

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00766/2016

Wednesday, this the 11th day of April, 2018

CORAM:

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

1. E. Sreekanth, TGT Music, Jawahar Navodaya Vidyalaya, Lakkidi PO, Vythiri, Wayanad – 673 576, Residing at Jawahar Navodaya Vidyalaya Quarters, Lakkidi PO, Vythiri, Wayanad – 673 576.
2. M. Ravi, TGT Art, Jawahar Navodaya Vidyalaya, Lakkidi PO, Vythiri, Wayanad – 673 576, Residing at Jawahar Navodaya Vidyalaya Quarters, Lakkidi PO, Vythiri, Wayanad – 673 576.
3. Shibulal P.N., TGT Mathematics, Jawahar Navodaya Vidyalaya, Lakkidi PO, Vythiri, Wayanad – 673 576, Residing at Jawahar Navodaya Vidyalaya Quarters, Lakkidi PO, Vythiri, Wayanad – 673 576.
4. Ajith K., TGT Hindi, Jawahar Navodaya Vidyalaya, O.K .Muri PO, Malappuram – 679 519, Residing at Jawahar Navodaya Vidyalaya Quarters, Malappuram – 676 519.
5. Vineetha M., TGT Hindi, Jawahar Navodaya Vidyalaya, Palayadnada PO, Vadakara, Kozhikode-673 521, Residing at Mayookham, Pinarayi, Thalassery-670 741.
6. Sasidharan K.V., TGT Malayalam, Jawahar Navodaya Vidyalaya, Palayadnada PO, Vadakara, Kozhikode – 673 521, Residing at Mukkunnu, Kuppam PO, Taliparamba Via, Kannur – 670 502.
7. Suresh K.C., TGT Science, Jawahar Navodaya Vidyalaya, Palayadnada PO, Vadakara, Kozhikode – 673 521, Residing at Jawahar Navodaya Vidyalaya Quarters, Palayadnada PO, Vadakara, Kozhikode – 673 521.
8. Babu Thumboli, TGT Hindi, TGT Hindi, Jawahar Navodaya Vidyalaya, Pandakkal PO, Mahe – 673 310, Residing at Sooryodayam, Chambed, Pathiriyad PO, Pinarayi (via),

Kannur – 670 741.

9. Smitha T., PET, Jawahar Navodaya Vidyalaya, Chendayad PO, Panoor, Kannur – 670 692, Residing at Chandanappurath House, Kolakkattuchali PO, Chelambra, Malappuram – 673 634.
10. Biju X.S., TGT English, Jawahar Navodaya Vidyalaya, Chendayad PO, Panoor, Kannur – 670 692, Residing at Jawahar Navodaya Vidyalaya Quarters, Chendayad PO, Panoor, Kannur – 670 692.
11. Anupama P., Arts Teacher, Jawahar Navodaya Vidyalaya, Chendayad PO, Panoor, Kannur – 670 692, Residing at Jawahar Navodaya Vidyalaya Quarters, Chendayad PO, Panoor, Kannur – 670 692.
12. Sreelekha K., TGT Mathematics, Jawahar Navodaya Vidyalaya, Vadavathoor PO, Kottayam, Kerala 686 010, Residing at Jawahar Navodaya Vidyalaya Quarters, Vadavathoor PO, Kottayam, Kerala – 686 010.
13. Sarala M.I., TGT Science, Jawahar Navodaya Vidyalaya, Chettachal PO, Vithura, Thiruvananthapuram – 695 551, Residing at Jawahar Navodaya Vidyalaya Quarters, Chettachal PO, Vithura, Thiruvananthapuram – 695 551.
14. Rajeev Kumar, TGT Malayalam, Jawahar Navodaya Vidyalaya, Chendayad PO, Panoor, Kannur – 670 692, Residing at Jawahar Navodaya vidyalaya Quarters, Chendayad PO, Panoor, Kannur – 670 692.
15. Suby Mathew, TGT Mathemattics, Jawahar Navodaya Vidyalaya, Chettachal PO, Vithura, Thiruvananthapuram – 695 551, Residing at Punnamoottil House, Kumplampoika PO, Pathanamthitta – 689 661.
16. Smitha K.S., TGT English, Jawahar Navodaya Vidyalaya, O.K. Muri PO, Malappuram – 676 519, Residing at Jawahar Navodaya Vidyalaya Quarters, O.K. Muri PO, Malappuram – 676 519.
17. Binoy Jose, Librarian, Jawahar Navodaya Vidyalaya, Minicoy PO, Lakshadweep – 682 559, Residing at Vakathanathu House, Kozha PO, Kottayam – 686 633.
18. Shindu M.P., Librarian, Jawahar Navodaya Vidyalaya, Lakkidi PO, Vythiri, Wayanad – 673 576, Residing at Jawahar Navodaya Vidyalaya Quarters, Lakkidi PO, Vythiri,

Wayanad – 673 576.

