

**Central Administrative Tribunal
Principal Bench**

OA No. 01/2018

MA No.14/2018

Order Reserved on: 10.01.2018

Order Pronounced on: 18.01.2018

Hon'ble Mr.V.Ajay Kumar, Member (J)

Hon'ble Ms. Nita Chowdhury, Member (A)

1. Sh. U.C.Govila, Aged about 72 years,
Son of Late Sh. H.P.Govila,
Resident of B/127, Mohan Garden,
Pipal Wala Road,
New Delhi-110059,
Group C, Retired DPA-A
2. Shri R.N.Kulshrestha
Son of Late Shri C.P.Singh,
Resident of 372, Shankar Marg,
Gali Zhandewal, Mandavali Fazilpur,
Delhi-110092,
Group C, Retired.
3. Shri Y.R.Khullar,
Son of Late Shri L.L.Khullar,
Resident of RZ-403, Dev Apartment,
Raj Nagar Part-II, Palam Colony,
New Delhi-110077,
Group C, Retired.
4. Shri S.K.Kapoor,
Son of Late Shri S.S.Kapoor,
Resident of K-25, New Mahavir Nagar,
New Delhi-110018,
Group C, Retired DPC-A
5. Shri D.D.Sharma,
Son of Late Shri M.L.Sharma,
Resident of 301, Masjid Moth,
South Extension Part-II,
New Delhi-110049,
Group C, Retired DPA-A.

6. Shri A.K.Dheman
Son of Late Shri Madan Lal,
Resident of 127C, New Lahore,
Gali No.5, Shastri Nagar,
Delhi-110031,
Group C, Retired DPA-A.

... Applicants

(By Advocate: Mr. Pramod Kumar Sharma)

Versus

Union of India through

1. Secretary,
Department of Expenditure,
Ministry of Finance,
North Block, New Delhi.
2. Secretary,
Ministry of Defence,
South Block, New Delhi.
3. JS (Trg.) and CAO,
Ministry of Defence,
E Block, Hutments,
New Delhi-110011.

... Respondents

ORDER

By Hon'ble Ms. Nita Chowdhury, Member (A)

Heard the learned counsel for applicant.

MA No.14/2018

2. For the reasons stated therein, the MA filed for joining together in a single Application is allowed.

OA No.01/2018

3. This Original Application has been filed by the applicants claiming the following reliefs:-

- “a. This Hon’ble Tribunal be pleased to set aside the impugned office order dated 08.06.2017 at Annexure-A to this Application and pleased to direct the Respondents to re-fix the new EDP pay scales with effect from 1.1.86 instead of 11.09.89 or from the date of their promotion on the post of Senior Computer/DEO Grade-B whichever is later with all consequential monetary/pensionary benefits in terms of the judgment of the Hon’ble High Court of Delhi dated 10.1.2002 in Civil Writ Petition No.1212/99 titled Mr. B N Sharma & Ors Versus UOI & Ors read with full Bench Judgment of this Hon’ble Court in OA no.365/2007, 2536/2006 and RA No.53/2012 in OA 1778/2006 keeping in consonance with the principle of equal treatment as enshrined in Article 14 of the Constitution of India.
- b. Direct the Respondents in terms of the prayer (a) re-fix the pensionary (in regard to Applicants benefits with all consequential monetary benefits.
- c. Be further pleased to allow the application with costs.
- d. Be proper under to facts and circumstances of the case.”

4. This matter had earlier come up before this Tribunal in OA No.745/2017. The Tribunal had passed an order dated 03.03.2017, directing the applicants to prefer their representations within one week from the date of receipt of the order. The Tribunal directed the respondents to consider the applicants representation

in accordance with law and pass appropriate speaking and reasoned orders thereon within a period of 90 days thereafter. In compliance of the said orders, the respondents have passed detailed speaking Annexure-A/1 order dated 08.06.2017. In the speaking order, it has been noted by them as under :-

“ (ii) **On various judgments allowing the upgraded pay scales on the basis of educational qualification or period of requisite service:** Recently, the question relating to rationalisation of pay scales of Electronics Data Processing posts in different departments of Ministries of the Government of India has been noticed and settled by Hon’ble Supreme Court in ‘Secretary, Department of Personnel, Public Grievances & Pension & Anr. Vs. T.V.L.N.Mallikarjuna Rao’, C.A. No.10862 of 2014 etc. etc. Hon’ble Supreme Court vide its judgment dated 09.12.2014 in this case has stated that **“Data Entry Operators Grade-A (DEO ‘A’) are not entitled for scale of pay of Rs.1350-2200 w.e.f. 01.01.1986 or thereafter merely on the basis of their qualifications or for the fact that they have completed their period of requisite service. We further hold that any decision rendered by any Tribunal or any High Court contrary to our decision is wrong”**. It is also stated in the said judgment that ***“GoI O.M. dated 11.09.1989 prescribing different pay scales and different grades of DEOs besides the mode and the manner of recruitment to an qualifications for each entry grade post as well as eligibility and experience for promotional grades is justified. The Court or the Tribunal would be exceeding its power of judicial review if it sits in appeal over the decision of the Executive in the matter of prescribing the pay structure unless it is shown to be in violation of Articles 14 and 16 of the Constitution of India. Difference in pay scales based on educational qualification, nature of job, responsibility, accountability,***

qualification, experience and manner of recruitment does not violate Article 14 of the Constitution of India.” Following the ibid Apex Court judgement, office of the Controller General of Defence Accounts vide their order dated 01.09.2016 has decided to re-fix the pay of all DEOs who have earlier been granted the pay parity based previous Court Judgement(s) and also initiated the recovery action of the overpayments made till date. A similar action is also being contemplated by this Department.”

5. This is proposed to be second round of litigation. The applicants have given the details of previous decisions taken in other matters but as this case is squarely covered by the decision of the Hon'ble Supreme Court in **‘Secretary, Department of Personnel, Public Grievances & Pension & Anr. Vs. T.V.L.N.Mallikarjuna Rao’** (C.A. No.10862 of 2014 etc. etc) dated 09.12.2014, which has been quoted by the respondents in their aforesaid detailed speaking order (Annexure-A/1) dated 08.06.2017, hence, no ground remains to consider any other issue raised.

6. As the decision in this matter has been taken in compliance of the Hon'ble Supreme Court's order in its judgment dated 09.12.2014, we do not find any illegality in the decision of the respondents. Therefore, there is no ground to admit this OA and the same is, accordingly, dismissed, at the admission stage itself. No costs.

(Nita Chowdhury)
Member (A)
'rk'

(V. Ajay Kumar)
Member (J)