IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA

Date of order 7-8-2001

(1) O.A. No.535 of 1996

Mahendra Pratap Singh, son of Jang Bahadur Singh, Booking Supervisor, Patna Saheb Railway Station, residing at LIG Flat No.5/153, Hanuman Nagar, Patna.20.

.. Applicant

-versus-

1. Union of India, through Secretary, Railway Board, Rail Bhawan, New Delhi.
2. The General Manager, Eastern Railway, 7, Netaji Subhas Road, Calcutta.
3. The D.R.M., E.Railway, Danapur.
4. Senior D.P.O., E.Railway, Danapur.

.. Respondents

(2) O.A. 536 of 1996

Triloki Nath Singh, son of Late Mathura Singh, Ex-Head Parcel Clerk, Patna Junction, E.Railway, residing at Bhitri Begampur, Patna City, District Patna.

.. Applicant

-versus-

1. Union of India, through the Secretary, Railway Board, Rail Bhawan, New Delhi.
2. General Manager, E.Railway, 7, Netaji Subhas Road, Calcutta.
3. D.R.M., E.Railway, Danapur.
4. Senior D.P.O., E.Railway, Danapur.
5. Senior Divisional Accounts Officer, E.Railway, Danapur.

.. Respondents

(3) O.A. 537 of 1996

Thrkeshwar Prasad Sinha, son of Late Deo Prasad Sinha, resident of 7, LIG, Lohianagar, Patna.20, presently working as Commercial Traffic Inspector, E.Railway, Danapur.

.. Applicant

-verus-

1. Union of India, through Secretary, Railway Board, Rail Bhawan, New Delhi.

2. General Manager, E.Railway, 7,Netaji Subhas Road,Calcutta.
3. D.R.M., E.Railway, Danapur,
4. Senior Divisional Personnel Officer,E.Railway,Danapur.

.. Respondents

(4) O.A. 538 of 1996

Mahendra Prasad, son of Late K.Sahay, Ex.Booking Supervisor, E.Railway, Patna Saheb, presently residing at LIG HI/16, Housing Colony, Arrah.

.. Applicant

-versus-

1. Union of India, through Secretary, Railway Board, Rail Bhawan, New Delhi.
2. General Manager, E.Railway,7,Netaji Subhas Road,Calcutta.
3. D.R.M., E.Railway, Danpur.
4. Senior D.P.O., Eastern Railway,Danapur.
5. Senior Accounts Officer, E.Railway,Danapur.

.. Respondents

(5) O.A.539 of 1996

Dhirendra Prasad, son of Sri Jageshwar Prasad, Railway Quarter No.12, EF, Patna Ghat,Patna City,Patna-8,presently posted as Booking Supervisor,Arrah Railway Station, E.Railway.

.. Applicant

-versus-

1. Union of India through Secretary, Railway Board, Rail Bhawan, New Delhi.
2. General Manager,E.Railway, 7, Netaji Subhas Road, Calcutta.
3. D.R.M., Eastern Railway, Danapur.
4. Senior D.P.O., E.Railway, Danapur.

.. Respondents

Counsel for the applicants .. Shri S.Kumar.

Counsel for the respondents .. Shri Gautam Bose.

CORAM: Hon'ble Mr. Justice S.Narayan,Vice-Chairman
Hon'ble Mr. L.R.K.Prasad, Member (A)

ORDER

L.R.K.Prasad, Member (A) :

1. As there is a close similarity with regard to issues involved, the above original applications have been heard together with a view to pass a common order.

O.A.535 of 1996

2. This application has been filed against order No. E/Com/Fix/05 dated 17.4.1995 (Annexure-3) passed by the Senior Divisional Personnel Officer, Danapur. It appears that the applicant in February 1985 was posted as Booking Supervisor (Stock), Patna Junction, in the scale of Rs.1600-2660 with his basic pay fixed at Rs.2150 (Annexure-A and 1/A). In March 1995, the applicant was promoted in the grade of Rs.2000-3200 and was posted as Booking Supervisor, Patna Saheb Railway Station. According to him, his pay ought to have been fixed at higher scale, over and above Rs.2150/- giving additional benefits of advance increment in the promotional grade. However, to his utter surprise, by impugned order dated 17.4.1995 (Annexure-3), his pay was refixed at Rs.2060/- with effect from 1.4.1995 which resulted in substantial financial loss to the applicant, as per his claim. According to the applicant, such reduction in his pay by refixation in terms of impugned order (Annexure-3) is arbitrary and the same has been done without any show cause notice. Against such reduction, the applicant had filed representation on 31.7.1995 and 21.11.1995 (Annexures-4 and 5 respectively), but without any positive result. As no reply was received, the applicant has moved the instant O.A. challenging the impugned order and

seeking following reliefs :

