

**Central Administrative Tribunal
Principal Bench**

**OA No.1401/2014
MA No.1200/2014**

New Delhi, this the 15th day of October, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

1. Shri Krishna Mohan,
S/o Dr. Kaushalendra,
R/o D-1, Taksal Campus,
Noida, U.P.
2. Sh. Gurdeep Rawal,
S/o Rawal,
R/o C6-A/100A,
Janak Puri, New Delhi.
3. Smt. Latika Arora,
D/o Late V.R. Mehra,
R/o K-60, Sham Nagar,
Tilak Nagar, New Delhi.
4. Smt. Kiran Arora,
D/o Dr. N.L. Madan,
R/o MP-69, Maurya Enclave,
Putam Pura, New Delhi.
5. Jagdish Gupta,
S/o Late Sohan Lal,
R/o E-51B, NIHFW Campus,
Munirka, New Delhi.
6. Sh. Ravi Tiwari,
S/o Late P. Tiwari,
R/o J-1/53, Kalkaji,
New Delhi.
7. Smt. Pushpa Rawat,
D/o B.S. Chauhan,
R/o 723, Vikas Kunj,
Vikas Puri, New Delhi.

8. Sh. Ashok Kumar,
S/o Late Daya Nand,
R/o 1134, A&B,
First Floor, Rani Bagh,
Delhi-110034.
9. Sh. B.S. Bhatia,
S/o Late Kartar Singh,
R/o P-8B, Second Floor,
Jangpura Extension,
New Delhi.
10. Smt. Paramjit Arora,
D/o Late Gurdial Singh,
R/o B-18, IIT Campus,
New Delhi.
11. Smt. Anuradha Ahluwalia,
D/o Late Om Prakash Butts,
R/o D-10, NIHFW Campus,
Munirka, New Delhi.
12. Sh. Pani Ram,
S/o Madan Ram,
R/o F-281/29, Ward No.11,
Mehrauli, Delhi.
13. Sh. R.N. Nimoria,
S/o Late Bishamber Dayal,
R/o D-14, NIHFW Campus,
Munirka, New Delhi.
14. Sh. Keshav Chand,
S/o Parmod Singh,
R/o D-8, NIHFW Campus,
Munirka, New Delhi.
15. Sh. Krishan,
S/o Nand Lal,
R/o B-54, NIHFW Campus,
Munirka, New Delhi.
16. Sh. Phool Singh,
S/o Leela Ram,
R/o H.No.217,
Phase-IA, Om Vihar,
Uttam Nagar, New Delhi.

17. Sh. Praveen Kumar Bansal,
S/o Ved Pal Bansal,
R/o Flat No.A-8, NDMC Society,
H-3 Block, Vikas Puri,
New Delhi.
18. Sh. Jagdish Singh Rawat,
S/o S.S. Rawat,
R/o Flat No.52B,
NIHFW Campus, Munirka,
New Delhi.
19. Sh. Vinay Kumar,
S/o Raj Kumar Bhargava,
R/o Village Rang Puri,
P.O. Gurgaon Road,
New Delhi-110037.
20. Sh. Yashwant Singh,
S/o Bishamber Dayal,
R/o C-2,NIHFW Campus,
Munirka, New Delhi.
21. Smt. Swaroop Chand Rana,
D/o Jai Singh,
R/o D-1, Prince Apartment,
Ward No.2, Mehrauli, New Delhi.
22. Smt. Prem Lata,
D/o Madan Lal,
R/o B-3/A, 281 Janak Puri,
New Delhi.
23. Smt. Suman Pathania,
D/o Late Tek Chand Katoch,
R/o D-11, NIHFW Campus,
Munirka, New Delhi.
24. Sh. S.D. Sharma,
S/o Pitam Dutt Sharma,
R/o D-20, NIHFW Campus,
Munirka, New Delhi.
25. Smt.Susheel Bhalla,
S/o Late K.L. Mehra,
R/o D-12, NIHFW Campus,

Munirka, New Delhi.

26. Smt. Darshan Sharma,
D/o late P.C. Sharma,
R/o D-17, NIHFW Campus,
Munirka, New Delhi.
27. Sh. S.K. Sharma,
S/o Late Nand Kishore Sharma,
R/o MG-1/67, Vikas Puri,
New Delhi.
28. Smt. Shashi Khurana,
D/o Late Shanti Lal,
R/o BH-190, Shalimar Bagh,
New Delhi.
29. Sh. D.S. Rawat,
S/o Late B.S. Rawat,
R/o D-19, NIHFW Campus,
Munirka, New Delhi.
30. Sh. D.K. Dhingra,
S/o C.B. Dhingra,
R/o A-49, Vikas Puri,
New Delhi.
31. Sh. R.C. Batra,
S/o Late H.C. Batra,
R/o A-1/383A Astthal Road,
Uttam Nagar, New Delhi.
32. Smt. Maheshwari Patel,
D/o D.S. Negi,
R/o D-16, NIHFW Campus,
Munirka, New Delhi.
33. Smt. Neetu Dogra,
D/o R.C. Bhatia,
R/o A-4/182, Sector-4,
Rohini, Delhi.
34. Smt. Shashi Jain,
D/o Late Sukhandra Lal Jain,
R/o J-28, Pandav Nagar,
Near Mother Diary, Delhi.

