

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No. 1155/2013 & 461/2014

Reserved on: 26.02.2019

Pronounced on: 5.04.2019

Original Application No. 1155 of 2013

Between:

1. Muthu Azhagan S/o Krishna Murthy
Aged about 49 years, Occupation: Technical Officer 'A'
Research Centre Imarat (RCI), Ministry of Defence (MOD)
Vignyana Kancha, Hyderabad-500069
- 2 B.Prabhakar S/o Late B.Lingaiah Chary
Aged about 54 years, Occupation: Technical Officer A
Research Centre Imarat (RCI), Ministry of Defence(MOD)
Vignyana Kancha, Hyderabad-500069
- 3 Saritha Fulmamdikar W/o Suhas Fulmamdikar
Aged about 48 years, Occupation: Technical Officer 'A'
Research Centre Imarat (RCI), Ministry of Defence (MOD)
Vignyana Kancha, Hyderabad-500069
4. Bandi Baludu S/o B.Balanna
Aged about 56 years, Occupation: Technical Officer 'A'
Research Centre Imarat (RCI), Ministry of Defence (MOD)
Vignyana Kancha, Hyderabad-500069
5. P.Uma Maheswar Reddy S/o Late P.Venkat Reddy
Aged about 51 years, Occupation: Technical Officer 'A'
Research Centre Imarat (RCI), Ministry of Defence (MOD)
Vignyana Kancha, Hyderabad-500069
6. B.Nagamohan Rao S/o B.V.Rama Rao
Aged about 52 years, Occupation: Technical Officer 'A'
Research Centre Imarat (RCI), Ministry of Defence (MOD)
Vignyana Kancha, Hyderabad-500069
7. V.Srinivas kumar S/o Late V.Krishna Murthy
Aged about 44 years, Occupation: Technical Officer 'A'
Research Centre Imarat (RCI), Ministry of Defence (MOD)
Vignyana Kancha, Hyderabad-500069
8. C.Ramarao S/o C.V.Narayana Rao.
Aged about 52 years, Occupation: Technical Officer 'A'
Research Centre Imarat (RCI), Ministry of Defence (MOD)
Vignyana Kancha, Hyderabad-500069

9. K.M Usha W/o I.K..Mohan Rao
Aged about 59 years, Occupation: Technical Officer 'A'
Research Centre Imarat (RCI), Ministry of Defence (MOD)
Vigyana Kancha, Hyderabad-500069
10. S.Madhusudhan S/o S.Balaram
Aged 53 Years, Occupation: Technical Officer 'A'
Research Centre Imarat (RCI), Ministry of Defence (MOD)
Vigyana Kancha, Hyderabad-500069
11. P.Vivekanand S/O P.Suryananarayana Aged : 46 Years,
CHIEF CONSTRUCTION ENGINEER R & D, PB NO.1569, Akbar Road,
Secunderabad – 500 011.
12. P.Mallesh S/O LATE P.Sathaiah Aged : 51 Years, CHIEF
CONSTRUCTION ENGINEER R & D, PB NO.1569, Akbar Road, Secunderabad
- 500 011
13. P.Venkatesh S/O LATE P.Sathaiah, Aged : 50 Years, CHIEF
CONSTRUCTION ENGINEER R &D, PB NO.1569, Akbar Road,
Secunderabad – 500 011.
- 14 K.Malleshwara Rao S/O K.Venkateshwar Rao Aged 50 Years, RCMA,
Kanchanbagh, Hyderabad - 500 058
15. K.Lokeshwar Reddy S/O LATE K.Anantha Reddy Aged: 56 Years, DLRL,
Chandrayangutta, Hyderabad - 500 005
16. SMT.P.Bhanumathi Devi W/O. LATE PBV Raju Aged:58 Years, DLRL,
Chandrayangutta, Hyderabad - 500 005
17. A.Narsing Rao S/O.A.Mallesh Aged : 43 Years, DCCT, DRDL,
Kanchanbagh, Hyderabad - 500 058.
18. D.Rajkumar S/O D.Nimmaiah Aged : 44 Years, DOE, DRDL,
Kanchanbagh, Hyderabad - 500 058
19. M.Ramana Kumar S/O M.Narasimha Rao Aged 54 Years, HRDG, DOMS,
DRDL, Kanchanbagh, Hyderabad - 500 058
20. B.Laxman Rao S/O LATE B.Swamy Aged 50 Years, CARBON CARBON
(HTCC), ASL, Kanchanbagh, Hyderabad - 500 058
21. D.Seetharama Raju S/O D.Satyanarayana Raju Aged 58 Years, NSTL,
Vigyan Nagar, Visakhapatnam - 530 027
22. R.Bhaskar Rao S/O LATE R.Subramaniam Aged 53 Years, NSTL, Vigyan
Nagar, Visakhapatnam - 530 027
- 23 SMT.T.Umarani W/O LATE T.Ramprasad Aged 56 Years, NSTL, Vigyan
Nagar, Visakhapatnam - 530 027

24. T.Naresh Singh S/O LATE T.Shanker Singh Aged : 43 YEARS, ANURAG, Kanchanbagh, Hyderabad –500 058.

25. SMT.C.Sharada W/O V.Satish kumar Aged : 42 Years, ANURAG, Kanchanbagh, Hyderabad – 500 058

...Applicants

AND

1. Government of India through its Secretary , Ministry of Defence
Defence Research & Development Organisation, DRDO Bhavan,
Rajaji Marg, Delhi-110105

2. The Director General
R&D, DRDO Bhavan,Rajaji Marg, Delhi-110105

3. Director ,
Human Resource Development, HRD,
DRDO Bhavan,Rajaji Marg, Delhi-110105

4. The Director
Research Centre Imarat (RCI), Ministry of Defence (MOD)
Vignyana Kancha, Hyderabad-500069

5. The Director
DLRL, Chandrayanagutta,Hyderabad-500 005

6. The Director
DRDL, Kanchanbagh,Hyderabad-500 058

7. The Director
DMRL, Kanchanbagh,Hyderabad-500 058

8. The Chief Construction Engineer (R&D) Estates
Chandrayangutta,Hyderabad-500 005

9. The Director
Anurag, Kanchanbagh,Hyderabad-500 058

10. The Director
ASL, Kanchanbagh,Hyderabad-500 058

11. The Regional Director
RCMA, Kanchanbagh,Hyderabad-500 058

12. Chief Construction Engineer (R & D) -
PB No 1569, Akbar Road, Secunderabad- 500 011

13. The Director
NSTL, Vigyan Nagar, Visakhapatnam-530 027

...Respondents

Original Application No. 020 / 0461 of 2014

Between:

