

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

OP (CAT).No. 142 of 2014 (Z)

AGAINST THE ORDER IN OA 953/2012 of CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH DATED 14-10-2013

PETITIONERS/RESPONDENTS:

1. UNION OF INDIA,
REPRESENTED BY THE SECRETARY
MINISTRY OF COMMERCE & INDUSTRY, NEW DELHI-110001.
2. UNDER SECRETARY TO GOVERNMENT OF INDIA,
SEZ SECTION, DEPARTMENT OF COMMERCE, NEW DELHI-110001.
3. DEVELOPMENT COMMISSIONER,
COCHIN SPECIAL ECONOMIC ZONE (CSEZ), KAKKANAD
KOCHI-682030.

BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

RESPONDENT/APPLICANT:

T.M.THOMAS,
S/O LATE OUSEPH MATHEW, JUNIOR HINDI TRANSLATOR
O/O. DEVELOPMENT COMMISSIONER
COCHIN SPECIAL ECONOMIC ZONE, KAKKANAD
RESIDING AT 'THAIYEDIAL HOUSE', VAIKOM.P.O, VAIKOM
KOTTAYAM DISTRICT.

BY ADV. SRI.M.A.SHAFIK

THIS OP (CAT) HAVING BEEN FINALLY HEARD ON 03-02-2015, THE
COURT ON 1.4.2015 DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1 COPY OF THE O.A.953/2012 DATED 10.10.2012

EXT.P2 COPY OF THE REPLY STATEMENT DATED 07.12.2012, IN O.A.953/2012
FILED BY THE PETITIONERS

EXT.P3 COPY OF THE REJOINDER STATEMENT DATED 06.01.2013, FILED BY THE
RESPONDENT

EXT.P4 COPY OF THE ADDITIONAL REPLY STATEMENT DATED 22.02.2013, FILED
BY THE PETITIONERS

EXT.P5 COPY OF THE REFERENCE ORDER DATED -01.04.2013 IN OA.953/2012

EXT.P6 COPY OF THE ORDER IN OA.953/2012 DATED 14.10.2013 OF THE FULL
BENCH OF THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM
BENCH.

EXT.P7: TRUE COPY OF LETTER NO.A7//2010-SEZ (VOL.II) DTD. 20.10.2014 OF
THE UNDERSECRETARY TO GOVERNMENT OF INDIA, MINISTRY OF COMMERCE
AND INDUSTRY.

EXT.P8: TRUE COPY OF THE ORDER NO.01/26/2008-ADMIN.1/3686 DTD.
21.10.2014 OF THE ASSISTANT DEVELOPMENT COMMISSIONER, MEPZ SPECIAL
ECONOMIC ZONE.

RESPONDENT(S)' EXHIBITS:

NIL

// TRUE COPY //

P.A TO JUDGE.

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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Dated this them 1st day of April, 2015.

J U D G M E N T

Alexander Thomas, J.

This Original Petition is instituted by the Central Governmental authorities concerned, under Article 226/227 of the Constitution of India, praying to set aside Ext.P6 order dated 14.10.2013 passed by the Full Bench of the Central Administrative Tribunal, Ernakulam Bench in Original Application, O.A.No.953/2012, filed by the respondent herein. The prayers in the O.A.No.953/2012 filed before the Tribunal by the respondent herein was for a declaration that the applicant is entitled and eligible to be granted the Grade Pay of Rs.4,600/- in the post of Junior Hindi Translator (JHT) with effect from 1.1.2006 based on Anx A-3 OM F.No.1/1/2008-IC dated 13.11.2009 issued by the Government of India as has been granted to a similar incumbent as per Anx A-4 and for a direction from the Tribunal to direct the respondents therein (petitioners herein) to re-fix the pay of the

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applicant with Grade Pay of Rs.4,600/- with effect from 1.1.2006 with all consequential benefits, including arrears of pay and revised ACP upgradations etc. The main contention of the applicant was that the issue is concluded in his favour by the final order dated 27.9.2011 of the CAT, Ernakulam Bench in O.A.No.107/2011 (Anx A-7) as confirmed by the judgment of the Division Bench of this Court in O.P(CAT).No.467/2012 (Anx A-9).

