

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/00125/2014

Dated the 05th day of October Two Thousand Eighteen

PRESENT

HON'BLE MR. P. MADHAVAN, Member (J)

&

HON'BLE MR. T. JACOB, Member (A)

1. V.Mathiamuthan,
2. R.Gunasekaran,
3. P.Krishnamurthy,
4. Augustine Thomes,
5. C.G.Ravindran,
6. J.Thiyagarajan,
7. C.Manikandan,
8. P.Gopalan,
9. K.Muthu,
10. M.Mohanraj,
11. T.C.Raju,
12. R.Meganathan,
13. E.Mohenraj,
14. R.Veerabadran,
15. P.R.Radhakrishnan,
16. P.Madhusudanan,
17. A.Chandrasekaran Nair,
18. B.Seenivasan,
19. P.Umapathi,
20. K.Madurai,
21. T.K.Natarajan,
22. J.Sambathkumar,
23. D.M.Louduswamy,
24. P.Ravikumar,
25. S.Balasundaram,
26. R.Sembaiyan,
27. G.Gopinath,
28. R.Srinivasan,
29. V.Sasidharan,
30. R.D.Kittappa,
31. V.Murugasan,
32. P.Thangaraj,
33. S.Sambasivam,
34. N.Chellen,
35. A.Veerawamy,
36. S.Ekambaram,

37. V.Chandran,
38. N.Subramani,
39. E.Sudhakaran,
40. N.Sethuramakrrishnan,
41. P.T.Paul,
42. V.Uganathan,
43. M.V.Savarirajan,
44. P.Asaithambi,
45. A.Ramakrisnan,
46. D.Kannappan,
47. P.Ramaswamy,
48. R.M.Loganathan,
49. A.Surendra Kumar,
50. G.Ramamurthy,
51. K.Chinnappan,
52. O.Annadurai,
53. J.T.Innocent,
54. K.C.Prakasan,
55. H.Manogaran Christoper,
56. V.Sakthivel,
57. V.Munuswamy,
58. M.Annamalai,
59. H.Sardharkhan,
60. C.Deenadayalan,
61. A.Kamalakannan,
62. G.Krishnan,
63. G.N.A.Ganaprakasam,
64. L.Mani,
65. R.Prabakaran,
66. M.Ramadoss,
67. N.Jayakumar,
68. S.Paramsivam,
69. R.Chandrasakaran,
70. A.Benedeict Jalis,
71. K.Nagarajan,
72. M.Jayabalan,
73. G.Varghese,
74. R.Gunasakaran,
75. M.Rajendren,
76. D.Govindaraji,
77. S.Gnanan,
78. S.Errol Issack,
79. R.Sukumaran,
80. M.Jahoobar,
81. K.Jayamohanan,
82. K.Pichandi,
83. V.Yesudasan,
84. P.Narasimhalu,
85. P.Somasundaram,
86. M.Durai Rajan,

87. E.Venkatesaperumal,
88. K.O.Devassy,
89. K.Chandran,
90. R.Elumalai,
91. T.M.Pasupathi,
92. P.D.Karunakaran,
93. S.Vedagiri,
94. K.S.Ravi Kumaran Nair,
95. K.S.Sanaullah,
96. R.Kannan,
97. S.A.R.Jayaraman,
98. C.Rangan,
99. D.Mariadass,
100. V.Kumar,
101. K.Gokulan,
102. M.Rajendr Prasad,
103. T.Sreedharan,
104. T.A.George,
105. A.Gandhinathan,
106. V.Janarthanan Nair,
107. T.C.Jenadevan,
108. S.M.Jayachandran,
109. S.T.Allimuthu,
110. K.Hari Govindan,
111. James Chacko,
112. A.Iridaya Raj,
113. R.Vedamurthy,
114. R.Deenadayalan,
115. A.Murugan,
116. S.Devaraj,
117. T.Karunakaran,
118. R.Sundaram,
119. M.P.Stanley,
120. T.R.Surendran,
121. D.Chelvadurai,
122. B.Ramash,
123. A.P.Sundara Venkatesulu
124. G.Jagajeevan Ram,
125. P.Kunhi Raman,
126. M.Dhandabani,
127. A.Kanniappan,
128. V.Raju,
129. D.Manoger,
130. A.Srinivasan,
131. R.Shanmugam,
132. C.Sasidharan,
133. D.Kalaiarasu,
134. S.Jayabalan,
135. R.Jayaraman,
136. R.G.Ganasan,

