

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI**

**O.A No.1015/2013**

**Reserved On:06.07.2018  
Pronounced on:03.08.2018**

**Hon'ble Mr. V. Ajay Kumar, Member (J)  
Hon'ble Ms.Nita Chowdhury, Member (A)**

1. Radhe Shyam Singh S/o Ram Dayal Singh,  
R/o 11-4A, Sec-2, Gole Market, New Delhi.
2. Ramesh Kumar Sharma S/o Bhagwan Singh Sharma,  
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3. Albert Tete S/o C.L. Tete,  
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4. Sanjay Kumar S/o B.N. Lal,  
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5. Surendar Singh S/o Ram Ratan,  
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6. Chithra Suresh W/o K.G. Suresh Kumar,  
R/o 46-C, Pkt-6, Mayur Vihar-III ,Delhi
7. Chitra C. W/o Madan Kumar,  
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8. Subharansu Putatunda S/o Shibnath Putantunda,  
R/o F3/121, Sec-2A, Vaishali, Ghaziabad, UP.
9. Pratibha Toppo d/o J. Toppo,  
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10. G. Bhuvaneshwari W/o N. Ganesh,  
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11. Nagender Kumar S/o Bishan Singh Kataria,  
R/o 38, V&PO: Mitraon, New Delhi.

12. Manoj Kumar Sharma S/o K.C. Sharma,  
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13. Dalip Singh S/o Sohan Lal,  
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14. Sanjay Sharma S/o Om Prakash Sharma,  
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15. Jai Bhagwan S/o Braham Singh,  
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16. Ajitha Ravindran S/o M. Ravindran Nair,  
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17. Jayanthi Kannakumar W/o N. Kannakumar,  
R/o RZ-69A, Indra Park, Uttam Nagar, New Delhi.
18. Ajeet Singh Dhariwal S/o Surat Singh,  
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19. Sunil Kumar S/o Nanak Chand,  
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20. Saju Jacob S/o P.I. Jacob,  
R/o 200, Pkt.6/1 Sec-2, Rohini, New Delhi.
21. Sashi Gambhir S/o L.C. Gambhir,  
R/o D-12/64, Sec-8, Rohini, New Delhi.
22. Jagat Roy S/o G.B. Roy,  
R/o 83/3, Sadh Nagar, Part.II, Palam Colony, New Delhi.
23. Sanjay Kumar Jha S/o Nand Kishor Jha,  
544, Laxmi Bai Nagar, New Delhi.
24. Sreelatha A.K. W/o S. Subhash,  
R/o B-2714, Netaji Nagar, New Delhi.
25. Kishor Jairam Wakade S/o Jairam Wakade,

R/o C-2/44 Lodhi Colony, New Delhi.

26. Kavitha Panicker d/o CKK Panicker,  
R/o H-502, Kali Bari Marg, New Delhi.
27. Rachna D/o Anil Kumar,  
R/o 375 Pkt-3, Paschim Vihar, New Delhi
28. Nalini Ramesh D/o Ramesh Kumar,  
R/o 14, Pkt.A Mayur Vihar-III, Delhi.
29. Neelam Mehrotra W/o Shailendra Mehrotra,  
R/o 183, Gagan Vihar (Main), Delhi.
30. Anil Kumar S/o Satya Pal Singh,  
R/o C-40, St.1, Shashi Garden, Mayur Vihar-I, Delhi.
31. Subhash Chander S/o Kitab Singh,  
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32. Pramod Kumar S/o Kehar Singh,  
R/o 135 Satya Niketan, Moti Bagh-II, New Delhi.
33. V.N. Venkataraman S/o V.K. Nagarajan,  
R/o 1/3A, Sector-2, Gole Market, New Delhi.
34. Bijendra Kumar S/o M. Ram,  
R/o S-III/976, R.K. Puram, New Delhi.
35. Yogendra Das S/o J.K. Das,  
R/o D-372 West Binod Nagar, Delhi.
36. Prem Kumar Negi S/o N.S. Negi,  
R/o C-39, Raja Park, Near Devli Road, New Delhi.
37. Kulwant Singh S/o Swarn Singh,  
R/o H-55 Arjun Nagar, New Delhi.
38. Asha B. Phillip w/o Benni K. Philip  
R/o 19-B, Pocket-B, Mayur Vihar-II, Delhi.

