

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00584 & 00585/2018

DATED THIS THE 23RD DAY OF JULY, 2019

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI C.V. SANKAR, MEMBER (A)

1. M.S. Krishnamurthy,
Age 70 years,
S/o Late M.N. Seetharamaiah,
Retired as Junior Supervisor,
O/o Director of Census operation,
Karnataka, E-F Wing, 7th Floor,
Kendriya Sadan,
Bangalore 560 034,
Residing at:
No. 9, 11/1 T.G. Comfort,
Arakere Main Road,
Bannerghatta Road,
Bangalore 560 76

2. Mraduta patil,
Age: 72 years,
D/o Late Ramachandra patil,
Retired as Junior Supervisor,
O/o Director of Census operations,
E&F Wing 7th Floor,

Kendriya Sadan,
Bangalore 560 034
Residing at:
13063, Prestige Wellington park,
Gangamma Circle,
Bangalore 560 013 Applicants
(By Advocate Shri P. Kamalesan)

Vs.

1. Union of India

Represented by Secretary,
Department of Post,
Dak Bhavan,
New Delhi 110 001

2. Director of Census operations,
Karnataka,
Kendriya Sadan,
Koramangala,
Bangalore 560 034

3. Registrar General of India,
Ministry of Home Affairs,
2/A, Mansingh Road,
New Delhi 110 011 Respondents

(By Shri K. Dilip Kumar, Counsel for the Respondents)

O R D E R (ORAL)

(HON'BLE DR. K.B. SURESH, MEMBER (J))

Heard. The matter is in a very small compass. The applicants were granted a Grade Pay on ACP on 01.10.2006. Vide Annexure-A5 for all those who were in service at that point of time as on 01.01.2006 were granted a Grade Pay of Rs. 4,600/- and a Grade Pay of Rs. 5400/- was granted vide order dated 18.01.2016 later.

2. The learned counsel took us through the order which reads as follows:

“OFFICE ORDER”

Consequent upon the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training's OM No. 35034/1/97-Estt (D) dated 9.8.1999 and clarification of DoP&T/DOE vide their ID No. 1052410/14/ CR dated 09.03.2015 and Ministry of Finance (Expenditure) ID No. 50129/SO (E-III-A)/2015 dated 8.4.2015 and on the recommendations of Department Screening Committee, for grant of financial up-gradation under the ACP scheme, the following Data Entry Operators Grade 'B'/Senior Supervisors working in the ORGI, are hereby granted 2nd financial up-gradation under ACP Scheme after completion of 24 years of regular service in the Pay Band-3 Grade Pay Rs. 5400/- w.e.f. the date mentioned against their names.

2. The earlier order for granting 2nd financial up-gradation under ACP Scheme in Pay Band-2, Grade Pay Rs. 4600/- in respect of following officials is hereby withdrawn.

3. The financial up-gradation shall be purely personal to the employees and shall have no relevance to the seniority position and shall be strictly as per the terms and conditions contained in the above referred DoP&T OM.

4. They may exercise their option for fixation of pay in terms of FR 22 (1) (a) (1) within ten days from the date of issue of this OM to get their pay fixed in the higher grade pay either from the date of their up-gradation or from the date of their next increment. The financial up-gradation under the ACP Scheme is subject to the verification by Audit and necessary recovery, if any, will be made in the light of Audit observations.

5. *The Controlling Officers may also ensure that there were no Vigilance Case pending or contemplated against them on the date of granting the 2nd ACP in the Grade Pay of Rs. 5400/- as mentioned against their name."*

3. Therefore, the intent of the government seems to be that all those who were in service on 01.01.2006 were automatically granted a Grade Pay of Rs. 5400/- whereas the applicants having retired on 30.09.2008 and 31.12.2006 also became eligible to it as all these while, as could be seen from the face of the order itself, the matter had been in consideration of the government. Therefore, it ensues that since all these people in Annexure-A5 had been granted a Grade Pay of Rs. 4600/- with effect from 01.01.2006 and had been granted an automatic benefit of Rs. 5400/- then the same benefit would rest with the applicants also as they are eligible for it on the equality principle under Article 14 of the Constitution of India. The OA is therefore allowed. Applicants are held to be eligible to the benefit of Rs. 5400/- but with the rider for examination of vigilance angle as provided under Clause 5 of the Annexure-A5 order.

4. The OA is allowed. Benefits to be made available within two months next. No order as to costs.

(C.V. SANKAR)

(DR.K.B.SURESH)

MEMBER (A)

MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No. 170/00584 & 00585/2018

Annexure-A1: Copy of the provisional senior list of non-gazetted Group C officials as on 1.1.2006.

Annexure-A2: Copy of the Ministry of Home Affairs, Office of Director of Census operations letter dated 10.05.2001

Annexure-A3: Copy of the Ministry of Home Affairs, Office of Director of Census operations letter dated 20.05.2013

Annexure-A4: Copy of the Ministry of Home, Office of Director of Census operations Affairs letter dated 05.04.2017

Annexure-A5: Copy of the Ministry of Home Affairs, Office of the Registrar General India (Census) letter dated 18.01.2016

Annexure-A6: Copy of the Ministry of Home Affairs, Office of the Registrar General India (Census) letter dated 01.11.2017

Annexures referred in the reply statement

Annexure-R1: Copy of the order dated 10.05.2001

Annexure-R2: Copy of the order dated 05.04.2007

Annexure-R3: Copy of the order dated 02.05.2013

Annexure-R4: Copy of the noting page of DoPT dated 04.03.2015 and advice of Ministry of Finance dated 08.04.2015

Annexure-R5: Copies of the service records entry regarding initial appointments of the applicants in the grade of Assistant Compiler in the year 1970

Annexure-R6: Copies of the service records entry regarding appointment of the applicants in the grade Operator in the year 1982.

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