. Normally a promotion fetches a

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raise in the pay. It is therefore, quite unreasonable that the applicants upon their induction into the IPS get a reduction in pay instead of a raise.

14. The application of rules of pay fixation, the revision of pay scale and the benefit of protection up to Junior Administrative Grade have resulted in the anomalies of reduction of pay upon promotion and less pay than their juniors. The Central Government is empowered to remove unreasonableness and hardship to the applicants under Clause 6 of Section III of the Schedule II of the Indian Police Service (Pay) Rules, 1954. This Tribunal in OA No. 1552 of 1998 (supra) has given clear findings with regard to the issues of protection of pay upon induction into the IPS and stepping up the pay of senior at par with the pay of junior and allowed the prayers of the applicant therein. The order of this Tribunal was confirmed by both the Hon'ble High Court of Kerala and the Hon'ble Supreme Court. The ratio of the decision of this Tribunal in OA No. 1552 of 1998 squarely covers the instant OAs. The applicants herein are similarly situated as Shri T.M. Somarajan and are entitled to get the benefits granted to him. Not granting the same violates the fundamental rights to equal protection of the laws and equality of opportunity enshrined in Articles 14 and 16 of the Constitution of India. The stand of the respondents that the application of the judgment of the Apex Court in T.M. Somarajan's case is limited to the petitioner's case only is beside the point. Therefore, the instant OAs are liable to be allowed.

15. Accordingly, we direct the first respondent to pass appropriate orders removing the anomaly of the reduction of pay in the IPS cadre vis-a-vis the pay in the State Police Service cadre which the applicants were drawing at the time of their promotion to the IPS and also to step up the pay of the applicants to that of their junior Shri K.K. Joshwa, IPS with effect from 25.1.2007 with all consequential benefits including arrears by invoking Clause 6 of Schedule 2 of IPS (Pay) Rules as was done in the case of T.M. Somarajan, IPS within a period of three months from the date of receipt of a copy of this order."

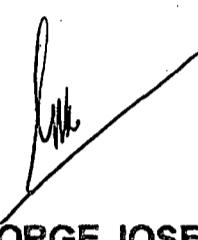
The applicants in these O.As are similarly placed as the applicants in the above cited orders. The decisions of the Hon'ble Supreme Court and this Tribunal are squarely applicable to the cases on hand.

11. Following the settled law, we allow these O.As as under. The

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respondents are directed to set right the anomaly in fixing the pay of the applicants on their induction to the IPS by extending to them the benefit of judgment of the Hon'ble Supreme Court in **Union of India Vs. T.M. Somarajan & Ors.**, 2010 (1) SCC 129, and to grant them all consequential benefits including arrears limited to 03 years prior to the filing of the O.As and thereafter. No order as to costs.

(Dated, the 21st March, 2013)


K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER


JUSTICE P.R. RAMAN
JUDICIAL MEMBER

cvr.