

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**Original Application No.180/00435/2017**

Tuesday, this the 9<sup>th</sup> day of April 2019

**Hon'ble Mr.E.K.Bharat Bhushan, Administrative Member  
Hon'ble Mr.Ashish Kalia, Judicial Member**

1. C.Krishnan, aged 65 years, S/o Late P.Kannan,  
Retired Accounts Officer, PAO (ORS) DSC KANNUR  
Residing at Krishna Villa, Alavil, Kannur -670008
2. K.K.Sreedharan, aged 65 years, S/o Late V.Ananda Kurup  
Retired Sr. Auditor, PAO (ORS) DSC KANNUR  
Residing at `Sreyas' Arayannur, Chemmarathur. P.O, Badagara-673104
3. Vimala Ravindran, aged 64 years, S/o Late K.K.G.Nambiar  
Retired Sr. Auditor, PM) (ORS) DSC KANNUR  
Residing at Kunnoli, Memmunda.P.O, Badagara- 673104
4. K.Lakshmi, aged 65 years, D/o Late K.Kumaran  
Retired Sr. Auditor, PAO (ORS) DSC KANNUR  
Residing at Panjami, Kuttimakkul, Thiruvangad, Thalassery-670103
5. P.Vijayan, aged 75 years, S/o Late Kannan,  
Retired Sr. Auditor PAO (ORS) DSC KANNUR  
Residing at Paramattungal House, Mokeri P.O, Kakkattil,  
Kozhikode- 673507
6. T.V.Mohandas, aged 72 years, S/o Late P.Gopalan Nair  
Retired Supervisor Accounts PAO (ORS) DSC KANNUR  
Residing at "Saranga" Near Iriveri Kovil, Kuzhikkunnu, Kannur-670001
7. C.Nalini, aged 65 years, D/o Late V.Kunhiraman,  
Retired Sr. Auditor PM) (ORS) DSC KANNUR  
Residing at Nalinam, Thavakkara, Kannur-670001
8. N.A.Satheendran, aged 72 years, S/o Late N.Kunhiraman  
Retired Sr. Auditor PAO (ORS) DSC KANNUR  
Residing at Sambath, Opp.Acharath Road, Saidarpalli, Thalassery-670102
9. T.Jayarajan, aged 65, S/o Late K.Sankaran Nair,

- Retired Sr. Auditor PAO (ORS) DSC KANNUR  
Residing at Nandanam, Korom North Chalakode P.O, Payyannur-670307
10. Raju Chandroth, aged 66 years, S/o Late. V.Onakkan  
Retired Sr. Auditor PAO (ORS) DSC KANNUR  
Residing at Ushas, Pariyaram, Kolari .P.O, Mattannur, Kannur Dist
  11. S.Gopakumar, aged 73 years, S/o Late K.Sivarama Pillai  
Retired Accounts Officer in the CDA (CSD) MUMBAI  
Residing at Arathi, Near ESI Dispensary, Dharmadom P.O,  
Thalassery – 670106
  12. P.K.Keshavan Namboodiri,  
aged 78 years, S/o Late A Kunhikrishnan  
Nambiar, retired AAO, PAO (ORS) DSC KANNUR  
Residing at Udayabhavant, Palavadnada.P.O., Iringal, Badagara
  13. C Kanchana, aged 68 years, D/o Late T.K.Kunhikanna Kurup,  
Sr. Auditor PAO (ORS) DSC KANNUR  
Residing at Arathi', Near ESI Dispensary, Dharmadam.P.O.  
Thalassery-670106
  14. T.Damodaran Nambiar, aged 75 years, S/o Late K.O.D  
Nambiar Sr. Auditor AOGE Ezhimala  
Residing at Poornima, Kavinisseri Road, Cherukunnu.P.O,  
Kannur —670301
  15. M.Balakrishnan, aged 75 years, S/o Late K.M.Anandakurup,  
Retired Sr .Auditor, PAO (ORS) DSC KANNUR  
Residing at Kythayil House', Kayapanachi, Tuneri Badagara — 673505
  16. K.Damodaran, aged 72 years, S/o Late U.Kannan,  
Retired Sr. Auditor AOGE, Ezhimala  
Residing at Puthiyaparambil House, Methodam, Kannandiparamba.P.O.,  
Kannur-607604
  17. A.Narayanan, aged 65 years, S/o Late Kunkan.A,  
Retired Sr. Accounts Officer, AOGE, Ezhimala  
Residing at Narayana Nivas', Challivayal, Memunda.P.O.,  
Badagara — 673104
  18. K.K.Kannan, aged 65 years, S/o Late Neelakandan,  
Retired DCDA IFA (NAVY) KOCHI  
Residing at Palakunnu House, Ekkaparamba,  
Kuzhimanna.P.O., Malappuram-673641