2. The Division Bench of the Tribunal which initially dealt with the instant O.A.No.953/2012, felt that the observations of the Tribunal in Anx A-7 order in O.A.No.107/2011 cannot be relied on by the petitioner as an authority for the reliefs claimed in the present O.A as the main issue that arose in the previous O.A.No.107/2011 was as to the respective Grade Pays due to Junior Hindi Translator (JHT) in the 1st financial upgradation and 2nd financial upgradation as per the MACPS (Modified Assured Career Progression Scheme), whereas the pointed issue raised in the instant O.A.No.953/2012 is as to the initial Grade Pay that is attached to the post of Junior Hindi Translator with effect from 1.1.2006 and that the observations in the order in the previous O.A

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has been taken out of the context by the present original applicant. There are other minute details of the matter which were dealt with by the Division Bench of the Tribunal in the instant O.A (see Ext.P5). But, it would be sufficient to say that the Division Bench of the Tribunal by Ext.P5 order dated 1.4.2013 passed in the instant O.A.No.953/2012, referred the matter for consideration of this issue by a Full Bench of the Tribunal. Accordingly, the Full Bench of the Tribunal formulated the following issue for its consideration in the instant case, which is as follows:

“Whether the Junior Hindi Translators (JHTs) in the Subordinate Offices of the Central Government are entitled to Grade Pay of Rs.4,600/- from 1.1.2006 on the basis of O.M. Dated 13.11.2009 or not”.

The Full Bench of the Tribunal on a meticulous appraisal of the various aspects of the matter came to a considered conclusion that though the issue that directly arose for consideration in the previous O.A.No.107/2011 was as to the respective Grade Pay payable to similar JHTs on first financial upgradation and the second financial upgradation as per the MACPS, the Tribunal had come to the specific conclusion that the initial Grade Pay attached

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to the post of JHTs as on 1.1.2006 is Rs.4,600/-. That after the 6th Pay Commission Recommendations in respect of grant of MACP, it is not the pay scale that undergoes any upward revision, but, only the Grade Pay and so it was found in Anx A-7 order that the Grade Pay on the first financial upgradation in terms of MACPS will be Rs.4,800/- and the Grade Pay on the 2nd financial upgradation in terms of the MACPS will be Rs.5,400/-, etc. Further, the Full Bench of the Tribunal found in the instant O.A.No.953/2012 that the aforementioned final order of the Tribunal in the previous O.A.No.107/2011 has been fully confirmed by the Division Bench of this Court in O.P(CAT).No.467/2012. That the basis for the Tribunal to come to a considered conclusion as regards the respective Grade Pay for the post consequent on the first and second financial upgradations is on the basis of the concrete finding arrived at by the Tribunal that the initial Grade Pay in the post of JHT as on 1.1.2006 is Rs.4,600/-. Further the Tribunal also found that the contentions raised by the Central Government authorities to rebut the claim of the present original applicant were also pointedly raised by them in the previous O.A.No.107/2011

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before the Tribunal as well as in O.P(CAT).No.467/2012 before the Division Bench of this Court and that those contentions were found to be untenable by the Tribunal and by this Court in the aforementioned previous round of litigation and that therefore the present issue is concluded in favour of the instant original applicant (respondent herein). Thus the Full Bench of the Tribunal allowed the aforementioned prayers of the applicant who filed the instant O.A. Ext.P6 is the true copy of the impugned order dated 14.10.2013 passed by the Full Bench of the CAT, Ernakulam Bench in the instant O.A.No.953/2012. It is this order of the Full Bench as per Ext.P6 that is impugned in the present Original Petition.

