

**CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**ERNAKULAM BENCH**

**Original Application No. 356 of 2012**

Thursday, this the 10<sup>th</sup> day of December, 2015

**CORAM:**

**Hon'ble Mr. Justice N.K. Balakrishnan, Judicial Member**  
**Hon'ble Mrs. P. Gopinath, Administrative Member**

V.P. Ramachandran Nair,  
Senior Accounts Officer (Retired),  
(A/c. No. 8310264),  
residing at Sreenilayam,  
Mangalam, Vazharmangalam PO,  
Chengannur, Alleppey (District),  
Kerala, Pin – 689 125.

..... **Applicant**

**(By Advocate : Mr. Babu Cherukara)**

**V e r s u s**

1. Union of India,  
represented by the Secretary,  
Ministry of Defence,  
South Block, New Delhi.
2. Controller General of Defence Accounts,  
Ulan Batar  
Road, Palam,  
Delhi Cantonment, Pin – 110 010.

3. Controller of Defence Accounts,  
618, Annasalai,  
Teynapet, Chennai – 600 018.

..... **Respondents**

**(By Advocate : Mr. N. Anilkumar, Sr. PCGC (R))**

This application having been heard on 27.11.2015, the Tribunal on  
10.12.2015 delivered the following:

**ORDER**

**Hon'ble Mrs. P. Gopinath, Administrative Member -**

The applicant retired on 31.5.2009 on superannuation from the



Defence Accounts Department as a Senior Accounts Officer. The grievance of the applicant is that his junior Mr. L. Narahari even at the grade of Assistant Accounts Officer was given higher pay and allowances as on 3.7.1995 and onwards.

2. The case is brief is as follows:

The grievance of the applicant is on account of non-stepping up of his pay on par with his junior in the cadre of Assistant Accounts Officer (AAO) Mr. Natahari. The applicant was promoted as Section Officer (Accounts) with effect from 1987 and as Assistant Accounts Officer with effect from 17.6.1994. The applicant is senior to Mr. L. Narahari who was promoted as Section Officer (Accounts) only on 1.4.1990 and Assistant Accounts Officer with effect from 3.7.1995 onwards. Thus in the cadre of Section Officer (Accounts) the applicant is three years senior to Mr. L. Narahari and where as in the cadre of Assistant Accounts Officer the applicant was five years senior to the above said L. Narahari in the cadre of Assistant Accounts Officer. This Tribunal in OA No. 954 of 2010 has found that the applicants therein M/s. M.S. Gopalakrishnan and others are to be given pay re-fixation benefits and accordingly, the respondents were directed to re-fix the pay on par with that of Mr. L. Narahari from the date on which the said L. Narahari has been given the higher scale of pay. It was also found by the Tribunal that the applicants will not be entitled for any monetary benefits for the period of more than 3 years prior to the date of filing of the OA. Annexure A1 order was passed by the Tribunal based on the decision of the Madras Bench of the Tribunal dated 13<sup>th</sup> November, 2002 in OA No. 260 of 2002.



As per Annexure A2 order the official respondents were directed to consider the fixing of the pay of the applicants on par with that of Mr. L. Narahari at the stage of AAO with effect from 3.7.1995 and grant all consequential benefits arising out of such pay fixation. There were 25 applicants in that OA. Annexure A2 order was challenged by the official respondents before the Hon'ble Madras High Court by way of a Writ Petition NO. 2077 of 2003 and the Writ Petition was dismissed by that Court confirming the Annexure A2 order passed by the Madras Bench of the Tribunal. Challenging Annexures A2 and A3 orders official respondents approached the Hon'ble Supreme Court of India by filing petition for Special Leave to appeal (Civil) No. CC 14167/2009 and the said appeal was dismissed on 1.10.2009. The applicant filed this OA seeking to step up the pay and related service benefits of the applicant on par with the service benefits of his junior Mr. L. Narahari from 3.7.1995 onwards.

3. The respondents in their reply statement submit that in the OA No. 954/2010 filed by Shri M.S.Gopalakrishnan and others a statement has been filed on behalf of respondents wherein it was brought out that in terms of paragraph 2(d) of Government of India, Department of Personnel & Training, OM dated 4.11.1993 (Annexure R3) "if a senior is appointed later than the junior in the lower post itself whereby he is in receipt of lesser pay than the junior, in such cases also the senior cannot claim pay parity in the higher post though he may have been promoted earlier to the higher post. Further it is submitted that it was also brought out vide ibid statement that in terms of paragraph 2 (e) of Annexure R3 "where a person is promoted



from lower to a higher post his pay is fixed with reference to the pay drawn by him in the lower post under FR22-C and he is likely to get more pay than a direct appointee whose pay is fixed under different set of rules." The respondents have filed the *ibid* Writ Petition before the Hon'ble High Court praying for setting aside the order passed by this Tribunal in OA No. 954 of 2010 which is a case of similar nature to this OA and the matter is still pending consideration by the Hon'ble High Court.

4. Heard the learned counsel for the applicant and the respondents and the written submissions made.

This is a case which is supported by two judgments of this Tribunal and the Madras Bench which allow the relief sought by the applicant. In OA No. 954 of 2010 of this Bench, 34 applicants were allowed the relief of pay fixation at par with 8<sup>th</sup> respondent L. Narahari; from the date the 8<sup>th</sup> respondent has been given the higher scale of pay. Applicants in the OA *supra* were not entitled to any monetary benefits for the period of more than 3 years prior to the date of filing this OA.