19. P.Purushothaman, aged 69 years, S/o Late K.Gopalan,  
Retired Sr Auditor PAO (ORS) DSC KANNUR  
Residing at Sindhu Nilayam., Pappinisseri, Kannur — 670561
20. N.Narayanan, aged 65 years, S/o Late K.Gopalan,  
Retired Sr. Auditor PAO (ORS) DSC KANNUR  
Residing at Uthradam, Veeranchira, Sreestha.P.O., Pazhayangadi,  
Kannur - 670303
21. T.Komalavally, aged 62 years, D/o Late K.Balakrishnan,  
Retired Sr. Auditor, PAO (ORS) DSC KANNUR  
Residing at Chaithram' Near Kannur South Railway Station,  
Chovva.P.O., Kannur- 670006
22. M.Ramdas, aged 75 years, S/o Late K.Krishna Kurup,  
Retired Sr.Auditor PAO (ORS) DSC KANNUR  
Residing at Aswathy, Eramala.P.O, Orkkatteri, Vatakara 673501
23. C.P.Chandrangdan, aged 63 years, S/o Late P.Govindan Nambiar, Retired Sr.  
Auditor PAO (ORS) DSC KANNUR  
Residing at Chenicheri Puthan Valappil, Pappinisseri West.P.O.,  
Kannur – 670561
24. E.Mohanan, aged 64 years, S/o Late M.Gopalan Nambiar,  
Retired ACDA, PCDA BENGALURU  
Residing at Sreelakshmi, Near Kanayi. .L. P. School, Payyannur-670307.
25. P.Bharathan, aged 67 years, S/o Late P.Sankaran,  
Retired Sr. Auditor in the AOGE Ezhimala Residing at Aiswarya',  
Puthiyatheru Mandapam, Chirakkal.P.O. , Kannur 670011
26. A.Raveendran, aged 68 years, S/o Late Kannan,  
Retired Sr. Auditor PCDA BENGALURU  
Residing at Akhilaya' Ananemetta, Muzhappala.P.O., Kannur-670611
27. P.Narayanan, aged 76 years, S/o Late Kelappan Nambiar,  
Retired Sr. Auditor in the PAO (ORS) DSC KANNUR  
Residing at Sobhalavaint, Karayan Road, Chovva.P.O., Kannur- 670006
28. N.Gangadharan, aged 71 years, S/o Late M.Kunhiraman,  
Retired Sr. Auditor PAO (ORS) DSC KANNUR  
Residing at Pranam', Near Rajas High School, Chirakkal.P.O.,  
Kannur-670011
29. Hashim Kappanayil, aged 70 years, S/o Late C.K.Moideen,  
Retired Sr. Auditor AOGE, Ezhimala

Residing at Fathima, Near I.M.M.T School, Talap, Pallildcunnu, P.O.  
Kannur- 670004

