

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A./100/2732/2013
M.A./100/2106/2013

New Delhi, this the 16th day of May, 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)

1. Shri D. Bhattacharjee, Aged : 44 years
S/o Shri D.K. Bhattacharjee,
R/o 61, Shri Badrinath Apartments,
Plot No.18, Sector-4, Dwarka
New Delhi-110075
2. Shri Rakesh Kumar Chawla, Aged : 44 years,
S/o Shri S.N. Chawla,
R/o CB-17D, Hari Nagar,
New Delhi
3. Shri Mohd. Ikalas, Aged : 44 years
S/o Shri Shabbir Ahamed,
R/o C-159, Street No.12,
North Ghonda, Delhi-110053
4. Smt. Meenu Sharma, Aged : 43 years
S/o Shri Munish Kumar Sharma,
R/o B-802, Apex Apartments,
Sector-45, Gurgaon-122003
5. Shri Sanjay Kumar, Aged : 43 years
S/o Late Shri Govind Singh Gusain,
R/o 253, DDA Flats, Sector-12, Pocket-1,
Dwarka, New Delhi-110078
6. Shri Rajeeo Ranjan, Aged : 38 years
S/o Shri Rajendra Prasad Saha,
R/o C-19, Mansarovar Apartments
Plot No.3, Sector-5, Dwarka
New Delhi-110075
7. Shri Ajay Taneja, Aged : 41 years
S/o Shri D.D. Taneja
R/o GD-60, Vishakha Enclave,
Pitam Pura, Delhi-110034

8. Shri Aanand Kashyap, Aged : 36 years
S/o Shri Harparshad,
R/o A-3, Pandav Nagar,
Delhi-110092

9. Shri Rajeev Gupta, Aged : 43 years
S/o Shri H.S. Gupta,
R/o 184, Sultanpur Colony,
New Delhi-110030

10. Shri R. Unnikrishnan, Aged : 45 years
S/o Shri N. Ramakrishna Pillai
R/o NW-33A, Vishnu Garden,
New Delhi-110018

.... Applicants

(Through Shri V.S.R. Krishna, Advocate)

Versus

Union of India

1. The Secretary,
Ministry of Finance,
Department of Expenditure,
North Block, New Delhi-110001

2. The Secretary,
Ministry of Personnel, Public Grievances and Pensions,
Department of Personnel and Training,
Lok Nayak Bhawan, New Delhi-110003

3. The Secretary,
Ministry of Home Affairs,
North Block, New Delhi-110001

4. The Director General,
National Crime Records Bureau,
East Block-7, R.K. Puram,
New Delhi-110066

.... Respondents

(Through Shri Satish Kumar, Advocate)

ORDER (Oral)

Justice L. Narasimha Reddy, Chairman

The applicants were recruited as Data Processing
Assistant (DPA) Grade-A in the National Crime Records

Bureau (NCRB) under the Ministry of Home Affairs. The pay scale attached to that post before the revision on the basis of the recommendations of 6th Central Pay Commission (CPC) was Rs.5500-9000/-. Promotion from that post is to the post of DPA Grade-B, in the pay scale of Rs.6500-10500/-.

2. The 6th CPC made certain recommendations regarding the merger of various categories and for revision of pay scales of data entry staff, in general. The applicants contend that the 6th CPC recommended for merger of DPA Grade-A and DPA Grade-B and for formation of a new post namely DPA in the pay scale of Rs.7450-11500 with the Grade Pay of Rs.4600/- but the same was not extended to them. They submitted a representation in this behalf. The respondents replied on 9.08.2012 stating that the DPA Grade-A and DPA Grade-B cannot be merged due to functional compulsions particularly when DPA Grade-B is the promotional post for DPA Grade-A. The same is challenged in this OA. Apart from challenge to order dated 9.08.2012, the applicants sought for direction to the respondents to grant them, the Grade Pay of Rs.4600/- corresponding to the PB-2 scale of Rs.9300-34800, with all consequential benefits.

3. The respondents filed detailed counter affidavit opposing the OA. It is stated that nowhere in its recommendations, the 6th CPC dealt with the merger of the posts of DPA Grade-A and DPA Grade-B in the NCRB and the

relief claimed by the applicants is based on mere imagination. It is further stated that the acceptance or otherwise of the recommendations made by the 6th CPC was dependent upon functional compulsions and in respect of DPA Grade-A and DPA Grade-B, a conscious decision was taken, to continue the existing pattern.