(i) Annexure-3 whereby consequent upon the promotion of the applicant in next higher grade his pay was arbitrarily refixed overhauling and considerably reducing the same with retrospective effect and fixing the same at Rs. 2060/- with effect from 1.4.1995, be quashed and the respondents be directed to fix the pay of the applicant consequent upon his promotion in the next higher grade of Rs.2000-3200/- by giving advance increments in accordance with law and extant rules prescribed therefrom with effect from 1.4.1995.

(ii) The respondents be further directed to release the arrears of the difference amount to be calculated on the basis of refixation of pay of the applicant consequent upon his promotion in the next higher grade as prayed for along with exemplary interest thereon.

(iii) Exemplary cost be awarded to the applicant against the respondents.

O.A.536 of 1996

3. This application has been filed against the order No.46/Pen/INR/DPA/2689 dated 28.11.1991 passed by Senior Divisional Accounts Officer, Eastern Railway, Dhanbad. The applicant was initially appointed as Commercial Clerk in Asansol Division on 1.4.1958 in the scale of Rs.60-150. His last posting before his superannuation on 30.11.1991 was as Chief Parcel Clerk, Patna Junction, Danapur Division and last pay drawn by him on the date of superannuation is Rs.1900/-(Annexure-1). After superannuation,

the applicant was expecting that his pensionary benefits would be determined on the basis of last pay drawn, but his final settlement was made by impugned order dated 28.11.1991 by fixing his last pay at Rs.1800/-. The said reduction in the pay was done with retrospective effect, which, according to the applicant, is illegal because such reduction cannot be made without following due process of law. He filed necessary representation against the decision of the respondents but did not receive any positive reply. He had earlier moved this Tribunal by filing O.A.215/94 praying for instant release of his withheld DCRG and payment of leave salary along with admissible interest. The said O.A. was disposed of vide order dated 21.9.1995 (Annexure-3) whereby the prayers of the applicant were allowed. The main prayer of the applicant in O.A.215/94 was for issuance of direction upoh the respondents to release DCRG amount of Rs.22,415/-, leave salary of Rs.23,040/- and Rs.300/- by way of security deposit with 18% penal interest. So far interest is concerned, only 12% interest payable from 1.1.1992 was allowed. As matter relating to leave salary and DCRG amount has already been settled by the order of this Tribunal dated 21.9.1995 passed in O.A.215/94, the same cannot be reopened by now.

In view of the above circumstances, the applicant has sought following reliefs:-

(i) Annexure-2 whereby arbitrary fixation of pension and other retiral benefits of the applicant has been done by respondent no.5 on the basis of the illegal re-fixation of pay made by respondent no.4 (copy of which never served on the applicant) consequent to which reduction in pay was made affecting

his pension and other retiral benefits, be quashed.

(ii) The respondents be directed to release the illegal cuts in the pension and other retiral benefits on basis of last pay drawn together with arrears along with exemplary interest thereon.

(iii) Exemplary cost be awarded in favour of the applicant against the respondents.

O.A.537 of 1996

4. In February 1995, the applicant was posted as Booking Supervisor (Cash) at Patna Junction Railway Station and was placed in the scale of Rs.1600-2660 with his basic pay fixed at Rs.2100/- (Annexure-1 and 1A). It is stated that in the month of March 1995, he was promoted to the next higher grade of Rs.2000-3200 vide order dated 10.3.1995 and was posted as Commercial Traffic Inspector, Eastern Railway, Danapur, He has claimed that consequent upon his promotion to higher grade, his pay ought to have been fixed, over and above, Rs.2100/- giving additional benefits of advance increment in the promotional grade. However, instead of giving such benefits, by order dated 17.4.1995 (Annexure-3), the applicant's pay has been reduced to Rs.2060/- with retrospective effect. This has put him under financial loss. This applicant has challenged the same order dated 17.4.1995 (Annexure-3) and claims same reliefs, as has been done by applicant of O.A.535/96.

