

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**  
**CIRCUIT SITTING : BILASPUR**

**Miscellaneous Application No.203/00655/2016**

(in OA 341/1999)

Bilaspur, this Thursday, the 10<sup>th</sup> day of January, 2019

**HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER**  
**HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER**

Krishna Kant Tiwari, son of Late Shri Prem Ram Tiwari, aged about 65 years, resident of Rajiv Vihar, Seepat Road, Raj Kishore Nagar, Bilaspur, Chhattisgarh **-Applicant**

**(By Advocate – Shri Amrito Das)**

**V e r s u s**

1. Kendriya Vidyalaya Sangathan through its Commissioner, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi 110016.

2. Deputy Commissioner, Kendriya Vidyalaya Sangathan, Kolkata Region, Eb Block, Laboni, Sector 1, Salt Lake, Kolkata 700064.

3. Assistant Commissioner (Administration), Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi 110016 **-Respondents**

**(By Advocate – Ms. Diplai Pandey)**

**ORDER (O R A L)**

**By Navin Tandon, AM.**

This Miscellaneous Application has been filed by the applicant under Section 27 of the Administrative Tribunals Act, 1985 for execution of the judgment of Hon'ble Supreme Court

in Civil Appeal No.10239 of 2013 (Arising out of SLP (C) No.19611/2007) dated 12.11.2013 (Annexure A-3).

2. This case was originally filed before this Tribunal as OA No.341/1999, which was dismissed on 23.08.1999. The applicant approached the Hon'ble High Court of Chhattisgarh at Bilaspur in Writ Petition No.5343 of 1999, where also the W.P was dismissed on 26.02.2007 (Annexure A-2).

3. The applicant approached the Hon'ble Supreme Court of India in SLP (C) No.19611/2007, which was converted to Civil Appeal No. 10239 of 2013 and the same was allowed by the Hon'ble Supreme Court vide judgment dated 12.11.2013. The relevant paragraphs 9 and 10 of the judgment read as under:

“9. We have considered the rival submissions. The Circular/Memorandum which is relied upon, states in paragraph 2 that the issue of pay protections of the candidate recruited through Public Sector Undertakings, etc. has been engaging the attention of the Government for quite some time. Paragraph 3 thereafter states that these orders take effect from the 1<sup>st</sup> day of the month in which the Office Memorandum is issued i.e. 1<sup>st</sup> August, 1989. Once it is stated that the order takes effect from 1<sup>st</sup> August, 1989, the clause will have to be given its plain meaning as it is drafted. Therefore, the employees who were drawn from Public Sector Undertakings, like the appellant who was in the Madhya Pradesh Government service earlier, will be entitled to pay protection from that date i.e. 1.8.1989. He will, however, not get they pay

protection prior to that date. Interpreted this way, it will not amount to giving any retrospective effect to the Memorandum.

10. In the circumstances, we allow this appeal in part. The O.A. No.341 of 1991, filed by the appellant will consequently stand partly allowed. The order passed by the High Court will stand interfered to that extent. The respondents are directed to correct the service record of the appellant protecting his last drawn pay in the Madhya Pradesh service as on 1.8.1989 and thereafter they will give him the consequential service benefits also on that basis. The needful shall be done in three months. In the facts of this case, we pass no order as to costs.”

4. It is seen from Annexure R-2 filed with the response of the respondents that the applicant was fixed at Rs.1440 in the pay scale of Rs.1400-40-1440-50-2340-60-2640 w.e.f. 01.01.1987 by Government of Madhya Pradesh.

5. The applicant resigned from Madhya Pradesh Government on 21.09.1987 to join Kendriya Vidhyalaya Sangathan.

6. Subsequently, in compliance of the orders of the Hon'ble Supreme Court, the Kendriya Vidyalaya Sangathan has re-fixed the pay of the applicant on 21/24.02.2014 (Annexure R-1), wherein the pay of the applicant has been taken as Rs.1560 as on 01.08.1989 in the pay scale 1200-30-1560-40-2040.

7. It is the case of the applicant that while he was having a pay scale of Rs.1400-40-1440-50-2340-60-2640 with Govt. of M.P., his pay was fixed arbitrarily in the lower scale of pay without giving him pay protection.

8. The respondents have submitted that they have implemented the order of the Hon'ble Supreme Court correctly.

9. We have perused the judgment of Hon'ble Supreme Court. In Para 3 of the judgment, the Hon'ble Supreme Court has quoted the Paragraphs 2 and 3 of Office Memorandum dated 07.08.1989 issued by the DoP&T regarding grant of pay protection. Para 2 of the said OM reads as under:

“2. The question as to how pay protection can be given in the case of candidates recruited from Public Sector Undertakings, etc. has been engaging the attention of the Government from sometime. The matter has been carefully considered and it has been decided that in respect of candidates working in Public Sector or Autonomous bodies, who are appointed as direct recruits on selection through a properly constituted agency including department authorities making recruitment directly, their initial pay may be fixed at a stage in the scale of pay attached post so that the pay and DA as admissible in the Govt. will protect the pay plus DA, already being drawn by them in their parent organization. In the event of such a stage not being available in the post which they have been recruited, their pay may be fixed at stage just below in the scale of the post to which they have been recruited

so as to ensure a minimum loss to the candidates. The pay fixed under this formulation will not exceed the maximum of the scale of the post to which they have been recruited. The pay fixation is to be made by the employing Ministries/Departments after verification of all the relevant documents to be produced by the candidates who employed in such organizations.”

**10.** Careful perusal of the above provision of the OM indicates that the pay and DA paid to the applicant in the previous organisation is only to be protected in the pay scale of the new organisation, i.e. Kendriya Vidyalaya Sangathan. Therefore, the pay scale of Madhya Pradesh Government, namely; Rs.1400-40-1440-50-2340-60-2640, cannot be given to the applicant in the new organisation, which is Kendriya Vidyalaya Sangathan, where the relevant grade is 1200-30-1560-40-2040.

**11.** Accordingly, we find that the respondent department has already complied with the orders vide Annexure R-1 and no further orders are required to be issued.

**12.** In view of the above, the M.A is disposed of.

**(Ramesh Singh Thakur)**  
**Judicial Member**

**(Navin Tandon)**  
**Administrative Member**

am/-