

Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.2630/2014

Wednesday, this the 23rd day of October 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

1. All India Kendriya Vidyalaya Teachers Association
Through its General Secretary
Sh. Vijeyesh Pande
s/o Sh. Rama Shankar Pande
aged about 49 years
r/o 160, Eldeco Rae Bareli Road
Lucknow, UP
Correspondence Address:
A-502 Gauri Ganesh Apartments
Plot No.8, Sector 3, Dwarka
New Delhi – 110 075
Presently posted at KVS AMC, Lucknow
2. Ms. Deepti Pithwal w/o Sh. Vinod Kumar
Aged about 36 years
r/o B-41, 3rd Floor
Paryavaran Complex
IGNOU Road, New Delhi – 110 030
Presently posted at KVS JNU Campus, New Delhi

..Applicants

(Mr. Nilansh Gaur, Advocate)

Versus

1. Union of India through its Secretary
Ministry of Finance
Department of Expenditure
North Block, New Delhi
2. Union of India through its Secretary
Ministry of Human Resources & Development
Govt. of India
Shastri Bhawan, New Delhi
3. The Commissioner
Kendriya Vidyalaya Sangathan
18, Institutional Area

Shaheed Jeet Singh Marg
New Delhi – 110 016

..Respondents

(Mr. R K Sharma, Advocate for respondent Nos. 1 & 2 -
(Mr. S Rajappa, Advocate for respondent No.3)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicant is an Association of All India Kendriya Vidyalaya Teachers. It is stated that the substantial changes in the pay structure of the teachers in Kendriya Vidyalaya Sangathan (KVS) were brought about, consequent upon the implementation of the recommendations of 6th Central Pay Commission (CPC), and some posts were also merged. It is also stated that the Ministry of Finance, Department of Expenditure examined the issue pertaining to the anomalies that arose on account of the merger of different posts, particularly at the level of the pay scale of ₹6500-10500, and issued O.M. dated 13.11.2009. It is stated that according to the said O.M., for the employees, who were in the revised pay scale of ₹6500-10500 with Grade Pay of ₹4200/- as on 01.01.2006, the enhanced Grade Pay of ₹4600/- shall be allowed. On the basis of this O.M., the applicants made a detailed representation to the administration of KVS. The same was considered at the meeting by the Joint Consultative Machinery (JCM) of KVS on 21.02.2013 and the claim was rejected. A copy of the Resolution

was forwarded to the applicants, through communication dated 06.04.2013.

This O.A. is filed with a prayer to set aside the communication referred to above, as being illegal and contrary to the O.M. dated 13.11.2009 and direct the respondents to extend the benefit of O.M. by revising the Grade Pay of ₹4600/- w.e.f. 01.01.2006.

2. The applicants contend that once the O.M. directed the extension of benefit of Grade Pay of ₹4600/- to the employees, who were in the pay scale of ₹6500-10500 with Grade Pay of ₹4200/-, there was absolutely no basis for the respondents in denying the same. It is also stated that the reasons mentioned in the impugned Resolution are totally incorrect and contrary to those mentioned in the O.M.

3. On behalf of the respondents, separate counter affidavits are filed. It is stated that three different categories of Primary Teachers in KVS, with the pay scales of (a) ₹5000-8000, (b) ₹5500-9000; and (c) ₹6500-10500, were merged w.e.f. 01.01.2006, and none of them were in the pre-revised pay scale of ₹6500-10500 as on that date. They further contend that the cases of the applicants do not fit into the O.M. dated 13.11.2009 and the question of enhancing their Grade Pay of ₹4600/- does not arise.

4. The applicants filed rejoinder and additional affidavit, presenting some more facts.

5. We heard Mr. Nilansh Gaur, learned counsel for applicants, Mr. R K Sharma, learned counsel for respondent Nos. 1 & 2, and Mr. S Rajappa, learned counsel for respondent No.3, at length.

6. The relief claimed in this O.A. is precise and definite. The applicants want the benefit of Grade Pay of ₹4600/- to such of the teachers, who were in the pay scale of ₹6500-10500 with Grade Pay of ₹4200/-. The sheet anchor for their claim is the O.M. dated 13.11.2009 and since this is a technical and financial issue, it is felt necessary to extract the entire O.M. It reads:

“Office Memorandum

Subject: Grant of the revised pay structure of grade pay of Rs.4600 in the pay band PB-2 to posts that existed in the pre-revised scale of Rs.6500-10500 as on 1.1.2006 and which were granted the normal replacement pay structure of grade pay of Rs.4200 in the pay band PB-2

Sixth Pay commission recommended merger of the three pre-revised scale of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500 and replaced them by the revised pay structure of grade pay of Rs.4200 in the pay band PB-2. Vide para 2.2.21(v) of its report, the Commission recommended that on account of the merger of these 3 scales, some posts which constituted feeder and promotion grades would come to like in an identical grade. The Commission gave specific recommendations in its Report granting higher grade pay of Rs.4600 to some categories of these posts. As regards the other posts, the Commission recommended that it should first be seen if the posts in these 3 scales can be merged without any

functional disturbance and if possible, the same should be done. Further, the Commission recommended that in case it is not feasible to merge the posts in these pay scales on functional considerations, the posts in the scale of Rs.5000-8000 and Rs.5500-9000 should be merged with the posts in the scale of Rs.6500-10500 being upgraded to the next higher grade in the pay band PB-2 with grade pay of Rs.4600 corresponding to the pre-revised scale of Rs.7450-11500. In case a post already exists in the scale of Rs.7450-11500, the post being upgraded from the scale of Rs.6500-10500 should be merged with the post in the scale of Rs.7450-10500.