- 1.V.Vijayalakshmi W/o. P.Prakash Rao Aged 52 years, Technical Officer 'A', ASL, Kanchanbagh, Hyderabad – 500 058.
- 2.A.Pulla Reddy S/o. Late A.Hanimi Reddy, Aged 58 years, Technical Officer 'A', Defence Electronics Research Laboratory, Chandrayanagutta, Hyderabad – 500 005.
- 3.Satyanayarayana Singh S/o. Kishan Singh, Aged 59 years, Technical Officer 'B', Defence Electronics Research Laboratory, chandrayangutta, Hyderabad– 500 005.
- 4.N. Balaji S/o. N.Ramulu , Aged 43 years, Technical Officer 'A', Defence Electronics Research Laboratory, Chandrayanagutta, Hyderabad – 500 005.
- 5.P.Srinivasa Rao S/o. Late P.Venkat Rao, Aged 50 years, Technical Officer 'A', Defence Electronics Research Laboratory, Chandrayanagutta, Hyderabad – 500 005.
- 6.K.Jeevan Reddy S/o. Late K.Bheem Reddy, Aged 54 years, Technical Officer 'A', Defence Electronics Research Laboratory , Chandrayanagutta, Hyderabad – 500 005.
- 7.Mohd Abdul Hai S/o. Mohd Abdul Rasheed, Aged 50 years, Technical Officer 'A', Defence Electronics Research Laboratory, Chandrayanagutta, Hyderabad – 500 005.
8. Smt.P.Usha Kumari W/o. P.Venkateshwarlu Aged 54 years, Technical Officer 'A' Defence Electronics Research Laboratory, Chandrayanagutta, Hyderabad – 500 005.
- 9.S.Krishnamohan S/o. Late S. Jamnaji Rao, Aged 52 years, Technical Officer 'A', Defence Metallurgical Research Laboratory, Kanchanbagh, Hyderabad – 500 058
- 10.K.Prabhakar Rao S/o. Late A.Ankneedu, Aged 57 years, Technical Officer, Defence Metallurgical Research Laboratory, Kanchanbagh, Hyderabad – 500 058
- 11.Smt. P.Swarnalatha W/o. P.Ashok Kumar, Aged 57 years, Technical Officer 'A', Defence Metallurgical Research Laboratory, Kanchanbagh, Hyderabad – 500 058

12.M.R.K.Mohanlal S/o. M.Shanker Lal, Aged 58 years, Technical Officer 'A', Defence Metallurgical Research Laboratory, Kanchanbagh, Hyderabad – 500 058

13.Smt.L.Ratnakumari D/o. L.Brahmeswar Rao, Aged 54 years, Technical Officer 'A', Defence Metallurgical Research Laboratory, Kanchanbagh, Hyderabad – 500058

14.K.Sathyanarayana S/o. K.Jangaiah, Aged 57 years, Technical Officer 'A', Defence Metallurgical Research Laboratory, Kanchanbagh, Hyderabad – 500 058

15.N.C.Madhu S/o Late N C S Partha Saradhi Aged 59 years, Technical Officer 'A', DRDL, Kanchanbagh, Hyderabad – 500 058.

16.K.Subba Rao S/o Late K.Suryanarayana, Aged 59 years, Technical Officer, DRDL, Kanchanbagh, Hyderabad – 500 058.

17.S.Girija Devi W/o. S.Chandrakanth Aged 53 years, Technical Officer 'A', DRDL, Kanchanbagh, Hyderabad – 500 058.

18.P.Bhodaiah S/o P.Sayulu, Aged 55 years, Technical Officer 'A' DRDL, Kanchanbagh, Hyderabad – 500 058.

19.C.Shankarnath S/o Late C Deshvanthudu Aged 52 years, Technical Officer 'A', DRDL, Kanchanbagh, Hyderabad – 500 058.

20.M.V.Shankar S/o M.Venkat Ramaiah Aged 58 years, Technical Officer 'A', DRDL, Kanchanbagh, Hyderabad – 500 058.

21.M.Chandrasekhar S/o. M.Venkata Chary Aged 59 years, Technical Officer 'A', DRDL, Kanchanbagh, Hyderabad – 500 058.

22.P.Pandurangaswamy S/o. P.Rajaiah Aged 55 years, Technical Officer 'A', DRDL, Kanchanbagh, Hyderabad – 500 058.

23.K.Venkatalakshmi W/o.K.Prasad Aged 51 years, Technical Officer 'A', DRDL, Kanchanbagh, Hyderabad – 500 058.

24.I.Laxminarayana S/o. I.Satyanarayana Aged 59 years, Technical Officer 'A', DRDL, Kanchanbagh, Hyderabad – 500 058.

25.T.Kumaraswamy S/o. T.Veerawamy Aged 47 years, Technical Officer 'A', DRDL, Kanchanbagh, Hyderabad – 500 058.

26.Ramsingh S/o. Tauji Ram Aged 50 years, Technical Officer 'A', DRDL, Kanchanbagh, Hyderabad – 500 058.

27.B.A.Shankar Rao S/o. B G Apparao Aged 47 years, Technical Officer 'A', DRDL, Kanchanbagh, Hyderabad – 500 058.

28.Vikar Ahmed Khan S/o. Abdul Majeed Khan Aged 56Years, Technical Officer 'A', DRDL, Kanchanbagh, Hyderabad – 500058.

29. M.Shajahan, S/o Md.Shareef Aged 47 Years, Technical Officer 'A' , DRDL, Kanchanbagh, Hyderabad – 500058.
- 30.J. Sreenivas Rao S/o J. Brahmaiah Aged 43 Years, Technical Officer 'A' , DRDL, Kanchanbagh, Hyderabad – 500058.
31. P.Manikyam S/o late P Veeraiah Aged 54 Years, Technical Officer 'A' , DRDL, Kanchanbagh, Hyderabad – 500058
- 32.B.Sukanya Devi W/o P.Ram Chander Rao Aged 53 Years, Technical Officer 'A' , DRDL, Kanchanbagh, Hyderabad – 500058
33. J.Manjunath S/o. J.Nageshwara Adiga Aged 55 years, Technical Officer 'A' DRDL Cell
- 34.Kokila V.Kumar W/o. G.Vijay Kumar Aged 50 years, Technical Officer 'A' DRDL Cell
- 35.D.V Raman S/o. D.V.V.Subba Rao, Aged 54 years, Technical Officer 'A' , NSTL, Vigyan Nagar, Visakhapatnam – 530 027.
- 36.KSK Mohan S/o. Late KAVL Narasimha Rao, Aged 56 years, Technical Officer 'A' NSTL, Vigyan Nagar, Visakhapatnam – 530 027.
- 37.K.B.Vijaya S/o. Late K.Luke, Aged 59 years, NSTL, Technical Officer 'A' Vigyan Nagar, Visakhapatnam – 530 027.
- 38.E.Suvarna Raju S/o.E. Chiranjeevi Rao, Aged 52 years, Technical Officer 'A',NSTL, Vigyan Nagar, Visakhapatnam – 530 027.
- 39.V . Mastanaiah S/o. V. Ramaiah Aged 42 years, Technical Officer 'A' , NSTL, Vigyan Nagar, Visakhapatnam – 530 027.
- 40.P Naga Jyothi W/o. P.Chakrapani, Aged 47 years, Technical Officer 'A' , NSTL, Vigyan Nagar, Visakhapatnam – 530 027.
- 41.E.B Appa Rao S/o. E. Pydayya Aged 43 years, Technical Officer 'A' , NSTL, Vigyan Nagar, Visakhapatnam – 530 027.
- 42.CHKV Sitaram S/o. Kameswar Rao, Aged 46 years, Technical Officer, NSTL, Vigyan Nagar, Visakhapatnam – 530 027.
- 43.K Samuel S/o. K. Gavarayya (Late) Aged 56 years,Technical Officer, NSTL, Vigyan Nagar, Visakhapatnam – 530 027.
- 44.G Ramaiah S/o.G.Venkatesh, Aged 58 years, Technical Officer, NSTL, Vigyan Nagar, Visakhapatnam – 530 027.
- 45.CH Sanyasi Raju S/o.Late S.Raju, Aged 59 years, Technical Officer, NSTL, Vigyan Nagar, Visakhapatnam – 530 027.
- 46.A.S.R.Murthy S/o. Late A.Gopala Rao Aged 59 years, Technical Officer 'B' , ASL, Kanchanbagh, Hyderabad – 500 058.

