

CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH

...

O.A. No.60/558/2017

Date of decision: 30.07.2018

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CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).
HON'BLE MRS. P. GOPINATH, MEMBER (A).

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1. Gurvinder Pal Singh S/o Sh. Inder Singh, R/o H. No.419-A, Sector 41-A, Chandigarh.
2. Rakesh Jain S/o Late Rohtas Kumar Jain, R/o # 1551, Sector-4, Panchkula, Sr. Sup.
3. Paramjit Singh, S/o Late Dharam Singh, R/o # 3256, Sector-27 D, Chandigarh.
4. Preeti Bala W/o Sh. Sunil Mehra, R/o # 1822F, Sector 7C, Chandigarh.
5. Uma Aggarwal, D/o Sh. Subhash Chand, R/o # 2940, Sector-15, Chandigarh.
6. Veena Rani W/o Sh. Vijay Kumar Kakkar, R/o # 2213B, Sector-27C, Chandigarh, Sr. Sup.
7. Jasbir Singh W/o Sh. Sarup Singh, R/o Village Dadumajra, Chandigarh.
8. Darshan Rani, W/o Sh. Subhash Chander, R/o # 203, Tower 24, Royal Estate, CHD-AMB High, Zirakpur.
9. Arvinder Nanda, W/o S. Surjeet Singh, R/o 2089, Sector 21C, Chandigarh.
10. Nirmal Sharma W/o Sh. R.C. Sharma, R/o # 1813F, Sec-7C, Chandigarh.
11. Purshotam Ohri (Sr. Supervisor) S/o Late Sh. V.P. Phri, aged 57 years, R/o #1816 A, Sector-7C, Chandigarh.
12. Surinder Kumar Sharma, S/o Sh. Bansi Lal, R/o #1863, Sector 7-C, Chandigarh.
13. Harish Chander S/o Behri Lal, R/o # 1729/1, Sector-39B, Chandigarh.
14. Sudershan Kumari, W/o Sudarshan Kumar, R/o # 652, Sector-10, Panchkula.

15. Navita Sharma D/o Sh. S.R. Sharma, R/o #405, Sector 43-A, Chandigarh.
16. Ashok Kumar S/o Sh. Nathu Ram Gupta, R/o # 810/1, Sector-40A, Chandigarh.
17. Ashwani Kumar S/o Jiwan Dass, R/o # 3198/2, Sector 44-D, Chandigarh, Sr. Sup.
18. Anil Kumar Jain S/o Vijay Kumar Jain, R/o 1209 A, Sector-46A, Chandigarh.
19. Saroj Makhija (Legal Heir), aged 53 years, widow of Late Sh. Krishan Kumar, resident of House No.264-P, Urban Estate, Sector-7, Ambala City of Haryana.

(All working as Data Entry Operator Gr. 'B' except applicants no.2, 6, 11 and 16, who are Senior Supervisors (Group 'B') in the office of Directorate of Census Operations, U.T. Chandigarh.



... APPLICANTS

1. Union of India, through Secretary, Ministry of Home Affairs.
2. Registrar General India-cum-census commissioner,
2-A, Man Singh Road,
New Delhi.
3. Directorate of Census Operations, U.T.,
Plot No. 2B, Sector 19A, Madhya Marg,
Chandigarh.

... RESPONDENTS

PRESENT: Sh. Rohit Seth, counsel for the applicants.

Sh. Arvind Moudgil, counsel for the respondents.

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J):-

1. By means of the present Original Application, the applicants are seeking quashing of impugned order dated 20.10.2016 (Annexure A-1), vide which their claim for stepping up of pay, at par with their juniors, has been declined. It is also prayed to remove the anomaly in pay fixation of applicants by stepping up their pay, at par with their juniors, in the light of DoPT O.M. dated 04.10.2012 (Annexure A-12), with all consequential benefits.
2. After exchange of pleadings, matter came up for hearing today.
3. Learned counsel for the parties are in agreement that the issue involved in the present case is identical to one decided by this Court in the case of **Jaswant Kaur and Ors. Vs. UOI & Ors.** (O.A. No.60/556/2017) in favour of the applicants therein, vide order dated 13.07.2018, and hence this O.A. deserves the same fate.
4. Since issue in this case is identical to one decided in the case of Jaswant Kaur & Ors. (supra), this O.A. is also allowed on the same grounds for parity of reasons given therein. Relevant paragraphs of the order read as under:-

"12. The basic question before this Tribunal is whether operation of the ACP/MACP Scheme simultaneously with the merger of the cadres may be allowed to deny the applicants their prima-facie entitlement of equal pay to their juniors. In this context, we observe that both the ACP and MACP Schemes have clear provisions for the financial upgradation to be purely personal to the employees with no relevance to their seniority position. Also they both provide that there shall be no financial upgradation for the senior employees on the ground that the junior employee in the grade is getting higher pay scale under the ACP/MACP Scheme. It is also true that the Career Progression Schemes have been in operation since 1999 in all the Union Government offices across the country. Any alteration in this Scheme at this

point of time may lead to some administrative difficulties. However, on this account alone, the senior employees cannot be denied their right to draw pay at least equal to their juniors especially when both of them are equally qualified and having same level of responsibility. This anomalous situation has arisen because of provisions of the ACP and MACP Scheme disallowing removal of anomaly in such cases. However, these provisions in the ACP and MACP clearly conflict with the principles of equity. There is no reason why senior employees should not get their pay at least equal to their juniors unless there are clear cut distinguishing circumstances like passing of examination by the juniors etc. No such distinguishing circumstances are existing in the present case.

13. In the light of above discussion, the O.A. succeeds and is allowed. The impugned order dated 20.10.2016 (Annexure A-1) is hereby quashed and set aside. The respondents are directed to reconsider the claim of the applicants for fixation of their pay at par with their juniors, so as to remove the anomaly, in the interest of equity and fair play. This exercise may be completed within a period of 3 months from the date of receipt of a certified copy of this order."

5. The parties are, however, left to bear their own costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 30.07.2018.

Place: Chandigarh.

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