35. Smt. Shashi Sharma,
D/o Late Satya Pal Sharma,
R/o H.No.1552A, Muruti Vihar
Chakkarpur, Gurgaon, Haryana.
36. Sh. Chander Singh Negi,
S/o late Kadar Singh,
R/o B-6, NIHFV Campus,
Munirka, New Delhi.
37. Sh. Anil Kumar,
S/o D.R. Gupta,
R/o CA/3D, DDA,
Munirka, New Delhi.
38. Smt. Janak Dulari,
D/o Harbans Lal Sachdeva,
Ganesha Rama Krishna,
Flat No.B-14/15, Ankur Apartments,
(Near Municipal Corporation),
Opposite IIT Gate,
Pawai, Mumbai.
39. Sh. Pramod Kumar,
S/o Late Kesho Lal,
R/o C-40, Sudershan Park,
New Delhi.
40. Smt. Madhu Bangia,
D/o P.L. Verma,
R/o C-117, Vikas Puri,
New Delhi.

...Applicants

(By Advocate : Shri R.V. Sinha)

Versus

1. Union of India,
Ministry of Health & Family Welfare,
Nirman Bhawan, C-Wing,
New Delhi.
2. National Institute of Health and Family Welfare,
Through its Director,
Baba Gang Nath Marg,
Munirka, New Delhi.

...Respondents

(By Advocate : Shri Subodh Kaushik for Shri V.S.R. Krishna)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The applicants are holding the various ministerial posts in the National Institute of Health and Family Welfare, the second respondent herein. It is stated that the pay scales for various posts in the second respondent are fixed, on the basis of the recommendations of the respective Central Pay Commissions.

2. The applicants contend that consequent upon the implementation of the recommendations of the VIth Central Pay Commission, the 2nd respondent issued Office Order dated 14.12.2010, revising their pay scales, to be in accordance with the recommendations, and that the consequential orders were issued on 22.12.2010. The grievance of the applicants is that hardly within two months from the date, on which the said orders were passed, the 2nd respondent issued an Office Order dated 02.02.2011, withdrawing both the orders, referred to above. It is stated that neither any notice was issued, nor any reasons were mentioned in the said order. This

OA is filed challenging the order dated 02.02.2011, by raising various grounds.

3. The respondents filed counter affidavit opposing the OA. It is stated that the second respondent is an autonomous body and it is only when a decision for implementation of the recommendations of the 6th Pay Commission is taken at the highest level, that the consequential orders could have been passed. According to them, the order dated 14.12.2010 and 22.12.2010 were not preceded by the decision at the highest level. Various contentions urged by the applicants are denied.

4. We heard Shri R.V. Sinha, learned counsel for applicant and Shri Subodh Kaushik for Shri V.S.R. Krishna, learned counsel for respondents.

5. It is not in dispute that the second respondent is an autonomous body but functions under the Ministry of Health and Family Welfare, Govt. of India. It has its own Memorandum of Association. By and large, it implements the pay scales that are in force in the parent Ministry. On 14.12.2012, the 2nd respondent issued the following order :-

“OFFICE ORDER

Consequent upon the approval of the competent authority with reference to Ministry of Finance, Department of Expenditure (Implementation Cell) OM No.1/1/2008-IC dt. 13th Nov'2009 and in terms of Bye-Laws 42 of NIHFV (conditions of Service of Officers & Staff) the pay of pre-revised scale of Rs.6500-10500 has been revised in the PB-2 Rs.9300-34800 with the pay in Pay Band of Rs.13,860/- with Grade Pay of Rs.4600/- w.e.f. 01.01.2006.

In the case of posts in the scale of Rs.5000-8000 and Rs.5500-9000 the pay has been revised in PB-2 Rs.9300-34800 with the pay in Pay Band of Rs.12,090/- with Grade Pay of Rs.4600/- w.e.f. 01.01.2006.

The expenditure will be met out of the non-plan budget of the Institute.

The Pay fixed in respect of employees will be subject to post audit and in the light of audit observations/overpayments detected if any, either in the form of arrears or otherwise shall be recovered from the pay of the employees without notice.

This issues with the approval of the Director.”

Consequential orders were passed on 22.12.2010, indicating the pay scales of each of the applicants.

6. It hardly needs a mention that valuable rights accrued to the applicants and similarly situated persons, on the basis of the order dated 14.12.2010 and the

consequential orders dated 22.12.2010. If any serious illegality has crept into those orders, it was open to the second respondent to take corrective steps, only after putting the concerned persons on notice. However, without either issuing notice to the employees or stating any reasons, the 2nd respondent issued order dated 02.02.2011, which reads as under

“The office orders of even number dated 14th December’2010 & 22nd December’2010 may be treated as withdrawn with immediate effect till furthers orders.

This issues with the approval of the Director.”

7. We are of the clear view that the order extracted above, does not at all, satisfy the fundamental requirements under the law. Firstly, it is not preceded by any notice, and secondly, it does not contain any reasons. Both the grounds constitute valid basis for undertaking judicial review.

8. On this short ground, we set aside the impugned order dated 02.02.2011. We, however, leave it to the second respondent to issue notice to the concerned employees, individually, or to the employees in general,

and then pass an order, in accordance with law, within a period of two months, from the date of receipt of a certified copy of this order. We make it clear that setting aside of impugned order does not by itself, lead to obligation on the part of the second respondent to pay arrears of salary. It is needless to mention that if the order, which the second respondent may pass, is not acceptable to the applicants, it shall be open to them to pursue the remedies.

Pending MAs, if any, stand disposed of.

There shall be no orders as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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