39. Gulshan Kumar S/o Shri Thakur Dass,  
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40. Deepa Sriya Bhatnagar, W/o Shri Sanjiv Bhatnagar,  
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41. Manoj K. S/o Shri K.M. Unni,  
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42. Rajesh Jain, S/o Shri S.P. Jain  
R/o B-6/118, Sector-5, Rohini, Delhi.
43. Surat Singh S/o Late Shri Ram Chander,  
R/o D-175, Moti Bagh-I, New Delhi.
44. Bindu Rajagopalan, W/o Shri P. Rajagopalan,  
R/o B-54, Moti Bagh, New Delhi.
45. K.M. Krishnan, S/o Shri K. Kalyan Sundaram,  
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46. D.S. Rawat, S/o Late Shri S.S. Rawat,  
R/o B-2842, Netaji Nagar, New Delhi.
47. V.C. Chamoli, S/o S.M. Chamoli,  
R/o C-283, Sector-22, NOIDA.
48. Harvinder Kaur, d/o Piara Singh,  
R/o C5D/19-C, Janak Puri, New Delhi.
49. Meenakshi Sankar W/o Shri S. Sankara Narayananh,  
R/o 310-B, Pocket-C, Mayur Vihar Phase-II, Delhi – 91.
50. Meena Gopinath W/o Shri T.U. Gopinathan Nair,  
R/o 89-E/ Pocket-A-3, Mayur Vihar Phase-III, Delhi 96.
51. D.K. Karwade S/o T.K. Karwade,  
R/o 10-E, Pocket-B-5, Mayur Vihar-III, Delhi.
52. K. Balasubramanian S/o R. Krishnamurthy

R/o G-2314, Netaji Nagar, New Delhi.

53. Anil Sexana S/o Late Shri M.S. Saxena,  
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54. Sewak Paul S/o Shri S.C. Paul,  
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55. K.S. Rawat S/o Shri B.S. Rawat,  
R/o 1677, Laxmibai Nagar, New Delhi.
56. R.R. Puri S/o R.K. Puri,  
R/o C-9/100, Yamuna Vihar, Delhi – 110053.
57. B.H. Agrawal S/o Shri B.N. Agrawal,  
R/o RZ-24, Jain Colony Part-I, Uttam Nagar, New Delhi.
58. V. U. Joseph S/o Shri Ulahannan  
R/o 15-D/Pocket B-4, Mayur Vihar Phase-3, New Delhi – 96.
59. Harvesh Kumar S/o Shri S.S. Panwar,  
R/o 1253/8, R.K. Puram, New Delhi. – 22.
60. Kishan Lal Meena S/o Shri Ram Niwas,  
R/o RZ-G-26, Dabri Extension, New Delhi.
61. Vijender Singh S/o Shri Bir Singh,  
R/o H.No. 1450, A/13, Govind Puri,  
Kalkaji, New Delhi.
62. Rajesh Abrol S/o Shri Y.K. Abrol,  
R/o A-1/B-36, Janak Puri, New Delhi.
63. Kamal Kant S/o Late Shri Lal Chand,  
R/o B-263, Type-3, Nanakpura, New Delhi – 21.
64. S.K. Sharma S/o Shri Yash Pal Sharma,  
R/o 148, Sec-9, R.K. Puram, New Delhi.
65. B.S.H. Ranga S/o Shri D.R. Ranga,  
R/o Block – II, Q. No. 226, Dev Nagar, New Delhi.

