

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00374/2016

Wednesday, this the 18th day of July, 2018

CORAM:

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member

1. K.N.Sudhakaran Nair
Scientific Officer (Outstanding Scientist) (Retired)
Emp.No.6475, Head, Technology Development Division (Retired)
Nuclear Recycle Group, Bhabha Atomic Research Centre
Trombay, Mumbai – 400 085
Residing at Flt No.3A, Tanzeel Chalet
Palathuruthu, Kadavanthra P.O, Kochi-682 028

2. Dr.M.R.Ambikalmajan Pillai
Scientific Officer H+ (Retired.), Emp.No.6024
Head, Radiopharmaceuticals Division (Retired)
Radio Chemistry and Isotope Group
Bhabha Atomic Research Centre
Trombay, Mumbai – 400 085
Residing at Karthika, Ashtamudi P.O
Kollam – 691 602

..... **Applicants**

(By Advocate – Mr.Vishnu S Chempazhanthiyil)

V e r s u s

1. The Director
Bhabha Atomic Research Centre
Trombay, Mumbai – 400 085

2. The Secretary
Department of Atomic Energy
Anusakthi Bhavan, Chathrapathi Shivaji Maharaj Marg
Mumbai – 400 001

3. The Secretary
Department of Personnel & Training
Ministry of Personnel, Public Grievances & Pension
New Delhi – 110 001

4. Union of India, represented by its Cabinet Secretary
Central Secretariat, New Delhi- 110 001

..... **Respondents**

(By Advocate – Mr.N.Anilkumar,Sr.PCGC(R))

This Original Application having been heard on 11.07.2018, the Tribunal on 18.7.2018 delivered the following:

O R D E R (Oral)

Per: :Mr. E.K. Bharat Bhushan, Administrative Member

Applicants are retired Scientists of Baba Atomic Research Centre (BARC for short). The first applicant entered service on 1.8.1977 as Scientific Officer. At the time of retirement on 31.5.2013, he was holding the position of Head, Technology Development Division. The 2nd applicant entered service on 31.7.1976 and was promoted to Scientific Officer H with effect from 1.8.2011. At the time of retirement he was holding the post of Head, Radiopharmaceuticals Division.

2. The relief sought in the Original Application is as follows:-

“(I) Direct the respondents 1 & 2 to extend the benefit of Annexure A-4 judgment to the applicants

(II) Declare that similarly situated persons to the petitioners in Annexure A-4 judgment, applicants in Annexure A6 and A9 orders are also entitled for the benefits of Annexure A-4 judgment as well as Annexure A6 and A9 orders.

(III) Direct the respondents 1 & 2 to consider treating the two increments granted as per Annexure A1 to be treated as pay towards payment of DA, HRA, pension and pensionary benefits, including for pay fixation to Scientific Officer H.

(IV) Direct the respondents 1 & 2 to take into account the special pay of Rs.4000/- granted on promotion to Scientific

Officer H+ for pension and pensionary benefits including for pay fixation to Scientific Officer OS.

(V) Any other further relief or order as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice.

3. Heard Shri.Vishnu S Chempazhanthiyil who appeared for the applicants and Shri.N.Anilkumar,Sr.PCGC(R) who appeared on behalf of the respondents and perused the records.

4. It was submitted by the respondents' counsel and confirmed by the learned counsel for the applicants that the first three reliefs have been granted to the applicants and only the fourth relief sought for, i.e; the demand to take into account the special pay of Rs.4000/- granted on promotion to Scientific Officer H+ for pension and pensionary benefits including for pay fixation on elevation as Scientific Officer OS, alone remained.

5. While the case was heard on 16.5.2018, it was brought to the notice of this Tribunal that the orders of the Principal Bench at Annexure A-9 had been challenged before the Hon'ble Supreme Court of India and the SLP on the subject is still pending. The respondents were directed to file a statement indicating the current stage of the SLP pending before the Apex Court. In the statement filed by the respondents on 12.6.2018 in response to this direction, following is submitted:

“ 7. It is also submitted that the Department of Atomic Energy vide ID Note No.6/3/2014-SCS/Vol.III/8975 dated 11.7.2016 had informed that

Atomic Energy Retiree Welfare Association (AERWA) had filed O.A No.3789/2013 before Hon'ble CAT, Principal Bench, New Delhi which had passed order dated 30.10.2014 to count the Special Pay of Rs.2000/- and Rs.4000/- as pay for pension and pensionary benefits. As opined by the Ministry of Law and Justice, the Order dated 30.10.2014 passed by the Hon'ble Principal Bench was challenged by way of two SLPs filed before the Hon'ble Supreme Court being SLP (Civil) CC No.3452/2016 in OA No.3789/2013 and SLP (Civil) CC No.3017/2016 in O.A No.1003/2014. ”

