

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
ORIGINAL APPLICATION NO. 180/00176/2015

Monday, this the 19th day of November, 2018

CORAM

HON'BLE MR.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE MR.ASHISH KALIA, JUDICIAL MEMBER

Abdul Salam.M

employed as Sr.Project Assistant (Staff code No.10090)

MVIT- ELIX Stores, Valiamala, ISRO P.O

Thiruvananthapuram – 695547

... **Applicant**

[By Advocate Mr.R.S.Kalkura]

V.

1. Union of India represented by
the Secretary, Department of Space
Antariksh Bhavan, New Bel Road
Bengaluru – 560231

2. Vikram Sarabhai Space Centre, represented
by Director, VSSC, ISRO P.O
Thiruvananthapuram – 695022

... **Respondents**

(By Advocate Mr.N.Anilkumar,SCGSC)

This application having been finally heard on 13.11.2018, the Tribunal on 19.11.2018 delivered the following in the open court.

ORDER

***Per:* MR.ASHISH KALIA, JUDICIAL MEMBER**

The reliefs sought by the applicants in the Original Application are as follows:

“(i) Call for the records relating to the issuance of Annexure A14 and 17 and quash the same as the same is passed without application of mind or giving an opportunity of hearing to the applicant.

(ii) Declare that the respondents are liable to consider the applicants' basic pay as per terms of Promotion Order dated 19.9.2005, Office Memorandum dated 13.9.2008 and Office Memorandum dated 19.3.2012 and 3.1.2013 for the purpose of fixation of pay under the 6th Central Pay Commission and to grant all further benefits there under.

(iii) Award costs of and incidental to this application.”

2. The brief facts of the case are as under:

Applicant had joined the service on 8.7.1975 as Office Clerk A. He got promotion on 1.9.2005 as Project Assistant in the pay scale of Rs.6500-200-10,500 (before the implementation of 6th CPC). Before getting promotion applicant's basic pay was Rs.7425/- in the pay scale of Rs.5500-175-9000. Applicant's basic pay was fixed as Rs.7700/- from the promotion date i.e; on 1.9.2005. While getting this promotion applicant's next annual increment date (pre-revised) was on 1.2.2006 and hence applicant had given option to fix his pay from the increment date in terms of clause FR-22(1)(a)(1) and consequently applicant's basic pay was fixed as per promotion office order as Rs.7500 (7425 + 75) from the promotion date i.e; on 1.9.2005 and Rs.7900 (7500+200+200) from the increment date on 1.2.2006 by fixing two increments that is one for annual increment and the other for promotional benefit, a copy of which is available at Annexure A-1. This was the system followed till the declaration of the 6th CPC. After the implementation of the 6th CPC, the annual increment date revised uniformly and fixed on 1st July of every year and hence the 1st annual increment date was fixed on 1.7.2006 (Annexure A-2). As per the 6th CPC

terms, the applicant's pay was revised and fixed initially on the basic pay of Rs.7500/- drawn on 1.1.2006 and the 1st increment date was fixed on 1.7.2006 (Annexure A-3). Thereafter, as per the 2nd option applicant's revised pay was fixed based on the basic pay of Rs.7900 from 1.2.2006 and the 1st annual increment was fixed after 17 months that is on 1.7.2007 (Annexure A-4). Applicant had given the 3rd option and a representation to remove the anomalies. As he was incurring a loss of one increment of Es.200/- (pre-revised) and till now applicant is getting salary only as per this fixation. He made several representations. Annexure A-14 was passed by the respondents rejecting the contention of the applicant. Applicant had sent yet another representation vide Annexure A-15. As the applicant was advised to approach his Administrative Officer for redressal of his grievance, applicant once again submitted Annexure A-16 representation. Same was also turned down vide Annexure A-17. Ultimately he has approached this Tribunal for redressal of his grievances.

