

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

**OA/021/1348/2012
Date of Order: 14.09.2018**

Between:

1. Dr. M. Benjamin,
S/o. Late M. David,
Aged about 53 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
2. Smt. T. Vijayalaxmi, W/o. Bal Ram,
Aged about 56 years, Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
3. Sri. B.S. Prasad, S/o. B. Narasimha Rao,
Aged about 56 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
4. Smt. A. Sujatha, W/o. K.N. Mophan Rao,
Aged about 56 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
5. Smt. Farzana Sultana,
W/o. Khaja Rehman,
Aged about 58 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
6. K.L.N. Choudhary, S/o. K. Venkata Rao,
Aged about 54 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.

7. Smt. L. Srilakshmi, W/o. L.V.S.R. Sastry,
Aged about 55 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
8. Smt. P. Anjani, W/o.P. Mohan Rao,
Aged about 53 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
9. Smt. Rahatunisa, W/o. M.A. Samad,
Aged about 59 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
10. Smt. J.V. Lakshmi, W/o. J.S.R. Prasad,
Aged about 59 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
11. Smt. B.S. Julia, W/o. T. Sudhakar,
Aged about 57 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
12. Kum. Salene Mitra, W/o. S.R. Mithra,
Aged about 57 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
13. Smt. N. Shyamasundari, W/o. Chitti Babu,
Aged about 58 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.

14. V. Babuji, S/o. V. Veraswamy,
Aged about 56 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
15. R. Pochanna, S/o. Late R. Nanaiah,
Aged about 55 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
16. Smt. J. Subhodha, W/o. N. Ramesh,
Aged about 55 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
17. Smt. K. Padmavathi, W/o. K. Krishna Kumar,
Aged about 53 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
18. S.V. Bhaskara Rao, S/o. S. Mohan Rao,
Aged about 55 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
19. Smt. Kiran Tiwari, W/o. Ramesh Babu,
Aged about 58 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
20. Smt. T. Bindu, W/o. T. Mahender,
Aged about 54 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.

21. Smt. YSLR. Rajeswari, W/o. K. Sri Ram.
Aged about 53 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
22. Smt. K. Shobha, W/o. K. Verender,
Aged about 56 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
23. Smt. K. Padmajakshi, W/o. S.P.M. Prabhu,
Aged about 55 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
24. Smt. V. Krishna W/o. K. Ranga Prasad,
Aged about 58 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
25. O. Narayana Rao, S/o. O. Neela Rao,
Aged about 54 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
26. YLN. Murthy, S/o. Late Y. Dathatreynu,
Aged about 48 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
27. K. Satyanarayana, S/o. Late K. Nagbhushnam,
Aged about 19 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.

28. Smt. P. Vasantha, W/o. B. Prudwi Raj,
Aged about 55 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
29. Smt. Iffat Imtiaz, W/o. Mirza Sajjad Baig,
Aged about 55 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
30. Smt. T. Vani, W/o. G.B.S. Prakash Rao,
Aged about 55 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
31. Smt. K. Vijayalakshmi, W/o. G. Ram Babu,
Aged about 50 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
32. Smt. Nalini Betigiri, W/o. M.A. Ramesh,
Aged about 53 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
33. Kum. R. Jyothi, D/o. G.S. Rama Swamy,
S/o. Late M. David,
Aged about 43 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
34. Smt. K. Hemalatha, W/o. P. Venugopal,
Aged about 41 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.

35. Smt. B. Sudha Rani,
W/o. Om. Sambasiva Rao,
Aged about 47 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
36. Smt. S. Karuna Mary, W/o. V.S. Prabu Kumar,
Aged about 49 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
37. Smt. M. Sri Devi, W/o. M. Ravi Kumar,
Aged about 42 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
38. Smt. V. Uma Devi, W/o. D. Krishna Kishor,
Aged about 44 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.
39. G. Krishna Murthy, W/o. G. Nagabushanam,
Aged about 51 years,
Occ: Pharmacist,
Central Government Health Scheme,
Hyderabad, R/o. Hyderabad.

.... Applicants

AND

1. Union of India rep. by
The Secretary to Government ,
Ministry of Healthy and Family Welfare,
Nirman Bhavan, New Delhi – 110 011.
2. The Secretary to the Government,
Ministry of Finance, Department of Expenditure
Implementation Cell, North Block, New Delhi.

