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WP.No.35670 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.12.2024

PRONOUNCED ON : 20.12.2024

CORAM:

THE HONOURABLE MR.**JUSTICE S.M.SUBRAMANIAM**

and

THE HONOURABLE MR.**JUSTICE M.JOTHIRAMAN**

**W.P.No.35670 of 2023**  
**and WMP.No.35643 of 2023**

Ashish Kumar Khare

... Petitioner

V.

1.Union of India

Rep by

The Director General Fishery Survey of India

Plot No.2A, Unit No.12,

Sassoon Dock, Colaba, Mumbai – 400 005.

2.The Zonal Director

Fishery Survey of India

Fishing Harbour Complex,

Royapuram, Chennai – 13.

3.The Zonal Director

Fishery Survey of India

Post Box.No.853, Kochi – 682 005.

4.The Pay and Accounts Officer

PAO, Department of Fisheries

Ministry of Fisheries, Animal Husbandary and Dairying

Exchange Building, Ground Floor



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Sprott Road, Ballard Estate  
Mumbai – 400 038.

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5.The Central Administrative Tribunal, Chennai  
Represented by  
The Registrar  
High Court Campus, Chennai – 104.

...Respondents

**PRAYER:** Writ petition filed under Article 226 of Constitution of India to issue a Writ of Certiorari to call for the records of the Tribunal and quash the order dated 11.09.2023 made in OA.No.1461 of 2019 as the same is unsustainable and to allow the relief prayed in the OA.No.1461 of 2019 by the petitioner.

For Petitioner : Mr.Ashish Kumar Khare  
(party-in-person)

For Respondents : Ms.B.Girija  
for Mr.S.N.Parthasarathi, SCGSC  
R5 – Tribunal.

### **ORDER**

**(The Order of the Court made by Justice M. JOTHIRAMAN)**

Under assail is the order dated 11.09.2023 in OA.No.1461 of 2019 on the file of the Central Administrative Tribunal, Chennai bench. The unsuccessful applicant before the Tribunal has preferred the present writ petition before this Court.

The brief case of the petitioner before the Tribunal is as follows :-



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2. The petitioner/applicant is working as Junior Translation Officer

in Fishery Survey of India, Mumbai. He filed an OA.No.866 of 2014 before the Central Administrative Tribunal, Chennai praying for grant of Grade Pay of Rs.4600/- and corresponding pre revised pay scale of Rs.7450-11500 w.e.f. 01.01.2006. The aforesaid OA was allowed vide order dated 22.08.2016. The department challenged the same before this Court in WP.No.15943 of 2017, which was dismissed vide order dated 14.12.2017. The petitioner filed CP.No.51 of 2018 and during its pendency, the respondents issued Office order dated 09.08.2018 in compliance with the order of the Tribunal. However, respondents had implemented the order of Tribunal partially. The said CP.No.51 of 2018 was closed by the Tribunal vide order dated 23.03.2019 by giving liberty to the petitioner/applicant to challenge the order passed by the respondents in a separate OA, if he was aggrieved. As per CCS (Revised Pay) Rules 2008, denying the corresponding pre-revised pay scale of Rs.7450-11500 for the Grade pay of Rs.4600/- when the same was granted to the petitioner's colleague Smt.T.P.Leena was arbitrary and discriminatory. As per Rule 7(A) of the CCS (Revised Pay) rules 2008 by applying Sub Rule (ii), the minimum pay of the grade pay of Rs.4600/- i.e., 13,860/- should have been granted. The respondents



already calculated the minimum pay attached with a particular grade pay in the case of Shri.M.C.Joy Skipper (Retd). Hence, the respondents have wrongly denied the petitioner's claim.

3. The brief case of the respondents before the Tribunal is as follows :-

The petitioner/applicant was appointed as Hindi Translator in the pay scale of Rs.4500-125-7000/- which was upgraded to 5000-150-8000/- and 5500-175-9000/- periodically and redesignated as Junior Hindi Translator, Junior Translator and now Junior Translation Officer. The applicant has been granted Grade Pay of 4600/- w.e.f. 01.01.2006 in compliance of this Hon'ble Tribunal vide order dated 22.08.2016 duly upheld by the Hon'ble High Court of Madras vide order dated 17.12.2018. In this present OA, the applicant has contended minimum pay of Rs.13860/- as initial pay in the Grade Pay of Rs.4600/- as per fitment table corresponding to the pre-revised pay scale of Rs.7450-11500/-. Whereas after the implementation of VI CPC, the model Recruitment Rules for the subordinate Central Government Offices notified by the DoPT vide its OM dated 19.09.2013 as well as Recruitment Rules notified for the post of Junior Hindi Translator of Fishery Survey of India (subordinate Department) the Grade Pay



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prescribed is 4200/- in PB-2 pay Band of 9300-34800/-.