30. K.Vasantha , aged 65 years, D/O Late P.Mukundan.  
Retired Sr Auditor PAO (ORS) DSC KANNUR  
Residing at Chethanal, Makuni Road, Pallikkunnu.P.O., Kannur-670004
31. P.V.Valsalan, aged 72 years, S/o Late C.H.Achuthan,  
Retired Sr. Auditor PAO (ORS) DSC KANNUR  
Residing at Oasis', Dharmadam, Thalassery
32. V.V.Sankarankutty, aged 74 years, S/o Late P.V.Kunhappa,  
Retired Sr Auditor PAO (ORS) DSC KANNUR  
Residing at Kallamvally Valappil', Chenothvayal, M.M.Bazar.P.O.,  
Kannur-670306
33. V.K.Saravanabhavan, aged 70 years, S/o Late V.Koran,  
Retired Sr .Auditor PAO (ORS) DSC KANNUR  
Residing at Sai Mahal', Chovva, Kannur – 670006
34. K.Karthiayani, aged 63 years, D/O Late K.Kumaran,  
Retired Sr. Auditor PAO (ORS) DSC KANNUR  
Residing at Sopanam', Parapram., Pinarayi.P.O., Thalassery
35. P.Damodaran Nambiar, aged 74 years, S/o Late C.H.Narayanan Nambiar,  
Retired Sr.Auditor PAO (ORS) DSC KANNUR  
Residing at Palakkad House, Patel Road, Puzhathi, Chirakkal.P.O.,  
Kannur 670011
36. M.N. Jayarajan, S/O Late N.Kunhikannan, residing at Thazhe veedu House,  
Panoor.P.O, Kannur 670692 retireds Accounts officer PAO(ORs)  
MEG Bengaluru
37. P.Ravindran, S/o Late P.Kunhiraman, residing at Sandeepanf, Near SBI,  
Thavakkara, Kannur -- 670001, retired Sr. Auditor PAO (ORS) DSC Kannur
38. P.P.Vijayan, S/o Late M.K.Kunhambu, residing at J.K.Sadanam' Near  
deseeya vayanasa, Kadachira.P.O. Kannur-670621 retired Sr. Auditor PAO  
(ORS) DSC Kannur

..... **Applicants**

**(By Advocate Ms.Kabani Dinesh.M)**

**V e r s u s**

1. Union of India  
Represented by the Secretary to Govt.  
Ministry of Defence  
South Block  
New Delhi -5
2. The Controller General of Defence Accounts  
Ulan Batar Marg  
Palam, New Delhi – 110010
3. The Controller of Defence Accounts  
618, Annasali, Teynampet,  
Chennai 600018
4. The Principal CDA  
107, Lower Agram Road,  
Bangalore - 560007
5. The Principal CDA (NAVY),  
No:1 Cooperage Road,  
Mumbai-400001
6. The CDA (CSD)  
"Adelhi", 119, MK Road,  
Churchgate, Mumbai-400020
7. The Pincipal CDA (Air Force)  
107, Rajpur Road,  
Dehradun – 248001
8. The Principal Controller of Accounts (Ordnance  
Factories) 10-A SK Bose road,  
Kolkata.700001
9. The Principal Controller of Defence Accounts (Southern Command) No:1  
Finance Road, Pune -411001

10. The Secretary to Govt

Ministry of Finance

South Block, New Delhi — 110 001

..... **Respondents**

**(By Advocate – Mrs.K.Kesavankutty,ACGSC)**

This Original Application having been heard on 4.4.2019, the Tribunal on 9.4.2019 delivered the following:

### **ORDER**

**Per: Mr.Ashish Kalia, Judicial Member**

The applicants were working as the Accounts Officers and Senior Auditors in the Defence Accounts in the Defence Accounts Department. They have filed the present Original Application on denial of arrears of pay for the period of 1.1.1996 to 18.2.2003. The applicants belong to ministerial service of the Accounts Department of the Defence. The revised scale of pay as regards accounts staff were granted with effect from 1.1.96 as per the recommendation of 5<sup>th</sup> CPC which were implemented in the year 1997 onwards. At the time of implementation of recommendations, the Accounts staff were not immediately included for implementation. While in the case of other Senior Clerks, the same was implemented immediately. The applicants took up the matter with respondents and submitted representations pointing out the anomaly in implementing the 5<sup>th</sup> Central Pay Commission. Subsequently, revised pay scale was granted on notional basis with effect from 1.1.1996 and actual payment given prospectively from the date of approval of the Cabinet on 19.2.2003. The applicants learned that this Tribunal vide order dated 30.6.2006 allowed Original Application No.671/2003 filed by Junior Accounts Assistants of the Divisional Accounts Office Southern Railway Trivandrum and they have been granted the actual benefit of enhanced

pay scale with effect from 1.1.1996 with arrears. The writ preferred by the respondents was dismissed by the Hon'ble High Court of Kerala and the Apex Court, vide its judgment dated 27.3.2012, was also dismissed. Thereafter, the All India Association of retired Accounts Officer on behalf of the applicants also preferred a representation seeking for the benefits for arrears from 1.1.1996 in the light of the dismissal of SLP. The second respondent vide communication dated 10.11.2014 intimated that the order of the Apex Court is confined to the parties before the Central Administrative Tribunal as well as before the High Court and same is applicable to them only and welfare cannot be extended to all affected personnel belonging to organised Accounts Wing. Left with no remedy, the applicants have approached this Tribunal for redressal of their grievances stating that the action of the respondents is arbitrary, discriminatory and hence illegal. It is also alleged that the scale of pay was revised as per 5<sup>th</sup> CPC and denying the arrears of pay vide Annexure A-1 has no direct nexus to the date on which sanction was accorded by the Cabinet.

