

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2023

CORAM

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

W.P.No.14341 of 2023  
and W.M.P.No.13854 of 2023

Gulab Chand

... Petitioner

Versus

1. Union of India, Rep. by its Secretary  
Government of India, Ministry of Defence  
Room No.101, South Block  
New Delhi – 110 011

2. The Union of India, Rep. by its Secretary  
Government of India, Ministry of Finance  
Room No.134, North Block  
New Delhi - 110001

3.The Controller General of Defense Accounts  
Ulan Batar Road, Palam  
Delhi Canttt-110 010

4. The Director General of Coast Guard  
Coast guard Headquarters  
National Stadium Complex  
New Delhi-110 001

5. The Commander  
Coast Guard Region (East)  
Rajaji Salai, Near Napier Bridge  
Chennai – 600 009

6.The Asst. Controller of Defence Account  
Coast Guard Pay and account office  
4<sup>th</sup> Floor Coast Guard OTM Complex  
'C' Block Phase 2 Industrial Area Sector 62  
Noida – 201 309

7.The Controller of Defence Account (N/CG)  
Wing-6, West block-V, RK Puram  
New Delhi-110 066

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 6<sup>th</sup> respondent in PAO/CG/Gr.III/Gen.corr dated 19.01.2023 and quash the same and consequently direct the respondents to count the Yantrik Pay for all purposes including Annual increment, Pay fixation, HRA, Composite transfer grant, Leave Encashment, A&N allowance and pay the arrears with 12 percent interest including the period of the 7th Central Pay Commission.

For Petitioner : Mr.M.Alagu Goutham

For Respondents : Mr.V.Chandrasekaran  
Senior Panel Counsel

### **ORDER**

This writ petition has been filed challenging the order of the 6<sup>th</sup> respondent in PAO/CG/Gr.III/Gen.corr dated 19.01.2023, quash the same and consequently direct the respondents to count the Yantrik Pay for all purposes including Annual increment, Pay fixation, HRA, Composite transfer grant, Leave Encashment, A&N allowance and pay the arrears with 12 percent interest including the period of the 7th Central Pay Commission.

2. The petitioner had entered into service in the Coast Guard as Yantrik (P) on 08.03.1990, promoted as Uttam Yantrik on October 1993, as Pradhan Yantrik on January 1996, as Sahayak Engineer on October 1999, as Uttam Sahayak Engineer on October 2005 and finally promoted as Pradhan Sahayak Engineer as on November 2011.

3. It is the grievance of the writ petitioner that as per the Fast Track Committee recommendation, the person who are working in the technical branch of Coast Guard to be granted 'Coast Guard Yantrik Pay' in order to compensate the pay parity with Civil Side Diploma Holders pay for a sum of Rs.800/- per month as against the request of upgrading the pay scales of Yantrik cadre. Further, it has recommended that Yantrik pay to be calculated for all purposes including Dearness allowance and pension among other things which would form part of the basic pay. The second respondent by accepting the recommendation of the Fast Track Committee had issued an order vide Note No.1/1/2008-IC(Pt) dated 27.07.2009 and the same was approved by the Finance Ministers. The third respondent had decided not to count the yantrik pay for all purposes as per the order and further stated that it can only be considered for dearness allowance and pension. Therefore, the petitioner filed a

writ petition in W.P.No.17038 of 2020, wherein, the first respondent filed a counter, which is extracted hereunder:

*"As per decision conveyed to MoD vide DoE I.D.Note dated 27.07.2009, the Coast Guard Yantrik Pay was required to be counted for all purposes including DA and pension like the element of X Group pay granted PBORs in Defence Services in accordance with the recommendations of the 6<sup>th</sup> Central Pay Commission and Government decision thereon"*

4. Based on the said stand taken by the first respondent, this Court directed the respondents to calculate the yantrik pay for all purposes and disburse the arrears to the petitioner. However, the impugned order has been passed without counting the yantrik pay for all purposes as recommended by the Fast Track Committee. Hence, this writ petition.

5. It is the main contention of the petitioner that the "X Gp Pay" as per Special Army Instruction 1/S/2008 will apply only to the person serving in the army not to the coast guard. Hence, relying the Army Instruction to the Coast Guard person is not valid. Thus, the impugned order is challenged in this writ petition.

