

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

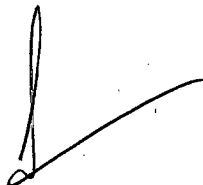
Original Application No. 288 of 2012

FRIDAY, this the 18th day of October, 2013

C O R A M :

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

- 1 S. Janardana Pillai,
Junior Officer,
Hindustan Latex Life Care Limited,
Peroorkada, Trivandrum.
Residing at "Punartham" VARA -343,
Arappura, Vattiyoorkavu,
Thiruvananthapuram – 695 013.
- 2 K. Rajan, Junior Officer,
Hindustan Latex Life Care Limited,
Peroorkada, Trivandrum – 5.
Residing at "Thalanth" House No. 25,
M.G. Nagar, Vazhayila, Peroorkada (P.O),
Thiruvananthapuram – 695 005.
3. B. Gopalakrishnan Nair, Junior Officer,
Hindustan Latex Life Care Limited,
Peroorkada, Trivandrum – 5,
Residing at "Sobha" T.C.5/1882,
Sree Krishna Temple Road,
Peroorkada (P.O), Trivandrum – 695 005.
- 4 K. Sivasankaran Nair, Junior Officer,
Hindustan Latex Life Care Limited,
Peroorkada, Trivandrum – 5.
Residing at "Ushas" T.C. 15/580,
U.S.R.A – 86, Sasthamangalam (P.O),
Thiruvananthapuram – 695 010.
5. P. Sasidharan, Junior Officer,
Hindustan Latex Life Care Limited,
Akulam – Trivandrum.
Residing at "Krishna Prasadam",
T.C. 5/2305 (3), Maharaja Garden,
137, Kowdiar (P.O), Trivandrum – 695 003.



- 6 R. Ramasubrahmanian, Junior Officer,
Hindustan Latex Life Care Limited,
Peroorkada – Trivandrum - 5
Residing at T.C. No. 5/2137, Anjali,
Kokkode, Kowdiar (P.O),
Trivandrum – 695 003.
- 7 S. Raveendran Nair, Supervisor,
Hindustan Latex Life Care Limited,
Peroorkada-Trivandrum – 5.
Residing at "Rajeevam" G.H.S, Road,
Nellivil, Karakulam (P.O) – 695 564.
- 8 N. Soman, Junior Officer,
Hindustan Latex Life Care Limited,
Peroorkada-Trivandrum -5
Residing at S.L.R.A 52 "Sopanam",
S.K. Lane, Kalummodu,
Anayara (P.O), Trivandrum – 695 029.
9. M. Gnanasikhamony, Junior Officer,
Hindustan Latex Life Care Limited,
Peroorkada-Trivandrum -5
Residing at T.C. 49/270-7,
Moneoyam, Kamal Nagar,
House No. 23, Manacaud (P.O),
Trivandrum – 695 009.
- 10 V.M. Rosa, Scientific Officer,
Hindustan Latex Life Care Limited,
Peroorkada – Trivandrum – 5.
Residing at K.P. 8/555, Parackal,
Priyadarsini Nagar, Perrorkada (P.O),
Thiruvananthapuram – 695 005.
11. S. Puskalambal, Junior Scientific Officer,
Hindustan Latex Life Care Limited,
Peroorkada – Trivandrum – 5.
Residing at "Aadithya" T.C.X/63/1,
Pipinmoodu, Sasthamangalam,
Trivandruam – 695 510.
- 12 K. Devaki Thrivikraman,
Scientific Officer,
Hindustan Latex Life Care Limited,
Peroorkada – Trivandrum – 5.
Residing at "Kudikkasser",
V.R.A 40, Mannammoola,
Peroorkada (P.O), Trivandrum – 695 005.

.... Applicant.