3. Heard Sri.N.Nagaresh, learned Assistant Solicitor General of India appearing for the petitioners herein (respondents in O.A.No.953/2012) and Sri.M.A.Shafik, learned counsel appearing for the respondent herein (applicant in O.A.No.953/2012).

4. Before we deal with the matter, it would be pertinent to examine Anx A-2 OM F.No.1/1/08-IC dated 24.11.2008 of the Government of India and Anx A-3 OM F. No.1/1/2008 dated

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13.11.2009 of Government of India, which were very pertinent to this case. Anx A-2 OM dated 24.11.2008 reads as follows:

“F.No.1/1/2008-IC
Government of India
Ministry of Finance
Department of Expenditure
Implementation Cell

New Delhi, Dated the 24th November, 2008

OFFICE MEMORANDUM

Subject: Revised pay scales for Official Language posts in various subordinate offices of the Central Government.

Consequent upon the implementation of the recommendations of Sixth Central Pay Commission, this Department has received queries from many Ministries/Departments regarding the revised pay structure applicable in the case of Official Language posts existing in subordinate offices of the Central Government. In this connection it is clarified that in accordance with the recommendations of the Sixth Central Pay Commission as accepted by the Government, similarly designated posts existing outside the Central Secretariat Official Language Service (CSOLS) cadre in various subordinate offices of the Central Government have been granted the same pay scales as those granted to CSOLS. The Government has notified the following revised pay structure for the Official language cadre belonging to CSOLS.

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[in Rs.]

Designation	Recommend ed Pay Scale	Corresponding Pay Band & Grade Pay	
		Pay Band	Grade Pay
<i>Jr. Translator</i>	<i>6500-10500</i>	<i>PB-2</i>	<i>4200</i>
<i>Sr. Translator</i>	<i>7450-11500</i>	<i>PB-2</i>	<i>4600</i>
<i>Asst. Director (OL)</i>	<i>8000-13500</i>	<i>PB-3</i>	<i>5400</i>
<i>Dy. Director (OL)</i>	<i>10000-13500</i>	<i>PB-3</i>	<i>6100</i>
<i>Jt. Director (OL)</i>	<i>12000-16500</i>	<i>PB-3</i>	<i>6600</i>
<i>Director (OL)</i>	<i>14300-18300</i>	<i>PB-3</i>	<i>7600</i>

2. Accordingly, w.e.f. 1.1.2006, all Ministries/Departments etc., are required to grant the revised pay scales approved for various posts in the CSOLS to similarly designated Official Language posts existing in their subordinate offices.

Sd/-
ALOK SAXENA
DIRECTOR [IC]"

Annexure A-3 OM dated 13.11.2009 is extracted as follows:

“F.No.1/1/2008-IC
Government of India
Ministry of Finance
Department of Expenditure
Implementation Cell

New Delhi, dated the 13th November, 2009

OFFICE MEMORANDUM

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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 scales 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 lie 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 post 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 consideration, 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.7450-11500.

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2. The above recommendations of the Sixth Pay Commission were notified vide para (ii), Section 1 in Parts B and C of the First Schedule to the CCS(RP) Rules, 2008. While Part B of the First Schedule to 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.6500-10500 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.

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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 Department's O.M of even number dated 30.8.2008.

7. Hindi Version will follow:

sd/-
[Alok Saxena]
Director"

5. The respondent herein (original applicant) is a Junior Hindi Translator (JHT) in the office of the Development Commissioner, Cochin Special Economic Zone, whose pay scale was Rs.5,000-8000. He was given the replacement scale in the pay band of Rs.9300-34800 with Grade Pay of Rs.4,200 with effect from 1.1.2006. He was given the 1st financial upgradation as per ACP (Assured Career Progression) Scheme on 12.12.2006 to the

