

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Judgment 01.02.2017	Date of pronouncing Judgment 28.02.2017
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CORAM

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR. JUSTICE V. PARTHIBAN

Writ Petition No.11866 of 2014
and
M.P.Nos.1 and 2 of 2014

- 1 ALL INDIA DRDO PERSONAL STAFF
ASSOCIATION (RECOGNIZED)
REP.BY USHA KULKARNI
GENERAL SECRETARY
DEBEL ADE CAMPUS
NEW THIPPASUNDRA
BANGALORE - 560075
- 2 VANAJA ILANDASAN Petitioners

Versus

- 1 THE REGISTRAR,
CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH
HIGH COURT BUILDINGS, CHENNAI-104.
- 2 THE UNION OF INDIA
REP.BY THE SECRETARY,
MINISTRY OF DEFENCE,
GOVERNMENT OF INDIA,
SOUTH BLOCK, NEW DELHI.
- 3 THE SECRETARY,
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSION,
DEPARTMENT OF PERSONNEL TRAINING,
GOVERNMENT OF INDIA,
LOK NAYAK BHAWAN, NEW DELHI-110 003.

- 4 THE SECRETARY,
MINISTRY OF FINANCE,
DEPARTMENT OF EXPENDITURE,
GOVERNMENT OF INDIA,
NORTH BLOCK, NEW DELHI-110 001.
- 5 THE SCIENTIFIC ADVISER TO RAKSHA MANTRI, DGR & D AND
SECRETARY, DEPARTMENT OF DEFENCE R&D,
MINISTRY OF DEFENCE,
DEFENCE RESEARCH & DEVELOPMENT ORGANISATION,
DRDO BHAWAN, RAJAJI MARG,
NEW DELHI-110 011.
- 6 THE JOINT DIRECTOR, (HUMAN RESOURCES DEPARTMENT)
MINISTRY OF DEFENCE,
DEFENCE RESEARCH & DEVELOPMENT ORGANISATION,
DRDO BHAWAN, RAJAJI MARG,
NEW DELHI--110 011. .. Respondents

Writ petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in O.A. No.444/2012 and quash the same and consequential directions directing the respondents to extend to the petitioners the benefit of Grade Pay on Par with the Assistants belonging to Central Secretariat Service, Armed Forces Headquarter Service, Indian Foreign Service 'B' and Railway Board Secretariat Service and Personal Assistants (PAs) in their counterpart Stenographer Services as per O.M.F.No.1/1/ 2008-IC dated 16.11.2009 of the 4th respondent.

For Petitioners : Mr.L.Chandrakumar
for
Mr.D.Ravindranathan

For Respondents 2 to 6: M/s.G.Hema,
Central Govt. Standing Counsel

R1 : Tribunal

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ORDER

(Order of the Court was delivered by V.PARTHIBAN,J.)

The Writ Petition is filed against the order passed by the Central Administrative Tribunal, Madras Bench in O.A.No.444 of 2012 dated 27.02.2014 dismissing the Application filed by the petitioners herein.

2. The first petitioner herein is an Association and the second petitioner is the member of the first petitioner Association. The petitioners have approached the learned Tribunal seeking the following reliefs:-

"To call for the records related to the impugned order No. DHRD/16342/6th CPC/PS'A'/C/P/05(v) dated 24.02.2012 by the 5th respondent and to quash the same. Further it is prayed that this Hon'ble Tribunal may be pleased to direct the respondents to upgrade the Personal Assistants 'C' to the Grade Pay Rs.4,600/- from the present Rs.4,200/- in the Pay Band Rs.9300 - 34800 (PB2) with effect from 01.01.2006 with all the consequential benefits and to pass such other order / orders as this Hon'ble Tribunal may deem fit and proper and thus render justice."

3. According to the petitioners, Personal Assistants in the respondent Organisation have not been granted Grade Pay of Rs.4,600/- on par with the Assistants in the Central Secretariat Services, in view of merger of three pay scales in pursuance of the recommendations of the 6th Central Pay Commission with effect from 01.01.2006. According to the petitioners, the three then existing pay scales of Rs.4,500 - Rs.7,000/-, Rs.5,000 - Rs.8,000/- and Rs.5,500 - 9,000/- were merged and placed in higher pay scale of Rs.6,500 - 10,500/-. The petitioners contended that although the Government of India had accepted in principle of pay parity upto certain level of posts, the same has not been implemented in their case.

4. However, the claims of the petitioners were sought to be resisted by the official respondents that the 6th Central Pay Commission recommended parity between the Secretariat and the Field Officers only upto the level of Assistants ie., upto the level of Grade Pay of Rs.4,200/-. Subsequently, the Government of India vide Office Memorandum dated 16.11.2009 decided to extend the Grade Pay of Rs.4,600/- in PB-2 to Assistants belonging to the Central Secretariat Services, Armed Forces Head Quarters Services, Indian Foreign Services 'B' and Railway Board Secretariat Services etc., with effect from 01.01.2006. The reason for extension of the higher Grade Pay was because of the fact that there was an element of Direct Recruitment to these posts through All India Competitive Examination.