3. The Directorate General of Central Government
Health Scheme CGHS-II Section,
Nirman Bhavan, New Delhi – 110 011.
4. The Secretary to the Government,
Ministry of Personnel,
Pensions and Public Grievances,
Department of Personnel and Training,
New Delhi.
5. The Additional Director,
Central Government Health Scheme,
KS. Bhavan, Bhempet, Hyderabad – 16.

.... Respondents

Counsel for the Applicants : Mr. Siva

Counsel for the Respondents : Mrs. K. Rajitha,
Sr. CGSC.

CORAM :

THE HON'BLE MR. JUSTICE L. NARASIMHA REDDY, CHAIRMAN
THE HON'BLE MR. B.V. SUDHAKAR, MEMBER (A)

ORAL ORDER

(Per Hon'ble Mr. Justice L. Narasimha Reddy, Chairman)

This O.A. is filed by the applicants, who are the Pharmacists in the Central Government Health Scheme, claiming the relief of declaration to the effect that not paying the Grade Pay of Rs.4600/- in the Pay Band-2 to them w.e.f. 01.01.2006, being the replacement of the pay scale of Rs.6500-10500 (V CPC Scale) is arbitrary, illegal, unjust and violative of Articles 14 & 16 of the Constitution and as a consequence thereof, a declaration to the effect that the

proceedings dated 11.11.2011 & 19.9.2012 are unsustainable and contrary to the Modified Assured Career Progression Scheme. Other reliefs are also claimed on the same lines.

2. The applicants contend that on account of the recommendations made by the V Pay Commission and other steps that have taken place over the years, they were entitled to be extended the Grade Pay of Rs.4600/- in Pay Band-2 whereas they were being paid Rs.2800/- . They have elaborated the issue in the pleadings and stated that there was absolutely no basis in not extending the said benefit.

3. On their part, the Respondents filed reply opposing the O.A. They stated that the Grade Pay was fixed for the applicants strictly in accordance with the relevant rules and provisions of law were also fitted into the pay structure.

4. Heard Shri Siva, learned counsel for the applicants and Smt. K. Rajitha, learned Senior Central Government Standing Counsel appearing for the Respondents.

5. The necessity for us to deal with the issue in detail is on account of the fact that identical issue was adjudicated by the Principal Bench of the Tribunal in O.A. No.3441/2012. Through its order dated 31.1.2014 the said O.A. was allowed. It was held that the benefit as claimed by the applicants therein was permissible in law. However, the Union of India carried the matter to the

Delhi High Court in W.P(C). No.8515/2014. Through its judgement dated 09.11.2016, the Delhi High Court had set aside the order passed by the Principal Bench of the Tribunal. The result is that the claim made by the applicants cannot be sustained in law. It is stated that though an S.L.P. is filed against the judgement of the Delhi High Court, no *stay* was granted, except that in the recent past, an order of recovery in a similar case was passed.

6. As the law stands now, the O.A. is liable to be dismissed following the judgement of the Delhi High Court in W.P.(C)No.8515/2014. The matter does not simply rest at that. The applicants have been drawing salary in far excess of their entitlement on the strength of the Interim Order passed by this Tribunal in this O.A. Now, the actual emoluments which the applicants were entitled to draw but for the Interim Order of this Tribunal need to be worked out.

7. We are of the view that though the calculation part may go on, the recovery part can be deferred for a period of three months by which time there is every possibility of adjudication in the Hon'ble Supreme Court on the issue taking place. We, therefore,

- a) dismiss the O.A.;
- b) direct that the Respondents shall determine the salary to be paid to the applicants, in particular with reference to their pay bands but for the Interim Order passed by this Tribunal in this O.A. and re-fix the

emoluments, apart from determining the amount paid in excess to the applicants over the period; and

- c) the recovery of the amount which is found to have been made in excess, shall be deferred for a period of three months and other steps shall be taken depending upon the outcome of the S.L.P. filed against the judgement of the Hon'ble Delhi High Court in W.P.(C)No.8515/2014.

8. There shall be no order as to costs.

(B.V.SUDHAKAR)
MEMBER (A)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

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