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pay scale of Rs.5500-9000 after the 6th Central Pay Commission with retrospective effect from 1.1.2006. It is stated in paragraphs 2 & 3 of the reply statement filed by the respondents in the instant O.A (page 51 of the paper book) that as per the recommendations of the 6th Central Pay Commission, the Scale of Pay of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500 were merged and was given in the replacement Pay Band 2 with Rs.9300-34800/- with Grade Pay of Rs.4200/- and that he has been granted ACP to higher Grade Pay of Rs.4600/-. That thus the applicant was holding Pay Band of Rs.9300-34800/- with Grade Pay of Rs.4600/- (ACP) corresponding to scale of pay of Rs.5500-9000 ACP. So it is evident that the Grade Pay of Rs.4600/- paid to the respondent herein was only in the 1st financial upgradation in the ACP Scheme in the post of Junior Hindi Translator (JHT) held by him. The essential claim made by the applicant in the instant O.A is that he is eligible and entitled to be granted the initial Grade Pay of Rs.4600/- with effect from 1.1.2006 in the post of JHT and on this basis he is also entitled for consequential benefits including arrears of pay and revised ACP upgradations. The respondents in the O.A would

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contend that the initial Grade Pay for the present applicant in the post of JHT can only be Rs.4200 and that he has been rightly given 1st financial upgradation by giving the Grade Pay of Rs.4600/- as stated above.

6. So, the main issue to be examined is as to whether or not the claim of the applicant for the initial Grade Pay in the post of JHT should be Rs.4600/- is substantially covered by the final order of the Tribunal in the previous round of litigations in O.A.No.107/2011 (Anx A-7 Final Order) as confirmed by the judgment of the Division Bench of this Court in O.P(CAT). No.467/2012 (Anx A-9). In paragraph 11 of Anx A-7 order dated 27.9.2011, the Tribunal in the previous O.A.No.107/2011 has held as follows:

“.....This pay scale of Rs.5,500- 9,000/- was replaced by Rs.7,450 - 11,500/- vide Annexure A-3 dated 24.11.2008 (as modified by Annexure A-4 dated 27.11.2008). This pay scale of Rs.7,450 - 11,500/- is replaced by the Revised Pay Scale (PB-2) of Rs.9,300 - 34,800/- with a grade pay of Rs.4600/-. There is no quarrel up to this stage.”

(see page 34 of the present paper book).

Further it has been conclusively held by the Tribunal in paragraph 14 of Anx A-7 order in the previous O.A.No.107/2011 as follows:

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“.....It is a very late stage i.e., w.e.f 1.1.2006 that the pay scale of Junior Hindi Translator was revised to Rs.7,450 – 11,500/- and the grade pay attached to the same is Rs.4,600/- as per the aforesaid First Schedule. This is the admitted position, as could be seen from Annexure A-6 Pay fixation as well as the statement annexed thereto, Annexure A-8 proforma (vide entry against para 3(i) and (iv) thereof, Annexure R-6 and para 7 of Annexure MA1)......”

(see page 36 of the present paper book).

On this basis, the Tribunal holds that the aforementioned Anx R-6 conveys the approval of the competent authority to grant PB-2 of Rs.9300-34800 plus Grade Pay of Rs.4600/- to the applicant therein, who was JHT etc. Though the claim that arose in the previous O.A.No.107/2011 was as to the respective grade pay in the 1st financial upgradation and the 2nd financial upgradation for the post of JHT, in terms of the MACPS, it is to be noted that this claim is inextricably linked to the issue as to what exactly is the initial grade pay for the post of JHT. The claim of the incumbents in the post of JHT for the 1st and 2nd financial upgradations can be considered only with reference to the initial grade pay in the post of JHT. It is indeed indisputable as it is common ground that after the 6th Pay Commission Recommendations in respect of the