5. According to the petitioners, the grant of lower Grade Pay of Rs.4,200/- to them was violative of Articles 14 and 16 of the Constitution of India as they have to be treated on par with the Assistants in the Central Secretariat Services etc.,

6. After taking note of the rival submissions of the parties, the learned Tribunal dismissed the Application on the ground that there was no apparent error in fixation of pay structure, while implementing the 6th Pay Commission recommendation. The Tribunal has also reasoned that the hierarchy in the DRDO Organisation of the Personal Assistants category has been correctly granted the benefit of Grade Pay of Rs.4,200/- as recommended in the Pre-revised scales. In fact, the learned Tribunal has given a clear finding in paragraph-8 of the impugned Order as to how Grade Pay of Rs.4,200/- was correctly granted to the petitioners vis-a-vis the Personal Assistants working in other services. From the reasoning, it could be seen that the petitioners were factually in the erstwhile pay scale of Rs.5,500 - 9,000/- and the recommended Grade Pay for the said erstwhile pay scale is only Rs.4,200/- in PB-2. As far as the Grade Pay of Rs.4,600/- is concerned, the same is made applicable only to the persons, who were in the pre-revised pay scale of Rs.6,500 - 10,500/- as on 01.01.2006. Moreover, the Tribunal further given a finding that the question of parity with their counterparts in the Central Secretariat Services has also been considered and addressed in the DoP & T OM dated 22.11.2011 in which the grade of UDC (NFSG) has been specifically created in the Central Secretariat Clerical Service cadre, so that the parity recommended by the Pay Commission could be correctly interpreted and implemented. In such view of the matter, the learned Tribunal dismissed the Original Application holding that the claim of the petitioners herein are untenable and it cannot be countenanced both in law and on facts. As against the said order, the present Writ Petition is filed.

7. Sri.L.Chandrakumar, learned counsel appearing for the petitioners has drawn our attention to the relevant portions of the recommendations of the 6th Central Pay Commission including Office Memorandum dated 16.11.2009 and information obtained under RTI Act in communication dated 26.07.2011 and other materials made available on record.

8. We have also gone through the pleadings, affidavit in support of the Writ Petition and the reply statement filed by the above official respondents.

9. We are unable to persuade ourselves in favour of the petitioners claim as the Tribunal has given considered and elaborate reasons for not accepting the claim of the petitioners. As far as the pay parity is concerned, as claimed by the petitioners, the same cannot be appreciated merely on the basis of nomenclature attached to the posts. There are several other criteria to be examined and looked into for appreciating

the genuineness of the claim seeking parity. We do not find any worthwhile materials placed on record to come to any conclusion in support of the claim of the petitioners herein. On the other hand, as explained in paragraph-8 of the impugned Order, the Grade Pay granted to the petitioners at Rs.4,200/- is perfectly in order and seeking Grade Pay of Rs.4,600/- cannot be appreciated favourably in view of the basic fact that the Grade Pay of Rs.4,600/- is made applicable only to the employees, who were in the erstwhile pay scale of Rs.6,500 - 10,500/- and the present petitioners, who were in the erstwhile pay scale of Rs.5,500 - 9,000/-, were rightly granted next lower Grade Pay of Rs.4,200/-. The above position is an answer to the reliance placed by the learned counsel for the petitioners in Office Memorandum dated 16.11.2009.

10. In view of the above, We do not find any infirmity in the order passed by the learned Tribunal and therefore, the Writ Petition is devoid of merits and the same stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mra

To

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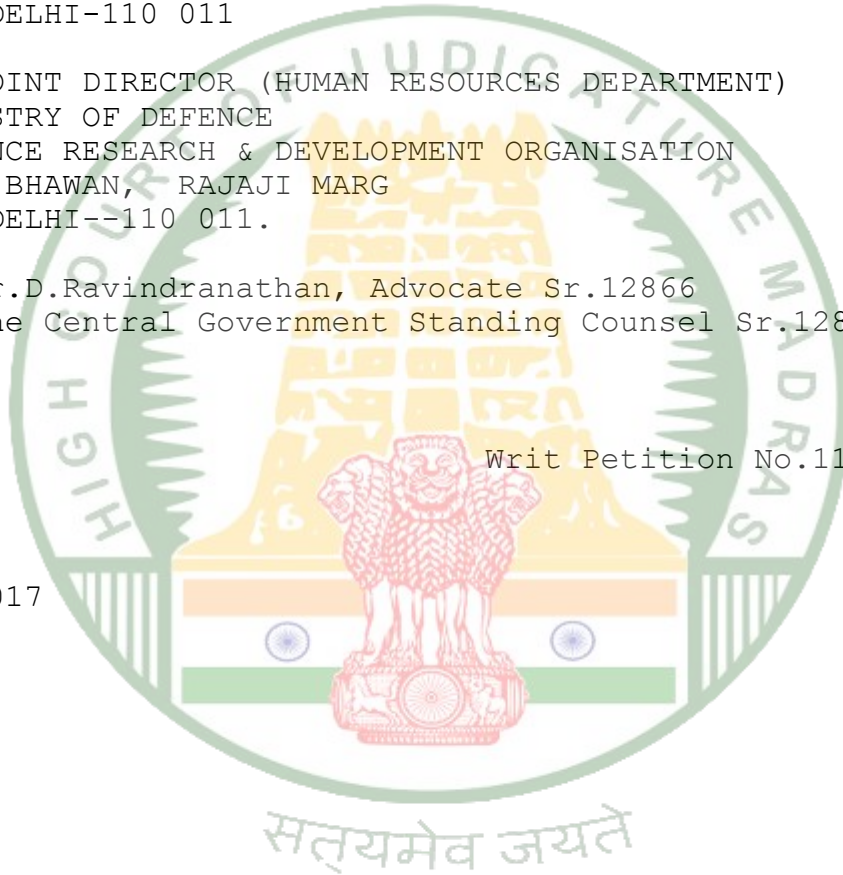
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NEW DELHI--110 011.

+1cc to Mr.D.Ravindranathan, Advocate Sr.12866

+1cc to the Central Government Standing Counsel Sr.12872

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srg 9/3/2017



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