66. S. Balaji S/o Late Shri S. Saranga Pani,  
R/o A1 73F, Mayur Vihar, Phase-III, Delhi – 76.
67. Mary Neelima Minz W/o Shri Ajit Kumar Minz  
R/o 246, Sector – 9, R.K. Puram, New Delhi.
68. Jennifer Tirkey, W/o Shri Aman Tirkey  
R/o 1089, Sector – 8, R.K. Puram, New Delhi.
69. Sreekumar V.V. S/o Shri D. Vasudevan Nampoodari,  
R/o D-138/F-3, Dilshad Colony, Delhi – 95.
70. Asokan D. S/o Shri C.K. Domadaran,  
R/o 226, Sector – 12, R.K. Puram, New Delhi.
71. Hem Chandra Jha S/o Late Shri Baidya Nath Jha,  
R/o 992, Sector – 55, Faridabad – 121004.
72. Dinesh Gharu S/o Late Shri T.L. Gharu,  
R/o House No. 1004, Sector – IV,  
R.K. Puram, New Delhi – 22.
73. Trilok Singh S/o Shri Prem Singh,  
R/o B-130, Moti Bagh-I, New Delhi.
74. Victor Bilung S/o Shri E. Bilung,  
R/o E-1367, Netaji Nagar, New Delhi.
75. Sameer Kumar Munda S/o Shri T.T. Dashrath,  
R/o Qtr. No. 1007, Laxmi Bai Nagar, New Delhi.
76. Chandra Shekhar Bose S/o Shri S.N. Bose,  
R/o 1182/13, 2<sup>nd</sup> Floor, Govind Puri, Kalkaji, New Delhi.
77. Mukesh Kumar S/o Late Shri Shiv Lal,  
R/o C-703, Sarojini Nagar, New Delhi.
78. Anil Kumar Shah S/o Late Shri Bijuli Shah,  
R/o 531, Laxmi Bai Nagar, New Delhi. ...Applicants

(By Advocate: Shri L.R. Khatana)

Versus

1. Union of India  
Through Secretary,  
Department of Personnel & Training,  
Ministry of Personnel, Public Grievances & Pensions,  
South Block, New Delhi-110011.
2. Ministry of Finance,  
Through Finance Secretary,  
South Block, New Delhi-110011. ...Respondents

(By Advocate: Shri Rajinder Nischal)

### **ORDER**

**By Mr. V. Ajay Kumar, Member (J)**

The applicants, 78 in number, and belonged to the Central Secretariat Service (CSS) and promoted to the post of Assistant on various dates on or after 01.01.2006, filed the OA seeking a direction to the respondents to fix their pay at Rs.17,140/-, i.e., on par with an Assistant who was directly recruited, with effect from the respective dates of their promotion to the post of Assistant with all consequential benefits.

2. The applicants also sought for a declaration to the effect that the impugned order/decision and Rule 8 of the CCS(Revised Pay) Rules, 2008, to the extent that it discriminates against the promotees from fixing their pay on par with the directly recruited Assistants, i.e. at Rs.17,140/-, as illegal and arbitrary.

3. It is submitted that all the persons, who are working as Assistants, whether promoted to the said post from the lower categories or directly recruited to the said post, performing the same duties and responsibilities and that no distinction or

differentiation is made between them on the basis of their source of entry at any point of time. In pursuance of the 6<sup>th</sup> CPC recommendations, the CCS (Revised Pay) Rules, 2008, were issued vide Notification GSR 622 (E) dated 29.08.2008 and by virtue of these Rules, the pay of promote Assistants were fixed at lower levels for the first time, whereas the pay of the directly recruited Assistants were fixed at Rs.17,140/-. The pay of the applicants being the promotee Assistants, was fixed at lower levels when compared to the pay of the directly recruited Assistants whose pay was fixed at Rs.17,140/-. When the efforts of the applicants and their Associations to rectify the said anomaly failed, they filed the present OA.

4. Heard Shri L.R. Khatana, the learned counsel for the applicants and Shri Rajinder Nischal, the learned counsel for the respondents and perused the pleadings on record.

5. Since the identical question was already adjudicated and decided by this Tribunal and was upheld up to the Hon'ble Apex Court, it is suffice if we examine the said decisions.

