

CENTRAL ADMINISTRATIVE TRIBUNAL

CHENNAI BENCH, CHENNAI

ORIGINAL APPLICATION No. 310/00425/2014

Dated this 22 day the day of February, 2019

CORAM: HON'BLE SHRI P.MADHAVAN, MEMBER (J)

&

HON'BLE SHRI T.JACOB, MEMBER(A)

1. T. Panchaksharam
2. M. Subramani
3. B. Devarajan
4. S. Muthukumaraswamy
5. S. Kanniappan
6. L. Punniyakotti
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10. P H. Balu
11. K. Sivalingam
12. V. Sharma
13. J J Sundharanathan
14. V. Prabhakar
15. R. Venugopal
16. V. Radhakrishnan
17. P D Rajendran
18. V Ranganathan
19. S Kasinathan
20. Narayanan
21. C Babu
22. Kumarasamy
23. R Anbazhagan
24. A Narayanan
25. H. Dharani Singh
26. Munirathnam
27. Shanmugasundaramn
28. S S Premkumar
29. S Natarajan
30. N Valmorthy
31. V. Perumal
32. A. Selvaraj
33. M. Chinnaiyan
34. K. Jayapal
35. V B Natarajan
36. G. Chandrasekaran



37. C. Ragavan
38. P. Kamalanathan
39. P. Krishnaraj
40. E. Thangaraj
41. A. Ponnaiya
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43. S. Mohan
44. E. Sankaran
45. P. Nagalingam
46. R. Kasiviswanathan
47. K. Shankar
48. A.H. Raja
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50. G. Devarajan
51. K.T. Ramakrishnan
52. L. Madhavan
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55. A. Thirunavukarasu
56. M. Thanikachalam
57. S. Philips
58. T.S. Varadhan
59. A. Rajendran
60. B. Vijayan
61. Kodiswaran
62. S Kumar
63. V G Jayaraman
64. Sakthivel
65. Arokiadas
66. M. Pakirisamy
67. M Venkatesan
68. G Karuppaiah
69. S. Ponnuvelu
70. A. Natarajan
71. J. Senthilvel
72. W R Subramani
73. D Sirupathy
74. G. Girithara Gopalan
75. S. Sanaullah
76. S. Vedagiri
77. K. Krishnan
78. G. Rajendran
79. K P Ravendran
80. P Raghunandanan
81. M. Sekar
82. C. Durairaj
83. A. Krishnamoorthy

84. D. Gopalakrishnan
85. S. Ashokan
86. A. Anef
87. P M Sudhakaran
88. G. Kesavan
89. S. Rajagopal
90. E. Mohanasundaram
91. S. Natarajan
92. G. Adhinarayanan
93. S. Rajendran
94. Mohan
95. K. Sridharan
96. T.K. Kamaladasan
97. E. Rajangam
98. S. Errol Isaacs
99. N. Balasubramanian Achari
100. S. Jayaraman
101. C. Deivasigamani
102. P. Sugumar
103. V. Rangaraj
104. R. Shanmugam
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106. Dharman
107. E. Sankarathanu
108. Jayapal
109. R. Subramani
110. C.S. Robert Bruce
111. P. Hari Rao
112. K. Dennison
113. P. Venkatesan
114. K. Gopalan
115. N. Subramanian
116. S. Vengamalai
117. V. Somu
118. A. Viswanathan
119. K. Natarajan
120. C. Singaravelu
121. A. Surendrakumar
122. M. Thangappa
123. M J Paul Viswasam
124. N. Raju
125. P N Unnikumaran
126. R V Araa Amuthan
127. C Arasu
128. V N Janarthanan
129. K Adikesavan
130. M Umapathy



131. A. Muniyandi
132. S Gopalswamy
133. M Mohanasundaram
134. M. Elumalai
135. D. Alexander
136. G Natarajan
137. S Maivahanan
138. S. Allapichai
139. R. Sarvapushanam
140. M J Joseph
141. C Siva
142. S Venkatesan
143. M Arumugam
144. A Annadurai
145. R. Ramalingam
146. S. Amalan
147. M. Masilamani
148. T. Subbaiyan
149. K. Balan
150. G. Radhakrishnan
151. P. Murugesan
152. S. Ponnusamy
153. P. Mohan
154. K. Ragupathi
155. R. Prakasam
156. T.C. Arthanari
157. B. Gopal Prasath
158. S. Wilson Pakyadas
159. A. Abdul Azeez
160. S. Davy Justus
161. N. Anthonyraj
162. A. Subramanian
163. S. Kapali
164. R. Venkatesan
165. S. Sivaprakasam
166. S. Shanmugam
167. N. Singaravelu
168. K. Krishnamoorthy
169. D. Murugan
170. K. Ganesan
171. G. Pandu George
172. K.V. Subramanian
173. A. Jayaraman
174. P. Maniyazhagan
175. M. Kumar
176. V. Subbaraj
177. A. Michel