3. Notices were issued to the respondents. They have entered appearance and filed reply statement. It is contended by the respondents that consequent on the implementation of the recommendations of the VI Central Pay Commission, the pay of the Central Government employees was revised with effect from 1.1.2006. Based on the 6th CPC recommendations, the Government vide OM

dated 13.9.2008 declared uniform date of increment viz, 1st July every year and inter alia clarified the regulation of date of next increment and the method of fixation of pay on promotion on or after 1.1.2006. Regarding increment, it was clarified that Government servants completing 6 months and above in the revised pay structure as on 1st of July will be eligible to be granted the increment. Accordingly, all Government servants who earned their last increment between 2.1.2005 and 1.1.2006 would get their next increment on 1.7.2006. Also, for those employees whose date of next increment falls on 1.1.2006, would also get their next increment on 1.7.2006. Regarding fixation of pay on promotion after 1.1.2006, a government servant has an option under FR 22(I)(a)(1) to get his pay fixed in the higher post either from the date of his promotion, or from the date of his next increment, i.e, 1st July of the year. In case the government servant opts to get his pay fixed in the higher grade from the date of his promotion, he shall get his first increment in the higher grade on the next 1st July if he was promoted between 2nd July and 1st January. However, if the employee was promoted between 2nd January and 30th June of a particular year, he shall get his increment on 1st July of next year.

4. Respondents submit that as per proviso to Rule 5 of CCS (RP) Rules, 2008, a government servant may elect to continue to draw pay in the existing scale until the date on which he earns his next or any subsequent increment in

the existing scale, or until he vacates his post, or ceases to draw pay in that scale. Consequent to the implementation of the 6th CPC, the applicant vide option dated 19.9.2008, has requested to revise his pay w.e.f 1.1.2006 (Annexure R1(a). Accordingly vide Annexure A-3 statement, his pay was revised at Rs.18,750/- with effect from 1.1.2006 with date of next increment on 1.7.2006 raising his pay to Rs.19,320/-. Subsequently, 2nd respondent issued a circular (Annexure R-1(b)) intimating the method of pay fixation in the revised pay structure followed in respect of those employees who were promoted on or after 1.1.2006. It was also informed that since large number of employees had represented regarding loss of pay, the matter was taken up with the Department of Space for detailed examination and review. After examining the issue in detail, it is clarified that in case of any of the employees exercise option to switch over to the revised pay structure, on or after 1.1.2006 on account of increment, subsequent increment, promotion etc, under first and second proviso to Rule 5 of the CCS (RP) Rules, 2008, their pay on any of such events may be regulated in the following sequence:

- i. Drawal of annual increment in the pre-revised scale, if admissible.
- ii. Pay fixation in the promoted post in the pre-revised scale; and
- iii. Move over to the revised pay structure with reference to the fitment tables annexed to Ministry of Finance O.M dated 30.8.2008, based on the pay fixed after promotion in the pre-revised scale.

5. It is submitted by the respondents that based on Annexure R1(b) circular, applicant exercised his revised option for fixation of pay on promotion electing to continue on the pre-revised scale of pay until the date of his subsequent increment I.e, on 1.2.2006. Accordingly his basic pay was fixed at Rs.7,700/- (pre-revised) with effect from 1.9.2005 in the scale of pay of Rs.6500-200-10500/- and revised to Rs.19,500/- with effect from 1.2.2006 in the revised scale. Accordingly, his basic pay was fixed at Rs.7,700/- (pre-revised) with effect from 1.9.2005 in the scale of pay of Rs.6500-200-10500 and revised to Rs.19,500/- with effect from 1.2.2006 in the revised scale. Subsequently, based on Annexure A-9 clarificatory O.M, applicant vide letter dated 23.3.2009 exercised his revised option to fix his pay on promotion in the higher post on the basis of FR 22(I)(a)(1) without any further review on accrual of increment in the pay scale of the lower post. Accordingly, his pay was fixed at Rs.7,700/- in the pre-revised scale with effect from 1.9.2005 and subsequently, revised to Rs.19,130/- with effect from 1.1.2006 with date of next increment on 1.7.2006 raising his pay to Rs.19,710/-. Respondents contended that the most beneficial fixation was granted to him vide Annexure A-5 and Annexure A-12 O.M was not applicable to the applicant since he was not due to get his annual increment between February to June 2006. Thus the option exercised by him as per Annexure R1(e) option would be final and the pay fixed as per Annexure A-5 O.M would be more beneficial to the applicant. Respondents pray for

dismissing the Original Application.