- 47.K.V.V.S.M.Reddy S/o. Late K.Sathi Reddy Aged 53 years, Technical Officer 'B' ASL, Kanchanbagh, Hyderabad – 500 058.
- 48.P.B.Sarojini D/o.P.Rangadas Aged 59 years, Technical Officer 'B', ASL, Kanchanbagh, Hyderabad – 500 058.
- 49.P.Vanaja W/o. S.Anand Aged 49 years, Technical Officer 'B', ASL, Kanchanbagh, Hyderabad – 500 058.
- 50.K.Papa Rao S/o. K.Krishna Rao Aged 57 years, Technical Officer 'B', DRDL, Kanchanbagh, Hyderabad – 500 058.
- 51.A. Raju S/o Late A . Venkatesham, Aged 54 Years, Technical Officer 'B' DRDL, Kanchanbagh, Hyderabad – 500058
- 52.L Venkataiah S/o Late L Eadhaiah, Aged 51 Years, Technical Officer 'B' DRDL, Kanchanbagh, Hyderabad – 500058
- 53.A .Lakshmi Devi W/o. I. Ravinder Aged 50 Years, Technical Officer 'B' DRDL,Kanchanbagh, Hyderabad – 500 058
- 54.S. Mohan Rao S/o Late S. Yadagiri, Aged 59 Years, Technical Officer 'B' DRDL,Kanchanbagh, Hyderabad – 500 058
- 55.G M V Lakshmi W/o. C h Ram Prasad Rao Aged 47 Years, Technical Officer 'B' DRDL, Kanchanbagh, Hyderabad – 500058
- 56.V Bhuvaneshwari W/o. V. Muralikrishnan Aged Technical Officer 'B' 47 Years, DRDL, Kanchanbagh, Hyderabad – 500 058
- 57.V Chengalamma W/o K Balarami Reddy Aged 47 Years, Technical Officer 'B' DRDL, Kanchanbagh, Hyderabad – 500 058
- 58.CH Umamaheshwari W/o K Jagdeshwar Aged 46 Years, Technical Officer 'B' DRDL, Kanchanbagh, Hyderabad – 500 058
- 59.J Balakrishna Das S/o. late J. Babaiah, Aged 57 Years, Technical Officer 'B' DRDL, Kanchanbagh, Hyderabad – 500 058
- 60.B Balaji S/o B Buchaiah, Aged 48 Years, Technical Officer 'B' DRDL, Kanchanbagh, Hyderabad – 500 058
- 61.K V Ramana W/o K Sambashiva Rao Aged 57 Years, Technical Officer 'B' DRDL, Kanchanbagh, Hyderabad – 500 058
- 62.K Shanker S/o. K Rajamalliah, Aged 51 Years, Technical Officer 'B' DRDL, Kanchanbagh, Hyderabad – 500 058
- 63.P Mohan S /o. P. Narsimha, Aged 49 Years, Technical Officer 'B' DRDL, Kanchanbagh, Hyderabad – 500 058
64. Syed Ahmed Jeelani S/o. Mir Mahboob Ali Aged 51 years, Technical Officer 'B' DRDL, Kanchanbagh, Hyderabad – 500 058.

65.Mrs. B.Durga Bhavani, W/o S. Siva Rama Krishna, Aged 44 years, Technical Officer 'B', NSTL, Vigyan Nagar, Visakhapatnam – 530 027.

66.MV Ramana Rao, S/o M. Narasimha Rao, Aged 43 years, Technical Officer 'B', NSTL, Vigyan Nagar, Visakhapatnam – 530 027.

67.Ch S R Srinivas Rao, S/o Ch. Satyanarayana, Aged 45 years, Technical Officer 'B', NSTL, Vigyan Nagar, Visakhapatnam – 530 027.

68.CH Subhakar Rao S/o.Ch. Krishna Murty, Aged 45 years, Technical Officer 'B', NSTL, Vigyan Nagar, Visakhapatnam – 530 027.

69.G.Vidyanand Reddy S/o Late G.Narsimha Reddy, Aged 57 Years, Technical Officer 'B', Research Centre Imarat (RCI), Vignyana Kancha, Hyderabad – 500 069

70. P.Seena Reddy S/o P.Venka Reddy, Aged 55 Years, Technical Officer 'B' Research Centre Imarat (RCI), Vignyana Kancha, Hyderabad – 500 069

71. S.S.Bhasha S/o Shaik Abdul Rahiman, Aged 49 Years, Technical Officer 'B', Research Centre Imarat (RCI), Vignyana Kancha, Hyderabad – 500 069

72. S.Kedarnath S/o S.Nagaabhushana Rao, Aged 57 Years, Technical Officer 'B', Research Centre Imarat (RCI), Vignyana Kancha, Hyderabad – 500 069

73. MG Raghavendra Rao S/o M.Gopal Rao, Aged 53 years, Technical Officer 'B', Research Centre Imarat (RCI), Vignyana Kancha, Hyderabad – 500 069

74. P.Satyanarayana Rao S/o TRK Murthy, Aged 59 Years, Technical Officer 'B', Research Centre Imarat (RCI), Vignyana Kancha, Hyderabad – 500 069

75. K.V.Sreedevi W/o. G.Janardhan Reddy Aged 47 years, Technical Officer 'B', RCI, Vignyanakancha, Hyderabad – 500 069.

76.K.Vijaya sree W/o.K.Papa Rao Aged 58 years, Technical Officer 'B', RCI, Vignyanakancha, Hyderabad – 500 069.

77.C.V.Sarada Prasanna Kumari W/o. C.Sambasadasiva Rao Aged 59 years, Technical Officer 'B' RCI, Vignyanakancha, Hyderabad – 500 069.

