

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, KOLKATA**

O.A. No. 28/2012
with
O.A. No. 158/2012

Reserved on : 04.03.2016
Pronounced on : 26.4.16

HON'BLE MS. BIDISHA BANERJEE, MEMBER (J)
HON'BLE MR. P.K. BASU, MEMBER (A)

O.A. 28/2012

1. Dr. Naba Kumar Duary,
Son of Late Bibhuti Bhusan Duary,
Aged about 46 years,
Working as Research Associate (Cultural),
Office of the Anthropological Survey of India,
27, J.L. Nehru Road, Kolkata-700 016,
Residing at 'Ashirbad', Ramakrishna Sarani,
Dhelua West, Garia, Kolkata-700 152.
2. Sri Dipak Kumar Adak,
Son of Hareram Adak,
Aged about 47 years,
Working as Research Associate (Physical),
Office of the Anthropological Survey of India,
27, J.L. Nehru Road, Kolkata-700 016,
Residing at Satashi, Boser Math,
G.I.P. Colony, P.S. Jagacha,
Howrah-12.
3. Sri Gautam Kumar Mallik
Son of Late Bimal Kumar Mallik,
Aged about 48 years,
Working as Research Associate (Cultural),
Office of the Anthropological Survey of India,
27, J.L. Nehru Road, Kolkata-700 016,
Residing at Village Neora,
P.O. Bhabla, P.S. Basirhat,
Distt. North, 24-Pgs., Pin-743 422 (WB).
4. Sri Niloy Kumar Bagchi,
Son of late Benoy Bagchi,

Aged about 52 years,
Working as Research Associate (Physical),
Office of the Anthropological Survey of India,
27, J.L. Nehru Road, Kolkata-700 016,
Residing at Kalika Apartment,
DE 129A, Pubali, P.O. Aswininagar,
Baguiati, Kolkatta - 700 159.

5. Sri Rana Chakravarty,
Son of Late Radha Prasanna Chakravarty,
Aged about 51 years
Working as Research Associate (Physical),
Office of the Anthropological Survey of India,
27, J.L. Nehru Road, Kolkata-700 016,
Residing at 6/8/1, Vivek Nagar,
Kolkatta-700 075.
6. Miss. Sanghamitra Panja
Daughter of Anadi Charan Panja
Aged about 36 years
Working as Research Associate (Psychology),
Office of the Anthropological Survey of India,
27, J.L. Nehru Road, Kolkata-700 016,
Residing at C/o Anadi Charan Panja,
Vill. Bolpukur, P.O. & PS Shyampur,
Distt. Howrah, Pin: 711 314, W.B.
7. Smt. Subhra Bhattacharyya
Wife of Arnab Roy Chowdhury,
Aged about 42 years
Working as Research Associate (Physical),
Office of the Anthropological Survey of India,
27, J.L. Nehru Road, Kolkata-700 016,
Residing at WBR 3/8, Phase-VII,
Golf Green Urban Complex,
Kolkata - 700 095.
8. Sri Indranil Biswas
Son of Late Harendra Nath Biswas,
Aged about 42 years
Working as Research Associate (Cultural),
Office of the Anthropological Survey of India,
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Residing at 1B, Swapnadwip Apartment,
Near Peyarabagan More, Basungar 1 No.Gate,
Madhyamgram, Kolkata-700 129.

