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**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI**

O.A.No.210/667/2015

Dated this Thursday the 04th day of April, 2019

**Coram:Dr. Bhagwan Sahai, Member (A).
R. N. Singh, Member (J).**

1. P. Thanasekhar, aged 43 years, Asst. Audit Officer, (I.T.Audit), Central Railway, Under Principal Director of Audit, Central Railway, Mumbai CST and r/at 102, Shri Saikunj Appts, Kharegaon, Kalva, Thane-400 605. through L/H Karthika Manickan Nadar (widow) plot 102, Shri Sai Kunj Apartments, Khargaon, Kalva, Thane-400605.
2. Rajesh H. Mendhe, aged 44 years, Asst. Audit Officer, Under Principal Director of Audit, Central Railway, and r/at Flat No.303, Indraprasath C.H.S., Thangewadi, Sindicate, Kalyan (W).
3. D. Satyanarayana Murthy, aged 42 years, Asst. Audit Officer, Under Principal Director of Audit, Central Railway and residing at B-6, Sangampark Officers Colony, Near Maldhakka Chowk, Pune-411 001.
4. Anil W. Kumbhare, age 40 years, Asstt. Audit Officer, (Matunga Work Shop), Central Railway, Under Principal Director of Audit, Central Railway, Mumbai CST and r/at Flat No.101, Phase II, Nilkanth Park, Kalyan (W), Thane-421 306.

...Applicants.

(By Advocate Shri S. N. Pillai).

Versus

1. UNION OF INDIA, through

Comptroller & Auditor General
of India, Pocket 9, Deen Dayal Upadhyay
Marg, New Delhi-110124.

2. Principal Director of Audit,
Central Railway,
C.S.T., Mumbai.

... Respondents.
(By Advocate Shri V. B. Joshi).

O R D E R (O R A L)
Per : R. N. Singh, Member (Judicial)

Present.

1. Shri S. N. Pillai, learned counsel for the applicants.

2. Shri V. B. Joshi, learned counsel for the respondents.

3. The applicants being 04 in numbers have approached this Tribunal by way of the aforesaid OA, under Section 19 of the Administrative Tribunal's Act, 1985 challenging various orders i.e. order dated 28.03.2014 (Annexure A-1), 23.06.2014 (Annexure A-2), 05.12.2014 (Annexure A-3), 12.01.2015 (Annexure A-4), 05.10.2015 (Annexure A-5) and 27.10.2015 (Annexure A-6) and have prayed for the following reliefs:

"(i) That this Hon'ble Tribunal be pleased to hold and declare that the applicants are entitled to fixation of pay at Rs.7500/- on the pre-revised upgraded pay scale Rs.7500-12000 w.e.f. 01.01.2006 and fixation at the corresponding stage of Rs.13,950/- on the Pay Band Rs.9,300-34,800 w.e.f. 01.01.2006.

IN THE ALTERNATE

That this Hon'ble Tribunal be pleased to hold and declare that the Applicants are entitled to stepping up of their pay to Rs.13,950/- on the Pay Band Rs.9,300-34,800 w.e.f. the date the pay of their juniors were fixed at Rs.13,950 on the Pay Band Rs.9,300-34,800.

(ii) That this Hon'ble Tribunal be pleased to direct the Respondents to fix the pay of the Applicants to Rs.13950/- on pay band Rs.9300-34800/- w.e.f. 01.01.2006.

IN THE ALTERNATE

Direct the respondents to step up the pay of the Applicants to Rs.13,950/- on the Pay Band Rs.9,300-34,800 w.e.f. the date, the pay of their juniors were fixed at Rs.13,950 on the Pay Band Rs.9,300-34,800.

(iii) That this Hon'ble Tribunal be pleased to quash and set aside the letter no.515/Staff/(Entt.I)/131-2014 dated 28.03.2014 (Annexure A-1) to the extend it applies to the Applicants.

(iv) That this Hon'ble Tribunal be pleased to quash and set aside the letters: GOO No.50 dated 13.08.2014, GOO No.69 dated 28.11.2014, GOO No.51 dated 13.08.2014 and GOO No.31 dated 23.04.2014 re-fixing the pay of the Applicants (i.e. Ann.A.2).

(v) That this Hon'ble Tribunal be pleased to quash and set aside the letters being No.Au/Admn/VI PC/4067 dated 05.12.2014, No.Au/Admn/VI PC 4068 dated 05.12.2014 and No.Au/Admn/ VI PC/4066 dated 05.12.2014 rejecting the request to step up their pay at par with juniors/ subordinates (i.e. Ann.A.3).

(vi) That this Hon'ble Tribunal be pleased to quash and set aside the

letters being No. Au/Admn/ PF/PT/4679 dated 08/12.01.2015, No. Au/Admn/ PF/ RHM/4696 dated 09/13.01.2015, No. Au/ Admn/ PF/ DSM/4681 dated 09/12.01.2015 and No. Au/Admn/ PF/AWK/4678 dated 09/12.01.2015 proposing recovery from the pay of the Applicants (i.e. Ann.A.4).

(vii) That this Hon'ble Tribunal be pleased to quash and set aside the letter dated 05.10.2015 of the Respondent no.1 rejecting the request of the Applicants to fix their pay at Rs.13,950/- w.e.f. 01.01.2006 (i.e. Ann.A.5).

(viii) That this Hon'ble Tribunal be pleased to quash and set aside (I) the letter no. Au/Admn/Pay fixation/3757 dated 27.10.2015, and (ii) Au/Admn/Pay fixation/3867 dated 02.11.2015 of the Respondent No.2 (i.e. Ann.A.6).

(ix) That this Hon'ble Tribunal be pleased to direct the Respondents not to effect the recovery proposed vide Annexure A.4, A.5 and A.6.

(x) Cost of this Application be awarded.

(xi) Any other and further relief as this Hon'ble Court may deem fit and proper under the circumstances of the case."

4. In response to the notice issued by this Tribunal, the respondents have filed reply affidavit. The applicants have filed rejoinder and the respondents have filed additional affidavit.

5. At the outset, the learned counsel for the respondents submits that during the pendency of the OA, the Department of Expenditure, Ministry of

Finance, Government of India has issued OM No.8-23/2017-E.IIIA dated 28.09.2018 regarding Central Civil Services (Revised Pay) Rules, 2008 and in view of the above subsequent development, he has been instructed by the respondent no.2 vide their letter dated 03.04.2019 a review has been carried out by the respondents and it is found that no Assistant Audit Officer is directly recruited under the respondent no.2 till date. However, review of the cases those promoted as AAuO under the respondent no.2 was carried out and the applicants are found eligible for fixation of their pay in the entry grade as per 6th CPC and further fixation in the revised pay structure of 7th CPC and the benefit of such fixation will be released.

6. In view of the aforesaid statement and instructions, the learned counsel for the respondents seeks disposal of the present OA.

7. In view of the aforesaid specific statements made on behalf of the respondents, the OA is disposed of with directions to the respondents to complete the process of pay fixation and release of arrears within eight weeks from the date of receipt of certified copy of this order.

8. The learned counsel for the applicant

submits that on account of the impugned orders the respondents have made certain recoveries from the applicants.

9. In the facts and circumstances, the respondents are directed that on re-fixation of the pay of the applicants, as stated by them herein above, if the said recoveries are found as excess recovery, the same shall be refunded by the respondents to the respective applicants within the same period of eight weeks.

10. In the above terms, the OA is disposed of.
No order as to costs.

(R. N. Singh)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

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g/w
V/H