

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

O.A. No. 888 of 2014

Date of order : 15.07.2019

**Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)
Hon'ble Mr. Swarup Kumar Mishra, Member(J)**

1. Khageswar Sahu, aged about 55 years, Son of Ghanashyam Sahu.
 2. Raj Kishore Tudu, aged about 51 years, Son of Late Balia Tudu.
 3. Harihar Jena, aged about 47 years Son of Kartik Chandra Jena.
 4. Anadi Narayan Panda, aged about 47 years, Son of Bishnu Mohan Panda.
 5. Suman Kumar Chand, aged about 47 years, Son of Phanindranath Chand.
 6. S. Jeyraj, aged about 49 years, Son of S. Karuppan.
 7. Chaman Minz, aged about 51 years, Son of Budhu Bhagat Minz.
- All are working as Technical Officer-B(TO-B) in Defence Research & Development Organisation, Integrated test range, Ministry of Defence, Chandipur-756025, Dist-Balasore.

.....Applicant

-Versus-

1. Secretary, Ministry of Defence, South Block, New Delhi-110011.
2. Department of Defence Research & Development, Ministry of Defence, represented through its Secretary-Cum-Director General, DRDO & Scientific Advisor to Raksha Mantry, DRDO Bhawan, Rajaji Marg, New Delhi-110105.
3. Director, Center for Personnel Talent Management(CEPTAM), DRDO, Ministry of Defence, Metcalfe House, New Delhi-110054.
4. Director, Directorate of Human Resource & development, DRDO, DRDO Bhawan, Rajaji Marg, New Delhi-110105.
5. Director, Integrated Test range, Ministry of Defence, Chandipur-756025, Dist-Balasore.

.....Respondents

For the Applicant : Mr. Mr. B. P. Satpathy

For the Respondents: Mr. A. K. Mohapatra

O R D E R(ORAL)

Per Mr. Gokul Chandra Pati, Member(A):

The O.A. No.888/2014 has been filed under section 19 of the Administrative Tribunals Act, 1985 seeking applicants are aggrieved by the decision of the respondents to reduce the Grade Pay of the Applicant from Rs.4, 800/- to 4,600/- vide impugned order at Annexure-A/7 dated 10.05.2013 and Annexure-A/9 dated 30.05.2013. As submitted by Ld. Counsel for the applicants, the Respondents had allowed the Grady Pay of Rs.4,800/- to the applicant w.e.f. 01.01.2006 vide order dated 19.02.2010(Annexure-

A/10). But vide order dated 10.05.2013 (Annexure-A/7), the respondents No.2 withdrew the benefit of Grade Pay of Rs. 4,800/- which was granted in favour of the applicant in pursuance to the advice of the Ministry of Finance.

3. Ld. Counsel for the respondents submitted that a similar dispute has been decided by this Tribunal in OA No. 292/14 and 928/13, vide order dated 15.02.2019. In that order, the counsel for the applicants in those OAs did not press for any reliefs in the OA, except the relief regarding recovery of excess amount given to the applicant by allowing higher Grade Pay of Rs. 4, 800/- which was subsequently withdrawn by the authorities. It is stated that the Grade Pay of the applicant was correctly reduced to Rs. 4, 600/- in consultation with the Ministry of Finance.

4. Ld. Counsel for the applicants fairly agreed to the submission of the Ld. Counsel for the respondents that this OA is squarely covered by the OA Nos. 292/14 and 928/13 vide order dated 15.02.2019 passed by this Tribunal. Ld. Counsel for the applicant in this OA, did not want to press any other reliefs prayed for in the present OA, except for the relief relating to the recovery on account of payment of higher Grade Pay of Rs. 4, 800/- in place of Rs. 4,600/- in favour of the applicant.

5. We have considered the submission of Ld. Counsels for both the sides. Vide order dated 15.02.2019 of this Tribunal in OA No. 292/14 and 928/13, it was heard that the case of the applicant in OA No. 928/13 was squarely covered by the Paragraph 12(iii) of the judgment in the case of State of Punjab and Others etc. Vs. Rafiq Masih (White Washer) etc., since excess payment has been made for a period in excess of five years before the order of recovery was issued in 2013. The directions given in OA No. 928/13 as under:-

“Hence, following the judgment dated 27.01.2015 of Hyderabad Bench of the Tribunal, we hold that the applicant’s case in the OA No 928/13 is squarely covered by the Paragraph 12(iii) of the judgment in the case of Rafiq Masih(Supra) and that the applicants are entitled for protection from any recovery of excess amount paid to the applicants towards payment of higher Grade Pay of Rs.4800/- per month w.e.f. 1.1.2006. However, in case any of the applicants had given an undertaking to the respondents to the effect that in case their placement in the grade pay of Rs.4800/- w.e.f. 1.1.2006 vide order dated 05.06.2009 would be found to be defective, then they will be liable to refund the excess amount if any paid to them, then for such applicants, who had furnished the undertaking in 2009, this direction for not recovering the excess amount, paid as above will not be applicable”.

6. In this O.A, the applicant had enjoyed the benefit of higher Grady Pay of Rs. 4, 800/- with effect from 01.01.2006 vide order dated 19.02.2010, but it was withdrawn vide order dated Annexure-A/7 and Annexure-A/9 in 2013. Since the benefit was granted w.e.f 01.01.2006 and it was withdrawn by the order dated 10.05.2013, the benefit was allowed to the applicant for more than five

years. Hence, the Para-12(iii) of the judgment in case of Rafiq Masih (Supra) is applicable to the present applicant and the matter is squarely covered by the order dated 15.02.2019 of this Tribunal in OA Nos. 292/14 and 928/13.

7. Accordingly, the O.A is allowed in part in the light of the order dated 15.02.2019 vide paragraph 10 of the said order. The applicant is also entitled for protection from any recovery for excess amount paid to him towards higher Grade Pay of Rs 4,800/- w.e.f. 01.01.2006 as per order dated 19.02.2010. However, if it is found that applicant has given the undertaking to the respondents that if his Grade Pay of Rs.4,800/- is found to be wrong or defective, then he will be liable to refund the excess amount paid to him, then the applicant will be liable to act as per the said undertaking to refund the excess amount. If the applicant has received the Grade Pay of higher of Rs. 4,600/- after 10.05.2013, such excess amount can also be recovered from the applicant by following due process of law.

8. This OA is allowed in part in terms of above directions following the order dated 15.02.2019 in OA No. 292/14 and 928/13. No cost.

(SWARUP KUMAR MISHRA)
MEMBER (J)

(GOKUL CHANDRA PATI)
MEMBER (A)

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