137. I.Chandrasaker,
138. V.Mukuntha Krishnan,
139. A.Julios Wilmond Peeris,
140. K.P.Narendren,
141. S.V.Jayaraman,
142. Babu Mathew
143. K.P.Surndran,
144. D.Sai Babu,
145. C.Panneer Selvam,
146. S.Manikkam,
147. M.K.Ramachandran,
148. V.Muthu Krishnan,
149. A.Sanjayan,
150. L.Arokiaswamy,
151. V.Jothi,
152. V.Subramanian,
153. N.Arunachalam,
154. R.William Vijayakumar,
155. V.Ramadoss,
156. K.Tamilarasan,
157. R.Santhakumar,
158. M.Minor Sevugam,
159. S.Loganathan,
160. M.G.Sudarsana Babu,
161. M.Annamali,
162. M.K.Seshayya,
163. J.Regald Redrigo,
164. D.Prakash Raj,
165. E.Subramani,
166. T.Bakthavachalu,
167. M.Saravanan,
168. P.Premkumar,
169. R.Sundara Murthy,
170. C.Vasudeva Reddy,
171. E.Nagarathinam,
172. M.Ekambaram,
173. P.K.Dillepan,
174. T.V.Rajan,
175. R.Venkatasan,
176. C.Venugopalan,
177. A.Karuppa Swamy,
178. K.R.Anbalagan,
179. M.Venugopal,
180. J.Venkatta Raman,
181. N,Nallappan,
182. B.Karunagaran,
183. C.Sriramulu,
184. M.Anandasaker,
185. L.Sadasivam,
186. A.H.Raju,

187. A.Mohandoss,
188. N.Veeraragavan,
189. S.Loganathan,
190. P.S.Karunakaran,
191. B.Sampath,
192. R.Parthasarathi,
193. D.Sivakumar,
194. K.R.Sudakaran,
195. T.K.Suramianiam,
196. V.Sundara Murthy,
197. M.Azizkhan,
198. V.Udayakumar,
199. S.Natarajan,
200. K.Anandan,
201. C.Ramudu,
202. R.Selvam,
203. B.Kuppan,
204. K.Kaliapppan,
205. G.Balasundaram,
206. K.Ekambaram,
207. V.Govindan,
208. P.Urklan,
209. V.Subramani,
210. R.Rajasakaran,
211. M.Ranganathan,
212. A.Veerabathra Pillai,
213. J.Albert Jusudoss,
214. S.Subramani,
215. K.Anbalagan,
216. V.Elumalai,
217. P.Chinnadurai,
218. M.I.Mohamedali.

....Applicants

By Advocate M/s. Paul & Paul

Vs

- 1.Union of India,
rep by its Secretary,
Ministry of Defence,
Department of Defence Production,
New Delhi.
- 2.The Secretary (Personnel),
Government of India,
Department of Personnel & Training,
South Block, New Delhi.
- 3.The Chairman,
Ordnance Factories Board,

No. 10-A, S.K.Bose Road,
Kolkatta 700001.

4.The Senior General Manager,
Heavy Vehicles Factory,
Avadi, Chennai 600054.

....Respondents

By Advocate Ms. Shakila Anand

Order reserved on : 27.09.2018
Order pronounced on : 05.10.2018

ORDER

(Pronounced by Hon'ble Mr. T. Jacob, Member(A))

Heard. The applicant has filed this OA seeking the following reliefs:

“a. For a direction to the respondents to grant grade pay of 4600 to the applicants with effect from 01.01.2006 and further revise the grade pay of the applicants to 5400 with effect from 01.09.2008 in Pay Band 2 (9300-34800) with arrears of pay and other allowances as admissible on such refixation of grade pay and

b. for such further or other relief or reliefs as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice.”

2. The brief facts of the case as stated by the applicants are as follows:

The applicants were appointed under the 4th respondent factory between the years 1970 and 1980 in the lower grades like Semi Skilled and Skilled. On 1.1.1986, the applicants had been granted fitment in the IV Central Pay Commission pay scale of Rs.950-1500. Fitment was also granted in the V Pay Commission in the pay scale of 3050- 4590 w.e.f. 1.1.96. Thereafter, in terms of the ACP Scheme, the applicants' were granted first and second financial upgradation as the case may be, in the pay scales of 4000-6000 and 5000-8000.

