

**Central Administrative Tribunal  
Principal Bench**

**OA No.3409/2017**

New Delhi, this the 30<sup>th</sup> day of October, 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman  
Hon'ble Mr. Uday Kumar Varma, Member (A)**

1. Pawan Ballabh Thapliyal  
A.O.-II, Group 'B' Gazetted  
Aged about 53 years  
S/o Sh. Govind Ram Thapliyal  
R/o C-404, Sarojini Nagar  
New Delhi-110023.
2. N.K. Shukla, A.O.-II, Group 'B' Gazetted  
Aged about 59 years  
S/o Sh. S.B. Shukla  
R/o H-237, Ramakrishna Vihar  
Plot No. 29, I.P. Extension, Patparganj  
Delhi-110092.
3. Rajpal, A.O.-II, Group 'B' Gazetted  
Aged about 55 years  
S/o Sh. Bharat Singh  
R/o Mohalla-Peerwala, Kasba Begmbad  
Modi Nagar, Ghaziabad, U.P.
4. Oskar Kujur, A.O-II, Group 'B' Gazetted  
Aged about 49 years  
S/o Sh. Sylvester Kujur  
R/o Flat No. 62, Phase-II, Sec-14  
Sahid Bhagat Singh Apartment  
Dwarka, Delhi-110078.
5. Balraj Singh, A.O-II, Group 'B' Gazetted  
Aged about 50 years  
S/o Sh. Bhopal Singh  
R/o 3029, Arya Pura, Sabzi Mandi  
Delhi-110007.
6. Gagan Deep, A.O-II, Group 'B' Gazetted  
Aged about 51 years

D/o Sh. Sri Niwas Katyal  
R/o F-89, Prashant Vihar, Delhi-110085.

7. Khushal Singh, A.O-II, Group 'B' Gazetted  
Aged about 49 years  
S/o Sh. Lal Singh  
R/o M-79B, Meteorological Housing Complex  
Lodhi Road, New Delhi-110003.
8. Chunni Lal, A.O-II, Group 'B' Gazetted  
Aged about 48 years  
S/o Sh. Raghubir Singh  
R/o 187-B, Gautam Marg  
Johri Pur, P.O Gokul Puri, Delhi-110094.
9. Gopal Singh, A.O-II, Group 'B' Gazetted  
Aged about 59 years  
S/o Sh. Narain Singh  
R/o F-77/2, Andrews Ganj  
New Delhi-110049.
10. S. Gopinath, A.O-II, Group 'B' Gazetted  
Aged about 59 years  
S/o T.V. Srinivasan  
R/o Kundan Classic, 46-D, Aundh Road  
Kirkee, Pune-4110020
11. Smt. S.S. Nair, A.O-II, Group 'B' Gazetted  
Aged about 59 years  
W/o Sh. Satish Kumar  
R/o No.5, WIE Torna Co-op. Housing Society  
Bhau Patli Road, Bopodi  
Pune-4110020
12. Smt. S.S. Joshi, A.O-II, Group 'B' Gazetted  
Aged about 57 years  
W/o Sh. Shripad S. Joshi  
R/o Ganesh Dutta, 483/27-A  
Pradhikaran, Nigdi, Pune-411044
13. Smt. S.K. Dalvi, A.O-II, Group 'B' Gazetted  
Aged about 59 years  
W/o Sh. K.M. Dalvi  
R/o B-1/B-11, Chintamanninagar Society

Anand Park, Aundh, Pune-411007.

...Applicants

(By Advocate : Shri M.K. Bhardwaj)

Versus

1. Union of India, Through its Secretary  
Ministry of Science & Technology & Ocean  
Development, New Mehrauli Road  
New Delhi-110016.

2. The Secretary  
Ministry of Earth Sciences  
Mahasagar Bhavan, Block-12  
CGO Complex, Lodhi Road  
New Delhi-110003.

3. The Director General of Meteorology  
India Meteorological Department  
Mausam Bhawan, Lodhi Road  
New Delhi-110003.

..Respondents

(By Advocate: Shri Rajeev Kumar )

### **ORDER (ORAL)**

#### **Justice Permod Kohli :**

Despite opportunities to the respondents to seek instructions whether the issue in the present case is covered by the judgment of Hon'ble Guwahati High Court passed in WP(C) No.912/2010 dated 18.05.2015, Shri Rajeev Kumar, learned counsel appearing for the respondents, is unable to assist the court.

2. We have heard the learned counsel for the parties and perused the record of the case.

3. The applicants were initially appointed on different posts during the year 1978 to 1994. They were promoted to the post of Administrative Officer-III in the Indian Meteorological Department under the Ministry of Earth Sciences. The dates of appointment and promotion of the applicants as Administrative Officer-III have been indicated in the chart in para 4.2 of the OA. On promotion as Administrative Officer-III, the applicants were granted pay scale of Rs.9300-34800 with grade pay of Rs.4600/- as per the revised pay scale on the basis of the recommendations of the 6<sup>th</sup> Central Pay Commission. It is stated that on promotion, the pay of the applicants was fixed in pay band-2 with grade pay of Rs.4600 as per 6<sup>th</sup> CPC corresponding to the pay scale of Rs.6500-10500 of the 5<sup>th</sup> CPC. It is stated that while fixing the pay, the important aspect that the Administrative Officer Grade-III was drawing pay in the pay scale of Rs.7500-12000 in the IMD (5<sup>th</sup> CPC) corresponding to the pay scale of Pay Band-2 with grade pay of Rs.4800 of 6<sup>th</sup> CPC, was not considered.

