



**CENTRAL ADMINISTRATIVE TRIBUNAL**

**CALCUTTA BENCH**

MA. 638/17  
OA. 1418/17

1. Kamalesh Mazumdar, S/o Late Bhupal Chandra Mazumdar, aged about 46 yrs. at present residing at 25, Municipal Office Lane, 2<sup>nd</sup> Floor, Kolkata - 700 074.
2. Sujit Kumar Parui, S/o Late Nirmalendu Parui, aged about 49 yrs. at present residing at Prabaha Apartment, Flat No. 2, Maa Sarada Road, Barasat, Kolkata - 700 124.
3. Goutam Jana, S/o Shri Aswini Kumar Jana, aged about 44 yrs. at present residing at IC-934, Sector-III, Salt Lake, Kolkata - 700 106.

All the applicants are working as Sr. Audit Officer under the overall control of Comptroller & Auditor General of India in the office of the Principal Accountant General (General & Social Sector Audit), West Bengal.

..Applicants

- Vs -

1. Comptroller & Auditor General of India,  
9, Deen Dayal Upadhyaya Marg, New Delhi - 110 124.
2. Principal Accountant General (General & Social Sector Audit),  
West Bengal, 2, Government Place (West), Treasury Buildings,  
Kolkata - 700 001.
3. Deputy Accountant General (SS - III) also known as Examiner of  
Local Accounts, West Bengal,  
Local Audit Department, 2, Government Place (West), Treasury  
Buildings, Kolkata - 700 001.

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4. Sr. Audit Officer,  
Resident Audit Office at Kolkata Municipal Corporation  
5, S. N. Banerjee Road, Kolkata - 700 013.
5. The Sr. Administrative Officer (Staff), Entt-I, 9, Deen Dayal  
Upadhyaya Marg, New Delhi - 110 124.

.. Respondents

NO

No. O.A. 350/01418/2017  
M.A. 350/838/2017

Date of order: 9.10.2017

Present : Hon'ble Mr. A.K. Patnaik, Judicial Member

For the Applicant : Mr. C. Sinha, Counsel

For the Respondents : Mr. S.K. Bhattacharyya, Counsel

**ORDER (Oral)**

**A.K. Patnaik, Judicial Member:**

This OA has been filed by Shri Kamalesh Mazumdar & ors. Challenging impugned letter No. 1652-Staff Entt./Pay/53-2014/Vol.II dated 03.12.2014 issued by the Sr. Administrative Officer (Staff), Entt-I, Office of the Comptroller & Auditor General of India, New Delhi, Impugned Office Order No.04 dated 05.07.2017 issued by Dy. Accountant General (SS-III) As regard applicants are concerned, Impugned Office Order No. 09 dated 18.07.2017 issued by Dy. Accountant General (SS-III) as regard applicants are concerned, Impugned Officer Order No. 64 dated 06.09.2017 issued by Dy. Accountant General (SS-III) as regard applicants are concerned, Non consideration and non-disposal of representations dated 20.07.2017 and illegal and arbitrary action on the part of the respondent authorities in refixing the pay of the applicants at the stage of Rs. 12840/- as on 01.01.2006 instead of Rs. 13950/- (Rs.13950/- being the revised pay in terms of 6<sup>th</sup> CPC attached to the pre-revised pay of Rs. 7500/- in upgraded scale of Rs. 7500-12000/-). This O.A. has been filed praying for the following reliefs:

- "a) Liberty may be granted under Rule 4(5)(a) of CAT (Procedure) Rules, 1987 to file and maintain the Original Application jointly.
- b) To set aside and quash Impugned letter No. 1652-Staff Entt. I /Pay/53-2014/Vol.II dated 03.12.2014 issued by the Sr. Administrative Officer (Staff), Entt-I, Office of the Comptroller & Auditor General of India, New Delhi.
- c) To set aside and quash Impugned Office Order No.04 dated 05.07.2017 issued by Dy. Accountant General (SS-III) as regard applicants are concerned.."

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- d) To set aside and quash Impugned Officer Order No. 09 dated 18.07.2017 issued by Dy. Accountant General (SS-III) as regard applicants are concerned.
- e) To set aside and quash Impugned Office Order No.64 dated 06.09.2017 issued by Dy. Accountant General (SS-III) as regard applicants are concerned.
- f) To direct the respondents to fix the pay of the applicants at the stage of Rs. 18750/- (Rs. 13950/- + G.P of Rs. 4800/-) as on 01.01.2006 together with all consequential benefits.
- g) To direct the respondents not to make any recovery from the salary of the applicants and to refund any amount which has already been recovered along with interest applicable to GPF deposit.
- h) Any other order or orders as the Hon'ble Tribunal deems fit and proper".

2. The facts in a nut shell as per Mr. C. Sinha, Ld. Counsel for the applicant are that the applicants after passing Section Officers ' Grade Examination was promoted to the post of Section Officer (SO) in pay scale of Rs. 6500-10500/- and thereafter to the post of Asstt. Audit Officer (AAO) in pay scale of Rs. 7450-11500/-. After 6<sup>th</sup> CPC in terms of the CCS (RP) Rules, 2008, the posts of SO and AAO were upgraded and merged in the pay scale of Rs. 7500-12000/- w.e.f. 1.1.2006 and accordingly the applicants were granted the minimum of the pay scale of Rs. 7500-12000/- i.e. Rs. 7500/- w.e.f. 1.1.2006. That the revised pay in terms of 6<sup>th</sup> CPC corresponding to the pre-revised pay of Rs. 7500-13950/- was granted to the applicants but subsequently withdrawn and the pay of the applicants was fixed at the stage of Rs. 12840/- without issuing any show-cause notice and granting an opportunity of hearing and due drawn statement has been issued regarding the amount to be recovered with a direction to deposit the entire overdrawn amount.