6. In **OA No.3217/2014 dated 04.04.2016 – Somvir Rana and Others Vs. Government of NCTD and Others**, a Co-ordinate Bench of this Tribunal considered an identical issue with regard to the post of Trained Graduate Teachers (TGTs). The applicants therein were promoted from the post of Primary School Teachers to



the post of Trained Graduate Teachers before or after 01.01.2006 and in terms of the CCS (Revised Pay) Rules, 2008 their pay was fixed at lower levels when compared to the pay of a directly recruited TGT, i.e. Rs.17,140/-. The said OA was allowed as under:-

“7. It is true that the CCS (Revised Pay) Rules, 2008, specifically Rule 8 provides for granting entry level pay indicated in Section II of Part A of First Schedule to direct recruits to a particular post carrying a specific grade pay on or after 01.01.2006. This will not, therefore, apply to the applicants as they were in service before 01.01.2006 or were promoted on or after 01.01.2006 and Rule 7 and Rule 13 of the CCS (Revised Pay) Rules, 2008 will apply.

8. Rule 7 is basically multiplying the pre-revised basic pay with 1.86 etc. and Rule 13 provides for granting one increment equal to 3% of the sum of pay in the pay band and the existing grade pay round off to the next multiple of 10.

9. The clarification by the Department of Expenditure dated 27.02.2009 as well as order dated 13.03.2009 provide for stepping up of pay of seniors vis-a-vis directly recruited juniors who are recruited on or after 01.01.2006 but subject to certain conditions, already quoted above.

10. In O.A. No.657/2012 and 931/2012, some TGTs had raised the issue that their basic pay should be stepped up to the minimum level of new scale and then multiplied by the factor of 1.86. To this grade pay applicable in the pay band should have been added to arrive at the revised basic pay. On the other hand, the respondents contended that the basic pay in pre-revised scale is to be multiplied by the factor of 1.86 and if the figure arrived is less than minimum of the revised pay scale, then only the basic pay is to be increased to the level of minimum of the revised pay band. So the issue in this O.A. was different. In any case, the O.A. was disposed of holding that the pay of the applicant had been rightly fixed as per the formula provided in Rule 7 (1)(A)(i) and (ii). However, it further held that the cases needed to be considered under FR-27. Rule 7(1)(A)(i) and (ii) basically stipulates the 1.86 multiple formula and new basic pay not to be less than minimum of replacement scale.

11. As regards O.A. No.2835/2011 with O.A. Nos. 2842/2011 and 2843/2011 are concerned, these were filed by PSTs, TGTs and PGTs. The substantive question before the Tribunal was whether the direct recruits who have been appointed prior to 01.01.2006 can be placed at a lower pay scale than those direct recruits who were appointed after 01.01.2006. The Tribunal concluded that the respondents should ensure that the pay of no incumbent of the post of PST, TGT and PGT

appointed prior to 01.01.2006 is fixed lower than the pay which could be drawn by the fresh appointee of the post as on 01.01.2006. The crucial clarification based on which the respondents have rejected the claim of the applicants seems to be the clarification dated 05.05.2010 which has simply quoted the DOPT clarification dated 27.02.2009, which is the same as the clarification issued by the MHRD dated 13.03.2009. As per this clarification, stepping up of basic pay of seniors can be claimed in case of those cadres which have an element of direct recruitment and in cases where the directly recruited juniors are drawing more basic pay than the seniors. However, as stipulated in Part C sub-para (C) of circular dated 13.03.2009, stepping up of pay shall not be applicable in cases where direct recruits have been granted advance increment. The respondents do not deny that there is an element of the direct recruitment in the Teacher cadres, i.e. PST, TGT and PGT. Therefore, this circular squarely applies which is also acknowledged by the respondents in their speaking order 02.08.2014. It is also not denied that juniors are drawing basic pay more than the seniors. Therefore, by a plain reading of these instructions, it is clear that pay of the applicants would need to be stepped up to the level drawn by the direct recruit juniors, who are appointed on or after 01.01.2006. The respondents argument, though not very clearly spelt out either in their reply or in the order dated 02.08.2014, seems to be that the direct recruits appointed on or after 01.01.2006 are granted advance increments at the time of recruitment and hence benefit of stepping up of pay is not available in such cases according to clause (c) quoted above. This leads to an absurd situation that a senior, on pay fixation under FR-22C draws lower pay than his junior. It is precisely for this reason that in O.A. Nos. 2835/2011 with O.A. Nos. 2842/2011 and 2843/2011, this Tribunal has held that pay of incumbents appointed/promoted prior to 01.01.2006 should not be lower than the pay which would be drawn by a fresh appointee on or after 01.01.2006.