O.A.538 of 1996

5. This application has been filed whereby order No46/PEN/INR/PSB/6235 dated 25.6.1993 passed by the

Senior Divisional Accounts Officer, Eastern Railway, Danapur, has been impugned. He has stated that on getting promotion from Grade II Grade, he was posted in February 1993 as Chief Parcel Clerk at Patna Saheb and his pay fixed at Rs.2150/-. In February 1993, he was promoted in the scale of Rs. 1600-2660 (Annexure-2). It is the claim of the applicant that consequent upon his promotion in higher scale, he was entitled for fixation of his salary at Rs.2250/- per month but by not giving advantage of increment, he was allowed to continue at Rs.2150/- till the date of his superannuation with effect from 30.6.1993. According to him, his retiral benefits have been settled on wrong fixstion of his salary, as a result of which he has been deprived of certain benefits which he would have got after his last pay would have been fixed at Rs.2250/-. It is alleged that certain recoveries were made from his gratuity amount without any show cause notice, which is not permissible under law. He has made representations which are still pending for disposal. Therefore, the main issue for consideration in this O.A. is whether his pensionary benefits should have been determined at his basic pay of Rs.2150/- or it should have been refixed at Rs.2250/-. In view of the above, the applicant has prayed for following reliefs:-

(i) Annexure-3 whereby arbitrary fixation of pension and other retiral benefits of the applicant has been done by respondent no.5 on the basis of last pay drawn and also illegal refixation of pay made by respondent no.4 (copy of which was never served on the applicant) consequent to which reduction of pay was made affecting his pension and other retiral benefits be quashed and the respondents be directed to sanction retiral benefits of the applicant after

his

refixing his pay in the promotional grade at Rs.2250/- per mensem as per his entitlement in accordance with law.

(ii) The respondents be further direrted to release the illegal deductions in the pension and other retiral benefits forthwith together with the arrears along with the exemplary interest thereon.

O.A.339 of 1996

6. This application has been filed against order No.E/Com/Fix/95 dated 4.1.1996 passed by Senior Divisional Personnel Officer, Eastern Railway, Danapur. The main allegation of the applicant is that vide impugned order dated 4.1.1996 (Annexure-3), his pay has been considerably reduced with retrospective effect, which has been wrong refixed at Rs.2060/- per month with effect from 6.4.1995, as a result of which, he has suffered considerable financial loss consequent to his superannuation from July 1997. From the pay-slip (Annexure-1), it appears that the basic pay of the applicant was fixed at Rs.2150/-. In March 1995, the applicant was promoted in the scale of Rs.2000-3200 vide order dated 10.3.1995 (Annexure-2). As per his claim, consequent upon his promotion in the higher grade, his pay ought to have been fixed at a higher scale, over and above, Rs.2150/- by giving additional benefits of advance increment in the promotional grade. However, by the impugned order dated 4.1.1996 (Annexure-3), his basic pay has been reduced substantially to Rs.2060/- with effect from 6.4.1995. The same has been done without issuance of show cause notice to the applicant, which is violation of principle of natural justice. In view of above, the applicant

has sought same reliefs as have been claimed by the applicant of O.A.535/96.

7. The respondents have filed written statements opposing the above OAs. So far as OA 535/96, OA 537/96 and OA 539/96 are concerned, the facts of the cases and the issues involved and the reliefs claimed are substantially same. It is stated by the respondents that prior to 4th Pay Commission (1986), there were two scales of Rs.425-640 ( RS) and Rs.425-700(RS). Promotions were being given to the staff working in the scale of Rs.425-640(RS). Subsequently, on the implementation of the recommendation of 4th Pay Commission, the above two grades were merged into a single grade of Rs.1400-2300(RS). So far as applicants of these OAs are concerned, while working in the scale of Rs.425-640, they were promoted in the scale of Rs.455-700(RS) in 1986 on different dates. With the introduction of 4th Pay Commission with effect from 1.1.1986, the pay of the applicants of OA 535/96 was fixed at Rs.500/- in the scale of Rs.425-640(RP) and Rs.1560/- in the scale of Rs.1400-2300(RP) and thereafter at Rs.560/-(Rs.1640/-) in the scale of Rs.455-700/- (Rs.1400-2300). Similarly in case of applicant of O.A.537/96, the pay was fixed at Rs.530/- in the scale of Rs.425-640, Rs.1550/- in the scale of Rs.1400-2300(RP) and thereafter Rs.560/- in the scale of Rs.455-700 (Rs.1400-2300) with effect from 21.8.1986.The pay of the applicant of OA 539/96 was also, accordingly, fixed with effect from 21.8.1986.