6. It is the stand of the respondents that MoD letter 1(1)/2009/D(CG-R) dated 21.08.2009 stipulates that Coast Guard Yantrik Pay would be counted for all purposes including Dearness Allowance and Pension, however, the clarification received from the CGDA, Delhi vide para 1 of letter AT/II/Genfix-XII dated 25.02.2010 stipulates that Coast Guard Yantrik Pay may not be taken into account for payment of HRA, pay fixation and grant of Annual Increment. Hence, it is the contention that the Yantrik pay was counted for all purposes in accordance with law and paid to the petitioner. However, under the 7<sup>th</sup> Central Pay Commission Group X pay could be counted only to the dearness allowance as such the same was not included in basic pay while granting benefits to the writ petitioner. Hence, it is the contention that the Fast Track Committee recommendation will apply only to the 6<sup>th</sup> Pay Commission and not the 7<sup>th</sup> Pay Commission.

7. It is the contention of the learned counsel for the petitioner that the Army Rule will not apply to the petitioner. The impugned order rejecting the petitioner's contention to treat the Yantrik Pay for all purposes is without any basis. The petitioner is covered by the Central Civil Services (Revised Pay) Rules, 2016. Therefore, relying on the Army Rule does not apply to the coast

guard. Since, Fast Track Committee has recommended to pay a sum of Rs.800 per month for all purposes restricting the same to the dearness allowance later citing army persons category cannot be sustained in the eye of law. Whereas, the respondents submitted that though the Fast Track Committee recommended to include Yantrik pay for all purposes in the 6<sup>th</sup> pay commission, whereas, in the 7<sup>th</sup> Pay Commission, there is no such direction. As far as the 7<sup>th</sup> Pay Commission, it is restricted only to the dearness allowance. Therefore, opposes this writ petition.

8. In light of the above, now, the point arising for consideration in this writ petition is whether the Yantrik pay of Rs.800 per month to be calculated for all purposes even in the 7<sup>th</sup> Pay Commission?

9. It is not disputed that the Ministry of Finance, Department of Expenditure, Implementation Cell has passed an Order dated 27.07.2009 accepting the recommendation of the Fast Track Committee, to grant 'Coast Guard Yantrik Pay' to the employees working in Technical Branch of Coast Guard Organisation from the level of Yantrik to the level of Pradhan Engineer @ Rs.800 per month. The 'Coast Guard Yantrik Pay' will count for all purposes

including DA and Pension. The Ministry of Defence was also requested to issue necessary orders. Further, Order has been passed by the Under Secretary to the Government of India to treat the 'Coast Guard Yantrik Pay' for all purposes including DA and Pension. Thereafter, the Office of the Controller General of Defence Accounts, by letter dated 25.02.2010, has clarified that though 'Coast Guard Yantrik Pay' was to be taken for all purposes, however, this may not be taken into account for payment of HRA, pay fixation and grant of annual increment. Once again, clarification was issued on 09.11.2011 by the Office of Controller General of Defence Accounts indicating that the 'Coast Guard Yantrik Pay' has not considered for the purpose of increment/pay fixation/HRA by the PCDA (Navy) Mumbai and it is also clarified that as far as X Gp Pay on the Army side is considered, Special Army Instruction 1/S/2008 categorically stipulates that it would be reckonable element of pay for the purpose of increment; similar provision does not exist for Coast Guard Yantrik Pay. It is directed to seek a clarification with the Ministry of Defence.

10. Thereafter, it appears that the 7<sup>th</sup> Central Pay Commission recommendations sought to be implemented by Order dated 29.07.2016 and the Government has implemented the recommendations of the 7<sup>th</sup> Central Pay

Commission vide Gazette Notifications No.1-2/2016-IC dated 25.07.2016, which reads as hereunder:

*“ 1.Refer to Govt. of India, Min. of Finance Resolution No.1-2/2016-IC dated 25 Jul 2016 and G.S.R.721(E) dated 25 Jul 2016 (CCS Revised Pay Rules, 2016).*

*2.The Government has implemented recommendations of the 7<sup>th</sup> Central Pay Commission vide Gazette Notifications ibid. In accordance with the same the existing and revised pay structure in respect of Coast Guard Personnel will be as follows:*

...