178. J. Selvadurai
 179. G. Krishnamoorthy
 180. P. Subramanian
 181. V. Jagannathan
 182. S. Padbanaban
 183. E. Muthu
 184. K. Chakrabani
 185. S. Sundararaj
 186. P. Natarajan
 187. S. Raju
 188. R. Rajamanickam
 189. R. Janarthanan
 190. C.V. Gopalakrishnan
 191. H. Venkatachalam
 192. G. Selvam
 193. R.K. Emarose
 194. P. Mohan
 195. M. Babu
 196. T. Jayakumar
 197. G. Veerabadran
 198. V. Devadass
 199. K. Durairaj
 200. N. Thenappan
 201. N. Vijayarangan
 202. E. Murugesan
 203. V. Balasubramanian
 204. A. Chinnaswamy

... Applicants

(By Advocate M/s Karthik, Mukundan and Neelakantan)

Versus.

1. Union of India, rep. by
 The Secretary, Ministry of Defence
 Department of Defence Production
 South Block, New Delhi 110 001.

2. The Chairman
 Ordnance Factories Board
 10-A, S.K. Bose Road
 Kolkata 700 001.

3. The Sr. General Manager
 Heavy Vehicles Factory
 Avadi, Chennai 600 054.

... Respondents

(By Advocate Mr. J. Vasu)

Reserved on 31.01.2019

Pronounced on _____



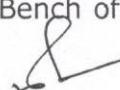
ORDERPER:-HON'BLE Shri T. JACOB, MEMBER (A)

The applicants have filed this OA seeking the following relief:

"To direct the respondents to give effect to the merger of pay scales of the applicants as Rs. 6500-10500 with effect from 01.01.2006, multiply by the formula 1.86 and fix their pay on that basis along with grade pay from 01.01.2006 and pay arrears of such refixation of pay with all attendant benefits arising there from including refixation of pensionary benefits and consequential arrears and pass such further or other orders"

2. The factual matrix of the applicants' case are as follows:

The applicants have retired from the 3rd respondent factory in the grade of Master Craftsman/Chargeman as the case may be, except for a few applicants. The VI Pay Commission recommended merger of the pre-revised pay scales of Rs. 5000-8000, 5500-9000 and Rs. 6500-10500 into one common pay scale of Rs. 6500-10500 with effect from 01.01.2006 and the same was accepted by the Government of India. However, the respondents are not taking into account the upgraded pay scale of Rs. 6500-10500 for the purpose of fixation in the pay bands introduced pursuant to the VI Pay Commission recommendations instead, the applicants' pay have been fixed taking into account the lower basic pay of Rs. 5000/5500 as the case may be for the purpose of fixation. In this regard various employees' unions highlighted this anomaly and the matter was considered at the National Anomaly Committee, but there was disagreement and the matter could not be resolved. On the other hand, in respect of Section Officers and Assistant Accounts Officers working in the office of the Controller of Defence Accounts coming under the Ministry of Defence, the Allahabad Bench of this Tribunal by



order dated 09.08.2012 in OA 293 of 2011 had clearly held that the upgraded pay scale introduced with retrospective effect from 01.01.2006 has to be taken into account for the purpose of fixation in the revised pay scale introduced pursuant to the VI Pay Commission recommendations. The Ernakulam Bench of this Tribunal by order dated 13.07.2012 in OA 856/2011 in respect of Upper Division Clerks working in the Department of Personnel had also held on similar lines. Despite these orders, the respondents are not granting the benefit which is causing great prejudice and hardship. Hence this OA.