78. D.Venugopal S/o. D.Kameswara Rao Aged 49 years, Technical Officer 'B' RCI, Vignyanakancha, Hyderabad – 500 069.

79. K.Sujanasri W/o. K.Koteswara Rao Aged 46 years, Technical Officer 'B' RCI, Vignyanakancha, Hyderabad – 500 069.

80. V.Dharmanandham S/o. Late V.Vegulaiah Aged 50 years, Technical Officer 'B' RCI, Vignyanakancha, Hyderabad – 500 069.

81. S.Phanibabu S/o. S.Seshagiri Rao Aged 60 years, Technical Officer 'B' RCI, Vignyanakancha, Hyderabad – 500 069.
- 82.Ch.Ramakrishna S/o Ch.Subrahmanya Sastry Aged 45 years Technical Officer 'B', RCMA, Kanchanbagh, Hyderabad – 500 058.
83. M R Radhakrishna S/o Late M R Raghuram Aged 59 years Technical Officer 'B' DLRL, Chandrayangutta, Hyderabad – 500 005.
84. G.Sreekanth Yadav S/o. G.Madan mohan Aged 46 years Technical Officer 'B' DLRL, Chandrayangutta, Hyderabad – 500 005.
85. D,V,Satyam S/o Late D.Vittal Aged 59 years, Technical Officer 'B', DLRL, Chandrayangutta, Hyderabad – 500 005.
86. Smt.G.Girija W/o G.Raja Babu Aged 57 years, Technical Officer'B', DLRL, Chandrayangutta, Hyderabad – 500 005.
87. Smt.Y.Madhavi W/o P.Rama Rao Aged 53 years, Technical Officer 'B', DLRL, Chandrayangutta, Hyderabad -500 005.
88. Smt.A.M.Manjula W/o A.M.M.Chari Aged 49 years, Technical Officer 'B', DLRL, Chandrayangutta, Hyderabad – 500 005.
89. V.Dharma Raj S/o. Late V.Venkatachalam Aged 56 years, Technical Officer 'B', DLRL, Chandrayangutta, Hyderabad – 500 005.
90. P.V.S.Sastry S/o. P.V.S.R.Anjaneyulu Aged 54 years, Technical Officer 'B', DLRL, Chandrayangutta, Hyderabad – 500 005.
91. T.S.V.Subrahmanyam S/o. T.V.Srinivasan Aged 51 years, Technical Officer 'B', DLRL, Chandrayangutta, Hyderabad – 500 005.
92. K.V.Nagendra S/o. K.Subba Rao Aged 52 years, Technical Officer 'B', DLRL, Chandrayangutta, Hyderabad – 500 005.
93. A.Sreeram Nayak S/o. Late A. Nanda Nayak Aged 57 years, Technical Officer 'B', DLRL, Chandrayangutta, Hyderabad – 500 005.
94. A.S.Appa Rao S/o. A.Jagannadham Aged 59 years, Technical Offucer'B' DLRL, Chandrayangutta, Hyderabad – 500 005.
95. E.Ravindra Babu S/o. E.Krishna Prasad Aged 57 years, Technical Officer'B', DLRL, Chandrayangutta, Hyderabad – 500 005.
96. V.Venkateshwarlu S/o. V.Naraiah Aged 46 years, Technical Officer 'B', DLRL, Chandrayangutta, Hyderabad – 500 005.
97. P.Suresh Babu S/o. Late P.komaraiah Aged 57 years, Technical Officer 'B', DLRL, Chandrayangutta, Hyderabad – 500 005.

Applicants

AND

1. Union of India through its Secretary , Ministry of Defence
Defence Research & Development Organisation, DRDO Bhavan,
Rajaji Marg, New Delhi - 110 011
2. The Director General, R&D, DRDO
Research and Development, Defence Research & Development
Organisation, DRDO Bhavan, Rajaji Marg, New Delhi - 110 011
3. Chief Controller Research and Development Human Resources
CC R&D (HR & TM), II Floor, B-Wing, DRDO Bhavan,Rajaji Marg,
New Delhi - 110 011
4. Director
Human Resource Development, HRD,
DRDO Bhavan, Rajaji Marg, New Delhi – 110 011
5. Director
Directorate of Personnel, DOP
A – Block, DRDO Bhawan,New Delhi – 110 011
6. Director
Centre for Personnel Talent Management (CEPTAM)
Metcalf House, New Delhi - 110 054
7. Director
Research Centre Imarat (RCI)
Vignyana Kancha, Hyderabad – 500 069
8. Director
Defence Electronics Research Laboratory (DLRL)
Chandrayanagutta,Hyderabad - 500 005
9. Director
Defence Research Development Laboratoy (DRDL)
Kanchanbagh,Hyderabad - 500 058
10. Director
Defence Metallurgical Research Laboratory (DMRL)
Kanchanbagh,Hyderabad - 500 058
11. Director
Advanced Systems Laboratory (ASL)
Kanchanbagh, Hyderabad - 500 058
12. Regional Director
Regional Centre for Military Airworthiness
(RCMA), Kanchanbagh, Hyderabad - 500 058
13. Director
Naval Science & Technological Laboratory (NSTL)
Vigyan Nagar, Visakhapatnam - 530 027

...Respondents

Counsel for the Applicants ... Mr.D. Suresh Kumar
 Counsel for the Respondents ... Mr.B. Laxman, Advocate for
 Mrs. K. Rajitha, Sr. CGSC

CORAM:

Hon'ble Mr. Justice R. Kantha Rao, Member (Judl)

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

2. The OAs have been filed challenging the promotions granted to them as being treated as infructuous and reduction of grade pay of the applicants from Rs.4800 to Rs.4600 by issuing impugned orders dt 10.5.13, 13.5.13 and 30.5.2013. Respondents and the issue being the same, a common order is passed.

3. Applicants are working in the respondents organisation in Group B Non Ministerial cadre as Technical officer and Technical officer (A). With the advent of 6th CPC the feeder cadre Posts of TA (C)/ STA 'C' in the pre-revised pay scale of Rs.6500-10500 and the promotional cadre posts of Technical Officer (TO) /Technical Officer A (TO(A)) in the pre-revised scale of Rs.7450-11,500, were placed in PB-2 of Rs.9300-34,800 with grade pay of Rs.4600 in accordance with CCS (RP) Rules, 2008. In order to maintain hierarchy, respondents granted higher grade pay of Rs.4800 to the cadre of TO/TO (A) w.e.f. 1.1.2006 vide lrs dt 5.6.2009 & 8.6.2009 without the approval of Ministry of Finance (for brevity MOF). Audit took objection for grant of such higher grade pay and advised to seek concurrence of MOF. On being taken up with MOF, it was not agreed to vide letter dt 10.7.2012. Consequently Impugned order dt 10.5.2013 withdrawing the higher grade pay of Rs.4800 was issued which was circulated vide Impugned order dt 13.5.2013. Followed up with another impugned order for recovery and review of promotions dt 30.5.2013. Applicant's version is that they should not be

reverted to the grade pay of Rs.4600, instead they are entitled to be placed in the next higher grade pay of Rs.5400 as per DOPT memo dt 13.9.2012 which speaks of protection of seniority/ promotion and in consonance with pay fixation benefit provided in MOF memo dt 16.10.2015. As the respondents have not conceded to the request, applicants have approached the Tribunal to interject for providing succour.

