

**Central Administrative Tribunal
Principal Bench**

**OA No.4011/2012
MA No.3397/2012**

New Delhi, this the 13th day of December, 2018

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

1. Shri Pratap Singh,
R/o A-37, Pandara Road,
New Delhi.
2. Shri Rama Datt,
House No.49, Sector-37,
Faridabad, Haryana.
3. Smt. Safia Ibrahim,
Sector-8/N-261, Type-4,
R.K. Puram, New Delhi.
4. Shri MPG Nair,
1026/S, XII, R.K. Puram,
New Delhi.
5. Shri K.L.Sikka,
16/430, Lodhi Colony,
Delhi-3.
6. Sh. Amol Dutta Gupta,
B-10, Nanak Pura,
New Delhi.
7. Smt. Anupama Nanda,
Pocket-A-25/B MIG,
Phase-3, Ashok Vihar,
Delhi.
8. Shri P.K. Bapuli,
Supdt. (A/Cs),
202, MS Flats,
NW Moti Bagh,
New Delhi.
9. Sh. Sanjay Kumar Gupta,
Supdt. (A/Cs),

Directorate of Estate,
Room No.602,
Parliament House Annexe,
New Delhi.

10. Sh. Saleem Ahmad,
Suptt. (A/Cs),
B-320, Street No.13/4,
Subhash Vihar North Gonda, Delhi.
11. Sh. Vinod Kumar,
Suptt. (A/Cs),
1683, Sec-V, R.K. Puram,
Delhi.
12. Sh. Ashok Kumar,
Suptt. (A/Cs),
655, Sec-1, R.K. Puram,
Delhi.
13. Sh. P.L. Meena,
Supdtt. (A/Cs),
14/2, N.W. Moti Bagh,
New Delhi.

...Applicants

(By Advocate : Shri A.K. Behera with Shri S.M. Z. Alam)

Versus

1. The Secretary,
Ministry of Urban Development,
Nirman Bhawan, New Delhi.
2. The Director,
Directorate of Estate,
Nirman Bhawan, New Delhi.
3. The Secretary,
Ministry of Finance,
Department of Expenditure,
North Block, New Delhi.

...Respondents

(By Advocate : Ms. Aishwarya Dobhal for Shri Hilal Haider)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :**

The applicants are holding the posts of Accountant, Superintendent (Accounts) and Assistant Director (Accounts) in the office of Directorate of Estate, Ministry of Urban Development, Government of India. According to them, the pay scales for the posts of Accountant, Superintendent (Accounts) and Assistant Director (Accounts) used to be on par with the posts of Assistant, Section Officer and a stage next to that, in the Ministerial Services of the Central Government. At the stage of the 4th and 5th Pay Commissions, an endeavour was made by them, to be treated on par with the organised service.

2. During the deliberations of the 6th Pay Commission also, that demand was made but was not acceded to. The Pay Commission, however, recommended that the pay parity between the un-organised accounting staff on the one hand and the corresponding ministerial posts on the other hand, be maintained. It is stated that recommendations of the 6th Pay Commission was

accepted and it was even incorporated in the Rules, framed in this behalf.

3. The grievance of the applicants is that despite the recommendation of the 6th Pay Commission and inclusion of a provision in the relevant Rules, the respondents are not extending the benefit, on par with the posts of Assistant, Section Officer and the next higher scale allowed to the officers designated as Desk Officers in the Ministerial Service. The relevant facts and figures are also furnished.

4. Earlier the applicants filed an OA No.2993/2010, ventilating their grievances. The OA was disposed of directing the respondents to pass orders on the representations made by the applicants in this behalf. In compliance with the directions issued by the Tribunal, the respondents passed an order dated 16.04.2012. The same is challenged in this OA.

5. The applicants contend that when there was a clear pay parity between the two categories of posts referred to above on the basis of the recommendations of the 4th

and 5th pay commission and when the 6th CPC has reiterated the same, there was absolutely no basis to mete out a discriminatory treatment to them in the name of the implementation of the recommendations of the 6th CPC. It is also stated that in the CSS (RP) Rules, 2008, a clear mention is made in Section II of part B that the existing relativity between the accounts related posts outside the organised accounts cadre and Ministerial posts will be maintained and still the respondents have chosen to violate the 6th CPC mandate. It is urged that none of the reasons mentioned in the impugned order are germane or relevant to the issue and they have been invented only to deny the rights that accrued to the applicants on the basis of the Rules, framed by the respondents.

6. Respondents filed counter affidavit opposing the OA. It is stated that the recommendations of the 6th CPC were implemented in respect of the un-organised accounting staff in its letter and spirit and the disparity, if any, is on account of reasons that are outside the purview of the recommendations of the Pay Commission.

