

Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.1854/2014

Order reserved on 24th May 2016

Order pronounced on 1st June, 2016

Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Dr. Brahm Avtar Agrawal, Member (J)

P Chandra Sekhar
s/o late Mr. P E Krishna Rao aged 48 years
Stenographer Gr. II
All India Radio, New Delhi
Residing at B-1, Shri Ganesh Kunj
263, Saraswati Lane, Sector 5
Vaishali, Ghaziabad 201010

..Applicant

(Mr. Purshottam Sharma, Advocate for Mr. Luv Kumar)

Versus

1. Union of India
Through the Secretary
Ministry of Information & Broadcasting
Shasthri Bhavan, A Wing
Dr. Rajendra Prasad Road
New Delhi-1
2. The Secretary
Department of Expenditure
Ministry of Finance
North Block, New Delhi
3. Prasar Bharathi
Broadcasting Corporation of India
Through its Chief Executive Officer
PTI Building, Parliament Street
New Delhi-1
4. Director General, All India
Akashvani Bhavan
Parliament Street, New Delhi-01

..Respondents

(Mr. Tanvir Ahmed Ansari, Advocate)

ORDER**Mr. P.K. Basu:**

The applicant is Stenographer Grade II in All India Radio (AIR). He is aggrieved by the pay fixation order dated 12.04.2014 and corrigendum dated 21/22.04.2014. According to him, his pay has been wrongly fixed at a level lower than what should have been fixed according to pay fixation Rules. He has also challenged order dated 11.02.2014, which is a letter addressed to the DDOs, AIR, New Delhi by the Pay & Accounts Office, AIR, New Delhi, pointing out that the pay of Head Clerk/UDCs/ Stenos/ Accountants drawing pay scale of `5500-9000 has wrongly been upgraded in the pay scale of `6500-10500 after giving the benefit of bunching, as there is no provision of bunching in the 6th Central Pay Commission. The said letter also encloses an example as to how the pay is to be fixed in cases where the pre-revised pay scales of `5500-9000 and `6500-10500 have been merged. Basically, it states that while the pay scales have been merged, pay fixation will not be done after multiplication by a factor of 1.86 the existing basic pay as on 01.01.2006 and not `6500/-. The applicant has also challenged the letter of Prasar Bharati to the Director General, DD, Mandi House, New Delhi on the subject of 'wrong fixation of pay-recover thereof', which again clarifies that 6th Central Pay Commission does not have any provision of bunching and, therefore, the pay of those personnel who were drawing pre-revised pay scale of `5000-8000 and `5500-9000 has wrongly been upgraded in the pay scale of `6500-10500 after giving the benefit of bunching and the following clarification in this regard has been given in the said letter:-

“The pay (drawing as on 01.01.2006) should have been fixed after multiplication by a factor of 1.86 in the pay band 9300-34800 but the pay has been fixed by multiplication by 1.86 as on 1.1.2006 and thereafter given bunching and fixed pay again in 6500-10500 by multiplications by 1.86 which is wrong.”

2. According to the applicant, as per Section II of Part B of the Gazette Notification, notifying the CCS (Revised Pay) Rules, 2008, revised pay scale of `6500-10500 has been recommended for Stenographer Grade II in PB-2 + Grade Pay of `4200/-. It is also stated that the Government has provided the procedure for initial pay fixation as on 01.01.2006 in Note 2A below Rule 7 of the Notification, which is reproduced below:-

“Note 2A- Where a post has been upgraded as a result of the recommendations of the Sixth CPC as indicated in Part B or Part C of the First Schedule to these Rules, the fixation of pay in the applicable pay band will be done in the manner prescribed in accordance with Clause (A) (i) and (ii) of Rule 7 by multiplying the existing basic pay as on 1.1.2006 by a factor of 1.86 and rounding the resultant figure to the next multiple of ten. The grade pay corresponding to the upgraded scale as indicated in column 6 of Part B or C will be payable in addition. Illustration 4A in this regard is in the Explanatory Memorandum to these Rules.”