4. Applicants refer to a series of rules to buttress their case. To begin with promotions are effected as per Defence Research and Development Organisation Technical Cadre Recruitment Rules, 2000 (for brevity "*DRTC Rules*") wherein Rule 6(1) provides for promotions from a given grade to the next higher grade after fulfilling the residency period of 5 years in the said grade and on being cleared by DRDO assessment board constituted for the purpose. Accordingly Applicants after fulfilling the stipulated conditions were duly promoted by DRDO Assessment Board from 2006 onwards till 2012 with grade pay of Rs.4800. Such promotions were granted with the concurrence of the Integrated Finance wing. Granting grade pay of Rs 4800 was done by the respondents on their own volition without there being any demand from the applicants for the same. After granting the promotion with the grade pay of Rs.4800 rescinding the same is against DRTC Rules circulated vide SRO 296, DOPT office memorandum dt 13.9.2012, MOF memo dt 16.10.2015 and provision 2.2.11 of the 6th CPC recommendations. The impugned orders dt 10.5.2013, 13.5.2013, 30.5.2013 and subsequent letters issued on 17.3.2016 and 1.4.2016 are in violation of the recruitment rules and office memos cited supra. Besides on the legal front reduction in grade pay was effected without any notice. The proper course for the respondents was to place them in the next higher GP of Rs.5400 if GP of Rs.4800 was not available, since they have been promoted as per

rules. Usually when scales are merged the lower scale is merged with a higher scale and not the other way. Hon'ble Supreme Court verdict in Awadh Bihari Singh and ors v State of Bihar and ors reported in 1993Suppl (4) SCC 594 comes to their rescue. Respondents retracting on the promotion granted adversely impacts the future of the applicants in terms of promotions and pensionary benefits. Applicants are made to suffer for the follies of the respondents.

5. Responding to the contentions made by the applicants, respondents state that consequent to the merger of Technical Officer (TO) /Technical Officer –A (TO-A) with the feeder cadre posts of Technical Assistant C/Scientific Assistant C posts as per the recommendations of 6th CPC, to maintain cadre hierarchy they have granted grade pay of Rs.4800 to the posts of TO/TO (A), with the approval of Ministry of Defense but without the concurrence of Ministry of Finance (MOF) , which was required to be taken as per G.O.I (Transaction of Business) Rules ,1961. When MOF was approached later they have advised to rectify the grant of higher grade pay. In the meanwhile, some employees of the respondent organisation have approached the Hon'ble Chandigarh Bench of this Tribunal claiming that the higher grade pay of Rs.4800 granted to TO/TO (A) has to be withdrawn and that these posts should be merged with feeder posts which would facilitate promotion to the next higher grade pay of Rs.5400 which is presently available for TO (B) post. Hon'ble Chandigarh Bench of this Tribunal directed action be taken in consultation with MOF. Accordingly impugned orders referred to were issued to abandon the higher grade pay, recover excess amount paid and review promotions. These orders were challenged by DRDO Technical Officers association in Hon'ble Principal Bench of this Tribunal in OA no 3593/2013 which was dismissed. Based on the said order of the Hon'ble Principal Bench recovery of excess paid amounts was ordered in 12 instalments vide lr

dt.30.5.2014. Not satisfied, Technical Officers Association filed a Writ Petition in Hon'ble High Court which was dismissed as withdrawn vide order dt 8.7.14 with liberty to challenge the proposed action of the respondents to review the promotions effected. Respondents further state that allowing the applicants to completely modify the relief sought in earlier OA 1155/2013 at (b) and (c) filed in CAT Hyderabad Bench is not permissible. Earlier prayer was to place the applicants in the grade pay of Rs.5400 whereas in the MA allowed it was for protecting the promotion given in grade pay of Rs.4800 and regularising the promotion to the grade pay of Rs.5400 by invoking the pay fixation Rule 13 referred to in MOF OM dt 16.10.2015 and DRTC rules. To be precise, promotions are granted based on merit and hence inter-se seniority referred to in DOPT memo dt 13.9.12 has no applicability. Moreover, merger of feeder posts with promotion posts does not entitle applicants for promotions to the next higher grade pay of Rs.5400. The grade pay of Rs.4800 is for Technical officer 'B' and to get promoted to this grade one has to serve for 5 years in TO (A) and has to be recommended by the assessment board in accordance with DRTC rules. In fact, letters dt 17.3.16 and 1.4.16, which the applicants claim are repugnant, were indeed issued to implement MOF OM dt 16.10.2015 as desired by them. The OM dt 16.10.2015 clarifies that those promoted between 1.1.2006 and 29.8.2008 in whose case feeder and promotional posts are merged are entitled to the benefit of increment equal to 3% of the pay in the pay band as per rule 13 (i) of CCS (RP) Rules and not higher scale as claimed. Accordingly applicants were extended the benefit vide MOD lr dt 17.3.2016. If the arguments of the applicants were to be accepted then the concept of merger recommended by 6th CPC will be under challenge and will lead to tenuous litigation from all other

cadres wherein such mergers were effected. Respondents claim that they have taken appropriate action as per MOD lr dt 10.5.2013 and MOF lr dt 16.10.2015.

6. Heard both the counsel. Perused all the documents and material papers submitted.

7. A. The OA when filed initially in this Tribunal was dismissed on 14.8.2014 stating that the matter was squarely covered by the decision of the Hon'ble Principal Bench of this Tribunal in OA 3593/2013 dt 21.3.2014. When the dismissal was challenged vide WP no 1835 of 2015, Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh directed as under:

“ Even though the issues raised in OA No 3593 of 2013 and OA no 1155 of 2013 are different, the learned Tribunal has erroneously relied upon the order dt 21.3.2014 passed in OA no 3593 of 2013. Consequently, we hereby set aside the order dt 14.8.2014 in OA no 1155 of 2013 passed by the Tribunal and remand the matter to the Tribunal to decide it afresh after considering rival contentions of the parties.

In as much as after OA No 1155 of 2013 was filed before the Tribunal the 1st respondent has issued proceedings dt 17.3.2016, liberty is given to the petitioners to challenge the same by filing additional affidavit before the Tribunal and thereafter, the respondents shall file counter affidavit and the learned Tribunal shall pass fresh orders on merit.”

B. Accordingly applicants have filed MA 498/2018 seeking to protect and regularise the promotions attained from 4600 GP to 4800 GP prior to merger from 1.1.2006 to 2012 as promotion attained from 4600 GP (TO (A)) to 5400 GP (TO 'B') by invoking pay fixation as per rule 13 referred to in MOF OM dt 16.10.2015, classification of posts vide letter dt 29.10.2013 and SR 13 of 2014 issued after merger of posts. The impugned orders dt 30.5.2013, 17.3.2016 & 1.4.2016 to be quashed and orders be issued in congruence with the DOPT- OMs dt. 9.3.2009, 13.9.2012 & MOF memo dt 16.10.15 as well as per recruitment rules.

C. It is an undisputed fact that the applicants were granted grade pay of Rs.4800 as TO (A) by the respondents vide letters dated 5.6.2009 & 8.6.2009. However, the orders of granting grade pay were issued without concurrence of MOF. As is well known Ministry of Finance is the nodal Ministry to deal with issues having financial implications as per Govt. of India (Transaction of Business) Rules. Rule 4(2)(c) of the said Rules, reads as under :

“unless the case is fully covered by powers to sanction expenditure or to appropriate or re-appropriate funds, conferred by any general or special orders made by the Ministry of Finance, no department shall, without the previous concurrence of the Ministry of Finance, issue any orders which may relate to the number or grade of posts, or to the strength of a service, or to the pay allowances of Government servants or to any other conditions of their service having financial implications.”