9. Smt. Chhanda Mukhopadhyay,
Wife of Kanchan Mukhopadhyay,
Aged about 56 years
Working as Research Associate (Cultural),
Office of the Anthropological Survey of India,
Eastern Regional Centre, EN 79,
Sector V, Salt Lake, Kolkata-700 091,
Residing at Neelachal Abasan, Bishakha-B4, 98,
Raj Danga Gold Park, Kolkata - 700 107.
10. Shri Prabir Chowdhury
Son of Late Shibnath Chowdhury,
Aged about 53 years
Working as Research Associate (Physical),
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27, J.L. Nehru Road, Kolkata-700 016,
Residing at 222/C, A.P.C. Road,
Flat No.C/3, P.O. Shyambazar, Kolkata - 700 004.
11. Dr. Debashis Basu
Son of Late Birendra Nath Basu,
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Sodepur, Panihati, B.T. Road,
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12. Sri Sudipta Kumar Behera
Son of Prananath Behera,
Aged about 43 years
Working as Research Associate (Cultural),
Office of the Anthropological Survey of India,
27, J.L. Nehru Road, Kolkata-700 016,
Residing at Agnisha Apartment,
Block-B, Flat No.S-2, 2, Ramlal Dutta Lane,
Bhadrakali, Hooghly, West Bengal.
13. Sri Rabiranjana Biswas
Son of Late Subodh Kumar Biswas,
Aged about 54 years
Working as Research Associate (Cultural),
Office of the Anthropological Survey of India,
27, J.L. Nehru Road, Kolkata-700 016,
Residing at Balia East, Garia Station Road,
Kolkata - 700 084.

14. Dr. Shyamal Kumar Nandy
Son of Late Satya Charan Nandy
Aged about 53 years
Working as Research Associate (Cultural),
Office of the Anthropological Survey of India,
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Residing at 18, Shibdas Bhaduri Street,
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15. Sri Biplab Das
Son of Manomohan Das,
Aged about 54 years
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Residing at P-10, Bijoy Krishna Palli,
Kusumba, P.O. Narendrapur,
Distt.24 Parganas (South),
Kolkata - 700 103.
16. Sri Sumitabha Chakraborty
Son of late Jyotish Ranjan Chakraborty,
Aged about 46 years
Working as Research Associate (Cultural),
Office of the Anthropological Survey of India,
Eastern Regional Centre, EN-79,
Sector-V, Salt Lake, Kolkata - 700 091
Residing at CF-340, Sector-I, Salt Lake,
Kolkata 700 064.
17. Smt. Krishna Basu
Wife of Tushar Mauli Basu
Aged about 49 years
Working as Research Associate (Cultural),
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Eastern Regional Centre, BN-79,
Sector-V, Salt Lake, Kolkata - 700 091
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Kolkata 700 106.
18. Sri Subrata Ray
Son of Late Susanta Kumar Ray,
Aged about 47 years
Working as Research Associate (Cultural),

Office of the Anthropological Survey of India,
27, J.L. Nehru Road, Kolkata-700 016,
Residing at C/o Late Susanta Kumar Ray,
Vill. & PO Thakurnagar (Babupara),
Distt. North 24 Parganas, West Bengal.

19. Sri Alo Mukhopadhyay
Son of Sripati Mukhopadhyay,
Aged about 48 years
Working as Research Associate (Physical),
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27, J.L. Nehru Road, Kolkata-700 016,
Residing at 36, Sitala Tala Road,
Dakshin Para, P.O. Barasat,
Kolkata-700 124.

...Applicants


(By Advocate : Mr. S.K. Dutta)

Versus

1. Union of India through
The Secretary to the Govt. of India,
Ministry of Culture,
Department of Culture,
Shastri Bhawan, Dr. Rajendra Prasad Road,
New Delhi - 110 001.
2. The Director,
Anthropological Survey of India,
Government of India,
27, J.L. Nehru Road,
Kolkata-700 016.
3. The Secretary to the Govt. of India,
Department of Personnel & Training,
North Block, New Delhi - 110 001.
4. The Secretary to the Govt. of India,
Ministry of Finance,
Department of Expenditure,
North Block,
New Delhi-110 001.