- 13 G. Sasidharan Nair, Scientific Officer,
Hindustan Latex Life Care Limited,
Peroorkada – Trivandrum – 5,
Residing at "Sreesailam", K.P. NRH – 106,
Kanjirampara (P.O), Trivandrum – 695 030.
- 14 B. Bhadran, Junior Officer,
Hindustan Latex Life Care Limited,
Peroorkada-Trivadurm – 5,
Residing at "Archana", T.C.79/320,
Oruvathilkotta, Anayara (P.O),
Trivandrum – 695 029.
- 15 C. Sulochana, Junior Officer,
Hindustan Latex Life Care Limited,
Peroorkada – Trivandrum – 5,
Residing at "Bhargavi Mandiram",
Sreepuram, Nallimoodu (P.O),
Trivandrum – 695 524.
- 16 K. Radhakrishnan Nair, Supervisor,
Hindustan Latex Life Care Limited,
Peroorkada – Trivandrum – 5,
Residing at "Orma", Pangarappara (P.O),
Trivandrm – 695 581.
- 17 V. Vikraman Nair, Junior Officer,
Hindustan Latex Life Care Limited,
Peroorkada – Trivandrum – 5,
Residing at "Vaisakh", T.C.29/1317(1),
C.R.A 64, Cheriya Udeswaram,
Palkulangara, Pettah (P.O),
Trivandrum – 695 024.
- 18 J. Babu, Foreman
Hindustan Latex Life Care Limited,
Peroorkada-Trivandrum – 5.
Residing at "Ambadi", K.P 15/524,
House No. 83, V.V. Nagar, N.C.C. Road,
Peroorkada (P.O), Trivandrum – 695 005.
- 19 George Kurian, Sceintific Officer,
Hindustan Latex Life Care Limited,
Peroorkada-Trivandrum – 5.
Residing at "Pulikottil", 30, Thilak Nagar,
Nalanchira (P.O), Trivandrum – 695 .015.
- 20 R. Thankappan Nair, Supervisor,
Hindustan Latex Life Care Limited,
Peroorkada-Trivandrum – 5,



Residing at "Thanka Giri",
Palathara, Kealadithyapuram,
Powdikonam (P.O), Trivandrum – 695 587.

21. G. Samba Sivan, Supervisor,
Hindustan Latex Life Care Limited,
Peroorkada-Trivandrum – 5,
Residing at "Padmavilasam",
Kumali Nagar, Pachalloor (P.O),
Trivandrum – 695 027.
22. N. Raveendran Nair, Junior Officer,
Hindustan Latex Life Care Limited,
Peroorkada – Trivandrum – 5,
Residing at "Revathy", Soorya – 153,
Mannammoola, Trivandrum – 695 005.
23. K. Prathapachandran Nair, Junior Officer,
Hindustan Latex Life Care Limited,
Peroorkada- Trivandrum-5.
Residing at "Chandra Nivas", Karinada,
Kadavattaram, Nayyattinkara P.O.
Thiruvananthapuram-695121.
24. P. Thankappan, Foreman,
Hindustan Latex Life Care Limited,
Peroorkada- Trivandrum-5.
Residing at "Thanuvilasam Puthen Veedu",
House No.202, G.C. Nagar,
Mannammoola, Peroorkada P.O
Thiruvananthapuram-695 005 .
25. S.K. Valsala Kumari, Junior Officer,
Hindustan Latex Life Care Limited,
Peroorkada-Trivandrum-5.
Residing at "Smrithi" House No. CRA. 237,
Chadiyara, Poojappura, Thiruvananthapuram-695012.
26. N.K. Johny, Junior Officer,
Hindustan Latex Life Care Limited,
Peroorkada- Trivandrum-5.
Residing at "Neelan Kavil House",
T.C.10/227, Swathy Nagar Lane No.4,
Peroorkada P.O. Thiruvananthapuram-695005.
27. B. Rajan, Junior Officer,
Hindustan Latex Life Care Limited,
Peroorkada- Trivandrum-5.
Residing at "Tharasree", Ushas Nagar,
Pangappara P.O., Via Kariavattom,
Thiruvananthapuram-695581.