D. Respondents have violated the cited rule and hence when the MOF was approached for ratifying the decision to grant Rs 4800 grade pay to the TO/TO (A) it was politely declined on 10.7.2012. It was indeed a gross error on part of the respondents to have not taken concurrence of the MOF in a matter which involved recurring financial implications in a large scale and having ramifications in regard to pay of Govt. servants working in other Ministries as well. Indeed it is strange to note that such a major financial decision could be taken without consulting MOF. That apart, one another grave folly noted is that the 6th CPC has recommended the grade pay of Rs 4600 for TO/TO (A) and not Rs 4800. CPC is an expert body which has the wherewithal to recommend the pay scales. These pay scales are accepted by the Govt. after seeking clearance of the Cabinet. Hence any change in the pay scale/grade pay recommended needs the approval of the cabinet. Such is the importance and process involved in granting a pay scale /grade pay to a particular post/grade. Respondents have therefore acted against the 6th CPC recommendation which had the approval of the cabinet. It is difficult to comprehend as to how the respondents could ignore

the recommendations of the 6th CPC. Hon'ble Supreme Court in regard to prescription of scale of pay has observed that it should normally be dealt with by expert bodies/committees. The Apex Court in the case of *Union of India v. Dineshan K.K.*, (2008) 1 SCC 586, has held as under:

It has been observed that equation of posts and equation of pay structure being complex matters are generally left to the executive and expert bodies like the Pay Commission, etc.

E. The observation made by the Hon'ble Supreme Court makes it apparent that the recommendations of the CPC are not to be tampered with. Respondents having done so have raised gratuitous expectations in the applicants and therefore the spate of litigations in different judicial forums on one ground or the other. Compounding the fallacies, respondents did not merge the cadres of TO/TO(A) with the feeder cadre in 2008 but did so only in 2013 leading to promotional hiccups and allied litigation. Generally not observed in case of model employers because they take utmost precautions in such matters. Nevertheless, a brief glimpse of the relevant litigations fought around the country by the respondents will give a better perspective of the case in question.

F. It all began, when a few employees knocked the doors of the Hon'ble Chandigarh Bench of this Tribunal in OA 571/CH/2011 seeking annulment of Grade pay of Rs.4800/- granted to TO/TO (A), it was directed therein to consult MOF and take a view. MOF declined to give concurrence for the grade pay of Rs 4800 to the grade of TO (A)/TO. Left with no other alternative, respondents issued the impugned orders dt 10.5.13, 13.5.2013 & 30.5.2013. DRDO Technical officers association, Hyderabad filed OA 841/2013 which was disposed on 8.7.2013 directing to take up the review of promotions as contained in the letter dt 30.5.2014. Continuing the challenge DRDO technical

officers association, Pune with some other employees working as TO/TO(A)/TO (B) filed 3593/2013 before Hon'ble Principle Bench of this Tribunal seeking multiple reliefs of quashing impugned orders dt 10.5.2013, 13.5.2013, 30.5.2013 & 9.9.13, stop recovery of overpayment made, set aside review assessment and grant promotion to TO (B) with GP of Rs 5400 but lady luck did not befriend them. Hence they went over to the Hon'ble High court of Delhi but later withdraw when liberty was given by the High Court of Delhi to challenge the aspect of review of promotions. We understand that an OA to this effect has been once again filed in Hon'ble Principle Bench and is pending adjudication. Incidentally some remnants of the issue were also taken up with the Hon'ble Madras/Ernakulam Benches of this Tribunal in OAs 1087 of 2015 / 274 of 2015 respectively but success eluded the applicants therein as well vide judgments dt 4.7.2016 and 7.6.2018 respectively. The disposal of OA 841/2013 disposed by this Tribunal did not provide the desired relief and hence the OA 1155/2013 seeking multiple reliefs not to be reverted to the grade pay of Rs.4600 from grade pay of Rs.4800, promotion to grade pay of Rs 4800 to be protected and carried forward, placing the applicants in next grade pay of Rs.5400 consequent to withdrawal of grade pay of Rs.4800, future assessments to be taken up only after the present issue is fully resolved. However, this OA too as adduced above, got dismissed on grounds that the issue was fully covered by the decision of the Hon'ble Principal Bench in OA 3593/2013. Consequent to dismissal by the Tribunal, when the matter reached Hon'ble High Court for the State of Telangana and Andhra Pradesh, it was remitted back for adjudication afresh on grounds cited supra.

G. The applicants have extensively relied on DOPT memo dt 13.9.2012 and MOF memo dt 16.10.2015 to mount their defense. DOPT memo

dt 13.9.2012 deals with the protection of seniority of officers holding posts/grades in grades merged in pursuance of recommendations of 6th CPC.

Para 2 (I) of the said letter reads as under:

“The status of a Government servant as on 29.8.2008 including those who have earned promotion between 1.1.2006 to 29.8.2008 will be protected as appointment/promotions are made as per the provisions of statutory recruitment rules applicable to the post/grade. The merger of the pay scales of posts as recommended by 6th CPC have been made effective w.e.f 1.1.2006; the seniority of Government servant which existed on 29.8.2008 (date of acceptance of recommendation of 6th CPC) will be maintained i.e. the holder of post having higher pay scale or post which constituted promotion post for the posts in the feeder grade, will rank enbloc senior to those holding post having lower pay scale or the posts in feeder grade.”

H. Important aspect of the circular is that the promotion earned between 1.1.2006 to 29.8.2008 has to be protected. It is the case of the applicants that since they got promoted during this period, their promotion to TO/TO (A) with grade pay of Rs.4800 stands protected. Hence withdrawal of promotion is illegal. Respondents took the line of defense that the memo only refers to seniority which is not true as is evident from the above. Now coming to the promotion being harped upon by the applicants, it needs to be appreciated that the respondents did issue orders of promotion promoting the applicants from a lower grade to the higher grade of TO/TO(A). They have been placed in a substantive post in TO/TO (A). The endorsement made in the service books of the applicants also does emphasize that the promotion as TO (A) in the new pay scale of Rs 9300-34,800 with GP of Rs.4600 is protected in accordance with DOPT ltr dt 13.9.2012. It was not said that it is with grade pay of Rs.4800. Thus the promotion to TO/TO(A) has been protected since they have not been demoted to the lower grade. The question then remains to be answered is as to whether promotion would entail grant of next higher grade pay or with the same

grade pay. Applicants have relied upon the definition of promotion as stated at para 2.2.11 of 6th CPC report which is extracted here under:

“Grade pay will determine the status of a post with a senior post being given higher grade pay. Grade pay being progressively higher for successive higher posts, the employees on promotion will get monetary benefit on promotion in the form of the increased grade pay apart from the benefit of one additional increment.”

Applicants have also quoted rule 7 of the DRTC recruitment rules of 2000 as contained in SRO 296 which states as under:

“On promotion from one grade to next grade, the post held by the individual shall stand upgraded automatically and be personal to the individual.”