The respondents have stated that as two scales, namely, Rs.425-640 and Rs.455-700 (RS) were merged in a single scale of Rs.1400-2300, as a result of

recommendation of 4th Pay Commission, twice fixation of pay in respect of the applicants was not accepted by the Associated Finance in the Railway Board's letter No.PC-IV/88/FOP/2 dated 27.1.1989, according to which, the promotion made between 1.1.1986 and 25.9.1986 in accordance with classification then in force will be valid only for the purpose of seniority and not for pay protection. As such, the pay of those employees are required to be fixed in terms of RSRP Rule, 1986.Therefore, pay of these applicants were revised and refixed accordingly in 1995 vide letter No.E/Comml/Fix/95 dated 17.4.1995 and letter No.E/comml/Fix/94 dated 24.5.95/ 4.7.96. As a result of refixation, there has been drop in the salary of these applicants.

8. In support of the claim that no recovery is admissible due to wrong fixation of pay, the applicants have drawn our attention to the order of the Hon'ble Supreme Court reported in AIR 1994 SC 2480 in the matter of Bhagwan Shukla vs. Union of India and others. The placitum portion of the order is reproduced below:-

> "Constitution of India, Arts.311,14-Government servant-service condition-Alteration-Validity-Basic pay reduced with retrospective effect-Employee not granted opportunity to show cause-There is flagrant violation of principles of natural justice-order quashed.
>
> Salary-Retrospective reduction of basic pay-Opportunity to show cause must be given."

Our attention has also been drawn by the applicants to certain other judicial pronouncements. In the case of Sahib Ram vs. State of Haryana and others (reported in 1995 Supp (1) SCC page 18) decided on 19th

September 1994, the Hon'ble Supreme Court has been pleased to hold that upgraded pay scale given due to wrong construction of relevant order by authority concerned without any misrepresentation by the employee, in such circumstances, the recovery of payment already made could not be recovered from the appellant.

9. The learned counsel for the respondents have also drawn our attention to the case reported in AIR 2000SC 2709, in the matter of Union of India and others vs. Sujatha Vedachalam and the case reported in 2000(2) SLJ 19(SC) in the matter of State of Haryana vs. Kamal Singh Saharwat and others. The placitum portion of the order of the Hon'ble Supreme Court passed on 7.4.2000 in Sujatha's case is reproduced below:-

> "Constitution of India, Art.16- Transfer-Request by employee for transfer- Accepted on condition that employee should technically resign from post which she was holding and should join as direct recruits to lower post on transfer-Employee accepting conditions of transfer-Entitled to pay scale as applicable to lower post-Order for recovery of excess pay which was erroneously paid to employee-Legal."

In the other case cited above, it was held that State Government was entitled to recover from such person, if any, whom excess payment has been made.

It appears that the promotional benefits given to the applicants in the scale of Rs.455-700 was withdrawn in the light of Railway Board's letter No.PC-IV/88/POP/2 dated 21.1.1989, according to which promotion between 1.1.1986 and 25.9.1986 in accordance with classification then in force was required to be valid only for the purpose of seniority and not for the purpose of monetary benefits.

10. So far O.A.535/96, O.A.537/96 and O.A.539/96 are concerned, the main issues for consideration are whether the respondents are competent to refix the salary of the applicants, and if so, whether they are entitled to recover the excess payments which have already been made to these applicants on account of wrong fixation of their scale.

11. It is well settled position that whenever any fixation of salary is done on account of recommendation of Pay Commission and its acceptance by the Government, there is general stipulation that if the fixation has been done wrongly, the same can be rectified in future and the excess payment, if any, made on account of wrong fixation of scale can be recovered. In the instant case, it appears that pay scale of the applicants were fixed twice with reference to unrevised pay scale of Rs.425-640 and Rs.455-700. On the basis of recommendation of the Pay Commission, these two scales were merged into a single grade of Rs.1400-2300(RP). The Railway Board's circular dated 27.1.1988 had indicated that promotion between 1.1.1986 and 25.9.1986 in accordance with classification then in force will be valid for the purpose of seniority only and not for scale protection. Accordingly, the pay of such employees were to be fixed in terms of RSRP Rule 1986, which was later on done in the case of these applicants. The authority concerned is fully competent to rectify mistakes/defects, as per law if it comes to their notice that the scale has been wrongly fixed. This is what has happened in these cases. Therefore, when it came to the knowledge of the concerned respondents that pay fixation of the applicants had not been done in accordance with prescribed Railway Board's

circular, the matter was examined and their pay were refixed vide office letter dated 17.4.1995 and 4.1.1996 (Annexure-3 of these OAs) which are under challenge by the applicants.