6. Rejoinder thereto has been filed by the applicant denying the submissions made in the reply statement and reiterated the averments made in the O.A.

7. Two additional reply statements have been filed by the respondents denying the contentions of the applicant.

8. Heard Mrs.Neena Pavithran representing Mr.R.S.Kalkura, learned counsel for the applicant and Mr.N.Anilkumar,SCGSC, learned counsel for the respondents at length and perused the records.

9. Learned counsel for the applicant relied upon Annexure A-11 O.M dated 19.3.2012 and submitted that the applicant's increment date should have been fixed on 1.1.2006 instead of 1st July. Para 3 of the same reads thus:

“ 3. On further consideration and in exercise of the powers available under CCS(RP) Rules, 2008, the President is pleased to decide that in relaxation of stipulation under Rule 10 of these Rules, those Central Government employees who were due to get their annual increment between February to June during 2006 may be granted one increment on 1.1.2006 in the pre-revised pay scale as a one time measure and thereafter will get the next increment in the revised pay structure on 1.7.2006 as per rule 10 of CCS (RP) Rules, 2008. The pay of the eligible employees may be re-fixed accordingly. ”

10. On the contrary standing counsel has drawn our attention to the option given by the applicant whereby vide Annexure R1(f), applicant has given option

for the next date of increment is 1.2.2007 and submitted that the next increment of the applicant will be fixed only on 1st July of the next year i.e, 2007. Learned counsel for the respondents also drawn our attention to the circular issued by the Ministry of Finance, Department of Expenditure on 13.9.2008. It states as follows:

Clarification 1: The date of next increment

(i) As per Rule 10 of CCS (RP) Rules, 2008 there will be one uniform date of annual increment, viz. 1st July of every year. Government servants completing 6 months and above in the revised pay structure as on 1st of July will be eligible to be granted the increment. Accordingly, all government servants who earned their last increment between 2.1.2005 and 1.1.2006 would get their next increment on 1.7.2006

(ii) For those employees whose date of next increment falls on 1.1.2006, the instructions already provide for granting an increment in the pre-revised pay scale as on 1.1.2006 and then fixing their pay in the revised pay scales. Such government servants would also get their next increment on 1.7.2006.

Clarification 2: The method of fixation of pay on promotion after 1.1.2006

On promotion from one grade to another/financial upgradation under ACP, a Government servant has an option under FR 22(I)(a)(1) to get his pay fixed in the higher post either from the date of his promotion, or from date of his next increment, viz, 1st July of the year. The pay will be fixed in the following manner in the revised pay structure:-

a) In case the Government servant opts to get his pay fixed from his date of next increment, then, on the date of promotion, pay in the pay band shall continue unchanged, but the grade pay of the higher post will be granted. Further re-fixation will be done on the date of his next increment i.e, 1st July. On that day, he will be granted two increments; one annual increment and the second on account of promotion. While computing these two increments, basic pay prior to the date of promotion shall be

taken into account. To illustrate, if the basic pay prior to the date of promotion was Rs.100, first increment would be computed on Rs.100 and the second on Rs.103.

b) In case the Government servant opts to get his pay fixed in the higher grade from the date of his promotion, he shall get his first increment in the higher grade on the next 1st July if he was promoted between 2nd July and 1st January. However if he was promoted between 2nd Jan and 30th June or a particular year, he shall get his increment on 1st July of next year.

11. Learned counsel for the respondents also put stress that applicant's pay was fixed in accordance with the circular and the option given by the applicant.

12. We have considered the matter carefully. We do not find any irregularity on the part of the respondents for fixing increments nor the applicant has cited any other case where they would have granted and the applicant has been discriminated.