12. In view of the above, the O.A. clearly succeeds and the order dated 02.08.2014 is set aside, with a direction to the respondents to refix the pay of the applicants as per 6th CPC recommendations. They should ensure that none of the applicants' pay is fixed at a stage lower than the pay which could be drawn by a direct recruit appointee on or after 01.01.2006. Time frame of two months is fixed for implementation of this order. There shall be no order to pay the interest as costs".

7. The Hon'ble High Court of Delhi in **W.P. ( C ) No.2634/2017** in **Government of NCT of Delhi and Another Vs. Somvir Rana and**

**Others** filed against the aforesaid order of this Tribunal, while dismissing the W.P. by order dated 23.03.2017, observed as under:-

“2. Respondents were promoted as Trained Graduate Teachers before or after 01.01.2006.

3. The question raised and answered in favour of the respondents by the Tribunal relates to fixation of their pay under the Central Civil Services (Revised Pay) Rules, 2008 (“Rules” for short) and whether there can be two pay scales for the same post of Trained Graduate Teachers, one for promotees and the other for direct recruits.

2. The petitioners herein had applied Rule 7, which postulates multiplying the pre-revised basic pay with 1.86 factor and Rule 13, which provides for granting one increment equal to 3% of the pay band and pay being rounded off to the next multiplier of 10. As far as new direct appointees are concerned, they are given benefit of entry-level pay indicated in Section II of Part-A of the First Schedule of the Rules. The entry-level pay of direct appointee Trained Graduate Teachers was higher than the pay scale of the respondents fixed under Rule 7 read with Rule 13 of the Rules.

4. This anomaly was noticed by the petitioners themselves, who had issued clarification dated 13.03.2009, which reads as under:

“I am directed to say that matter relating to stepping up of pay of Seniors with the directly recruited juniors, recruited on or Central Pay Commission was taken up with Deptt. of Expenditure Ministry of Finance. It has been decided that stepping up of pay of seniors will be permitted with reference to suen of their directly recruited juniors who are recruited on or after 01.01.2006 and whose basic pay is more than that of the seniors subject to the following conditions:-

(a) Stepping up the basic pay of seniors under the above provisions can be claimed only in the case of those cadres which have an element of direct recruitment and cases where a directly recruited junior actually drawing more basic pay than the seniors. In such cases, the basic pay of the seniors will be stepped up with reference to the basic pay of the juniors.

(b) Using the above provision, Government servants cannot claim stepping up their revised basic pay with reference to entry pay in the revised pay structure for direct recruits appointed on or after 1.1.2006 as laid down in Section-II of part A of First Schedule to the CCS (RP) Rules, 2008, if their cadre does not have any

element of directed recruitment or in cases, where no junior is drawing basic pay higher than them.

(c) Stepping up of pay of the seniors in accordance with the above provisions shall not be applicable in cases where direct recruits have been granted advance increments at the time of recruitment. 2. This issues with the approval of the Ministry Finance (Department of Expenditure Implementation Cell), Govt. of India.”

2. This issues with the approval of the Ministry Finance (Department of Expenditure Implementation Cell), Govt. of India”.

