

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO. 170/00209/2017

DATED THIS THE 25TH DAY OF OCTOBER, 2017

HON'BLE DR. K.B. SURESH, MEMBER (J)

HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (A)

1. C.A. Prahalada Rao,
Aged about 51 years,
S/o late C.R. Anantha Rao,
Working as DEO 'A' in
o/o PAO (ORs) CMP,
Bangalore – 560 025.
2. S. Arun Babu,
Aged about 50 years,
S/o late M. Shesham Naidu,
Working as DEO 'B' in
o/o PAO (ORs) MLI,
Belgaum – 570 009.
3. Suresh D. Haribal,
Aged about 50 years,
S/o late D.R. Hari Bal,
Working as DEO 'B' in
o/o PAO (ORs) ASC South,
Lower Agram Road, Agram P.O.,
Bengaluru – 560 007.
4. V. Sandhya,
Aged about 52 years,
W/o G.N. Janardhana,
Working as DEO 'B' in
o/o PAO (ORs), CMP,
Bangalore – 560 025.
5. L. Sreekumari,
Major by age,
W/o Ramaraj,
Working as AAO in
o/o PAO (ORs) ASC
at Bangalore – 560 007.

6. Rani S. Kumar,
Aged about 52 years,
W/o A. Shantha Kumar,
Working as DEO 'C' in
o/o PCDA, Bangalore – 560 007.

7. G.R. Sridhar,
Aged about 49 years,
S/o G.N. Ramaswamy,
Working as DEO 'B' in
o/o PAO (ORs) ASC South,
Lower Agram Road, Agram P.O.,
Bangalore – 560 007.

8. D. Chander,
Aged about 50 years,
S/o late M. Durairaj,
Working as DEO 'B' in
o/o PCDA, Bangalore – 560 007.

9. S. Radhakrishnan,
Aged about 51 years,
S/o V. Sivaperuman,
Working as DEO 'B' in
o/o PAO (ORs) ASC South,
Lower Agram Road, Agram P.O.,
Bangalore – 560 007.

10. M.M. Naina,
Aged about 50 years,
S/o late M.D. Madappa,
Working as DEO 'B' in
o/o PAO (ORs) PCTC,
Bangalore – 560 042.

11. A. Shantha Kumar,
Aged about 52 years,
S/o C. Albert,
Working as DEO 'B' in
o/o PCDA, Bangalore – 560 007.

12. R. Durga Prasad,
Aged about 48 years,
S/o G.V. Ramachandra,
Working as DEO 'A' in
o/o PAO (ORs) ASC South,
Lower Agram Road, Agram P.O.,
Bangalore – 560 007.

13. R. Prakash Babu,
Aged about 48 years,
S/o late A. Rajashekaran,
Working as DEO 'C' in
o/o PAO (ORs) ASC South,
Lower Agram Road, Agram P.O.,
Bangalore – 560 007.

14. A. Chandrashekhar,
Aged about 52 years,
S/o late Subramanyam,
Working as DEO 'A' in
o/o PCDA, Bangalore – 560 007.

15. C.G. Venkatesh,
Aged about 49 years,
S/o late Gopinath C.R.,
Working as DEO 'B' in
o/o PAO (ORs) ASC South,
Lower Agram Road, Agram P.O.,
Bangalore – 560 007.

16. G. Janakamma,
Aged about 56 years
W/o P.G. Sasi,
Working as DEO 'D' in
o/o PAO (ORs) ASC South,
Lower Agram Road, Agram P.O.,
Bangalore – 560 007.

17. M. Sadashiva Rao,
Aged about 55 years,
S/o late Mahadeva Rao,
Working as DEO 'C' in
o/o PCDA, Bangalore – 560 007.

18. Geetha S. Rao,
Aged about 54 years,
W/o Shri S. Sridhar,
Working as DEO 'C' in
o/o PAO (ORs) ASC South,
Lower Agram Road, Agram P.O.,
Bangalore – 560 007.

19. J. Meenakshi,
Aged about 54 years,
W/o Shri K. Ravi,

Working as DEO 'C' in
PAO (ORs) PARA,
Bangalore – 560 006.