I. While examining the above contentions, the aberration that has been brought about by the respondents by granting grade pay of Rs 4800 to the TO/TO (A) on their volition without being competent to do so, is to be focussed upon. Consequent to the refusal of the MOF to agree to the proposal of the respondents for grant of grade pay of Rs.4800 to TO/TO (A), the later withdrew the same. It was an error admitted by the respondents and they have no competence to grant even if they desire so. It is a bonafide error as the intention of the respondents was to create a hierarchy in the cadre, but they failed to take into cognizance the procedural aspects which need to be adhered to while implementing such a measure. However, such a bonafide error shall not confer a right to the applicants for demanding the grade pay of Rs.4800 or seek a promotion to the TO (B) grade with a grade pay of Rs.5400. The respondents have every right to correct it. Hon’ble Supreme Court has observed that Bonafide mistake can be corrected in *VSNL v. Ajit Kumar Kar*, (2008) 11 SCC 591, as under:

46. It is well settled that a bona fide mistake does not confer any right on any party and it can be corrected.

Granting Rs.4800 grade pay was a bonafide mistake committed by the respondents. They did try to convince the MOF who did not agree and rightly so since it is against the 6th CPC recommendation which was accepted by the Govt. through a cabinet resolution. Therefore this mistake does not confer any right on the applicants to claim the reliefs sought in the present OA.

J. Moreover, an error committed cannot be forced to be continued in perpetuity. The respondents did cross the Laxman Rekha by granting the grade pay of Rs.4800 though they were not empowered to do so. The applicants were given the said grade pay w.e.f 1.1.2006 till around 2013 and on realising the mistake took corrective steps of fixing the Grade pay as Rs.4600 and ordered recovery of excess payment which was in fact upheld by Hon'ble Principal Bench of this Tribunal in OA 3593/2013. Applicants seeking relief to protect and regularise the promotions attained from Rs.4600 GP prior to merger from 1.1.2006 to 2012 as promotion attained from Rs.4600 GP to Rs.5400 GP is perpetuating the error committed by the respondents. An error committed cannot be perpetuated to seek benefits out of the same. Hon'ble Supreme Court has observed in *Union of India v. M.K. Sarkar*, (2010) 2 SCC 59, as under:

If someone has been wrongly extended a benefit, that cannot be cited as a precedent for claiming similar benefit by others. This Court in a series of decisions has held that guarantee of equality before law under Article 14 is a positive concept and cannot be enforced in a negative manner; and that if any illegality or irregularity is committed in favour of any individual or group of individuals, others cannot invoke the jurisdiction of courts for perpetuating the same irregularity or illegality in their favour also on the reasoning that they have been denied the benefits which have been illegally extended to others. (See *Chandigarh Admn. v. Jagjit Singh* (1995) 1 SCC 745 *Gursharan Singh v NDMC* (1996) 2 SCC 459, *Faridabad CT Scan Centre v. D.G. Health Services* (1997) 7 SCC 752, *State of Haryana v. Ram Kumar Mann* (1997) 3 SCC 321 *State of Bihar v. Kameshwar Prasad Singh* (2000) 9 SCC 94 and *Union of India v. International Trading Co.* (2003) 5 SCC 437

26. A claim on the basis of guarantee of equality, by reference to someone similarly placed, is permissible only when the person similarly placed has been lawfully granted a relief and the person claiming relief is also lawfully entitled for the same. On the other hand, where a benefit was illegally or irregularly extended to someone else, a person who is not extended a similar illegal benefit cannot approach a court for extension of a similar illegal benefit. If such a request is accepted, it would amount to perpetuating the irregularity. When a person is refused a benefit to which he is not entitled, he cannot approach the court and claim that benefit on the ground that someone else has been illegally extended such benefit. If he wants, he can challenge the benefit illegally granted to others. The fact that someone who may not be entitled to the relief has been given relief illegally, is not a ground to grant relief to a person who is not entitled to the relief.

K. The legal principle laid is that if a benefit is extended illegally, which is so in the present case since the benefit of grade pay of Rs.4800 extended to the applicants by the respondents is against the observation of the Hon'ble Supreme Court in regard to recommendations of the pay commission, the applicants are forbidden from seeking implementation of the illegality which was granted to them w.e.f 1.1.2006, as it would tantamount to perpetuating the error committed by the respondents.

L. As was stated earlier, fixing of pay scales is the domain of the pay commission and it is best left to the commission to decide since they have the requisite expertise. This Tribunal cannot sit on judgment of the wisdom of the pay commission. The recommended grade pay for TO (A) is Rs.4600 by the Pay Commission and it has to be honoured. It would be pertinent to bring on record one another verdict of the Hon'ble Supreme Court in regard to recommendations of the pay commission in *State of Bihar v. Bihar Veterinary Assn.,(2008) 11 SCC 60*, wherein it was held as under:

13. If the courts start disturbing the recommendations of the pay scale in a particular class of service then it is likely to have cascading effect on all related services which may result into multifarious litigation. The Fitment Committee has undertaken the exercise and recommended the wholesale

revision of the pay scale in the State of Bihar and if one class of service is to be picked up and granted higher pay scale as is available in the Central Government then the whole balance will be disturbed and other services are likely to be affected and it will result in complex situation in the State and may lead to ruination of the finances of the State.

M. Hon'ble Supreme Court observation squarely applies to the present case. Respondents did commit a mistake of granting a grade pay of Rs.4800 for TO/TO (A) without realising the fact that they are going against the recommendation of the 6th CPC. Consequence thereof is evident with the eruption of pan India litigation as pronounced by the Apex Court. Therefore, the applicants clinging to the error committed by the respondents may not help to further their case. Hence the promotion of the applicants has to be examined in the proper perspective of the recommendations of the 6th CPC bereft of the error committed by the respondents. If observed in this manner, picture becomes lucid as expounded in the succeeding paras.

Initially, when the applicants were promoted from the feeder grade of TA/STA (C) to TO/ TO (A), grade pay was hiked from Rs.4200 to Rs.4600, which comes well within the definition of 6th CPC. The additional increment due as per the above definition has been drawn by respondents. In respect of the applicants, enhanced grade pay of Rs.4600 continues to be drawn. So far so good. However, the applicants have raised another contention that para 4 of MOF memo dt 16.10.2015 has been violated. The para clarifies that:

“ Instances have been brought to the notice of this Ministry where the feeder and promotional posts have been merged in view of the merger of the pre revised pay scales applicable to the erstwhile feeder and promotional posts in a common grade /post after the promulgation of CCS (RP) , 2008, due to which the character of posts being promotional and feeder grades as existing during the period from 1.1.2006 to the date of notifications of CCS (RP) Rules, 2008 stood rescinded with retrospective effect from 1.1.2006 and, consequently, a question has been raised as to whether rule 13 of CCS (RP) Rules, 2008 may apply for fixation of pay on promotion taking place during the period between 1.1.2006 and the date of

notification of the said rules, when the fixation of pay was actually done as applicable in the event of promotion in the pre-revised structure.

It has been decided that where promotion took place in the pre-revised pay structure during the period between 1.1.2006 and the date of notification of CCS (RP) Rules, 2008 when the pre-revised and revised pay scales were different and the posts carried the character of feeder and promotional grades, pay fixation on such promotion shall be allowed under Rule 13 of the CCS (RP) Rules 2008 subject to the condition that the promotion had taken place between 1.1.2006 and the date of CCS (RP) Rules, 2008 as per the Recruitment Rules then in vogue, which clearly provided for such posts being promotional grade for the feeder grade from where the promotion took place and where the posts were subsequently merged in a single post/grade consequent upon promulgation of the CCS (RP) Rules, 2008.”