28. Anantha Krishnan R, Supervisor,
Hindustan Latex Life Care Limited,
Peroorkada- Trivandrum-5.
Residing at "Devi Kripalayam", Moolathoppu,
Peryakavu P .O. Mankattu Kadavu,
Thiruvananthapuram-695 573.
 29. V. Sudhakara Panicker, Supervisor,
Hindustan Latex Life Care Limited, P
Peroorkada- Trivandrum-5.
Residing at Geetha Bhavan, Thittamangalam Playode,
Kodungannur P. O. Vattiyoorkavu,
Thiruvananthapuram-6950 13.
 30. M. Surendran Nair, Junior Officer,
Hindustan Latex Life Care Limited,
Peroorkada- Trivandrum-5.
Residing at "Surabhi", Edakode, Nemom P.O
Thiruvananthapuram-695 020. .
 31. K. Umadevi, Junior Officer,
Hindustan Latex Life Care Limited,
Peroorkada- Trivandrum-5.
Residing at "Dil Deep", House No. 20,
Priyadersini Nagar, Peroorkada. P.O.,
Thiruvananthapuram-695005.
 32. S. Sasidharan Pillai, Supervisor,
Hindustan Latex Life Care Limited,
Perookada- Trivandrum-5.
Residing at Ajith Bhavan, KP 5/21,
Kudappanakunnu P.O.
Thiruvananthapuram-695 043 .
 33. V. Prasanna, Junior Officer,
Hindustan Latex Life Care Limited,
Perookada- Trivandrum-5.
Residing at Flat No.B2, Block-B,
"AKB Anandam" 2nd Main Road,
Nisha Avenue Sembakkam, Chennai-600073
 34. V. Chandrasekharan Nair, Junior Officer,
Hindustan Latex Life Care Limited,
Peroorkada-Trivandrum-5.
Residing at Rohini, Plot No.17, T.C.6/1795,
P.T.P.Nagar East, Thiruvananthapuram-695038.
 35. L.Sasi Kumar, Junior Officer,
Hindustan Latex Life Care Limited,
Peroorkada- Trivandrum-5.
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Residing at Akshya, Pazhaya Uchakkada,
Kakkavila P.O, Pin-695506.

36. T. Rudrayani Amma, Junior Officer,
Hindustan Latex Life Care Limited,
Peroorkada- Trivandrum-5.
Residing at Hari Vihar, T.C.5/1839(1),
Peroorkada P.O. Thiruvananthapuram-695005. ... Applicants.

(By Advocate Mr.N. Nandakumara Menon (Sr.) with
Mr. P.K. Manoj Kumar)

versus

1. The Union of India, represented by the Secretary,
Ministry of Heavy Industries and Public Enterprises,
Public Enterprises Bhavan, Block No.1 4 (G.O) Complex,
Lodhi Road, New Delhi-110001
2. Hindustan Latex Life Care Limited, represented by its
Chairman and Managing Director,
Poojapura, Trivandrum - 1
3. The Secretary,
Ministry of Personnel, Public Grievances and Pensions,
Department of Pension and Pensioners' Welfare,
Lok Nayak Bhavan, New Delhi-110003 ... Respondents.

(By Advocate Mr. Pradeep Krishna for R1 & 3) and
M/s.Menon and Meon for R-2)

This application having been heard on 04.10.13, the Tribunal on
18.10.13 delivered the following :-

ORDER

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

The applicants who retired from the service of the 2nd respondent Company have been denied the benefit of enhanced ceiling limit of gratuity amount of Rs. 10 lacs even though they have been extended the benefit of pay revision with effect from 01.01.2007. They were included in the cadre of Junior Officer, Supervisor and Foreman. The benefit of pay revision was




extended to them as per Annexures A-1 (Memorandum of Understanding) and A-2 (Memorandum of Settlement). Annexures A-1 and A-2 were signed by the Union after the applicants' retired from the service of the 2nd respondent Company. Their representations for sanctioning higher ceiling limit of gratuity did not yield any positive result, Writ Petition No. W.P.(C) 12562/2011 was filed before Hon'ble High Court of Kerala. On 01.02.2012, it was withdrawn on the ground that as per the Notification dated 25.07.2007 issued by the Central Government under Section 14(2) of the Administrative Tribunals Act, 1985, Hindustan Latex Life Care Limited, has been brought under the purview of the Central Administrative Tribunals Act. The applicants have filed this O.A for the following reliefs :

- (i) This Tribunal may kindly be pleased to issue appropriate directions declaring that the applicants are entitled to the benefit of enhanced ceiling limit of Rs. 10 lakhs for the payment of gratuity with effect from 01.01.2006, or in the alternative with effect from 01.01.2007;
- (ii) This Hon'ble Tribunal may kindly be pleased to issue appropriate directions directing respondents 1 and 2 to pay to the applicants the difference of the gratuity amount by implementing the ceiling limit of Rs. 10 lakhs for payment of gratuity with effect from 01.01.2007;
- (iii) This Hon'ble Tribunal may kindly be pleased to declare that the appointment of May 24, 2010, as the date on which the Payment of Gratuity (Amendment) Act, 2010 is to come into force as arbitrary, illegal and unconstitutional.