7. We heard Shri A.K. Behara, learned counsel for applicants and Ms. Aishwarya Dhobal for Shri Hilal Haider, learned counsel for respondents.

8. The applicants are holding various posts in the un-organised accountants cadre, in the Directorate of Estate, Ministry of Urban Development. There are several organised accounts services in the Central Government and the service conditions of those employees are substantially different, compared to those of the unorganised ones. The applicants contend that the pay scales for the three posts, namely, Accountant, Superintendent (Accounts) and Assistant Director (Accounts) were on par with the posts of Assistant, Section Officer and the post one stage above that; respectively, in the Ministerial cadre of the Central Government. According to them, the 6th CPC has categorically maintained this parity and the Government accepted the recommendations of the 6th Pay Commission.

9. The recommendations of the 6th CPC in this behalf are as under :-

“3.8.5 All the posts belonging to the organized accounts cadres are covered in the recommendations contained in Chapter 7.56 relating to Indian Audit & Accounts Department. Apart from the posts in the organized accounts cadres, isolated posts of accounts staff in Group ‘B’ & ‘C’ exist across various ministries and departments of Central Government. The Accountants belonging to unorganized cadres have always sought parity with the posts in the organized accounts cadres. Personnel belonging to the organized accounts cadres not only have different duties but their skill requirement is also higher. The personnel belonging to organized accounts cadres have to compulsorily pass departmental examinations like SAS for promotion. Such is not the case for posts relating to accounts work outside the organized accounts cadres. It is, therefore, not possible to draw any comparison between the posts in organized accounts cadres and those outside it. The Commission is, consequently, unable to concede any parity between various posts in organized and unorganized accounts cadres. The various posts in unorganized accounts cadres, however, have parity with the ministerial posts and this parity will need to be maintained. The 210 Commission, accordingly, recommends that the existing relativity between the accounts related posts outside organized accounts cadres and ministerial posts shall be maintained.

10. It means that there existed parity earlier and that the 6th CPC decided to maintain the same. Had there been any disparity, the recommendations would have been to bring about it for the first time. The very fact that the 6th CPC recommended “the existing relativity” between the accounts related posts outside organised accounts cadre and ministerial posts shall be maintained; discloses that it was quite aware of such parity and specific recommendation was made to continue it.

11. On certain occasions, the recommendations of the Pay Commission may not be accepted by the Government. It is only in respect of the recommendations which are accepted by the Government, the rules are framed for implementation thereof. In the instant case, the recommendations regarding maintenance of parity were accepted, without any reservations and they were incorporated in the Rules.

12. Part B of the Rules deals with the Revised Pay scales for certain common categories of staff. Under the heading III in Section 2, the following is mentioned,

regarding the Accounts staff belonging to unorganised accounts cadre :-

III	ACCOUNTS STAFF BELONGING TO UN-ORGANIZED ACCOUNTS CADRES The existing relativity between the accounts related posts outside organized accounts cadres and ministerial posts will be maintained and the accounts staff belonging to unorganized Accounts cadres shall be extended the corresponding replacement Pay Band and grade pay.	3.8.5
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13. It is evident that para 3.8.5 of the recommendations of the 6th CPC was specifically referred to with incorporation of the Rules. Thus, the recommendation gained acceptability and enforceability. The enforcing agencies were under obligation to implement the same, without any deficiency whatever. However, the applicants were denied the benefit and accordingly they approached the Tribunal. Since the issue was not pointedly dealt with by the respondents, the OA was disposed of requiring them to pass orders on the representation. The impugned order dated 16.04.2012 was passed in compliance with the same. After referring to the factum of filing of the OA, the concerned authority has undertaken elaborate discussion, as under.

3. Meanwhile the applicants filed an OA No.2993/2010 in CAT Delhi for upgradation of pay scales of Accounts cadre addressing Ministry of Urban Development, Directorate of Estates and Department of Expenditure as the respondents. A common counter reply was filed in the CAT incorporating the comments of Department of Expenditure, Ministry of Finance vide note dated 02.02.2011. Thus the claim of applicants was considered three to four times in consultation with Department of Expenditure, Ministry of Finance in the light of the recommendations of the 6th Central Pay Commission. Department of Expenditure, Ministry of Finance did not accede to the proposals due to following reasons :-