12. We have taken note of Railway Board's letter No. PC-IV/88/FOP/2.. dated 27.1.1989 addressed to the General Managers of Zonal Railways with regard to Railway Services (Revised Pay) Rules, 1986- Fixation of pay of persons promoted to a post after 1.1.1986. Paras 2 and 3 of the letter, which are relevant, are produced below:-

> "2. In Board's letter No.E(NG)I-86-PM 1-11 dated 5.2.1987, it has been provided that in respect of merged grades, the promotions made between 1.1.1986 and the crucial dates i.e. 25.9.1986, on regular basis in accordance with the classification then in force, will stand protected. In view of above provisions a doubt has been raised regarding mode of fixation of pay of the Railway employees, who have been given promotion to a higher scale under the pre-revised scales, which have been merged with the pre-revised loser scales, in the Revised Pay Scales, 1986.
>
> 3. It is clarified that in view of explicit provision laid down under Explanation 2 to Rule 5 of this Ministry's No. PC-IV/86/RSRP/1 dated 19.9.1986 issued by the President in exercise of powers conferred by the proviso to Article 309 of the Constitution of India, fixation of pay in such cases have to be strictly regulated under the said Rules, which has a statutory force. The instructions contained in para 3(v) of Board's letter No.E(NG)I-86-PM 1-11 dated 5.2.1987 provide for protection of promotions made between 1.1.1986 and the crucial dates in accordance with the classification then in force for the purpose of seniority only. The pay of such employees has to be fixed in terms of the Railway Services (Revised Pay) Rules 1986 only."

The above circular of Railway Board is not under challenge. The fact that necessary revision in the fixation of pay of the applicants was necessitated due to Railway Board's circular has not been refuted. The respondents

have taken necessary action for refixing the pay scale of the applicants in accordance with said circular of the Railway Board.

13. It may be pointed out that it is not a case of recovery arising from any punitive action or reversion from a post and as such, the claim of the applicants that refixation was done without issuing show cause notice is not tenable, as the pay scale of the applicants had been wrongly fixed earlier. When the same was detected, the scale was refixed as per prescribed circular of the Railway Board. The respondents are competent to take such decisions in order to rectify the mistakes/defects which have taken place earlier. In the aforesaid context, if excess payment has been made to the applicants due to wrong fixation of pay scale earlier, the respondents are entitled to order recovery of such over-payments. However, it is admitted fact that the upgraded pay scale was given to the applicants not due to any misrepresentation of facts by them but due to wrong construction of relevant order by concerned authority. In the light of aforesaid position, the respondents have liberty to reconsider and take lenient/sympathetic view in the matter relating to recovery of excess payment made to the applicants due to wrong fixation of their scale and upon such reconsideration, to pass appropriate order in this regard.

14. In view of the above facts and circumstances of the case, we are of the considered opinion that these OAs have no merit to succeed. The same are, therefore, dismissed subject to observations made by us in para 13 above with regard to recovery of over-payments.

15. So far as the case of applicant no.536/96 is concerned, Annexure-2, which relates to fixation of pension of the applicant and other retiral benefits, has

been challenged. Similarly, the applicant of O.A.538/96 has challenged the order at Annexure-3 relating to fixation of his pension and other retiral benefits. There is a close similarity between these two OAs. So, they have been together taken up for consideration. These OAs have also been opposed by the respondents. It is pointed out by the respondents that consequent upon recommendation of 4th Pay Commission, the scale of Rs.425-640 (RS) and Rs.455-700(RS) were merged into one single grade of Rs.1400-2300(RP) which was promulgated in October 1986 with retrospective effect from 1.1.1986. Accordingly, the pay of the applicant of O.A.536/96 was fixed at Rs.1600/- in the scale of Rs.1400-2300/-, corresponding scale of Rs.425-540 (RS) on pay of Rs.545/- per month with effect from 1.1.1986 and, subsequently, his pay was again fixed on Rs.1680/- with effect from 9.2.1986 in the scale of Rs.1400-2300(RP) in the corresponding scale of Rs.455-700(RS) on pay of Rs.580/- per month as the applicant was promoted as Chief Parcel Clerk, Danapur. This position was not accepted by the Finance Wing of the Railway. In the light of Railway Board's circular No.PC-IV/88/FOP/2 dated 27.1.1989 (referred to in para 12 above), according to which, promotion between 1.1.1986 and the crucial date (25.9.1986) in accordance with the classification then in force is only for the purpose of seniority. It has been clarified that the pay of such employees has to be fixed in terms of RSRP Rules, 1986. In view of the aforesaid circumstances, pay of the applicant was reduced to Rs.1800/- per month at the time of retirement and,therefore, his retiral benefits were calculated on the basis of Rs.1800/- per month. It is further

stated that since the applicant's pay was reduced, the over-payment already made to him from 1986 to 1991 was recovered from his DCRG. It is further pointed out that as per extant rules, the retiral benefits are calculated on the basis of last pay drawn.