5. Going by the precedent order, applicant in this OA is also allowed stepping up of pay and related service benefits at par with the service benefits of his junior Mr. L. Narahari. Applicant will not be entitled for any monetary benefit for the period of more than 3 years prior to the date of filing this OA i.e. 10.4.2012. This order will be subject to the final outcome of Writ Petition filed by respondent against the order of this Tribunal in OA No. 954 of 2010. The order be complied within a period of 45 days from the



date of this order.

6. Original Application is allowed as above. No order as to costs.

  
(P. GOPINATH)  
ADMINISTRATIVE MEMBER

  
(N.K. BALAKRISHNAN)  
JUDICIAL MEMBER

“SA”

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**Review Application No.180/00072/2016  
in Original Application No.356/2012**

*Wednesday*, this the *21<sup>st</sup>* day of December, 2016

**CORAM:**

**HON'BLE Mr.JUSTICE N.K.BALAKRISHNAN, JUDICIAL MEMBER**  
**HON'BLE Mrs.P. GOPINATH, ADMINISTRATIVE MEMBER**

1. Union of India represented by the Secretary,  
Ministry of Defence, South Block,  
New Delhi.
2. Controller General of Defence Accounts,  
Ulan Bater Road, Palam,  
Delhi Cantonment – 110 010.
3. Controller of Defence Accounts,  
618, Annasali, Teyampet,  
Chennai – 600 018.

...Review Applicants

**(By Advocates Mr.N.Anilkumar,Sr.PCGC [R])**

**V e r s u s**

V.P.Ramachandran Nair,  
Senior Accounts Officer (Retired),  
A/c.No.8310264,  
Residing at Sreenilayam, Mangalam,  
Vizharamangalam P.O., Chengannur,  
Alleppy, Kerala – 686 125.

...Respondent

**O R D E R (In circulation)**

**HON'BLE Ms.P.GOPINATH, ADMINISTRATIVE MEMBER**

This Review Application has been filed by the respondents in the  
O.A.No.356/2012 to review the order dated 10.12.2015 passed in the O.A.

The relevant portion of the order reads as under :



This is a case which is supported by two judgments of this Tribunal and the Madras Bench which allow the relief sought by the applicant. In OA No. 954 of 2010 of this Bench, 34 applicants were allowed the relief of pay fixation at par with 8<sup>th</sup> respondent L. Narahari; from the date the 8<sup>th</sup> respondent has been given the higher scale of pay. Applicants in the OA supra were not entitled to any monetary benefits for the period of more than 3 years prior to the date of filing this OA.

5. Going by the precedent order, applicant in this OA is also allowed stepping up of pay and related service benefits at par with the service benefits of his junior Mr. L. Narahari. Applicant will not be entitled for any monetary benefit for the period of more than 3 years prior to the date of filing this OA i.e. 10.4.2012. This order will be subject to the final outcome of Writ Petition filed by respondent against the order of this Tribunal in OA No. 954 of 2010. The order be complied within a period of 45 days from the date of this order.

6. Original Application is allowed as above. No order as to costs.

2. The respondents have also filed M.A.1330/2016 to condone the delay of 30 days in filing the R.A.

3. Hon'ble Apex Court in *State of West Bengal and others v. Kamal Sengupta and another* 2008 (2) SCC (L&S) 735 has enumerated the principles to be followed by the Administrative Tribunals while invoking the power of review under Section 22 (3) (F) of the Administrative Tribunals Act, 1985 :

(i) The power of the Tribunal to review its order/decision under Section 22(3)(f) of the Act is akin/analogous to the power of a Civil Court under Section 114 read with Order 47 Rule 1 of CPC.

(ii) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 and not otherwise.

(iii) The expression "any other sufficient reason" appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.

(iv) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under Section 22(3)(f).

(v) An erroneous order/decision cannot be corrected in the guise of exercise of power of review.



(vi) A decision/order cannot be reviewed under Section 22(3)(f) on the basis of subsequent decision/judgment of a coordinate or larger bench of the Tribunal or of a superior Court.

(vii) While considering an application for review, the Tribunal must confine its adjudication with reference to material which was available at the time of initial decision. The happening of some subsequent event or development cannot be taken note of for declaring the initial order/decision as vitiated by an error apparent.

(viii) Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the Court/Tribunal earlier.

4. In this case we do not find any error apparent on the face of record brought out by the review applicants. In the order under review dated 10.12.2015 it has been clearly mentioned that the OA is allowed subject to the final outcome of Writ Petition filed by the respondent against the order of this Tribunal in O.A.No.954/2010. Hence the relief as per the outcome of Writ Petition has already been allowed in the O.A and no further order or interference is necessary.

5. In the light of the above, this Tribunal is not inclined to allow this R.A. R.A as well as MA to condone delay are, accordingly, dismissed.

(Dated this the 21<sup>st</sup> day of December 2016)

  
(P. GOPINATH)  
ADMINISTRATIVE MEMBER

  
(N.K. BALAKRISHNAN)  
JUDICIAL MEMBER