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4. Mr.Ashish Kumar Khare appearing as party-in-person would submit the respondent/department had already extended the benefit of the pre-revised pay scale corresponding to the Grade pay of Rs.4600/- i.e., Rs.7450-11500/- to Smt.T.P.Leena, Junior Translation Officer w.e.f. 01.01.2006 vide order dated 26.09.2016, denying the same benefit to the petitioner being similarly placed person is unsustainable in law and discriminatory. He would submit that the Tribunal ought to have considered before declaring that the petitioner's pay is rightly fixed by the respondents that the respondent mere ignored the Rule 7, 1(A), (ii) of the Central Civil Services (Revised Pay) Rules 2008.

5. The learned standing counsel appearing on behalf of the respondents would submit that the claim of the petitioner is barred by principles of resjudicata, since, the petitioner had prayed identical relief in his earlier proceedings in OA.No.866 of 2014. He would submit that the petitioner's pay has been fixed as per the illustration 4(a) in accordance with Rule 7 regarding fixation of initial pay in the revised pay structure.



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6. We have considered the submissions made on either side and perused the available records.

7. In respect of the Grade pay, the Senior Fisheries Scientist, Ministry of Agriculture and Farmers Welfare Department of AHD & F, Fishery Survey of India issued Office Order dated 25.07.2018 to the petitioner. The office order state hereunder :-

*“E.No. Confd. 24/2013-VOL.III.*

*Dated: 25.07.2018*

**OFFICE ORDER**

*Sub : Grant of Grade Pay Rs. 4600/- in PB-2 in respect of Shri. Ashish Kumar Khare, Jr. Hindi Translator, w.e.f. 01.01.2006 as per order dated 22.08.2016 of Hon'ble CAT, Madras Bench.- Reg.*

*Ref: 1. The Ministry's letter No. 2-13/2016-Admn. V dated 20.07.2018*

*2. The Headquarters' letter No. 14-10/2013-E.II-Vol.II, dated 24.07.2018*

*3. The order dated 14.12.2017 passed by the Hon'ble High Court of Madras, in W.P No.15943 of 2017 filed by the Department.*

*4 . The order dated 22.08.2016 Passed by the Hon'ble CAT, Madras Bench in OA No. 866/2014 filed by Shri Ashish Kumar Khare, Jr. Hindi Translator.*



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*As per the communication received from the Director General (I/C), Fishery Survey of India, Mumbai vide letter 2nd cited above and as agreed by the Department of Expenditure and conveyed by the Ministry of Agriculture & Farmers Welfare, Dept of AHD &F, New Delhi vide letter No.2-13/2016 Admn V, dated 20.07.2018 to implement the order dated 22.08.2016 passed by the Hon'ble CAT, Madras Bench in OA No. 866/2014 in respect of Shri Ashish Kumar Khare, Jr. Hindi Translator, subject to the outcome of SLP/Appeal of Shir T.M. Thomas, Junior Translator of Department of Commerce.*

*Accordingly to comply the order dated 22.08.2016 of the Hon'ble CAT, Madras Bench in OA No.866/2014, Shri Ashish Kumar Khare, Jr. Hindi Translator, is hereby granted Grade Pay of Rs. 4600/- in PB2 with other consequential benefits with effect from 01.01.2006 subject to the outcome of SLP/Appeal of Shir T.M. Thomas, Junior Translator of Department*





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*4.Letter No.PAO/AHD/MUM/Admn/369., dated*

*08.08.2018 of the Pay & Accounts Officer, Min. of  
Agriculture & Farmers Welfare, Dept. of AHD &F.,  
Mumbai*