4. One Shri Purshottam Dass, who was similarly situated as the applicants herein, filed OA No.277/2006 seeking pay scale of Rs.7500-250-12000/9300-34800 with grade pay of Rs.4800 w.e.f. the date of promotion as Administrative Officer-III. The Tribunal dismissed the said OA vide order dated 18.11.2009.

Aggrieved of the dismissal of the OA by the Guwahati Bench of the Tribunal, the said applicant preferred Writ Petition No.912/2010 before the Hon'ble Guwahati High Court. The said Writ Petition was allowed vide judgment dated 18.05.2015 and the prayer of the applicant therein was granted. A copy of the judgment has been placed on record as Annexure A-3. The said judgment was implemented vide Office Order dated 26.12.2016. The applicants being similarly situated made a representation which has been rejected vide the impugned order dated 03.07.2017. The Office Memorandum rejecting the representation reads as under:-

"With reference to his letter dated 17/05/2017, Sh. Khushal Singh, AOII is hereby informed that the case regarding grant of pay scale of PB-2 +GP Rs. 4800/-(pre-revised pay scale consequent upon of judgment of Hon'ble Guwahati High Court in WP(C) 912/2010) has been turned down by the competent authority owing to the fact that as per the said judgment the benefit is to be given to the litigant only."

5. Similar orders have been passed in response to representations of other applicants and placed on record as Annexure A-1(collectively). The prayer made in this OA is for grant of pay scale of Rs.7500-12000/9300-34800 with grade pay of Rs.4800/- to the applicants in Pay Band 2 as granted to the identically placed persons vide order dated 26.12.2016. The further prayer is for grant of benefit of the judgment dated 18.05.2015 passed by the Hon'ble Guwahati High Court.

It was under these circumstances that Shri Rajeev Kumar, learned counsel, was asked to seek instructions regarding the applicability of the aforesaid judgment. From perusal of the impugned order, we find that the claim of the applicants has not been rejected on merits. The only ground to deny the relief to the applicants is that they were not parties to the earlier litigation. It is however, implicit in the impugned order that the judgment applies to the case of the applicants herein as well. It is a matter of concern for this Tribunal that despite the issue having attained finality by the concluded judgment of the High Court, the aggrieved persons are being forced to approach the Tribunal. While disposing of the OA No.3775/2015 vide order dated 28.04.2016, following observations were made:-

"5. This OA is accordingly allowed. The respondents are directed to grant relief to the applicant in terms of the judgment dated 21.08.2014 passed in OA No.1938/2013 and OA No.2985/2013. The respondent No.4, in particular, is directed to implement the judgment qua the applicant within a period of four weeks from the date of receipt of copy of this judgment, failing which, if there is any delay, the applicant shall be entitled to the interest at the rate of 6% and interest shall be recovered personally from the pay of respondent no.4.

6. A copy of this order be also sent to the Secretary, Department of Personnel & Training, as also to the Secretary, Department of Expenditure, and Secretary, Ministry of Law and Justice, to be circulated to all concerned with the observation that wherever a person approaches the concerned

authorities seeking the relief based upon an earlier final/concluded judgment of this Tribunal, or any other competent Court, the relief has to be granted, notwithstanding the fact whether the person was a party to such /is or not. It is only claims of persons falling under para 23(2) of the judgment of the Hon'ble Supreme Court in State of Uttar Pradesh & Others Vs. Arvind Kumar Srivastava & Others (supra) that relief may not be granted. Wherever it is found that the relief sought has been declined merely on the ground that the similarly placed person was not a party in the earlier judgment, though covered under paras 23 (1) and (3) of the aforesaid judgment of the Apex Court, the official found responsible for denial of relief shall be personally liable. No order as to costs."

6. We have perused the judgment of the Guwahati High Court. It is applicable to the case of the applicants from all fours. As a matter of fact, the Guwahati High Court has also granted relief to the petitioners therein on the basis of their being similarly situated. The relevant observations are contained in paras 12 which reads as under:-

"12. Even otherwise, **the prayer of petitioner needs to be accepted since it is his specific claim that the Officers similarly situated with him in all respects were given the benefits, he had sought for in OA 277 of 2006.** We have found nothing o record to disbelieve such a claim. Being so, in our opinion, the benefits which were already given to officers who are similarly situated with the petitioner are required to be extended to the petitioner as well."(emphasis supplied)

7. In view of above, this OA is disposed of. The respondents are directed to grant the same benefits to the applicants as allowed vide the judgment of Guwahati High Court dated

18.05.2015 passed in WP(C) No.912/2010. Let the benefits be determined and paid to the applicants within a period of three months from the date of receipt of a copy of this order. The applicants shall be entitled to interest @ 6% to be recovered from the person found responsible for which the respondent No.3 will hold an inquiry and the liability of interest would be imposed and recovered from such officer. We make it clear that after recovery of the component of interest from the officer concerned, a report shall be filed before this Tribunal.

**(Uday Kumar Varma)**  
**Member(A)**

**(Justice Permod Kohli)**  
**Chairman**

/vb/