16. So far as applicant of OA 538/96 is concerned, it is stated by the respondents that the applicant while working in the scale of Rs.425-700 (RS) was promoted in the scale of Rs.455-700 (RS) with effect from 1.2.1986. Consequent upon recommendation of 4th Pay Commission, the applicant's pay was fixed at Rs.1720/- in the scale of Rs.425-640 (RS) and thereafter at Rs. 1800/- in the scale of Rs.455-700 (RS) with effect from 1.2.1986. As the above two scales were merged into single scale of Rs.1400-2300 (RP), the matter was re-examined and it was noticed that wrong fixation has been done, which required to be revised in the light of Railway Board's circular dated 27.1.1989 (referred to in para 12 above). Accordingly, the pay of the applicant was refixed vide letter No.E/Comml./Fixation dated 29.8.1991 and E/Comml./Fix/92 dated 1.1.1992, as a result of which there was reduction in the emoluments of the applicant. It is pointed out that as per prescribed procedure, the pension, gratuity, DCRG and other benefits are calculated on the basis of last pay drawn by the employee. The pay of the applicant had been reduced to Rs.2150/- per month at the time of his retirement on 30.6.2993 and retiral benefits were, accordingly, determined on the basis of last pay. From the pleadings, it is observed that while the applicant of O.A.536/96 retired from service on 30.11.1991, his salary was refixed as last pay of Rs.1800/- vide order dated 28.11.1991. Therefore, the refixation was done

before his retirement. Similarly, in case of O.A.538/96, while the applicant retired from service on 30.6.1993, his pension fixation was done vide order dated 25.6.1993 (Annexure-3) which was before his retirement. Therefore, in both the cases, the final fixation of salary was done before their retirement and, therefore, they are entitled to for calculation of their pension and pensionary benefits on the basis of last pay determined before their retirement. The reasons for refixation of their salaries have already been explained by the respondents, which are satisfactory. The pay fixation has to be done in accordance with prescribed rules and instructions. In that view of the matter, we do not find any merit in O.A.536/96 and O.A.338/96, and as such, the reliefs claimed by them cannot be granted, so far as calculation of their pension and other retiral benefits are concerned.

17. From the submissions of the parties, it is clear that certain recoveries have been made by the respondents in these two cases on account of enhanced salary paid to them due to wrong fixation of their pay for certain period. These applicants have already retired from service. Our attention has been drawn to the order of the Hon'ble Supreme Court dated 15th July 1994 in the matter of Union of India vs. Indian Railway SAS Staff Association and others (1995) 31 ATC 518). In the aforesaid case, the Hon'ble Supreme Court held as follows :

> The respondent-employees in the present proceedings would be entitled to the revised pay scales only with effect from 1.4.1987 since the revised pay scales will be fixed for the first time with effect from that date. They are not entitled to any difference on the basis of the notional fixation of pay w.e.f. 1.1.1986. The arrears, if any, paid to the respondent-employees on account of the notional fixation of their pay w.e.f. 1.1.1986 may be recovered from their future salaries. However, the said arrears shall not be recovered from those of the employees who have already retired from service."

18. From the pleadings of the parties, it is clear that the applicants of O.A.536/96 and O.A. 538/96 have already retired from service. Therefore, their cases are governed by the principle laid down by the Hon'ble Apex Court in the matter referred to in para 17 above so far as it relates to recovery of excess amounts which have already been paid to the applicants due to wrong fixation of pay. Therefore, the respondents are directed to act accordingly so much so that if any recovery has been made on account of excess payment, the same shall be refunded to them expeditiously by the respondents.

19. Thus, O.A.535/96, O.A.536/96, O.A.537/96, O.A.538/96 and O.A.539/96 are disposed of in terms of orders/directions contained in paras 14, 16 and 18 above. No order as to the costs.

7.8.2001.

(L.R.K.Prasad)
Member (A)

7-8-01

(S. Narayan)
Vice-Chairman

Mahto