3. Mr. C. Sinha submitted that though the applicant has made a representation dated 20.7.2017 but without considering the said representation under Annexure "A-10" the respondent authorities have passed another order vide Annexure "A-11", which reads as under:-

**" O/o the Principal Accountant General (G&SSA), West Bengal  
Local Audit Department**

*CSL*

2, Government Place (West), Treasury Buildings, - Kolkata 700001

O.O. No. 64

Dated: 6.9.2017

In partial modification of the O.O. No. 04 dated 5.7.2017 the pay of the following four officers has been revised afresh w.e.f. 1.1.2006 as detailed in the enclosed statement. Consequent upon such re-fixation, the revised individual pay as on 1.7.2016 is detailed below:-

Sl. No.	Name & Designation	Pay as on 1.7.2016	Details of fixation in
1.	Shri Goutam Jana, Sr. AO	Rs. 75400	Annexure -A
2.	Shri Kamalesh Mazumdar, Sr. AO	Rs. 75400	Annexure-B
3.	Shri Sujit Kumar Parui, Sr. AO	Rs. 75400	Annexure-C
4.	Shri Md. Shahid Jamil, Sr. AO	Rs. 75400	Annexure-D

Authority: Pr. AG's order dated 4.9.2017

Deputy Accountant General (SS-III)"

4. Mr. Sinha submitted that before such recovery no opportunity of hearing was afforded, therefore, there is a clear violation of principles of natural justice. On the other hand, Mr. Sandip Kumar Bhattacharyya, Ld. Counsel appearing for the respondents brought to my notice the rule position which were annexed by the applicant at Annexure 'A-3' as well as the subsequent order dated 6.9.2017 under Annexure 'A-11' which are impugned. Mr. Bhattacharyya further brought to my notice the notification/letter issued by the Office of the Controller and Auditor General of India dated 22.9.2011 and submits that as the applicants are officers who are well aware of the rule position and they themselves have annexed the documents, therefore, this O.A. is liable to be dismissed.

5. Heard Ld. Counsel for the parties.

6. I find that the applicant has ventilated his grievance by preferring a representation dated 20.7.2017 which is annexed under 'Annexure A-10' and Mr. Sinha fairly submitted that before issuing the order dated 6.9.2017

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the respondent authorities have not communicated the outcome of 20.7.2017 (Annexure A-10).

7. Therefore, without entering into the merits of the matter and waiting for the reply to be filed by the respondents, I think it appropriate to dispose of the O.A. by directing the respondent No. 2 that, if any, such representation has been preferred by the applicant on 20.7.2017 and the same is still pending consideration then the same may be considered as per the extant rules and regulations and result thereof may be communicated individually to all the applicants within a period of 4 weeks from the date of receipt of a copy of this order. However, if in the meantime the said representation stated to have been preferred on 20.7.2017 has already been disposed of then the result thereof be communicated to the applicant within a period of 2 weeks from the date of receipt of a copy of this order.

8. I make it clear that till the said representation stated to have been made on 20.7.2017 is considered and disposed of no further coercive action in pursuance to the order dated 6.9.2017 will be intimated by the respondents.

9. With the aforesaid observation and direction, this O.A. stands disposed of.

10. As prayed for by Mr. C. Sinha, Ld. Counsel a copy of this order along with paper book be transmitted to the respondent No. 2 by speed post for which Mr. Sinha undertakes to deposit necessary cost in the Registry by this week.

11. As I have not entered into the merits of the case, the M.A. for joint prosecution is disposed of.

12. A copy of this order be handed over to Mr. S.K. Bhattacharyya,

*Wlle*

Ld. Counsel for Union of India.

13. While dictating the above order Mr. Sandip Kumar Bhattacharyya, Ld. Counsel appearing on behalf of the respondents continuously and deliberately tried to disrupt the dictation. He also made certain remarks about the Bench which left much to be desired from a Ld. Counsel. However, I am taking a very lenient view of the matter and not drawing up any proceedings under the Contempt of Court Rules. But nonetheless I think it fit and proper to draw the attention of the Bar Council of West Bengal so that the Ld. Counsel, Mr. Sandip Kumar Bhattacharyya can be advised suitably.

14. The Registry is directed to send a copy of this order to the President, Bar Council of West Bengal, Branch Secretariat, Law Department, Government of India, respondent No. 2 i.e. Principal Accountant General (General & Social Sector Audit), West Bengal, 2, Government Place (West), Treasury Buildings, Kolkata - 700001 and the Secretary of the Central Administrative Tribunal, Bar Association, Kolkata.

15. The Registry is hereby directed not to list any case before a Bench in which I am a Member (either Single Bench or Division Bench or Full Bench) where the said Ld. Counsel, Mr. Sandip Kumar Bhattacharyya is appearing on behalf of either of the sides.

(A.K. Patnaik)  
Judicial Member