20. M.B. Christy,
Aged about 53 years,
S/o M. Barnabas,
Working as DEO 'C' in
o/o PCDA, Bangalore – 560 007.

21. V. Soundararajan,
Aged about 49 years,
S/o N. Viswanathan,
Working as DEO 'C' in
o/o BSO Jalahalli,
Bangalore – 560 006.

22. D. Manjula Bai,
Aged about 53 years,
W/o G. Venkatesh Rao,
Working as DEO 'C' in
PAO (ORs) PARA,
Bangalore – 560 006.

23. K. Muralidhara,
Aged about 53 years,
S/o late M.K. Kamala Shekaran,
Working as DEO 'C' in
o/o PAO (ORs) ASC South,
Lower Agram Road, Agram P.O.,
Bangalore – 560 007.

24. N. Venkatesh,
Aged about 53 years,
S/o late M.S. Nagraj,
Working as DEO 'C' in
o/o PAO (ORs) ASC South,
Lower Agram Road, Agram P.O.,
Bangalore – 560 007.

25. K. Srinivas,
Aged about 54 years,
S/o late T.K. Krishna Panicker,
Working as DEO 'C' in
o/o PAO (ORs) ASC South,
Lower Agram Road, Agram P.O.,
Bangalore – 560 007.

26. R. Ravi,
Aged about 53 years,
S/o late R.G. Subraya,
Working as DEO 'C' in
o/o PAO (ORs) ASC South,
Lower Agram Road, Agram P.O.,
Bangalore – 560 007.

27. R.S. Ravishankara,
Aged about 52 years,
S/o late R.G. Subraya,
Working as DEO 'C' in
o/o PAO (ORs) ASC South,
Lower Agram Road, Agram P.O.,
Bangalore – 560 007.

28. N. Nirmala Kumari,
Aged about 51 years,
W/o V. Venkatesh,
Working as DEO 'D' in
o/o PAO (ORs) ASC South,
Lower Agram Road, Agram P.O.,
Bangalore – 560 007.

29. H.K. Lakshmiddevamma,
Aged about 59 years,
W/o D.M. Das,
Working as DEO 'C' in
o/o PCDA, Bangalore – 560 007.

30. P. Subramanian,
Aged about 49 years,
S/o M. Prahalada Rao,
Working as DEO 'C' in
o/o PAO (ORs) ASC South,
Lower Agram Road, Agram P.O.,
Bangalore – 560 007.

31. P. Prabhavathi,
Aged about 53 years,
W/o P.K. Mohan,
Working as DEO 'C' in
o/o PAO (ORs) MEG & Centre,
Bangalore – 560 042.

32. Suresh Babu Naik,
Aged about 59 years,
S/o Ramji Naik,

Working as DEO 'C' in
o/o PCDA, Bangalore – 560 007.

33. Jaya Prasad,
Aged about 49 years,
W/o K.R.P. Nair,
Working as DEO 'B' in
o/o PAO (ORs) ASC South,
Lower Agram Road, Agram P.O.,
Bangalore – 560 007.

34. P.N. Veena Manjunath,
Aged about 50 years,
W/o Manjunath,
Working as DEO 'A' in
o/o PAO (ORs) MLI,
Belgaum – 570 009.

35. B.R. Satish,
Aged about 49 years,
S/o late Bairoji Rao,
Working as DEO 'A' in
o/o PAO (ORs) MLI,
Belgaum – 570 009.

36. M.S. Venkaesh,
Aged about 49 years,
S/o late Shankar Rao,
Working as DEO 'A' in
o/o PCDA, Bangalore – 560 007.

37. C.R. Harsha,
Aged about 51 years,
S/o late C. Rama Rao,
Working as DEO 'A' in
o/o PAO (ORs) ASC South,
Lower Agram Road, Agram P.O.,
Bangalore – 560 007.

38. C. Datta Prasad,
Aged about 48 years,
S/o late Nanjaraja Gupta,
Working as DEO 'A' in
o/o PAO (ORs) MLI,
Belgaum – 570 009.