...Respondents

(By Advocate : Mr. C.R. Bag, Mr. U.P. Bhattacharyya and
Ms. M. Bhattacharyya



O.A. No. 158/2012

1. Sri Santosh Kumar Pathak
Son of Dr. Ram Deo Pathak
Aged about 43 years
Working as Data Processing Assistant
Anthropological Survey of India,
Kolkata, residing at AF-91,
Central Govt. Staff Quarters, Salt Lake,
Kolkata-700 064
2. Sri Samarjit Roy,
Son of late Sri Sudhir Kumar Roy,
Aged about 53 years
Working as Data Processing Assistant
Anthropological Survey of India,
Kolkata, residing at 5H,
P. Naskar Lane, Kolkata-700 039

...Applicants

(By Advocate : Mr. S.K. Dutta)

Versus

1. Union of India through
The Secretary to the Govt. of India,
Ministry of Culture,
Shastri Bhawan,
New Delhi - 110 001.
2. The Director,
Anthropological Survey of India,
27, J.L. Nehru Road,
Kolkata-700 016.
3. The Secretary to the Govt. of India,
Ministry of Finance,
Department of Expenditure,
North Block,
New Delhi-110 001.

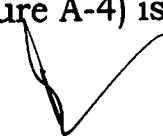
...Respondents

(By Advocate : Mr. C.R. Bag, Mr. U.P. Bhattacharyya and
Ms. M. Bhattacharyya)

ORDER**By Hon'ble Mr. P.K. Basu**


Both the O.A. Nos. 28/2012 and 158/2012 raise the same issue and, therefore, as agreed by the counsel, both the OAs have been heard together and are being disposed of by a common order. However, we have culled out the facts from O.A. No.28/2012 for convenience.

2. The applicants are Research Associates working in Anthropological Survey of India (Respondent No.2). They are currently in PB-2 of Rs.9300-34800 + Grade Pay Rs.4200/-. Through this O.A., they are claiming Grade Pay of Rs.4600/-. The reasons for making such claim are as follows:-

- (i) Senior Technical Assistant and Cartographer have same entry level qualification, i.e. Post Graduation in respective discipline, and have same nature of duties like Research Associates.
 - (ii) 5th Central Pay Commission in Para 71.82 recommended that Senior Technical Assistants were merged with Research Associates in view of its technical qualification, i.e. Master's Degree in Anthropology. In this regard, order dated 27.11.1998 issued by Anthropological Survey of India (Annexure A-4) is referred to.
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- (iii) Research Associates and Cartographers in Archaeological Survey of India got the benefit of Grade Pay of Rs.4600/- after some employees approached the Hyderabad Bench of this Tribunal. Similarly, it is stated that Senior Technical Assistants in Geological Survey of India have also been placed in Grade Pay of Rs.4600/-.
- (iv) Under the recommendation of 6th Central Pay Commission, pay scales of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500 were merged and were to be upgraded in PB-2 with Grade Pay of Rs.4600/- corresponding to pre-revised scale of Rs.7450-11500. In this regard, the CCS (Revised Pay) Rules, 2008 Part-B Section-1 is relied upon.
- (v) Although Senior Technical Assistants were merged with Research Associates as per recommendation of 5th CPC, the Research Associates were not considered in the upgraded Grade Pay of Rs.4600/- even though both have the same essential qualification, i.e. Post Graduation Degree.

3. In their reply the respondents have stated that Research Associates/Cartographers in Anthropological Survey of India is a feeder grade having pay scale of Rs.5500-9000 in Group-B (Non-Gazetted) posts. They used to get promotion after having experience of five years as per recruitment rules to the post of Assistant Anthropologist/Assistant Keeper/Assistant Psychologist etc. which




were carrying the pay scale of Rs.6500-10500 and having higher responsibility. Considering the functional difficulties in the Anthropological Survey of India, it is not possible to merge both the posts of Research Associates of Anthropology/Psychology/Cartographer etc. (Non-Gazetted) and posts of Assistant Anthropologist/Assistant Keeper/Assistant Psychologist etc. In fact, it is stated that based on the recommendations of the 6th CPC, Govt. has approved upgradation of Grade Pay of Rs.4200/- to Rs.4600/- only to the posts which carrying pre-revised pay scale of Rs.6500-10500/-.