N. Rule 13 of the CCS (RP) Rules, 2008 provides for fixations of pay by way of addition of one increment equal to 3% of the sum of the pay in the pay band and the existing grade pay to the existing pay in the pay band and then fixing the pay in the promotional post as per the procedure prescribed there in. In the present case the grade pay has to be taken as Rs 4600 and not Rs 4800 for reasons stated above and when done accordingly rule 13 cited is complied with as referred to in OM dt. 16.10.2015.

O. One another ground taken by the applicants is that when feeder and promotional posts are merged then the promotional posts are to be appended with the higher grade pay. In the instant case applicants are seeking the higher grade pay of Rs.5400. As was observed, it is the pay commission which decides such matters and not the courts as observed by the Hon’ble Supreme Court stated in paras supra. Besides, merger of posts does not automatically entitle the applicants for higher grade than what is prescribed by the 6th CPC, which is Rs.4600. Once again in regard to merger of posts and promotion thereof,

Hon'ble Supreme Court has observed in *S.P. Shiv Prasad Pipal vs Union of India & Ors.*, JT 1998 (3) SC216 as under:

“Under [Article 309](#) of the Constitution Legislature is empowered to regulate the recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State. The proviso to [Article 309](#), however, empowers the President, in the case of services and posts in connection with the affairs of the Union, to make Rules regulating the recruitment and conditions of service of persons appointed to such services and posts until provision in that behalf is made by or under an Act of the appropriate Legislature. The power to regulate recruitment and conditions of service is wide and would include the power to constitute a new cadre by merging certain existing cadres. However, when different cadres are merged certain principles have to be borne in mind. These principles were enunciated in the case of [State of Maharashtra and Anr. V. Chandrakant Anant Kulkarni & Ors.](#) (1982 1 SCR 665 .

This court further observed that it is not open to the court to consider whether the equation of posts made by the central Government is right or wrong. This was a matter exclusively within the province of the Central Government. Perhaps the only question the Court can enquire into is whether the four principles cited above had been properly taken into account. This is the narrow and limited field within which the supervisory jurisdiction of the Court can operate.

This decision has been relied upon in a subsequent decision of this court in [Union of India and ors. V. S.L. Dutta and Anr.](#) (1991 [1] SCC 505).

However, it is possible that by reason of such a merger, the chance of promotion of some of the employees may be adversely affected, or some others may benefit in consequence. But this cannot be a ground for setting aside the merger which is essentially a policy decision. This court in [Union of India v. S.L. Dutta](#) (supra) examined this contention. In S.L. Dutta's case (supra) a change in the promotional policy was challenged on the ground that as a result, service conditions of the respondent were adversely affected since his chance of promotion were reduced. Relying upon the decision in the [State of Maharashtra v. Chandrakant Anant Kulkarni](#) (supra) this court held that a mere chance of promotion was not a condition of service and the fact that there was a reduction in the chance of promotion would not amount to a change in the conditions of service. ”

Applying the legal principle set by the Hon'ble Apex court, the ground taken by the applicants in the OA that since the feeder post was merged with the promotional post they should be granted the higher grade pay of Rs.5400 lest

the very meaning of promotion is lost as per the rules quoted by them, loses relevance.

P. The applicants have also stated that their pay was downgraded without notice. Respondents in their reply statement did inform that they conducted a series of meetings with the staff unions to convince them about the reason as to why the withdrawal of the grade pay of Rs.4800 has to be undertaken. This has not been contested by the applicants in their rejoinder. A direct interaction with the staff representatives is a welcome measure because it gives the leeway to discuss the issue in various dimensions.

Q. Further in regard to future promotions, applicants claimed that the juniors were also called for assessment disregarding the principle of the seniority. Promotions in the respondent organization are being effected based on merit. The essential condition prescribed is that the residency period of 5 years in a given grade has to be satisfied to be eligible to be assessed for the next level. All those who satisfy this clause are called and those who are found fit move up the ladder irrespective of whether they being senior or junior in the seniority list. Indeed it is here that some of the employees got promotion earlier since the merger was w.e.f 1.1.2006. Particularly for those from feeder cadre getting into the promotional post a little later but the date of reckoning having been taken as 1.1.2006 has ushered in the benefit earlier than in the normal course.

R. To implement MOF OM dt 16.10.2015, respondents issued 17.3.2016 and 1.4.2016. As per the said memo dt 16.10.2015 pay fixation was done duly considering the provisions as stated in OM dt. 7.1.2013 of MOF as well. The same has been dealt threadbare in the paras supra.

S. It is also not of place to cite that the Hon'ble Supreme Court Judgment in *Mazdoor Sangh v. Usha Breco Ltd.*, (2008) 5 SCC 554 wherein it was observed that it is presumed that Govt. acts in a bonafide manner.

4. In *Ajit Kumar Nag v. Indian Oil Corpn. Ltd.* a three-Judge Bench of this Court opined:

“56. ... It is well settled that the burden of proving mala fide is on the person making the allegations and the burden is ‘very heavy’. (Vide *E.P. Royappa v. State of T.N.*) There is every presumption in favour of the administration that the power has been exercised bona fide and in good faith. It is to be remembered that the allegations of mala fide are often more easily made than made out and the very seriousness of such allegations demands proof of a high degree of credibility.”

T. Respondents who represent the State had a good intention of granting Rs 4800 grade pay to the applicants in the TO/TO (A). They had a bonafide intention to provide the desired hierarchy. However, Govt. of India (Transaction of Business) Rules did not permit the same as explained above and therefore they had to retract. This act was perceptibly bonafide in the circumstances cited. Taking advantage of the initiative taken by the respondents, of course which they were incompetent to take, applicants quoting different rules and OMs would not help their cause in view of the Hon'ble Supreme Court observations referred to and the appropriate interpretation of the rules as per the context of the case.

U. Lastly, it also need to be adduced that the applicants have cited judgment of Hon'ble Supreme Court in *Awadh Bihari Singh and ors v State of Bihar and ors* reported in 1993 Suppl (4) SCC 594 in support of their case. The said judgment is not relevant to the issue in question since there is no upgradation or downgradation of the post held by the applicants and they

continue to hold the post of TO/TO(A), whereas in the case before Hon'ble Supreme Court cited by the applicants, the post held by the applicants therein was downgraded requiring intervention. The essential difference is that the Grade Pay of the applicants in the present OA has been changed as per the recommendations of VI CPC and the observations of the Hon'ble Supreme Court as to not to disturb the recommendations of Pay Commission have already been referred to in the paras cited above and require no reiteration.

V. Thus, based on the aforesaid and the legal principles stipulated by the Hon'ble Supreme Court, we do not find any grounds to intervene either on grounds of merit or on the basis of law. Hence the OAs are dismissed with no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(JUSTICE R. KANTHA RAO)
MEMBER (JUDL.)

Dated, the 5th day of April, 2019

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