2. The applicants contended that all the employees of the 2nd respondent Company from a single homogeneous class and dividing them to two groups for extending the benefit of the enhanced limit of the gratuity amount of Rs. 10 lakhs is totally discriminatory in character and hence violative of Article 14 of the Constitution. Treating the employees of the Public Sector Enterprises




differently from the Government employees in the matter of enhanced limit of Rs. 10 lakhs as gratuity with effect from 01.01.2006 is totally arbitrary and unreasonable. There is no valid reason for denying the applicants the benefit of enhanced ceiling limit of the gratuity amount of Rs. 10 lacs when the benefit of pay revision was extended to them with effect from 01.01.2007 on the basis of Annexures A-1 and A-2. The Executive Officers and Non Unionized Supervisors working in the 2nd respondent Company have been given the benefit of enhanced ceiling limit of gratuity amount, but not the applicants. Classification of similarly situated persons into two groups without any intelligible differentia for extending dissimilar benefits is violative of Article 14 of the Constitution of India. The grievance of the applicants could not be highlighted and presented before the Management when Annexures A-1 and A-2, Memorandum of Understanding and the Settlement were arrived at, since the applicants were not in the service of the 2nd respondent Company at that time. No financial burden will be caused to the Company if the applicants are given the benefit of enhanced ceiling limit of the gratuity amount of Rs. 10 lakhs with effect from 01.01.2007 as the 2nd respondent Company implemented the Insurance Linked Gratuity Payment under Section 4(A) of the Payment of Gratuity Act. As the Central Government employees have been given the benefit of enhanced ceiling limit of gratuity amount with effect from 01.01.2006 as per the Amendment Act, 15/2010, they are also entitled for the same benefit as they are similarly situated persons as far as the payment of gratuity is concerned. The appointed day notified as 24.05.2010 as per Annexure A-3 has no nexus to the object sought to be achieved. Hence the same is totally arbitrary and unreasonable.



3. The respondents in the reply statement submitted that the salary, allowances and other benefits payable to the workmen are settled as per long term settlement entered into by the Management with the Unions representing the workmen. Annexure A-1 Memorandum of Settlement dated 01.12.2009, which was the result of several rounds of negotiation between the management and the Unions, applies to all regular workmen who were on the rolls of the Company as on 31.12.2006 and continuing on the rolls as on date of signing the settlement. The settlement would take effect from 01.01.2007 and will be valid for a period of 10 years. Clause 18 of Annexure A-1 provides for payment of gratuity, which states that gratuity ceiling will be enhanced to Rs. 10 lakhs effective from ~~01.04.2010~~ ^{01.04.2010} and that in case of workmen who separate their service from the Company between signing of the settlement and 31.03.2010 will be considered on individual basis subject to approval of the settlement by the Board/Government. On 16.01.2010, the agreement was signed between the 2nd respondent and the Unions representing the workmen as per Annexure A-2. The applicants have retired from service long prior to 01.12.2009, the date on which Annexure A-1 settlement was signed. Hence they are not entitled to the benefits under Memorandum of Understanding and the Settlement at Annexures A-1 and A-2, except as provided therein. Accordingly, the applicants were granted the benefit of revised pay in terms of the provision in Clause 2.1.3 in Annexure A-2. They were also paid difference in gratuity amount consequent to revision of pay. They are not entitled to any further amount towards gratuity. Their claim for gratuity at the enhanced amount of Rs. 10 lakhs is without merit and unsustainable in law and on facts. It was specifically stated in Annexure A-1 that the enhanced ceiling limit will be effective from




01.04.2010. Gratuity to workmen under the 2nd respondent are paid as per the provisions in the long term settlement entered into with the Unions representing the workmen. Annexure A-4 relates to Board level Executives and non-unionized Supervisors only and not to workmen. The benefit of enhanced ceiling limit of gratuity of Rs. 10 lacs was extended from 01.04.2010 only. As the applicants had already retired from service before signing of Annexures A-1 and A-2, they are not entitled to the benefits granted therein. The 2nd respondent has introduced LIC Group Insurance Linked Gratuity Scheme and is paying premium annually to LIC for covering the amount payable as gratuity to its employees. The contention that the payment of gratuity at the enhanced ceiling limit to the applicants will not cause any financial burden on the Company is without any merit. With regard to the representations of the applicants, it was submitted that the management had informed the Unions that the payment cannot be made in violation or contrary to the terms in Annexures A-1 and A-2. Gratuity is not paid to the applicants under the Payment of Gratuity Act, 1972, but as per the Settlement entered into with the Unions representing the employees. The employees including the applicants and Executive Officers and non-unionized Supervisors form separate classes and are not similarly situated. The benefits are extended to them under separate settlement/orders as is evident from Annexures A-1/A-2 and A-4. The claim of the applicants for some benefits extended by the Central Government to its employees is misconceived and unsustainable in law. It is settled law that employees of Public Sector Undertaking coming under the purview of Article 12 of the Constitution are not entitled to the benefit granted to the Government employees. The applicants' right to claim gratuity flows from Settlement entered between the Unions representing the