19. Askarali K.M., TGT Science, Jawahar Navodaya Vidyalaya, Lakkidi PO, Vythiri, Wayanad – 673 576, Residing at Jawahar Navodaya Vidyalaya Quarters, Lakkidi PO, Vythiri, Wayanad – 673 576. **Applicants**

(By Advocate : Mr. Vishnu S. Chempazhanthiyil)

V e r s u s

1. Union of India, represented by its Secretary, Ministry of Human Resources & Development, Shastri Bhawan, New Delhi – 110 001.
2. The Commissioner, Navodaya Vidyalaya Samiti, Department of School Education & Literacy, Government of India, B15, Institutional Area, Sector 62, Noida, Budh Nagar, Uttar Pradesh – 201 309.
3. The Deputy Commissioner (Pers.), Navodaya Vidyalaya Samiti (Hyderabad Region), Ministry of Human Resource & Development, 1-1-10/3, Sardar Patel Road, Secunderabad-500 003. **Respondents**

[By Advocates : Mr. K.C. Muraleedharan, ACGSC (R1) & Mr. Millu Dandapani (R2&3)]

This application having been heard on 22.02.2018, the Tribunal on 11.04.2018 delivered the following:

ORDER

Hon'ble Mr. U. Sarathchandran, Judicial Member -

Applicants 19 in number have approached this Tribunal being aggrieved by the non-fixation of their pay under Rule 7 of Central Civil Service (Revised Pay) Rules, 2008 [for short CCS (RP) Rules, 2008] in respect of the categories who were drawing pay in Rs. 5,000-8,000/-, 5,500-9,000/- and 6,500-10,500/- which were merged into the scale of Rs. 7,450-11,500/- and were being granted replacement scale in PB-2 Rs. 9,300-

34,800/- with Grade Pay of Rs. 4,600/-. The applicants are Trained Graduate Teachers/Physical Education Teachers and Librarians. They point out that they are drawing lesser pay than those who were directly recruited after 1.1.2006, the date on which the CCS (RP) Rules, 2008 came into effect.

2. The applicants state that they were recruited in the Navodaya Vidyalaya School as teaching staff prior to 1.1.2006. As per the CCS (RP) Rules, 2008 the entry pay of direct recruit appointees on or after 1.1.2006 in PB-2 Rs. 9,300-34,800/- with Grade Pay of Rs. 4,600/- was notified as Rs. 17,140/- i.e. Rs. 12,540/- (pay in the pay band) + Rs. 4,600/- Grade Pay. As per the CCS (RP) Rules, 2008 the applicants graduate teachers who were in the scale of Rs. 5,500-9,000/7,450-11,500/- will be brought to pay band-2 with Grade Pay of Rs. 4,600/-. The VIth CPC recommendations were adopted by the Navodaya Vidyalaya Samiti (NVS, for short). Applicants further state that Rule 7 of CCS (RP) Rules, 2008 provides that pay in the pay band will be determined by multiplying the existing basic pay as on 1.1.2006 by the multiplying factor of 1.86 and rounding of the resultant figure to the next multiple of ten. However, the pay of the applicants were fixed at a rate of Rs. $6,200 \times 1.86 = \text{Rs. } 11,540 + 4,600 = \text{Rs. } 16,140/-$ which is less than the minimum pay scale of a TGT i.e. Rs. $12,550 + 4,600 = \text{Rs. } 17,140/-$. Going by the provisions of CCS (RP) Rules, 2008 the pay of the applicants should have been taken as Rs. 7,450/- as basic pay as on 1.1.2006 and then multiplying by the factor of 1.86 and the pay arrived at would be Rs. $7,450 \times 1.86 = \text{Rs. } 13,860/- + \text{GP Rs. } 4,600 = \text{Rs. } 18,460/-$. If the pay is