3. The VI Pay Commission recommended merger of three pay scales namely 5000-8000, 5500-9000 and 6500-10500 into a single pay scale of 6500-10500. This recommendation was accepted by the Government and notified w.e.f.

1.1.2006. In spite of this, the pay of the applicants had been fixed in Pay Band II with Grade Pay of 4200/- only instead of 4600/- which according to the applicants should be the equivalent GP for the pay scale of Rs.6500-10500. The applicants would submit that if their pay scale had been rightly fixed in the pay scale of 6500-10500 with effect from 1.1.2006, they would have been granted the grade pay of Rs. 4600/- instead of Rs. 4200/- and on grant of third financial upgradation under MACP with effect from 1.9.2008, they would have been granted the grade pay of 5400 in pay band 2. In other words, had the administration taken into consideration the merger of pay scales into 6500-10500 with effect from 1.1.2006, on grant of third financial upgradation with effect from 1.9.2008, the same would have been fitted in the erstwhile next higher pay scale of 7450-11500 and the grade pay would have been rightly fixed at 5400 with effect from 1.9.2008. This recommendation was accepted by the Government and notified w.e.f. 1.1.2006. In spite of this, the pay of the applicants had been fixed in Pay Band II with Grade Pay of 4200/- only instead of 4600/- which according to the applicants should be the equivalent GP for the pay scale of Rs.6500-10500. The applicants' representation for grant of GP of Rs.4600/- w.e.f 1.1.2006 had not met with satisfactory response from the respondents. Accordingly the applicants would seek a direction to the respondents to grant GP Rs.4600/- in PB II w.e.f. 1.1.2006.

4. The respondents contest the claim of the applicants stating that the applicants were in the pre-revised scale of Rs.5000-8000 as on 31.12.2005 and

as per the Fitment table issued by the Government of India, Ministry of Finance in its OM dated 30.8.2008, they were entitled to the GP of Rs.4200/- only in PB II. In accordance with the MACP Scheme and the then existing instructions on the subject, the applicants have already been granted third financial upgradation to the next higher GP of Rs.4600/- after completion of 30 years of service. The respondents accordingly pray for dismissal of the OA.

5. Heard both. Learned counsel for the applicant would submit that in terms of the VI Pay Commission recommendations, the pay scales 5000-8000, 5500-9000 and 6500-10500 came to be merged into a single pay scale of 6500-10500. He drew attention to Part B, Section I (ii) of CCS (Revised Pay) Rules, 2008 (Annexure A1) which states as follows:-

"On account of merger of pre-revised pay scales of Rs.5000-8000 and Rs.6500-10500, some posts which presently constitute feeder and promotion grades will come to lie in an identical grade. The specific recommendations about some categories of these posts made by the Pay Commission are included Section II of Part B. As regards other posts, the posts in these three scales should be merged. In case it is not feasible to merge the posts in these pay scales on functional considerations, the posts in the scale of Rs.5000-8000 and Rs.5500-9000 should be merged, with the post in the scale of Rs.6500-10500 being upgraded to the next higher grade in payband PB-2 i.e. to the grade pay of Rs.4600 corresponding to the pre-revised pay scale of Rs.7450-11500. In case a post already exists in the scale of Rs.7450-11500, the post being upgraded from the scale of Rs.6500-10500 should be merged with the post in the scale of Rs.7450-11500."

The thrust of the learned counsel's argument was that although the applicants were in the pre-revised pay scale of Rs.5000-8000, consequent on the acceptance of the recommendations of the VI Pay Commission, their pay scale was merged into a common pay scale of Rs.6500-10500 as on 1.1.2006.

Subsequent OM dated 13.11.2009 (Annexure A2) issued by the Ministry of Finance, Department of Expenditure inter alia stated as follows:-

"3. Consequent upon the Notification of CCS (RP) Rules, 2008, Department of Expenditure has received a large number of references from administrative ministries/departments proposing upgradation of the posts which were in the pre-revised scale of Rs.6500-10500 as on 1.1.2006 by granting them grade pay of Rs.4600 in the pay band PB-2. The matter has been considered and it has now been decided that the posts which were in the pre-revised scale of Rs.6500-10500 as on 1.1.2006 and which were granted the normal replacement pay structure of grade pay of Rs.4200 in the pay band PB-2, will be granted grade pay of Rs.4600 in the pay band PB-2 corresponding to the pre-revised scale of Rs.7450-11500 w.e.f. 1.1.2006. Further, in terms of the aforementioned provisions of CCS (RP) Rules, 2008, in case a post already existed in the pre-revised scale of Rs.7450-11500, the posts being upgraded from the scale of Rs.6500-10500 should be merged with the post in the scale of Rs.7450-11500."