3. It is further stated in Rule 7 (1) (A) (i) & (ii), which reads as follows:-

“(A) in the case of all employees:-

- (i) the pay in the pay band/pay scale will be determined by multiplying the existing basic pay as on 1.1.2006 by a factor of 1.86 and rounding off the resultant figure to the next multiple of 10.
- (ii) if the minimum of the revised pay band/pay scale is more than the amount arrived at as per (i) above, the pay shall be fixed at the minimum of the revised pay band/pay scale.”

4. In paragraph 4 (i) of the O.A., the applicant has stated that the Government, vide their Notification, has recommended the benefit of one

increment after bunching for every two stages so bunched. In fact, the applicant has also purportedly quoted the abstract of the Report as follows:-

“Where, in the fixation of pay, the pay of Government servants drawing pay at two or more consecutive stages in an existing scale gets bunched, that is to say, gets fixed in the revised pay structure at the same stage in the pay band, then, for every two stages so bunched, benefit of one increment shall be given so as to avoid bunching of more than two stages in the revised running pay bands. For this purpose, the increment will be calculated on the pay in the pay band. Grade pay would not be taken into account for the purpose of granting increments to alleviate bunching.”

5. First of all, what is contained in the Report is not important but the Notification of Government of India, based on the Report, is to be followed. Secondly, at Annexure A-4, the applicant has enclosed paragraphs 3.1.13 and 3.1.14, perhaps of the Report of 6th Central Pay Commission, which does not mention anything about bunching and as pointed out by the respondents in the impugned order, there is no provision for bunching in the Report. In fact, at Annexure A-10, the applicant has annexed a clarification from Ministry of Finance, Department of Expenditure issued on 14.12.2009, in which the first point raised and the clarification given thereto read as follows:-

Point raised	Clarification
(a) The manner in which pay of Assistants/ Pas in position on 1.1.2006 is to be fixed as per the provisions of CCS (RP) Rules, 2008. Whether there will be any bunching in this case.	The pay in the pay band of Assistants/Pas working as on 1.1.2006 will be fixed with reference to the fitment table of the pre-revised pay scale of Rs.5500-9000 annexed with this Department's O.M. No.1/1/2008-IC dated 30 th August, 2008 and they will be granted the grade pay of Rs.4600. Since the minimum pay in the pay

	band in the revised pay structure corresponding to the stage of Rs.5500 (pre-revised) scale of Rs.5500-9000) is more than the minimum of the pay band PB-2 i.e., Rs.9300, no benefit of bunching is admissible n this case.
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Therefore, from the above, it is clear that there is no provision of bunching while fixing the pay as per the recommendations of the 6th Central Pay Commission, and if it had been done earlier, that was an error, which is rightly rectified by the respondents.

6. The pay of the Government servant has to be fixed as per the recommendations of the 6th Central Pay Commission strictly according to the CCS (Revised Pay) Rules, 2008 where the provision is absolutely clear, which is that the basic pay drawn by the employee in the earlier pay scale in the pre-revised scale will be multiplied by a factor of 1.86 and rounding off the resultant figure to the next multiple of 10, and if this is below the minimum of the corresponding pay of the revised pay grade, then the basic pay will be fixed at the minimum of the revised pay grade. This is exactly what the respondents have clarified in their affidavit filed on 18.01.2016 and also placed before us an Office Memorandum dated 28.07.2015 (Annexure R-10) issued by the Ministry of Finance, Department of Expenditure wherein it has been stated that there is no question of fixing the pay taking the minimum of the corresponding stage of `6500/- of the pre-revised scale of pay of `6500-10500.

We are, therefore, clear in our opinion that there is no inconsistency or error in the impugned orders dated 12.04.2014 and 21/22.04.2014 and

these are issued as per the instructions of the Government of India contained in CCS (Revised Pay) Rules, 2008.

7. The O.A. is, therefore, completely misplaced and on an absolute misunderstanding of the Rules/instructions. It is accordingly dismissed. Respondents are at liberty to recover any excess amount paid to the applicant. No costs.

(Dr. Brahm Avtar Agrawal)
Member (J)

(P.K. Basu)
Member (A)

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