2. The above recommendations of the Sixth Pay Commission were notified vide para (ii), Section I in Parts B and C of the First Schedule to the CCS (RP) Rules, 2008. While Part B of the First Schedule of the CCS (RP) Rules relates to revised pay scales for common categories of staff, Part C notifies revised pay structure for certain posts in Ministries, Departments and Union Territories. The above provisions of the Rules specifically mentioned that upgradations in terms of para (ii) Section I may be done in consultation with Department of Expenditure, Ministry of Finance.

3. Consequent upon the Notification of CCS(RP) Rules,2008, Department of Expenditure has received a large number of references from administrative ministries / departments proposing upgradation of the posts which were in the pre-revised scale of Rs.6500-10500 as on 1.1.2006 by granting them grade pay of Rs.4600 in the pay band PB-2. The matter has been considered and it has now been decided that the posts which were granted the normal replacement pay structure of grade pay of Rs.4200 in the pay band PB-2, will be granted grade pay of Rs.4600 in the pay band PB-2 corresponding to the pre-revised scale of Rs.7450-11500 w.e.f. 1.1.2006. Further, in terms of the aforementioned provisions of CCS (RP) Rules,2008, in case a post already existed in the pre-revised scale of Rs.7450-11500, the posts being upgraded from the scale of Rs.5600-10500 should be merged with the post in the scale of Rs.7450-11500.

4. Accordingly, in terms of Rule 6 of CCS (RP) Rules, 2008, revised pay of Government servants in the pre-revised scale of Rs.6500-10500 who were earlier granted grade pay of Rs.4200 and who have already exercised their option for drawal of pay in the revised pay structure in the format prescribed in the Second Schedule to the

Rules, will be fixed again in accordance with illustration 4A annexed to CCS(RP) Rules, 2008.

5. In case of all such Government servants in the pre-revised scale of Rs.6500-10500 who were earlier granted grade pay of Rs.4200 and who had opted to have their pay fixed under CCS(RP) Rules, 2008, action as prescribed in this Department's O.M. Of even number dated 30th August, 2008 will be taken. In case a Government servant desires to revise his earlier option for coming over to the revised pay structure, he may be permitted to do so without making any reference to this Department.

6. On account of pay fixation in the revised pay structure of grade pay of Rs.4600 in the pay band PB-2, arrears of pay will be recalculated and difference of arrears in respect of the entire amount will be paid immediately. The manner of drawal of arrears has already been indicated in this Departments/s O.M. of even number dated 30.8.2008.

7. Hindi version will follow.”

7. From the above, it becomes clear that it was dealing with a situation arising out of merger of three posts with the pay scales of (a) ₹5000-8000, (b) ₹5500-9000; and (c) ₹6500-10500, as a result of recommendations of 6th CPC. The merger naturally led to serious imbalances. It can be easily demonstrated. For the pay scale (a), the benefit of merger was ₹2500/- at the initial stage and for the post (b), it was ₹1000/-, whereas for the post (c), it was NIL.

8. Another discrepancy was that the last of the posts, in many cases, was a promotional one and rest of the two, were feeder categories. Naturally complaints poured in and those,

who were earlier in the pay scale of ₹6500-10500 with Grade Pay of ₹4600/-, made a grievance about the merger.

9. The CPC itself suggested some solutions. For example, it recommended segregation of the first two categories and elevation of the third one, to higher level, even while promoting the first two, to the level of third one, in the pre-revised scale. The second alternative was to extend the benefit of enhanced Grade Pay of ₹4600/- to the post, which had the revised pay scale of ₹6500-10500 with Grade Pay of ₹4200/-. Paragraphs (4) & (5) throw light on this aspect.

10. It is not the case of the applicants that the post of Primary Teacher was in the pre-revised pay scale of ₹6500-10500 with Grade Pay of ₹4200/- as on 01.01.2006. That scale accrued to them only as a result of the implementation of the recommendations of 6th CPC. To put it in other words, they did not draw that pay scale as on 31.12.2005.

11. When the benefit under the O.M. was only to those who were in the pre-revised pay scale of ₹6500-10500 with Grade Pay of ₹4200/- as on 01.01.2006, the applicants, who were extended the benefit only from that date onwards and not earlier, cannot be extended it.

12. Learned counsel for applicants submits that within the organization of KVS, the benefit, referable to this O.M., was

extended by placing certain interpretations. If that be the case, they have to work out the remedies in a different way.

13. We do not find any merit in this O.A. It is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

October, 23, 2019
/sunil/