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financial upgradations as per MACPS it is not the Pay Scale that undergoes upward revision but only Grade Pay as evident from paragraph 2 of the Scheme. That this is an indisputable aspect is clear from paragraph 13 of Tribunal's order in previous O.A.No.107/2011 (see Anx A-7 on page 35 of the present paper book) as well as from paragraph 10 of the judgment of the Division Bench of this Court in O.P(CAT).No.467/2012 (Anx A-9 on page 45 of the present paper book). On the basis of the aforementioned concrete findings made by the Tribunal in paragraphs 11, 12 and 14 of the final order in the previous O.A.No.107/2011 that the initial grade pay for the post of JHT is Rs.4600/-, the Tribunal proceeded further and found that the incumbent holding the post of JHT was entitled for the upgraded Grade Pay of Rs.4800/- by way of 1st financial upgradation in the MACPS and further Grade Pay of Rs.5400/- consequent on the 2nd financial upgradation in the post of JHT as per MACPS. This finding of the Tribunal that the initial grade pay in the post of JHT is Rs.4600/- and the further finding regarding the upgraded grade pay due on the first and second financial upgradation in that post as per the final order in

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previous O.A.No.107/2011 has been fully and conclusively upheld by the Division Bench of this Court in O.P(CAT).No.467/2012 (Annexure A-9). The aforementioned judgment dated 21.6.2012 of the Division Bench of this Court in O.P(CAT).No.467/2012 was challenged before the Supreme Court of India by the Central Government Authorities concerned by filing Special Leave Petition (Civil) No.28536/2012 and the Apex Court as per Order dated 15.10.2012 has found that there are no reasons to interfere with the impugned order dated 21.6.2012 in O.P(CAT).No.467/2012 of this Court and has accordingly dismissed S.L.P.(C).No.28536/2012. In this view of the matter the Full Bench of the Tribunal in the impugned final order dated 14.10.2013 in the present O.A.No.953/2012 has found that since the issue regarding the initial grade pay for the post of JHT has also been considered by the Tribunal in the previous O.A.No.107/2011, the said issue is covered in favour of the original applicant in the present O.A and has accordingly allowed the prayers of the applicant in the instant O.A.

7. It is also to be noted that the following contentions of the Central Government authorities has also been duly considered

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by the Tribunal and the Division Bench of this Court as can be seen from a reading of paragraphs 11 & 6 of Anx A-9 judgment of this Court in O.P(CAT).No.467/2012. The said contentions are as follows:

That the Tribunal ought not to have found that the pay scale of JHT was revised to Rs.7450-11500 w.e.f. 1.1.2006 because the said pay scale is attached to the post of Senior Hindi Translator and not to the post of JHT and that since the grade pay of Rs.4600/- is attached to the post of Senior Hindi Translator, the Tribunal ought to have found that the original applicant, who is JHT, was only to be treated as continuing in the very initial grade pay of Rs.4200/- instead of in the grade pay of Rs.4600/- and that the initial grade pay of the applicant therein could only be taken as Rs.4200/- and on this basis it was contended that the applicant therein who was a JHT would be entitled to the first and second financial upgradations only with grade pay of Rs.4600/- and Rs.4800/- respectively. That the applicant therein was drawing the grade pay of Rs.4600/- from 1.1.2006 as a consequence of the first financial upgradation under ACP Scheme which was in force from 9.8.1998 till 31.8.2009, she

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is eligible for the second financial upgradation only with grade pay of Rs.4800/-. That according to the Central Government authorities, paragraph 5 of OM dated 13.11.2009 (viz, Anx A-3 herein) is not applicable to the original applicant therein, etc. The Division Bench of this Court in paragraph 11 of Anx A-9 order conclusively held that the above said contention of the Central Government authorities are not tenable and that the view of the Tribunal to the contrary cannot be said to be palpably wrong and thus the aforementioned contentions of the official authorities concerned have been substantially and effectively overruled by the Division Bench of this Court. (see page 46 and 47 of the present paper book). Further from a reading of paragraph 6 of Anx A-9 judgment of the Division Bench of this Court, it could be seen that one of the contentions specifically raised by the Central Government authorities concerned was that the post of JHT was in the pay scale of Rs.5000 -150- 8000 till 31.12.2005 and not in the pay scale of Rs.6500-10,500. That the pay scale of Rs.6500-10500 was granted to the post of JHT w.e.f. 1.1.2006 as per Anx A-4 therein with corresponding Pay Band-2 plus the Grade Pay of