employees and the respondent Company. The claim of the applicants for enhanced gratuity amount of Rs. 10 lakhs with effect from 01.01.2006 or at least from 01.01.2007 is unsustainable as it is against the Settlement arrived at by Annexure A-1.

4. In the rejoinder statement, it was submitted by the applicants that even though they had retired on superannuation from the service of the 2nd respondent Company prior to coming into force of Annexures A-1 and A-2, they were granted the benefit of revised scale of pay with effect from 01.01.2007. Hence there is no justification on the part of the respondent-Company to deny the benefit of the enhanced ceiling limit introduced by the Central Government by amendment to Section 4(3) of the Payment of Gratuity Act to the applicants alone. Those employees who were working in the Company and retiring from service on or after 01.01.2007 and signing the agreement cannot be discriminated in the matter of giving enhanced ceiling limit for payment of gratuity. The Memorandum of Understanding entered into between the employees of the Hindustan News Print Limited and the recognized Trade Unions on 22.09.2010 states that the ceiling for payment of gratuity has been raised from Rs. 3.5 lakhs to Rs. 10 lakhs with effect from 01.01.2007. A similar provision is also included in the Memorandum of Long Term Settlement entered into between the Trade Unions and the Management of the FACT. Amounts in excess of Rs. 3.5 lakhs transferred by the LIC to the Management on the basis of the total contribution made by the Management with the LIC in the respective cases of the applicants are liable to be paid to them. The applicants have never been served with a reply to Annexures A-5, A-6 and A-7 representations.



5. I have heard Mr. N. Nandakumara Menon (Sr.) with Mr. P.K. Manoj Kumar, learned counsel for the applicants, M/s. Menon and Menon, learned counsel appearing for respondent No.2 and Mr. Pradeep Krishna, learned ACGSC appearing for respondents 1 and 3 and perused the records.

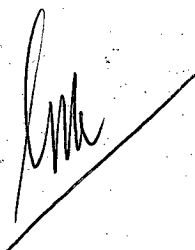
6. The contention of the applicants that they are entitled for the benefit of enhanced ceiling limit of gratuity with effect from 01.01.2006 as per the Amendment Act 15/2010 in respect of the Central Government employees as they are similarly situated persons is without merit, as they are covered by the memorandum of understanding at Annexure A-1 and Memorandum of Settlement at Annexure A-2 as rightly pointed out by the respondents. The real grievance of the applicants is that as they had left the service of the 2nd respondent Company at the time when Annexures A-1 and A-2 were signed, they were denied the benefit of enhanced ceiling of gratuity of Rs. 10 lakhs with effect from 01.01.2007. Annexure A-1 Memorandum of Understanding and Annexure A-2 Memorandum of Settlement govern the field. As far as the legal rights available to the applicants are concerned, the 2nd respondent Company cannot be faulted for taking the stand that the applicants are not entitled to the benefit of enhanced ceiling of gratuity amount provided in Annexure A-1 as it is not in conformity with the Settlement at Annexure A-2. There is no merit in the contention of the applicants that the employees and the executives are similarly situated. The contention of the respondents that the employees including the applicants on the one hand and Executive Officers and non-unionized Supervisors on the other hand are separate classes is not unreasonable. The applicants have been paid the salary and



allowances and gratuity as per the Settlement entered into by the Unions representing the employees. Viewed in the light of Annexure A-1 Memorandum of Understanding and Annexure A-2 Memorandum of Settlement, I do not find any illegality or discrimination on the part of the respondents in denying the benefit of enhanced ceiling limit of gratuity amount of Rs. 10 lakhs with effect from 01.01.2007. Hence the O.A is unsustainable in law and on facts.

7. In the result, the O.A is dismissed. However, the dismissal of the O.A will not stand in the way of the 2nd respondent Company in granting higher benefits including the enhanced gratuity amount over and above what is provided in Annexures A-1 and A-2. No costs.

(Dated, the 18th October, 2013)



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER

CVR.