13. In view of the facts and circumstances of this case and the legal position emerges, there is no merit on the side of the applicant. Hence, the Original Application fails and is liable to be dismissed. We order so. There shall be no order as to costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

List of Annexures

Annexure A1	- True copy of the office order dated 19.9.2005
Annexure A2	- True copy of the office memorandum dated 30.8.2008
Annexure A3 - 22.9.2008	True copy of the statement of fixation of pay of the applicant dated
Annexure A4 - dated 8.4.2009	True copy of the statement of fixation of pay of the applicant
Annexure A5 - dated 1.6.2009	True copy of the statement of fixation of pay of the applicant
Annexure A6 -	True copy of the office order dated 27.8.2012
Annexure A7 -	True copy of the office memorandum dated 13.9.2008
Annexure A7(a)	True copy of the office memorandum dated 18.9.2008
Annexure A8 -	True copy of the office memorandum dated 24.9.2008
Annexure A9 -	True copy of the office memorandum dated 29.1.2009
Annexure A10 -	True copy of the circular dated 28.1.2013
Annexure A11 -	True copy of the office memorandum dated 19.3.2012
Annexure A12 -	True copy of the office memorandum dated 3.1.2013
Annexure A13 -	True copy of the representation dated 13.5.2013
Annexure A14 -	True copy of the memorandum dated 2.7.2013
Annexure A 15 -	True copy of the representation dated 17.7.2013
Annexure A16 -	True copy of the representation dated 4.8.2014
Annexure A17 -	True copy of the memorandum dated 17.9.2014
Annexure R1(a)	True copy of the option dated 19.9.2008 exercised by the applicant
Annexure R1(b)	True copy of the circular No.HPGA/VSSC/3.8/09 dated 20.2.2009
Annexure R1(c)	True copy of the option dated 4.3.2009 exercised by the applicant

Annexure R1(d)	True copy of the circular dated 13.3.2009
Annexure R1(e)	True copy of the option dated 23.3.2009 submitted by the applicant
Annexure A18 - the applicant	True copy of letter dated 1.12.1980 issued by Dr.APJ Abdul Kalam to the applicant
Annexure A19 - applicant's	True copy of the certificate issued by the Direction ILVT, VSSC to the applicant's
Annexure A20 - applicant dated 1.7.1996	True copy of the certificate issued by LVIC Group Director to the applicant dated 1.7.1996
Annexure A21 - the applicant	True copy of letter dated 20.5.2015 issued by Chief Controller, VSSC to the applicant
Annexure A22 -	True copy of the promotion order dated 19.9.2005
Annexure A23 - 13.9.2008	True copy of the terms of Memorandum No.F.No.1/1/2008-IC dated 13.9.2008
Annexure A24 - clarification of the fixation of pay of the employees who got promotion on or after 1.1.2006	True copy of the Office Memorandum dated 24.9.2008 regarding clarification of the fixation of pay of the employees who got promotion on or after 1.1.2006
Annexure A25 -	True copy of an abstract of the fixation statement dated 22.9.2008
Annexure A26 -	True copy of an abstract of the fixation statement dated 8.4.2009
Annexure A27 -	True copy of an abstract of pay fixation statement dated 1.6.2009
Annexure A28 -	True copy of Pay Slip for the month of August 2008
Annexure A29 -	True copy of an office order No.VSSC/EST/F/25 dated August, 27, 2012
Annexure A30 -	True copy of the 4 th option for fixation of pay on promotion
Annexure A31 & A 32	True copy of office memorandum No.10/02/2011-E.III/A dated 19.3.2012 and dated 3.1.2013 issued by the Ministry of Finance, Government of India regarding the issue of increment in the pre-revised pay scale drawn in between February, 2006 to June, 2006
Annexure A33 - 1.1.2006	True copy of the 5 th option to re-fix pre-revised pay with effect from 1.1.2006
Annexure A34 - by the Administration	True copy of memorandum dated July 02, 2013 given to the applicant by the Administration
Annexure A 35 -	True copy of letter dated 27.3.2014 sent by the Under Secretary(Pay0, DoPT advising the petitioner to approach Administrative Office of the Centre

for the redressal of grievance

Annexure A36- True copy of Memorandum dated September, 17, 2014 sent by the Administration to the applicant

Annexure A37- True copy of question paper with answer issued by NRSC where method of pay fixation has been clearly mentioned

Annexure A 38 - True copy of comparison statement of pay fixation done as per various options

Annexure R1(f) - True copy of the option form submitted by the applicant on 1.9.2005

Annexure R1(g) True copy of the statement showing the fixation of pay considering different options exercised by the applicant at various stages.

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