The learned counsel would on the basis of the aforesaid OM argued that the applicants who had moved into the pay scale of Rs.6500-10500 following merger of the three pre-revised pay scales as on 1.1.2006, would be entitled to the further upgradation to GP of Rs.4600/- in PB-2 corresponding to the pre-revised scale of Rs.7450-11500 w.e.f. 1.1.2006.

6. Learned counsel for the respondents would, however, point out that the applicants had only been in the pay scale of Rs.5000-8000 and they were not entitled to an upgradation meant exclusively for those who were already in the pre-revised pay scale of Rs.6500-10500. He relied on the order of this Tribunal passed in OA 129/2014 dt. 21.02.2017.

7. We have carefully considered the rival submissions and perused the material on record.

8. The facts of this case are not in dispute and the only question that remains to be answered is whether the fitment granted to the applicants while fixing their pay in revised scale of pay is in accordance with the revised pay rules. It is not in dispute that the applicants were in the pay scale of Rs.5000-8000 as on 31.12.2005. Following of the recommendation of the VI Pay Commission, they came into the pay scale of Rs.6500-10500 as on 1.1.2006. Accepting the recommendations of the 6th CPC the Central Government notified the CCS Revised Pay Rules, 2008 and the Ministry of Finance has also issued the clarifications as stated above in so far as the manner of fixation of pay and necessary fitment tables and a few illustrations also have been given thereunder. As per Fitment table, the persons in the three pay scales were to be granted GP of Rs.4200/- only and not Rs.4600/- as claimed by the applicant. There were also persons who had already been in the pay scale of Rs.6500-10500 even before the merger of the three pay scales as on 31.12.2005. The VI Pay Commission had observed that on account of merger of the three pay scales, some posts which constituted the feeder and promotion grades would come to lie in an identical grade. Specific recommendations about some categories of these posts had been given in Section II of Part B. It is only with regard to the posts other than this, the posts in these three scales were merged.

9. The CCS (RP) Rules, 2008 as would be seen in the rule extracted at para-5 above, provides that in case it is not feasible to merge the posts in these pay scales on functional considerations, the posts in the scale of Rs.5000-8000 and

5500-9000 should be merged. The posts in the scale of Rs.6500-10500 should be upgraded to the next higher grade in the PB-2 i.e. with GP Rs.4600/- corresponding to the pre-revised pay scale of Rs.7450-11500. In case a post already existed in the scale of Rs.7450-11500, the post had to be upgraded from the scale of Rs.6500-10500 should be merged with the posts in the scale of Rs.7450-11500. It is in terms of this rule that the OM dated 13.11.2009 of Ministry of Finance, Department of Expenditure provided for upgradation or merger of the posts in 6500-10500 with/the posts in the scale of Rs.7450-11500.

10. The contention of the applicants that they should be given a double benefit first in terms of the recommendation to merge the three pay scales of Rs.5000-8000, 5500-9000 and 6500-10500 and then the further benefit of upgradation of Rs.6500-10500 to Rs.7450-11500 is farfetched. This was neither envisaged by the VI Pay Commission nor provided for in the rules. It is inconceivable that a person in the scale of pay of Rs. 5000-8000 is treated at par with another with the pay scale of Rs. 6500-10500 and granted the same grade pay. Though the pay scale merger takes place, specific mention about replacement pay scale and GP of the erstwhile pay scale of Rs. 6500-10500 with GP 4600 and absence of such a specific provision for other two merger pay scales ie Rs.5000-8000 and Rs. 5500-9000 would mean that the GP admissible for these two pay scales even after merger shall be Rs. 4200 and not Rs. 4600. The applicants who are themselves the beneficiaries of an upgradation from Rs.5000-8000 to 6500-10500 cannot grudge the upgradation granted to persons who were already in

Rs.6500-10500 to the scale of Rs.7450-11500 in the specific circumstances and the functional hierarchy of the posts in the establishment of the respondents.

11. In such view of the matter we find that the OA is devoid of merits and accordingly the same is dismissed with no order as to costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

05.10.2018

SKSI