39. N. Suresh,
Aged about 50 years,

S/o late A. Narasimhaiah,
Working as DEO 'B' in
o/o PAO (ORs) ASC South,
Lower Agram Road, Agram P.O.,
Bangalore – 560 007.

40. K.V. Shekar,
Aged about 48 years,
S/o late K.V. Vedapuri,
Working as DEO 'A' in
o/o PCDA, Bangalore – 560 007.

41. D.S. Krishnamurthy,
Aged about 52 years,
S/o late D. Shrikantaiah,
Working as DEO 'A' in
o/o PCDA, Bangalore – 560 007.

42. T.P. Chandrashekar,
Aged about 52 years,
S/o T. Purushotham,
Working as DEO 'A' in
o/o PAO (ORs) MEG & Centre,
Bangalore – 560 042.

43. V. Jayashree,
Aged about 52 years,
W/o U. Ramesh,
Working as DEO 'A' in
o/o PAO (ORs) MEG & Centre,
Bangalore – 560 042.

44. R. Banumathy,
Aged about 51 years,
W/o H.V. Jayaprakash,
Working as DEO 'A' in
o/o PAO (ORs) MEG & Centre,
Bangalore – 560 042.

45. K.V. Manjunatha,
Aged about 49 years,
S/o late K.V. Raghavaswamy,
Working as DEO 'A' in
o/o PAO (ORs) MEG & Centre,
Bangalore – 560 006.

46. Latha Iyengar,
Aged about 52 years,

W/o N.K. Ramesh,
Working as DEO 'A' in
PAO (ORs) PARA,
Bangalore – 560 006.

47. Rajander Rangroo
Aged about 48 years,
S/o S.H. Motikrishen Rangroo,
Working as DEO 'B' in
o/o PAO (ORs) PCTC,
Bangalore – 560 042.

48. R. Suresh Mehendra,
Aged about 51 years,
S/o Rajanna,
Working as AAO in
o/o PCDA, Bangalore 560 007.

49. Prahallad
S/o Late Sethu Rao
Aged about 55 years
Working as DEO-C
In O/o PAO (ORs) ASC (AT)
Bangalore – 560 007.

50. A.S. Dwarkanath
S/o Late Sreepathi Rao
Aged about 53 years,
Working as DEO-B
In O/o AAO BSO Hebbal
Bangalore – 560 006.

51. M. Sumathi,
W/o K.P. Balakrishna,
Aged about 53 years,
Working as DEO-B
Bangalore – 560 070.

.....Applicants

(By Advocate Shri M. Nagaprasanna)

Vs.

1. Union of India,
Represented by its Secretary to Govt.,
Ministry of Defence,
South Block,
New Delhi – 110 001.

2. Controller General of Defence Accounts,
Ulan Batar Road, Palam,
New Delhi – 110 010.

3. Principal Controller of Defence Accounts,
No. 107, Lower Agram Road,
Agram P.O., Bengaluru – 560 007.

4. Secretary to Government,
Government of India,
Department of Personnel & Training,
New Delhi – 110 001.

....Respondents

(By Shri M. Swayam Prakash, Senior Central Government Counsel)

ORDER (ORAL)

DR. K.B. SURESH, MEMBER (J):

MA No. 170/00443/2017 for preponement is allowed and the matter is taken up for hearing. The matter is in a very small compass. In fact vide Annexure-R1 the department held out that it has right to recover enhanced benefits paid to its employees, i.e., Data Entry Operators on the basis of the Hon'ble Apex Court judgment in Civil Appeal No. 10862 to 10867 of 2014 dated 09.12.2014. Apparently the Hon'ble Apex Court held that Data Entry Operators Grade-A are not entitled for scale of pay of Rs.1350-2200 with effect from 01.01.1986 or thereafter merely on the basis of their qualifications or for the fact that they have completed their period of requisite service. The Hon'ble Apex Court further held apparently that any decision rendered by any Tribunal or any High Court contrary to the above decision is wrong. Therefore apparently vide proceedings dated EDP/113/II(PC)/Vol-13 dated 04.01.2005 it was ordered that for overpayments made till date recovery to be made and to

avoid financial hardship to the affected Data Entry Operators the overpayment may be recovered as per the extant orders of the Government of India.