3. The respondents have filed reply statement. It is submitted therein that the applicants were working in various trades in MCM or Chargeman in the pre-revised pay scale of Rs. 5000-8000 prior to 01.01.2006. The statement of the applicants that the VI CPC had recommended the merger of pay scales existed prior to 01.01.2006 i.e. Rs.5000-8000/-, Rs. 5500-9000/- and Rs. 6500-10500/- respectively into one common upgraded pay scale of Rs. 6500-10500/- is denied. As per the resolution published by Ministry of Finance in the Gazette of India on 29.08.2008, the VI CPC had recommended the same Pay Band of Rs. 8700-34800 and Grade Pay Rs.4200/- for the three pre-revised scales i.e. (i) Rs. 5000-8000 (ii) Rs 5500-9000 and (iii) Rs. 6500-10500. The Government has revised the Pay Band Rs. 8700-34800 recommended by the VI CPC to Rs. 9300-34800. Thus, there is no provision in the VI CPC recommendation as well as in the DOP&T OM to upgrade and place the applicants in the pre-revised scale of Rs. 6500-10500 prior to 01.01.2006.

4. Further it is submitted that there is no provision in the resolution published by the Ministry of Finance in the Gazette of India on 29.08.2008 of



Fixation Tables circulated by the Ministry vide its order No.1/1/2008-1C dated 30.08.2008 to fix the pay of the applicants by applying the factor of Rs. 6500 x 1.86. The applicants' pay has been rightly fixed by multiplying their basic pay by the factor 1.86 as per the illustration 4B given in the Gazette published by the Ministry of Finance on 29.08.2008 and fixation tables circulated by its order No. 1/1/2008-1C dated 30.08.2008.

5. Counsel for the parties had presented the cases in tandem with their respective pleadings. The counsel for the applicants insisted upon the decision by the Ernakulam Bench in OA No. 569/2014 in which, similar issue had already been considered and allowed by that Bench and submitted that this order squarely apply to the case on hand.

6. Per contra, the learned counsel for the respondents submitted that the pay of the applicants had been correctly fixed in accordance with the CCS (Revised Pay) Rules, 2008 and the illustration given thereunder. The manner in which the pay is to be fixed in respect of employees where the VI CPC has recommended merger of the pre-revised scale of pay with a higher scale of pay has also been given in Illustration 4B and there is no room for any ambiguity on this issue and hence the National Anomaly Committee had also considered and dismissed the representations of the applicants and similarly placed persons taken up through the trade unions. It is clear that the pay had to be determined by multiplying the existing basic pay as on 1st January 2006 by a factor of 1.86 and rounding off the resultant figure to the next multiple of 10 in terms of the rule. He also relied on the recent decision of the Madras Bench of this Tribunal in OA.363/2014 dated 24.9.2018.



7. Arguments were heard and documents perused.
8. The facts of this case are not in dispute and the only question that needs adjudication is whether the fitment granted to the applicants while fixing their pay in the revised scale of pay is in accordance with the revised pay rules.
9. It is settled law that in matters of pay fixation, the same being an exercise requiring going into various aspects and nature of duties, it is the expert body like the Pay Commission that considers and makes recommendations (**State of UP vs. UP Sales Tax Officer Grade II Assn. (2003) 6 SCC 250.** The Revised Pay Rules, 2008 has been framed on the basis of VI Pay Commission Recommendations and the provisions thereof are to be applied for pay fixation. While interpreting the terms of pay fixation, as per the law relating to interpretation of statutes, it has been held by the Apex Court in the case of Orient Paper & Industries Ltd. Vs. State of MP (2006) 12 SCC 468 as under:-

if the words used are capable of one construction only, then it would not be open to the courts to adopt any other hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act. The spirit of the law may well be an elusive and unsafe guide and the supposed spirit can certainly be not given effect to in opposition to the plain language of the sections of the Act.

10. Keeping in view the above dictum, the rule relating to fixation of pay of the applicant has to be considered. The Ministry of Finance also has issued the clarifications in so far as the manner of fixation of pay and necessary fitment tables and a few illustrations as also have been given thereunder. If the pay of the first applicant prior to revision was Rs. 5600 in the pre-revised scale of pay of Rs. 5000-8000, how the pay in such a case has to be fixed where merger is involved has been explained vide Illustration No. 4B given in the Gazetted

published by the Ministry of Finance on 29.8.2008, which reads as under:-

1. Existing Scale of Pay	Rs. 5000 – 150 – 8000
2. Pay Band applicable	PB 2 Rs. 9300 – 34800
3. Merged with the scale of pay	Rs. 6500 – 200 – 10500
4. Existing basic pay as on 1.1.2006	Rs. 5600
5. Pay after multiplication by a factor of 1.86	Rs.10,416 (Rounded off to Rs. 10420)
6. Pay in the Pay Band PB 2	Rs. 10420
7. Pay in the Pay Band after including benefit of bunching, if admissible	Rs. 10420
8. Grade pay attached to the scale of Rs. 6500-200-10500	Rs. 4200
9. Revised Basic Pay Total of pay in the pay band plus grade pay	Rs. 14620