6. Facts being so, the orders of the Principal Bench of this Tribunal at Annexure A-9 is to be implemented by the respondents without further loss of time. Thus the respondents are directed to extend the benefits of enhanced Special Pay of Rs.4000/- (50% for pensionary purpose) to the applicants as has been stipulated as per the CCS (Pay) Rules, 2008 w.e.f 1.1.2006 and consequently their pension is to be revised by taking full pension (50%) which is granted upon 20 years of completed service for post 2006 retirees and bring them at par with the post 2006 retirees with prospective effect of 1.1.2006. Needless to add that this direction will be subject to the outcome of the SLP pending before the Hon'ble Supreme Court of India.

7. The Original Application is disposed of as above. No costs.

**(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER**

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List of Annexures

Annexure A-1 - True copy of the O.M No.1/2/99-SCS/113 dated 3.2.1999 issued by the Department of Space

Annexure A-2 - True copy of the judgment dated 14.5.2003 in O.A No.1153/2002 of the Principal Bench of the CAT, New Delhi

Annexure A-3 - True copy of the O.M No.2/10(8)/98-I dated 11.7.2003 issued by the Department of Space

Annexure A-4 - True copy of the judgment in W.P.(C) Nos.29358, 29710 and 31525 of 2004 of the Hon'ble High Court of Kerala

Annexure A-5 - True copy of the order dated 4.4.2011 in SLP(C) No.555-560/2008 of the Hon'ble Supreme Court

Annexure A-6 - True copy of the order dated 31.7.2015 in O.A No.915/2013 of this Tribunal

Annexure A-7 - True copy of the order dated 20.11.2014 in O.A No.288/2013 of the Hon'ble Central Administrative Tribunal, Hyderabad Bench, Hyderabad

Annexure A-8 - True copy of the order dated 20.11.2014 in O.A No.393/2013 of the Hon'ble Central Administrative Tribunal, Hyderabad Bench, Hyderabad.

Annexure A-9 - True copy of the order in O.A No.2461/2012 of the Principal Bench of the CAT, New Delhi

Annexure A-10 - True copy of the representation dated 11.3.2016 issued by the 1st applicant to the 1st respondent

Annexure A-10(a) - True copy of the representation dated 11.3.2016 issued by the 2nd applicant to the 1st respondent.

Annexure A-11 - True copy of the O.M No.4/4/2011-SCS/Vol.III/7809 dated 13.6.2017 issued by the Department of Atomic Energy

Annexure R-1 - True copy of the O.M No.1/2/99-SCS/113 dated 3.2.1999

Annexure R-2 - True copy of the O.M No.1/2/99-SCS/436 dated 4.6.1999

Annexure R-3 - True copy of the O.M No.1/2/99-SCS/903 dated

29.10.2001

Annexure R-4 - True copy of the O.M No.1/2/99-SCS/864 dated 20.11.2002

Annexure R-5 - True copy of the O.M No.1/2/99-SCS/Vol.II/4658 dated 13.7.2004

Annexure R-6 - True copy of the O.M No.32/1(19)/2008-SCS/262(R) dated 13.10.2008

Annexure R-7 - True copy of the O.M No.2/1(3)/2010-SCS/6947 dated 26.7.2010

Annexure R-8 - True copy of the ID Note No.6/3/2014-SCS/Vol.III/8975 dated 11.7.2016

Annexure R-9 - True copy of the ID Note No.6/4/2017-SCS/6668 dated 18.5.2017

Annexure R-10 - True copy of the O.M No.1/7/2014-SCS/9540 dated 17.7.2017

Annexure R-11 - True copy of the case status downloaded from the website of the Hon'ble Supreme Court.

Annexure R-12 - True copy of the O.M No.4/4/2011-SCS/Vol.III/7809 dated 13.6.2017

Annexure R-13 - True copy of the O.M No.4/4/2011-SCS/Vol.III/7809 dated 13.6.2017

Annexure R-14 - Statement showing the details of the amount released to the applicants towards Dearness Allowance and House Rent Allowance

Annexure R-15 - True copy of the ID Note No.6/3/2014-SCS/Vol.III/8975 dated 11.7.2016

Annexure R-16 - True copy of the ID Note No.6/4/2017-SCS/6668 dated 18.5.2017

Annexure R-17 - True copy of the O.M No.1/7/2014-SCS/9540 dated 17.7.2017

Annexure R-18 - True copy of the case status downloaded from the website of the Hon'ble Supreme Court.

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