*EPs (Technical) corresponding to 'X' Group (Sl.No.45 of Govt. of India, Notificaion & para 11.12.18 of 7<sup>th</sup> CPC Report refers)*

| <b>Rank</b>    | <b>Existing Pay Band</b> | <b>Existing Grade Pay</b> | <b>Existing Yantrik Pay</b> | <b>Grade Pay corresponding to which revised Pay Levels have been approved</b> | <b>Revised Pay Level</b>       |
|----------------|--------------------------|---------------------------|-----------------------------|-------------------------------------------------------------------------------|--------------------------------|
| <i>Yantrik</i> | <i>PB-1</i>              | <i>2400</i>               | <i>800</i>                  | <i>2800</i>                                                                   | <i>PL-5 + Yantrik Pay 6200</i> |

11. The Revised Pay Level of Yantrik was enhanced to Rs.6200 per month from existing pay of Rs. 800 per month. While implementing the 7<sup>th</sup> Pay Commission, there is no reference as to whether the Yantrik pay should be treated for all purposes as recommended by the Fast Track Committee under the 6<sup>th</sup> Pay Commission.

12. Earlier, writ petition in W.P.No.17038 of 2020, it is the specific stand of the first respondent that Ministry of Defence, the Coast Guard Yantrik Pay was required to be counted for all purposes including D.A. and Pension like the element of X Group pay granted PBORs (persons below officers rank) in Defence Services in accordance with the recommendations of the 6<sup>th</sup> Central Pay Commission and Government decision thereon. As per the Special Army Instruction 1/S/2008 dated 11.10.2008, Group X Pay is a fixed amount admissible to a PBOR (Persons below Officers Rank) of X Group only, to protect the existing edge of PBOR in X Group vis-a-vis those in Group Y. It will be counter as Basic Pay for all purposes. Therefore, the impugned order now makes it very clear that as the Fast Track Committee has recommended to treat the Yantrik pay for all purposes, the same has been treated as per the Special Army Instructions 1/S/2008 dated 11.10.2008 and arrears is already paid to the

petitioner as per the 6<sup>th</sup> Pay Commission recommendation. However, as far as the 7<sup>th</sup> Pay Commission, it is the specific stand of the respondents that there was no such recommendations to treat the said pay for all purposes, whereas, according to the respondents it is only treated for the purpose of dearness allowance alone.

13. The notification dated 25.07.2016 in G.S.R.721(E), the Ministry of Finance (Department of Expenditure), the Central Civil Services (Revised Pay) Rules, 2016 was published and came into effect on 01.01.2016. The above Rules make it very clear that persons appointed to the persons appointed civil services and posts in connection with the affairs of the Union whose pay is debitable to the Civil Estimates as also to persons serving in the Indian Audit and Accounts Department. The above notification further indicate that the various departments of the Central Government is included. The Diploma Holder Yantrik, Indian Coast Guard is also mentioned in Serial No.45, whereas, Yantrik Pay is enhanced to Rs.6200 per month. However, there is no reference that the same should be treated for all the purposes as claimed by the petitioner. Such view of the matter, when the Ministry of Defence and the Union Government has taken a policy decision and implemented the Orders and

mainly because there was a recommendation to treat the yantrik pay under the 6<sup>th</sup> Pay Commission, the same cannot be extended for the 7<sup>th</sup> Pay Commission, when there is no reference.

14. Accordingly, I do not find any merits in the case and this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

26.09.2023

dhk

Internet : Yes/No

Index : Yes/No

Neutral Citation : Yes/No

***Note: Issue Order Copy on 18.10.2023***

To

1. The Secretary  
Union of India, Ministry of Defence  
Room No.101, South Block  
New Delhi – 110 011

2. The Secretary  
Union of India, Ministry of Finance  
Room No.134, North Block  
New Delhi - 110001

**N. SATHISH KUMAR, J.**

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**W.P.No.14341 of 2023**

26.09.2023