11. The formula adopted thus is first the pay drawn as of 31-12-2015 is multiplied with a common multiplier 1.86 uniformly, and the same is rounded off to the nearest ten digits. The benefit of Bunching if available shall be included and the same amounts to the basic pay of the individual (in the above illustration, the said basic pay is Rs 10,420 calculated as per the formula). The prescribed Grade pay is then added to the basic pay, which constitutes the total basic pay of the individual. In the instant case, the same is $Rs\ 10420 + 4200 = 14,620/-$. The above illustration is univocal and thus gives no room for any other interpretation.

12. Though the applicants have relied upon the decision in the case of K.K. Vijayan and others of the Ernakulam Bench, the Hon'ble High Court on challenge of the order of the Tribunal before it had held as under:-

"Therefore, we put it to the learned counsel appearing for the respondents, OP(CAT)2620/13 -3- who were applicants before the Tribunal, as to whether this litigation can find its end with the rider



that the benefits given as per the impugned order of the CAT on the judicial side would run contemporaneous with the benefits that stand granted to Shri.T.Srinivasa and relied on by the Tribunal in paragraph No.13 of the impugned order. He accedes to that course because if the decision of the Tribunal on the administrative side in Srinivasa's case were to go, the very foundation of the findings in the impugned order issued on the judicial side would also go, because no other issue was considered by the Tribunal, and it had merely applied the administrative precedent in the case of Shri.T.Srinivasa. For the aforesaid reasons, we order this Original Petition directing that the respondents will enjoy the benefit of the impugned order unless the decision in the case of Shri.T.Srinivasa is visited on the administrative side or otherwise, in accordance with law. We also clarify that having regard to the course that we have now adopted, including on the concession on behalf of the respondents before us, all other issues raised in the Original Application from which this Original Petition arises, will stand open. The respondents herein will be at liberty to agitate those issues, if and when they arise for decision *de novo*, on any changed circumstances."

It has been learnt that they have not been granted the benefit as per the DoPT instructions.

If the interpretation of the applicants is accepted, it would result in unintended benefits to them and further would create an imbalance in pay fixation in that the senior in 5000 – 8000 scale may be getting more pay than the one in the minimum scale of Rs 6500 – 10500. That is not the intention in the scheme of merging.

13. Thus, the fallacy in the claim of the applicant in the calculation of pay in arriving at Rs. 12,090/- could be explained in that the applicants first brought their pay in the pre-revised pay scale to the minimum of Rs. 6500/- and then incremented the same with the multiplier of 1.86. Thus, 1.86 times of Rs. 6500 becomes Rs. 12,090/-. This calculation is in variation to the calculation given in the illustration 4B. The fixation formula adopted is – first, the basic pay in the pre-revised pay scale is multiplied by the multiplier 1.86, rounded off to



the next denomination of Rs. 10/- and the resultant amount is placed in the pay band of PB-2 Rs. 9300-34800. This method alone would ensure that those in different stages of pay in the pre revised pay scale get uniform increase, proportional to their pre-revised pay.

14. It is seen on perusal of the records that the orders of the Ernakulam Bench and Allahabad Bench of this Tribunal relied upon by the applicants are not applicable to the facts of the present case, whereas the latest orders of the Jabalpur Bench and Madras Bench of this Tribunal are squarely applicable. In recent orders in OA.No.1004/2010 dated 11.12.2015, the Jabalpur Bench of this Tribunal and in OAs.324/2014 and 363/2014 of the Madras Bench of this Tribunal had considered the very same issue and dismissed the OAs.

15. In view of the above facts and circumstances of the case and the discussions herein above, we find that the OA is devoid of merit and is liable to be dismissed and accordingly, the same is dismissed, however, with no order as to costs.