fixed as per paragraph 7.1A(ii) of Annexure A1 then the pay should have been fixed at the minimum of the pay scale i.e. Rs. 12,540/- and the applicants pay ought to have been fixed at Rs. 12,540+4,600=Rs. 17,140/-. The applicants state that the Principal Bench and the Chandigarh Bench of this Tribunal had dealt with the issue vide Annexures A2 and A3 orders and has held that the applicants therein are entitled to pay scale of Rs. 12,540+Rs. 4,600/- Grade Pay = Rs. 17,140/- as has been granted to a new entrant as TGT on 1.1.2006. In a similar situation this Tribunal had also held in Annexure A7 order that the applicants therein are to be extended with the similar benefits payable to juniors who were appointed after 1.1.2006. The applicants submit that vide Annexure A8 judgment the High Court of Patna also had taken a similar view. Applicants have produced Annexure A12 order of the Bangalore Bench of this Tribunal dated 21.6.2017 in OA No. 143 of 2017 of that Bench, Annexure A13 order dated 4.4.2016 in OA No. 3217 of 2014 of Principal Bench and Annexure A14 order of the apex court in SLP with diary No. 23663/2017 (arising out of the judgments of Delhi High Court dated 23.3.2017 in WP No. 2634 of 2017) dismissing the SLP. Applicants have produced Annexure A15 order dated 1.2.2018 of the respondents NVS stepping up the pay of the applicants in OA No. 162 of 2017 and connected cases of the Bangalore Bench of this Tribunal, with the pay of the juniors of the same cadre recruited on or after 1.1.2006, revising from 1.1.2006.

3. Respondents filed a reply statement contending that the applicants cannot claim stepping up of their revised basic pay with regard to the entry

pay in revised pay structure for the direct recruits appointed on 1.1.2006. It is further stated by the respondents that applicants Nos. 2, 11 & 19 are not entitled to such stepping up of pay. According to the respondents the grievance of the applicants in this OA have been once settled and their claim for further stepping up of pay already stepped up based on the pay of their juniors cannot be granted again and the same is unjustified.

4. We have heard Shri Vishnu S. Chempazhanthiyil, learned counsel for the applicants, Shri Millu Dandapani, learned counsel for respondents Nos. 2 & 3 and learned ACGSC for respondent No. 1. Applicants have filed a hearing note also. We have perused the record.

5. At the outset of his arguments learned counsel for the applicants submitted that they are not pressing relief No. 2 which is based on the fixation using multiplying factor 1.86 with Rs. 7,450/- (existing pay) as on 1.1.2006 plus Grade Pay of Rs. 4,600/- = Rs. 18,460/-. The counsel submitted that the applicants would instead be satisfied if an order is given directing the respondents to fix the pay at Rs. 12,540/- with Grade Pay of Rs. 4,600/- which would come to Rs. 17,140/-, with effect from 1.1.2006, in the light of the order passed by this Tribunal in Annexures A2 and A3 orders of the coordinate bench of this Tribunal. Referring to Annexure A9 order of the Bangalore Bench of this Tribunal which was pronounced on 21.6.2017 Shri Vishnu S. Chempazhanthiyil pointed out that the said order was implemented by the respondents NVS in respect of the applicants in the said case and connected case vide Annexure A15 order dated 1.2.2018.

Therefore, he submitted that an order similar to Annexure A9 can be passed in this case as well.

6. After hearing both sides we feel that, in order to maintain uniformity of the decisions of the various Benches of this Tribunal, we are bound to follow the decisions rendered by the co-ordinate Benches in identical cases. It has been brought to our attention that the Principal Bench of this Tribunal has passed a similar order in OA No. 825 of 2016 and connected cases on 5.1.2018 directing to refix the pay of the applicants therein at the minimum prescribed in CCS (Revised Pay) Rules, 2008 for the respective posts vis-a-vis the pay fixed for an entrant who joined on or after 1.1.2006 with all consequential benefits.

7. In the above circumstances we direct the respondents to fix the pay of the applicants at Rs. 12,540/- and thereafter add Grade Pay of Rs. 4,600/- with effect from 1.1.2006 and to regulate payments accordingly with all consequential benefits. The respondents shall complete this exercise within three months from the date of receipt of a copy of this order.