4. Heard the learned counsel and perused the pleadings.

5. At the outset, we would like to note that the Hon'ble Supreme Court has, time and again, stated that the Tribunal should not interfere in pay scale matters and it should best be left to the Executive to be undertaken on the advise of an expert body like the Pay Commission. [**Union of India & Another Vs. P.V. Hariharan and Another**, 1997 SCC (L&S) 838 and **Union of India Vs. Makhan Chand Roy**, AIR 1997 SC 2391].

OA 28/2012

6. The applicants' arguments can be reduced to the following issues:




(a) They have the same essential qualification, i.e. Post Graduation Degree, as the Senior Technical Assistants and Assistant Anthropologists etc. Therefore, based on the same essential qualification for entry, they should get the same grade pay.

(b) Since the pay scales of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500 have been merged and given the grade pay of Rs.4600/-, which is the replacement scale for Rs.7450-11500, they should also get the same benefit.

7. As regards the 1st argument, essential qualification in entry grade cannot be the sole criteria for determining pay scales. There are several factors and the Hon'ble Supreme Court has already settled this issue and held that the Tribunal shall not get into this exercise.

8. As regards the 2nd argument, this arises perhaps out of confusion or clear misunderstanding of CCS (Revised Pay) Rules, 2008 and an inability to distinguish between a **Pay Scale** and a **Post**. A simple reading of the CCP (Revised Pay) Rules, 2008 makes it clear that the **Pay Scales** of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500 were merged and the replacement scale was PB-2 with Grade Pay Rs.4200/-. Those **posts**, which were in the scale of Rs.6500-10500, have been granted the Grade Pay of Rs.4600/-. Clearly, the applicants were in the scale of Rs.5500-9000.



Therefore, they were rightly given the Grade Pay of Rs.4200/-. The other posts who got Grade Pay of Rs.4600/- were in the erstwhile **posts** carrying the pay scale of Rs.6500-10500. This makes it clear that the argument of the applicants is erroneous and has to be rejected.

9. On the question of comparison with Archaeological Survey of India and Geological Survey of India, this again is an exercise which the Tribunal cannot get into and has to be left to expert bodies like Pay Commission etc. In fact, when the 7th Pay Commission has also submitted its report, we are certain that the Union of India would be guided by it.


OA 158/2012

10. The applicants in OA 158/2012 were initially appointed as Data Processing Assistants in Anthropological Survey of India (ASI). They state that in the year 1993, the Data Processing Assistants were merged with Statistics Section of the ASI. Prior to 6th Central Pay Commission (CPC), the applicants were in the pay scale of Rs.5500-9000 (pre revised) and after implementation of 6th CPC, they were granted Grade Pay of Rs.4200/- in PB-2 Rs.9300-34800. However, later on their Grade Pay was upgraded to Rs.4600/- vide Office Order dated 25.03.2009 with effect from 1.01.2006. Consequently, the applicants were granted first financial

upgradation under MACP Scheme in Grade Pay of Rs.4800/- in PB-2 vide Office Order dated 17.05.2010.

11. According to the applicants, in this case as per the Recruitment Rules, essential qualification for Data Processing Assistants in ASI is University Science Degree in Arts or Commerce with Statistics or Mathematics as one of the subjects. It is stated that the Ministry of Statistics and Programme Implementation, which is the nodal ministry, has granted Grade Pay of Rs.4600/- to Data Processing Assistants with minimum essential qualification of Graduation. However, vide Office Order dated 18/21.07.2011, the Grade Pay of Rs.4600/- granted to the applicants was withdrawn and the applicants communicated that their Grade Pay is fixed at Rs.4200/- with effect from 1.01.2006.

12. It would be clear that the grounds for seeking Rs.4600/- Grade Pay by the applicants in this OA are same as mentioned in para 6 in OA 28/2012 namely essential qualification being same and merger of three pay scales viz. Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500. Therefore, the ratio based on which OA 28/2012 has been dismissed, applies equally to this OA as well.



13. In view of discussion above, we are of the considered view that there is no case for interference by this Tribunal in these matters and both the O.As. are, therefore, dismissed. No costs.

(P.K. Basu)
Member (A)

/Jyoti/

(Bidisha Banerjee)
Member (J)