2. Apparently on this issue as the Hon'ble Apex Court has declined to intervene in favour of the applicants therein, we had also dismissed the OA No. 839-848/2013 vide order dated 06.01.2016.

3. But now the learned counsel for the applicant has produced before us an order of the Hon'ble Apex Court in a similar matter arising out of the judgment and order dated 12.01.2017 in Writ Petition No. 12501/2016 in the case of Madhu Soodan Pasi & Ors. Vs. Union of India & Others as Diary No. 22498/2017 dated 04.09.2017 which is extracted herein:

"It is submitted that the order, under which the salary was given, was not questioned by the Union of India and that has attained finality. Now recovery has been ordered, in view of the decision of this Court in Union of India & Anr. Vs. T.V.L.N. Mallikarjuna Rao (2015) 3 SCC 653, which can be applied prospectively.

Delay condoned.

Issue notice.

Recovery of amount paid to petitioner shall remain stayed till the next date of hearing."

Since the Hon'ble Apex Court has now stayed the recovery, we will dispose off the OA itself with the rider that, based upon the decision of the Hon'ble Apex Court in the said case, recovery or not can be done by the respondents but before attempting a recovery a show cause notice indicating the disposal of the matter before the Hon'ble Apex Court shall be made available one month before effecting such recovery to enable to applicants herein also to check the veracity but after that if the judgment of the Hon'ble Apex Court is in favour of

the respondents they can recover, if not, they cannot recover. The learned counsel for the applicant would say that similar matters are also pending which we will allow the applicant to bring to the notice of the respondents as the case may be.

4. The OA is therefore disposed off with liberty as aforesaid. No order as to costs.

(PRASANNA KUMAR PRADHAN)
MEMBER (A)

(DR. K.B. SURESH)
MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No.170/00209/2017

Annexure A1: Copy of Notification dated 30.05.1992 S.R.O. 117

Annexure A2: Copy of letter No. AN/III/1431/ACP/Vol-VIII dated 21.12.2005.

Annexure A3: Copy of letter No.AN/Pay/II/ACP/DEOS/CORR dated 01.03.2006

Annexure A4: Copy of Part-II O.O. No. 115 dated 08.03.2006

Annexure A5: Copy of representation dated 04.04.2006.

Annexure A6: Copy of Part-II O.O. No. 313 dated 18.08.2006

Annexure A7: Copy of the order dated 15.09.2009 passed by Central Administrative Tribunal, Bangalore Bench in OA No. 336/2006

Annexure A8: Copy of the order dated 24.02.2011 passed by the Hon'ble High Court of Karnataka in Writ Petition No. 35384 of 2010 (S-CAT)

Annexure A9: Copy of the order dated 20.04.2012 passed by the Hon'ble High Court in Writ Petition No. 3882 of 2012 (S-CAT)

Annexure A10: Copy of the order dated 09.12.2014 passed by the Hon'ble Supreme Court in Civil Appeal No. 10862 of 2014.

Annexure A11: Copy of circular issued by the Under Secretary regarding stopping of recovery of Data Entry Operators.

Annexure A12: Copy of Office Memorandum F.No. 18/03/2015-Estt. (Pay-I) dated 02.03.2016.

Annexure A13: Copy of representation dated 12.09.2016 addressed to the Hon'ble CGDA, New Delhi.

Annexure A14: Copy of the Circular dated 27.01.2017 issued by 2nd respondent.

Annexure A15: Copy of the order No. AN/Pay/II/1079/DEOs dated 15.03.2017

Annexures with reply statement:

Annexure R1: Copy of Respondent No. 2 letter No. EDP/113/II(PC)/Vol-18 dated 01.09.2016

Annexure R2: Copy of Central Administrative Tribunal, Bangalore Bench order passed in OA No. 839-848/2013 dated 06.01.2016.
