

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original application Nos.040/00086/2019, 040/00087/2019,
040/00088/2019 & 040/00089/2019

Date of Order: This the 19th Day of March 2019

THE HON'BLE MRS. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. NEKKHOMANG NEHSIAL, ADMINISTRATIVE MEMBER

1. Mr. Chandra Mohan Mali
S/o Late Birahu Mali
Village – Rangamati
P.O. – Rangamati, P.S. – Palashbari
Dist – Kamrup (R), Assam, Pin – 781122.

Applicant in O.A. No. 86/2019

2. Mr. Nagen Chandra Boro
S/o Late Maya Ram Boro
Village – Bahupara, P.O. – Rani
P.S. Palashbari, Dist – Kamrup (R), Assam
Pin – 781131.

Applicant in O.A. No. 87/2019

3. Mr. Sonaram Das
House No. 2
Shankardev Nagar path
Bye Lane No. 1, Ganeshguri
P.O. – Assam Sachibalaya
P.S. – Dispur, Dist – Kamrup (M), Assam
Pin – 781006.

Applicant in O.A. No. 88/2019

4. Mr. Promod Chandra Baishya
S/o Late Sarat Chandra Baishya
House No. 52, Bhagaduttapur
Garokuchi Path, P.O. – Beltola
Guwahati – 28, Dist – Kamrup (M),
Assam, Pin – 781028.

Applicant in O.A. No. 89/2019

By Advocates: Mr. N. Kalita & Mrs. A. Choudhury

-Versus-

1. The Union of India
Represented by the Secretary
To the Govt. of India
Udyog Bhavan, Ministry of Textiles
New Delhi – 110001.
2. The Central Silk Board
Under the Ministry of Textiles
Govt. of India
Represented by its Member Secretary
C.S.B. Complex, Madivala
B.T.M Layout, Bangalore – 560068.
3. The Scientist –D & Head
Muga Silkworm Seed Organisation
Regional Office
Central Silk Board, Khanapara
Guwahati – 781022.
4. Deputy Director (Administration & Accounts)
Central Silk Board, C.S.B. Complex
Madivala, B.T.M Layout, Bangalore – 560068.

Respondents in four O.A.s

O R D E R (ORAL)**MANJULA DAS, JUDICIAL MEMBER:**

On being mentioned by Mr. N. Kalita, learned counsel for the applicants, the matter has been taken up today as unlisted.

2. Since the relief sought for by the four applicants in the present O.A.s are similar under the same respondents, hence their cases are being disposed of by this common order.

3. This O.A. has been preferred by the applicants under Section 19 of the Administrative Tribunal's Act 1985 seeking the following relief:

“8. The orders of the Competent Authority leading to issuance of the Intimation dated 24/01/2019 and the Intimation of recovery dated 24/01/2019, directing to recover the excess payment (as objected by the Internal Audit wings of Ministry of Textile and AG Audit) made to the Applicant from the amount payable from the arrears on account of implementation of 7th CPC recommendations and from the salary in fixed instalments and any other consequential order thereto may be set aside and quashed. Also, the Respondents may be directed to pay the arrear amount receivable on account of implementation of the 7th CPC recommendation to the Applicant.”

4. Mr. N. Kalita, learned counsel appearing on behalf of the applicants submitted that all the applicants are at present working in the Muga Silkworm Seed Organisation, Central Silk Board, under the Ministry of Textile, Govt. of India, Khanapara, Guwahait, Assam as

Assistant Superintendent (Admn). Vide Memorandum dated 18.04.2004/29.11.2005, the junior employees to the applicants in the department of the applicant was granted financial upgradation under Assured Career Progression Scheme (ACPS) in the pay scale of Rs. 5000-150-8000. In those relevant times, the applicants were also working as Upper Division Clerk but in the pay Scale of Rs. 4000-100-6000. To remove the pay anomaly, the Competent Authority considered for grant higher pay scale of Rs. 5000-150-8000 w.e.f. 18.11.2005 to the applicants.

5. Mr. Kalita further submitted that such stepping up of pay of a senior at par with his junior was considered with a findings that both the senior and junior employees should belong to the same cadre and the posts to which they have been promoted or appointed should be identical and in the same cadre. According to Mr. Kalita, junior and senior should have held identical scales in the lower post and should hold identical scales in the higher post.

6. Mr. Kalita submitted that said financial upgradation under the ACPS have been objected by the Internal Audit Wings of Ministry of Textile and AG Audit during Audit of Accounts for the financial year 2015-16 on the ground that the up-gradation allowed to the seniors is not in conformity with the instructions contained in the DoPT Office Memorandum No. 35034/1/97-Estt(D) dated 09.08.1999. On

the basis of the above mentioned objection, the Ministry of Textiles has ordered that the higher pay Scales erroneously granted to the seniors should be withdrawn and their pay re fixed as per their entitlement as per rules and the excess payment made is directed to be recovered. Accordingly, vide intimation letter dated 24/31.01.2019, the respondents have intimated to the applicants that their excess payment will be deducted from the arrear payable to them on implementation of 7th C.P.C. recommendations which is going to be received.

7. Being aggrieved with the aforesaid intimation of recovery letter dated 24/31.01.2019, all the applicants submitted representation on 12.03.2019 individually. But the same is still pending with the respondent No. 3.

8. We have heard the learned counsel for the applicants. Perused the pleadings and all the documents. We have also gone through the representation dated 12.03.2019 submitted by the applicants individually wherefrom it is felt that the said representation cannot be considered as detailed representation. On query, learned counsel for the applicants agreed that applicants may be directed to file a comprehensive representation within a time frame and till then, no recovery shall be made.

9. In view of the above, by accepting the prayer made by the learned counsel for the applicant and without going into the merit of the case as well as without issuing notice to the respondents, we direct the applicants to make a comprehensive representation by ventilating their grievances before the appropriate authority within a period of fifteen days from the date of receipt copy of this order. On receipt of such representation, the Authority shall dispose of the same within a period of one month thereafter.

10. It is made clear that, whatever decision to be arrived by the Authority, shall be reasoned and speaking and shall be communicated to the applicants forthwith. ***Till such time, no recovery shall be made in pursuance of Intimation of Recovery letter No. CSB/MSSO/II/7th CPC/2017-18 dated 24/31.01.2019.***

11. O.A. stands disposed of accordingly at the admission stage itself. No order as to costs.

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)