

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A No.1431/2017

Reserved On:11.05.2017
Pronounced On15.05.2017

Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. P.K. Basu, Member (A)

Jaideep Chhikara and Others ...Applicants

(By Advocate: Shri Ajesh Luthra)

Versus

Union of India and Another ..Respondents

(By Advocate: Shri Rajinder Nischal)

ORDER ON INTEIRM RELIEF

By Hon'ble Mr. P.K. Basu, Member (A)

The applicants have prayed for interim relief as follows:-

“Pending decision in OA, this Hon’ble Tribunal may graciously be pleased to stay the operation of impugned orders/actions and direct the respondents to provisionally release the pay of applicants in accordance with the revised pay fixation orders, by way of an ex-parte ad-interim order”

2. The applicants are aggrieved by Office Memorandum dated 27.02.2017 which is on the subject of bunching of stages in the revised pay structure in the grade of Assistant Section Officers (ASOs) by which OM granting of bunching of stages as per earlier order of Department of Expenditure, namely, OM dated 07.09.2016 has been stayed. The direction in this OM dated 27.02.2017 is as follows:-

“4. It has already been decided to consult Department of Expenditure through Establishment (Pay) in the matter and same is under examination. Therefore, to ensure uniform

implementation of Department of Expenditure's instruction, all the Ministries/Departments are advised to wait for further instructions with regard to grant of bunching benefits of ASOs of CSS and also if orders have already been issued by any Ministry/Department, the same may not be given effect till further instructions".

3. It is the case of the applicants that despite aforesaid orders, many Ministries have gone ahead and implemented the Department of Expenditure's OM dated 07.09.2016. However, in the case of the applicants, the respondents issued their pay fixation order on 26.12.2016, but have not yet implemented the aforesaid order on account of the impugned OM dated 27.02.2017. It is further submitted by the learned counsel that in a similar case, in OA No.862/2017, this Tribunal vide order dated 15.03.2017 has stayed the implementation of the order of DOP&T till the next date of hearing qua the applicants and pray that the similar benefit be granted to the applicants.

4. He has also placed before us Office Order No.69/2017 dated 26.04.2017 of Department of Legal Affairs which is regarding interim order of this Tribunal in OA No.1026/2017 titled Kumar Gaurva and Others Vs. U.O.I. & Others in which the DOP&T's OM dated 27.02.2017 has been stayed till next date of hearing, i.e., 17.05.2017. As a consequence of this stay order, the order dated 26.04.2017 has been issued stating that the earlier order passed regarding benefit of bunching effect holds good. However, this order dated 26.04.2017, would be subject to the final outcome of the OA No.1026/2017.

Similarly, Office Memorandum dated 12.04.2017 issued by the Ministry of Road Transport & Highways as a consequence of directions of this Tribunal in OA No.981/2017 holding that the officers are entitled to payment of arrears on account of their re-fixation with effect from 01.01.2016 giving effect of bunching.

5. Heard the learned counsels and perused the pleading and orders.

6. The instructions, as contained in OM dated 07.09.2016 has been stayed by OM dated 27.02.2017 to ensure uniform implementation of the Department of Expenditure's instructions, as there has been divergent views on the matter and clarifications by Department of Expenditure is called for on the following issues:-

“(i) While the Seventh Pay Commission had not prescribed different modes of pay fixation for Direct Recruit (DR) and Promotees ASOs, there have been two different modes of pay fixation for DR and Promotees prior to implementation of Seventh Pay Commission. Due to differential methods of pay fixation, required differential of 3% is not calculable based on seniority alone as the other relevant facts of being DR/Promotee comes into play here.

(ii) The manner of different pay fixation of DR ASO and promotee Assistants has been challenged in various court cases (i.e. OA No.2147/2015, OA No.150/2016, OA No.1015/2013 and OA No.476/2015 etc.)”.

7. In the matters of interim stay, there is no question of any precedent or coordinate bench interim orders to be mandatorily followed. Moreover, we do not know the circumstances of those cases. Therefore, we do not find any ground for a direction to the respondents

to implement the orders as an interim measure till final outcome of the OA. In case the order had been implemented and withdrawn, then the situation would have been different.

8. In view of above, the prayer for grant of interim relief is rejected.

List the OA on 18.07.2017.

(P.K. BASU)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

Rakesh