5. The above clarification notices that pay scales at the same post in some cadres in the case of promotees were lower than the pay scales applicable to the direct recruits. To correct this anomaly, the clarification states that stepping up of basic pay of the seniors would be permissible in the case of those cadres (i) where appointment by way of direct recruit is permissible and (ii) when direct recruited junior actually draws basic pay more than the seniors.

6. This clarification has not been accepted by the Tribunal and, in our opinion, rightly. The anomaly and discrepancy of fixing lower pay scale for promotees amounts to invidious discrimination and violates of Article 14 of the Constitution. The same post with identical duties and responsibilities, ex facie cannot have two different pay scales, one for the promotees and the other for direct recruits. The difficulty in accepting the plea of stepping up in terms of the clarification dated 13.03.2009, is the second condition that requires, the direct recruits should have actually joined before any stepping up of pay can be granted. The date of joining would be different as filling up of the direct recruitment vacancies in the cadre would depend upon vacancy position, selection, etc. This is unacceptable as it would be fortuitous and even whimsical. In any case, the same post cannot have two pay scales - one for the promotee and other for the direct recruit for it violates the principle of “equal pay for equal work.” Stepping up of pay to be granted on satisfaction of the stipulated conditions would not rectify and undo the discrepancy and inconsistency inherent when two different pay scales are stipulated for the same post.

7. When and after initial pay of promotee Trained Graduate Teacher is fixed in terms of the order of the Tribunal, increment would be calculated and payable as in cases covered by Section II of Part A of the first schedule of the Rules as applicable to the direct recruits.

8. Similar, though not identical controversy had arisen before this Court in WP (C) No.8058/2015, **Union of India Vs. Malbika Deb Gupta**, decided on 04.11.2006. The writ

petition of the Union of India was dismissed after referring to the rule position and the illustrations given in the Rules.

9. However, we clarify that the dismissal of the writ petition would not have any bearing and does not amount to acceptance of the contention raised in some of the OAs, which have been disposed of by the impugned order, wherein the respondent-employees had submitted that the basic revised pay should be multiplied by the factor of 1.86.

10. For the aforesaid reasons, we do not find any merit in the present writ petition and the same is dismissed”.

8. The SLPs vide Diary Nos. 23663/2017 filed against the aforesaid orders in **Government of NCT of Delhi and Another Vs. Somvir Rana (TGT Eng) and Others** were dismissed by order dated 01.09.2017 as under:-

“Delay condoned.

We find that there are several matters in which the aggrieved employees have been going to the Tribunal, then to the High Court and thereafter those matters are brought before this Court at the instance of the Union of India/NCT of Delhi.

Once the question, in principle, has been settled, it is only appropriate on the part of the Government of India to issue a Circular so that it will save the time of the Court and the Administrative Departments apart from avoiding unnecessary and avoidable expenditure.

The present situation is that the stepping up is available only to those who have approached the Court. But since the issue has otherwise become final, we direct the Government of India to immediately look into the matter and issue appropriate orders for granting the pay-scale so that people need not unnecessarily travel either to the Tribunal or the High Court or this Court.

With the above observations and directions, the special leave petitions are dismissed.

Pending application(s), if any, shall stand disposed of”.

9. The learned counsel appearing for the applicants placed heavy reliance on the aforesaid judgments in support of the O.A. averments and whereas the respondents counsel while not denying that the subject matter of this OA is covered by the aforesaid decisions, however, tried to oppose the OA on the same contentions which were raised and rejected by this Tribunal and as well as by the Hon'ble High Court and Hon'ble Supreme Court, as observed above.

10. In the circumstances and for parity of reasons, the OA is allowed in terms of the order in OA No.3217/2014 dated 04.04.2016 in Somvir Rana & Others Vs. Government of NCTD and Others, as upheld by the Hon'ble High Court of Delhi and Hon'ble Supreme Court of India. The necessary exercise shall be completed within 3 months from the date of receipt of a copy of this order. However, the applicants are not entitled for any interest or costs.

**(NITA CHOWDHURY)**  
**MEMBER (A)**

**(V. AJAY KUMAR)**  
**MEMBER (J)**

RKS