Rs.4200/- and according to official authorities, the post of JHT could not be treated as having carried the pay scale of Rs.6500-10500 prior to 1.1.2006 and therefore it cannot be said that the JHT like the present applicant herein are eligible for grade pay of Rs.4600/- in the post of JHT on the basis of Anx A-2 herein (OM dated 24.11.2008) and Anx A-3 herein (OM dated 13.11.2009). The said contentions of the official authorities concerned has also been effectively and fully overruled by the Tribunal and the Division Bench of this Court in the aforementioned previous round of litigations.

8. So, though the claim made in the previous round of litigations before the Tribunal and before this Court was as to the upgraded grade pay for the first financial upgradation and second financial upgradation as per the MACPS in the post of JHT, the said claim was inextricably interlinked and interwoven with the issue as to very initial grade pay in the post of JHT held by incumbents like the present applicant herein and the applicant in the previous round of litigations. According to the official authorities, the initial grade pay of the JHT held by the applicant is only Rs.4200/- and on

this basis it was contended by them that such an incumbent would be entitled to the first and second financial upgradation in the post of JHT only with Grade Pay of Rs.4600/- and Rs.4800/- respectively. This contention was overruled by the Tribunal and by the Division Bench of this Court in the previous round of litigations and it was held that as the initial grade pay in the post of JHT was Rs.4600/-, that the applicant is entitled for first and second financial upgradations as per MACPS in the post of JHT with grade pay of Rs.4800/- and 5400/- respectively. Since the issue in this regard is thus substantially and conclusively covered in the previous round of litigations, the present contention raised by the official authorities concerned that the issue raised herein is regarding initial pay in the post of JHT and that the issue raised in the previous round of litigations is distinct in so far as it related only to the first and second financial upgradation grade pays as per MACPS etc, is nothing but rehashing and refashioning the old unsuccessful contentions as new ones. Though, at first blush, these contentions appear to be attractive, the same are untenable and unsound, in view of the aforestated aspects. On an anxious

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consideration of the entire aspects of the matter, we are fully in agreement with the considered view taken by the Full Bench of the Central Administrative Tribunal, Ernakulam Bench in the impugned order that the issue as to the initial grade pay for the post of JHT is thus concluded by the aforementioned previous round of litigations in favour of the respondent herein.

9. Accordingly, we find no grounds to interfere with the impugned Ext.P-6 order passed by the Full Bench of the Tribunal.

The prayers in the instant O.A.953/2012 are as follows:

- “(i) To call for the records relating to Anx A-1 to A-9 and to quash Anx A-1 being illegal and arbitrary.
- (ii) To declare that the applicant is entitled and eligible to be granted the Grade Pay of Rs.4600/- with effect from 1.1.2006 based on Anx A-3 OM of the Government of India as has been granted to a similar Hindi Translator as per Anx A-4.
- (iii) To direct the respondents to refix the pay of the applicant with Grade Pay of Rs.4600/- with effect from 1.1.2006 with all consequential benefits, including arrears of pay & revised ACP upgradations, with 18% penal interest”.

Now, as per impugned Ext.P6 order, the Tribunal has allowed the above prayers in the O.A We are inclined to make a slight modification to this order, only to the limited extent by ordering

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that in case the petitioners herein (respondents in O.A) comply with the effective directions of the Tribunal and sanction and disburse all the monetary benefits flowing therefrom to the respondent herein within three months from the date of production of a certified copy of this judgment, then the further direction in the impugned order of the Tribunal to also pay penal interest @ 18% p.a. on the aforementioned consequential monetary benefits, will stand vacated.

With these observations and directions, we dismiss the above O.P(CAT). There will be no order as to costs.

ANTONY DOMINIC,
Judge.

ALEXANDER THOMAS,
Judge.

bkn/-