2 Upon notice, respondents put their appearance and filed their reply statement and submitted therein that the upgraded pay scale has been circulated vide Office Order dated 5.3.2003 for implementation in the Defence Accounts Department and the pay scale has been revised to all the above categories such as Auditor Accountant, Senior Auditor Accountant, Section Officer and Assistant Audit Officer/Assistant Accounts Officer etc. It is further submitted that this legal issue has already been settled by the Hon'ble Supreme Court in the matter of *Arun Jyothi Kundu*'s case in CA No.2468-2469 of 2005 dated 27.7.2007. It states:

“Once we find that it was open to the Government to extend

the benefit to a set of its employees with effect from a particular day on the basis of some anomaly found in the report of the fifth pay commission, there would arise no discrimination because the very implementation of the Fifth Pay Commission Report would not entitle the respondents to any benefit. The very right to their benefit arose because of the decision of the Government to extend to them a particular benefit not specified in the Fifth Pay Commission Report. It is, therefore, not possible to postulate that the decision of the Government must be given retrospective effect if no such effect is given, the tribunal or court can interfere and direct giving of such retrospective effect. Once it is found that paragraph 83.296 is attracted to the case, it has to be found that the applicants before the Tribunal were not entitled to any relief. “

3 It is further submitted that the claim of the applicants has to be examined on merits and not on mere fact that they are similarly placed persons. Therefore, the decision took by the department, to the representation of All India Association of retired Accounts Officers, has no illegality or arbitrariness and prayed for rejection of the Original Application.

4 Heard Ms.KabaniDinesh.M, learned counsel for the applicants and Mr.K.Kesavankutty, ACGSC, learned counsel for the respondents and perused the documents.

5 The issue involved in the present Original Application has already been dealt with by this Tribunal at length in O.A 671/2003 which was confirmed by all the superior Courts up to Hon'ble Supreme Court. This Tribunal held as follows:

“16. In the light of the above, the O.A is allowed. The applicants are entitled to the benefit of revised pay scales calculating arrears of pay and allowances w.e.f 1.1.1996. Annexure A-3 is quashed to the extent that it declares that the actual benefit would be only w.e.f 19.2.2003. The

respondents are directed to grant the applicants the arrears of revised pay and allowances for the period from 1.1.1996 to 18.2.2003. ”

6 In view of the above, we find that once the 5<sup>th</sup> Central Pay Commission has granted the enhanced pay scale, the applicants are also entitled to because the 5<sup>th</sup> CPC has never stated that the employees working under the Accounts Department are not eligible. Thus, we find that there is a discrimination on the part of the respondents for non-granting of arrears of pay with effect from 1.1.1996 which are in universal nature in respect of all Central Government employees. Thus, we are of this view that the applicants in the present Original Application are entitled to arrears of pay with effect from 1.1.1996 to 19.2.2003 as recommended by the 5<sup>th</sup> CPC. However, the applicants have approached this Tribunal in the year 2017 only and the benefit of the judgment which they are seeking and their requirement date is much prior to this. Thus, in view of the judgment passed in *Union of India v. Tarsem Singh* (2008)8 SCC 648, we hereby restrict the payment of arrears of pay to three years only. The present Original Application is disposed of with the above observation. Same shall be implemented within 90 days of receipt of a copy of this order. No costs.

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

**(E.K BHARAT BHUSHAN)**  
**ADMINISTRATIVE MEMBER**

**List of Annexures**

- Annexure A1 - Copy of the Office Memorandum dated 28.2.2003 issued from Ministry of Finance & company Affairs, Department of Expenditure
- Annexure A2 - Copy of the Order dated 30.6.2006 in O.A 671 of 2003
- Annexure A3 - Copy of the Communication issued by the 2<sup>nd</sup> respondent dated 10.11.2014
- Annexure R1 - Hon'ble CAT (PB) Order dated 15.9.2015 on O.A 527 of 2015  
...