4. We heard Shri V.S.R. Krishna, for the applicants and Shri Satish Kumar, for the respondents.

5. In the establishment of NCRB, the posts of DPA Grade-A and DPA Grade-B occur at different levels. While the former is an entry level post to which the appointment is by way of direct recruitment, the latter is a promotional post. Further promotion is to the post of Junior Staff Officer.

6. On behalf of applicants, reliance was placed on para (ii) of Section – I of Part ‘B’ of the First Schedule to the notification dated 29.08.2008. It reads as under:

“(ii) On account of merger of pre-revised pay scales of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500, some posts which presently constitute feeder and promotion grades will come to lie in an identical grade. The specific recommendations about some categories of these posts made by the Pay Commission are included Section II of Part B. As regards other posts, the posts in these pay scales should be merged. In case it is not feasible to merge the posts in these pay scales on functional considerations, the posts in scale of Rs.5000-8000 and Rs.5500-9000 should be merged, with the post in the scale of Rs.6500-10500 being upgraded to the next higher grade in PB-2 i.e. to the grade pay of Rs.4600 corresponding to the pre-revised pay scale of rs.7450-11500. In case a post already exists in the scale of Rs.7450-11500, the post being upgraded from the scale of Rs.6500-10500 should be merged with the post in the scale of Rs.7450-11500.”

7. In view of the fact that the pay scales of Rs.5500-9000/- and Rs.6500-10500/- are mentioned in the context of merger, the applicants claim that there was a specific recommendation for merger of the said two posts. However, specific recommendation that was needed to be made out is totally missing. Added to that, in chapter 3.8.3 (g) of the report, the CPC observed as under:

“g) As a measure of layering, the Commission has recommended merger of the pay scales of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500. In a large number of cases, posts in these pay scales have existed as feeder and promotion posts. While the Commission has tried to ensure that the promotion post is normally placed in a higher pay scale, however, in many cases, the same has not been done. Consequently, for a few categories, the erstwhile feeder and promotion posts have been merged. This is a conscious decision of the Commission and has been resorted to in cases where functional justification for maintaining two distinct levels as feeder and promotion post did not exist or where the operational efficiency was not impacted or is likely to actually improve by the merger. In all such cases, the interests of personnel in the erstwhile promotion grade have been protected by ensuring that their seniority as well as higher pay is kept intact in the revised running pay bands being recommended by the Commission.”

8. The recommendation for merger of the posts with three scales mentioned therein was not absolute and was contingent upon there not being a functional justification for maintaining two distinct levels as feeder and promotion posts or where the operational efficiency was not impacted.

9. The government framed rules accepting certain recommendations of the 6th CPC. However, nowhere it is mentioned that posts of DPA Grade-A and DPA Grade-B are

merged. In the counter affidavit, the respondents have categorically stated that a conscious decision has been taken not to merge DPA Grade-A and DPA Grade-B in view of the fact that promotion from DPA Grade-B is to a supervisory post. The relevant paragraph reads as under:

“Further, the posts of DPA-A, which was in the pre-revised scale of Rs.5500-9000 and DPA-B, which was in the pre-revised scale of Rs.6500-10500 cannot be merged due to functional compulsion as DPA-B is the promotional post whereas DPA-A is the entry level post in the Computer & Systems Division of NCRB and is also the feeder grade post for promotion to the post of DPA-B. If these two levels are merged to one level of Data Processing Assistant, then these direct entry posts will have its next level of promotional post i.e. Junior Staff Officer in Group A, which is a supervisory post. Hence, it is not functionally possible to have an entry level of post being placed directly in the Group A level on promotion.”

10. The prayer in the OA is also not for setting aside any particular rule or notification. Mere challenge to OM dated 9.08.2012 will not serve the purpose. Added to that, when the respondents have chosen to continue the two posts separately and the Recruitment Rules have not been amended, the claim of the applicants cannot be accepted.

11. Further, with the acceptance of the recommendations of the 7th CPC, an altogether new picture emerged and the exercise referable to 6th CPC has virtually become academic.

12. We do not find any merit in the OA. It is, therefore, dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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