

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

ORIGINAL APPLICATION No.789 of 2014

Dated, this Tuesday, the 11th day of June, 2019

***CORAM : DR. BHAGWAN SAHAI, MEMBER (ADMINISTRATIVE)
R.N.SINGH, MEMBER (JUDICIAL)***

1. Shri Nivruti Sopanrao Sherkar,
Post Monument Attendant,
Residing at : C/o.B.H. Kamble,
E-7814, Parli Vaijnath At Post Parli Vaijnath,
Dist. Beed – 431 520, Maharashtra.
2. Shri Prabhakar Dadasaheb Wagh,
Post Monument Attendant,
Residing At Post Talani, Tehsil – Silod,
Dist. Aurangabad – 431 113, Maharashtra.
3. Shri Kachru Baburao Kadam,
Post Monument Attendant,
Residing At Lakhani, Tehsil Vaijapur,
Dist. Aurangabad - 431 115, Maharashtra.
4. Shri Ramdas Khanderao Lokhande,
Post Monument Attendant,
Residing at Bhawsing Pura, Old Cantt,
Aurangabad – 431 002, Maharashtra.
5. Shri Vinayak Raghunath Kurhade,
Post Monument Attendant,
Residing at : Ranjangaon (Pol), Tq-Gangapur,
Dist. Aurangabad – 423 702, Maharashtra.
6. Shri Milind bhimrao Magre,
Post Monument Attendant,
Residing at : Bhimnagar, Bhawsing Pura,
Aurangabad – 431 002, Maharashtra.
7. Shri Madhukar Asaram Tupe,
Post Monument Attendant,
Residing at : At Post Deogaon, Rangari,
Tehsil Kannad, Dist. Aurangabad.

Office Address:

Archaeological Survey of India,
Bibika Makbara, Aurangabad Circle,
Aurangabad – 431 004.

... Applicant

(By Advocate Shri Vicky Nagrani)

VERSUS

1. Union of India,
Through The Director General Archeological Survey of India,
Janpath, New Delhi 110 011.
2. The Regional Director (West),
Archeological Survey of India, Sion, Bombay 400 022.
3. The Pay and Account Officer,
Archeological Survey of India,
169/2, 2nd floor, Avid Circle, Hyderabad (A.P.) 500 001.
4. Superintendent, Archeological Survey of India,
Bibika Makbara, Aurangabad Circle, Aurangabad 431 004.
5. Government of India, Director,
Ministry of Personnel, Public Grievances and Pensions,
Department of Personnel and Training, New Delhi 110 011.
6. Principal Controller of Defence Accounts (Pension),
PCDA (P) Draupadighat, Allahabad (U.P.)
Pin 211 014.

... Respondents

(By Advocate Shri V.B.Joshi)

ORAL ORDER

Per : R.N.Singh, Member (Judicial)

The applicants have filed the present
OA, under Section 19 of the Administrative
Tribunals Act, 1985 seeking the following
reliefs :-

*"8(a). To call for the records and proceedings
pertaining to the delayed / inaction of fixation of pay
of ex-servicemen as per the policy letter dated 05-04-
2010;*

*8(b). To issue direction to the Respondent Nos.1
to 4 to fix the pay of Applicants as per the policy letter
dated 05-04-2010 issued by the Respondent No.5;*

8(c). *To direct the Respondent No.1 to 4 to call the last pay drawn certificate of applicant from the Respondent No.6 for the fixation of pay of Applicants;*

8(d). *To grant such other and further reliefs as the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case;*

8(e). *To provide the cost of this application."*

2. The learned counsel for the applicant submits that the respondents Nos.1 to 4 were required to fix the pay of the applicant keeping in view the OM No.3/19/2009-Estt.(Pay III) dated 05.04.2010 (Annex A-1) issued by the Department of Personnel and Training. He further submits that the Government of Maharashtra has followed the aforesaid OM while fixing the pay of the similarly placed person whereas the respondents have ignored the same. Agreed.

3. The learned counsel for the applicant further submits that the applicant No.1 has made representation dated 02.12.2013 giving details of his various earlier representations before various Authorities regarding pay fixation on his reemployment and on receipt of the same, the respondent No.5 i.e. the Department of Personnel and Training has

issued the letter dated 31.12.2013 advising the applicant No.1 to approach the Administrative Authority directly for the pay fixation. The letter dated 31.12.2013 (Annex A-10) of the DOPT reads as under :-

*"No.6/10/2013-Estt. (Pay-II)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training
New Delhi, 31st December, 2013*

To,

*Shri N.S.Sherkar,
O/o The Sr. CA/CA-Gr-I/II
Caretaker,
Archeological Survey of India,
Ellora Caves – Ellora.
Dist. Aurangabad (MH) 431 001.*

Sir,

Please refer to your letter dated 02.12.2013, vide which you have given details of your earlier representation submitted with different authorities, regarding pay fixation on re-employment. In the matter, it is stated that aspects relating to pay fixation of re-employed pensioners is covered by provisions of this Department's O.M. No.3/1/85-Estt.(Pay-II) dated 31st July 1986 and O.M. No.3/19/2009-Estt.(Pay II) dated 5th April, 2010, which can be accessed through this Department's website <http://persmin.nic.in> under the link OMs & Orders=>Establishment (A)=>(II)(e) Pay Rules. It is also advised to approach your administrative authority directly, in case of any doubt such authority may approach to concerned nodal authority.

Yours faithfully,

sd/-

*(M.K.Verma)
Section Officer."*

4. The learned counsel for the applicants further submits that the applicants in pursuance of the aforesaid letter dated 31.12.2013 of the DOPT have not made representation to the respondents Nos.1 to 4 rather they have got legal notices dated 26.08.2014 (Annex A-20) and 23.11.2013 (Annex A-13) issued which were replied by the respondent No.1 vide their letter dated 23.09.2014 (Annex A-22) whereby it has been clarified that necessary clarification as per the DOPT OM dated 08.11.2010 was forwarded to ASI Department, Aurangabad vide letter dated 04.04.2014 (Annex A-15).

5. The learned counsel for the applicants very fairly submits that in pursuance to the aforesaid letter dated 31.12.2013 and 23.09.2014, the applicants have not made any representation to the concerned Authorities i.e. the respondent No.1 for redressal of their grievances. Accordingly, he submits that the OA may be disposed of with liberty to the applicants to make appropriate

comprehensive representation to the concerned authorities for considering the grievances of the applicants and on receipt of such representation, the Respondent No.1 to take decision thereof. For such the request of the applicants, the learned counsel for the respondents is not having any objection.

6. In view of the aforesaid, the OA is disposed of with liberty to the applicants to make comprehensive representation raising of their grievances as raised in the present OA within two weeks from the date of receipt of certified copy of this order and in case such representations are received by the respondents within time so stipulated herein, the respondents Nos.1 to 4 are directed to consider the same in accordance with relevant rules, instructions and law on the subject and dispose of the same by passing a reasoned and speaking order within ten weeks. No costs.

(R.N.Singh)
Member (Judicial)

(Dr. Bhagwan Sāhāi)
Member (Administrative)

*kmg**