(i) As per the recommendations of 6th Central Pay Commission (Part-B, Section-II), the pay scales of Rs.5000-8000, Rs.5500-9000, and Rs.6500-10500 were merged and granted the replacement scale of Pay Band-2 with Grade Pay of Rs.4200/-. Subsequently, Government has granted pay structure of Grade Pay of Rs.4600/- in the Pay Band-2 to those posts which were in pre-revised scale of Rs.6500-10500 as on 01.01.06 and which were granted normal replacement pay scale of Grade Pay of Rs.4200/- in the Pay Band-2 vide Department of Expenditure OM dated 13.11.2009. Therefore, the post of Accountant in the pre-revised pay scale of Rs.5500-9000, the post of Superintendent (A/Cs) in the pre-revised pay scale of Rs.6500-10500

and the post of Assistant Director (A/Cs) in the pre-revised pay scale of Rs.7000-12000/- have been correctly placed in the Grade Pay of Rs.4200, Rs.4600 and Rs.4800 in Pay Band-2 respectively and are in accordance with CCS(RP) Rules, 2008. As such, the recommendations of 5th and 6th Central Pay Commission in respect of Accounts Staff under Directorate of Estate have been duly implemented.

(ii) The non-functional scale of Rs.8000-275-13500/- to Section Officers of Central Secretarial Stenographer Service (CSSS) was granted after four years of approved service by Department of Personnel & Training as a part of Cadre restructuring on the basis of recommendations of Group officers w.e.f. 01.01.96 notionally and actually w.e.f. 03.10.2003. Therefore, the pay scale of the post of Superintendent (A/Cs) i.e. Rs.6500-200-10500/- in the Directorate of Estate was a lower than the post of Section Officer before 01.01.2006 also.

(iii) As per Part B of the CCS (RP) Rules, 2008, the Section Officers/Private Secretaries equivalent in the Secretariat has been extended the NFSG pay scale in the Grade Pay of Rs.5400/- in Pay Band-3 after completion of four years' service. This shall be available only in such of those organizations/services which had a historical parity with CSS/CSSS

services like AFHQSS/AFHQSSS /RBSS and Ministerial/ Secretarial posts in Ministries/Departments /organisations like Ministry of External Affairs, Ministry of Parliamentary Affairs, Central Vigilance Commission, Union Public Service Commission etc. would therefore be covered. These pay scales are not applicable to the post of Assistant Director (A/Cs) in Directorate of Estates.

(iv) The Directorate of Estates cannot be categorized as Secretariat organization of Government and therefore parity in their case would be with Non-Secretariat Organizations of the Central Government Separate pay scales have been notified for the office staff in the Secretariat and that in the organizations outside the Secretariat Under the CCS (RP) Rules, 2008. There is no historical parity between two different cadres.

(v) The Accounts posts of Directorate of Estates and the post of Assistants & Section Officers of CSS are governed by different set of Recruitment Rules. The Accounts Staff in Directorate of Estate comprising the Assistant Director of Estates, Superintendent (A/Cs) and Accountants are responsible for recovery of licence fee/rent of Government accommodation and maintenance of accounts thereof whereas Assistants and Section

Officers perform complex duties and are involved in analyzing issues with policy implications. Therefore, the nature of jobs of Accountants and Assistant Directors is not comparable to the Assistants and Section Officers of CSS. The posts of the Accounts staff in Directorate of Estates do not have parity with either Section Officers of CSS or Organised Accounts Cadre.

(vi) The posts of the Accounts staff in Directorate of Estates do not have parity with either Section Officers of CSS or Organised Accounts Cadre. The posts of Superintendent (A/Cs)/Accountants are common category post in offices outside the Secretariat and hence the pay scales recommended by 6th Central Pay Commission and approved by the Government for common category posts are to be implemented in this case and no special dispensation can be made for common category post in one department.

(vii) It is also mentioned here that Para 89.37 referred in the CAT order belongs to 5th Central Pay Commission instead of 6th Central Pay Commission.”

14. A perusal of the reasons extracted above, would indeed shock the conscience of anyone acquainted with the Administration. When the Cabinet

of Central Government has accepted the recommendations of 6th CPC and the recommendation was incorporated in the Rules in clear and unambiguous words, it is just un-understandable how at the implementation level the recommendation and the Rule can be reduced to nullity. The reference to NFSG, and observation that the Directorate of Estates cannot be categorized as Secretariat organization if at all, were in the purview of the CPC. The action of the respondents cannot be sustained on facts or in law. We are of the view that matter needs to be dealt with fairly by a senior officer duly taking into account the purport of the recommendations and the Rules; and without permitting himself to be swayed away by any attempt to water down the scope of the Rules.

15. We, therefore, set aside the impugned order and remit the matter to the concerned authority for fresh consideration. We make it clear that no external factums shall be taken into account, and that the provisions of the Rules reflecting the recommendations of the 6th CPC shall be implemented in their letter and spirit. This exercise shall be completed within a period

of 3 months from the date of receipt of a certified copy of this order.

Pending MAs, if any, stand disposed of.

There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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