8. The Original Application is disposed of as above. Parties shall suffer their own costs.

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

(U. SARATHCHANDRAN)
JUDICIAL MEMBER

“SA”

Original Application No. 180/00766/2016

APPLICANT'S ANNEXURES

- Annexure A1** - True copy of the relevant portion of the CCS (RP) Rules, 2008.
- Annexure A2** - True copy of the order dated 7.5.2014 in OA No. 3679/2012 of the Hon'ble Central Administrative Tribunal, Delhi.
- Annexure A3** - True copy of the order dated 21.11.2014 in OA No. 1162/HR/2013 of the Chandigarh Bench of the Central Administrative Tribunal.
- Annexure A3(a)** - True copy of the order in OA No. 1163/HR/2013 of the Chandigarh Bench of the Central Administrative Tribunal.
- Annexure A4** - True copy of the order No. F.92-15(46)/NVS-JR/RF/OP/TGT.S.St. Dated 4.9.2015 issued by the NVS.
- Annexure A5** - True copy of the representation submitted by the 1st applicant to the 3rd respondent.
- Annexure A5(a)** - True copy of the representation submitted by the 2nd applicant to the 3rd respondent.
- Annexure A5(b)** - True copy of the representation submitted by the 3rd applicant to the 3rd respondent.
- Annexure A6** - True copy of the communication No. 1-171/NVS(HR)/(Estt.II)/2015/Pay Anomaly/3762 dated 30.12.2015 issued by the 3rd respondent to applicants 1, 2 & 3.
- Annexure A6(a)** - True copy of the communication No. 1-171/NVS(HR)/(Estt.II)/2015/Pay Anomaly/3836 dated 4.1.2016 issued by the 3rd respondent to applicants 5, 6 & 7.
- Annexure A6(b)** - True copy of the communication No. 1-171/NVS(HR)/(Estt.II)/2015/Pay Anomaly/4714 dated 7.3.2016 issued by the 3rd respondent to applicants 15 & 17.
- Annexure A7** - True copy of the order dated 7.3.2013 in OA No. 840/2011 of Central Administrative Tribunal, Ernakulam Bench.

- Annexure A8** - True copy of the order dated 7.12.2015 in Civil Writ Jurisdiction Case No. 12641/2013 of the Hon'ble High Court of Judicature at Patna.
- Annexure A9** - True copy of the order dated 21.6.2017 in OA No. 170/00143/2017 of the Bangalore Bench of the Tribunal.
- Annexure A10** - True copy of the order dated 27.10.2016 in OA No. 060/00008/2016 of the Hon'ble Chandigarh Bench of the Tribunal.
- Annexure A11** - True copy of the order dated 14.2.2017 in OA No. 846/2013 of the Hon'ble Principal Bench, New Delhi.
- Annexure A12** - True copy of the order dated 29.6.2017 in OA No. 170/00143/2017 Bangalore Bench of the Tribunal.
- Annexure A13** - True copy of the order dated 4.4.2016 in OA No. 3217/2014 of the Principal Bench of the Tribunal.
- Annexure A14** - True copy of the order dated 1.9.2017 in Diary No. 23663 of 2017 Hon'ble Supreme Court.
- Annexure A15** - True copy of the office order No. F. No. 1-171/NVS(HR)/(Estt.II)/2017/3752, dated 1.2.2018 issued by the Deputy Commissioner, NVS.

RESPONDENTS' ANNEXURES

- Annexure R2(a)** - True copy of the circular No. F. No. 20-1/2008-NVS (Admn)/312, dated 26.3.2009.
- Annexure R2(b)** - True copy of the Section II of Part A of first Schedule of the CCS (RP0 Rules, 2008).
- Annexure R2(c)** - True copy of the letter F. No. 2-95/99/NVS(Estt.), dated 8.6.2004.
- Annexure R2(d)** - True copy of the office order F. No. 1-171/NVS(HR)/2010/Pay Anomaly, dated 19.11.2010.
- Annexure R2(e)** - True copy of the office order F. No. 1-171/NVS(HR)/2010/Pay Anomaly, dated 30.11.2011.
- Annexure R2(f)** - True copy of the office order F. No. 1-171/NVS(HR)/2010/Pay Anomaly, dated 4.10.2012.

-X-X-X-X-X-X-X-X-X-X-X-X-