*In pursuance of the 22.06.2016 and the  
approval the Hon'ble CAT, Madras bench in the  
OA.No.866/2014 dated 22.06.2016 and the approval  
accorded vide letter cited 2<sup>nd</sup> to 4<sup>th</sup> under reference,  
the pay of Shri Ashish Kumar Khare, Jr.Translator is  
hereby granted Grade Pay of Rs.4600/- w.e.f.  
01.01.2006 and revised the pay as per the details  
given below :-*

*Pay in the post of Jr Translator in the Pre-revised  
scale of pay of Rs.5000-150-8000/- as on 01.01.2006 :*

*5900/-*

*Since the DNI in the pre-revised scale of Rs.5000-150-  
8000/- son 01.02.2006; one increment granted in the  
pre-revised scale of pay of Rs.5000-150-8000/-*

*1. Pre-revised pay as on 01.01.2006 after  
granting one additional increment [5900+150-6050]*

*6050/-*



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*Pay fixed under 6<sup>th</sup> CPC in the Pay Band-2/ 9300-34800- 4200/-*

*1. Pay as on 01.01.2006 in the pre-revised scale of pay of Rs.5000-150-8000/-*

*6050/-*

*Pay fixed under 6th CPC in the Pay Band-2 / 9300-34800+4200.*

*1. Pay as on 01.01.2006 in the pre-revised scale of pay of Rs.5000-150-8000/-*

*6050/-*

*2. Pay fixed under 6<sup>th</sup> CPC in the Pay Band-2 / 9300-34800 + 4200 [6050 X 1.86 = 11253/- R/o to nearest 10 i.e., 11260/-]*

*11260/-*

*3. Pay and Grade Pay after fixation pay under 6th CPC as on 01.01.2006 in the PB-2/9300-34800+4200.*

*11260/-*

*+ 4200/-*

*Implementation of order passed by Hon'ble CAT, Madras Bench vide order No.866/2014 dated 22.08.2016.*

*1. Granted Grade Pay as on 01.01.2006 Rs.4600/-*

*2. Pay and Grade pay as on 01.01.2006 after implementation of order passed by Hon'ble CAT,*



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*Madras Bench.*

*Rs.11,260/-*

*+ 4600*

*3. Date of Next Increment under the 6th CPC :*

*01.07.2006.*

| <i>Date of increment</i> | <i>Pay after increment</i> |                          |
|--------------------------|----------------------------|--------------------------|
|                          | <i>Pay Band</i>            | <i>Pay and Grade Pay</i> |
| <i>070106</i>            | <i>9300-34800+4600</i>     | <i>11740+4600</i>        |
| <i>070107</i>            | <i>9300-34800+4600</i>     | <i>12230+4600</i>        |
| <i>070108</i>            | <i>9300-34800+4600</i>     | <i>12470+4600</i>        |
| <i>070109</i>            | <i>9300-34800+4600</i>     | <i>13260+4600</i>        |
| <i>070110</i>            | <i>9300-34800+4600</i>     | <i>13800+4600</i>        |
| <i>070111</i>            | <i>9300-34800+4600</i>     | <i>14360+4600</i>        |
| <i>070112</i>            | <i>9300-34800+4600</i>     | <i>14930+4600</i>        |
| <i>070113</i>            | <i>9300-34800+4600</i>     | <i>15520+4600</i>        |
| <i>070114</i>            | <i>9300-34800+4600</i>     | <i>16130+4600</i>        |
| <i>070115</i>            | <i>9300-34800+4600</i>     | <i>16760+4600</i>        |

*PAY FIXATION UNDER THE 7TH CPC*

*A. Pay as on 01.01.2016 in the post of Jr. Translator in the Pre- revised Pay Band of PB-2 / 9300-34800+4600 :16760/-*

*+ 4600/-*

*B. Basic Pay (Pay in the applicable Pay Band plus applicable Grade Pay or basic pay in the applicable Scale) in the pre- revised structure as on January 1, 2016 21,360/-*



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[16750+4600]

*Dearness Allowance sanctioned w.e.f.01.01.2016*

26,700/-

*Existing emoluments (a+b) 48,060/-*

*C. Pay fixed under 7th CPC in the corresponding level of Level-7 (21360/- x2.57-54895/-) :*

*1. Pay as on 01.01.2016 in the Level-7 of 7th CPC 55200/-*

*2. Applicable Cell in the Level either equal to or just: above the Amount. Level -7  
Cell- 4*

*Date of Next Increment*

| <i>Date of increment</i> | <i>Pay after increment in applicable Level of Pay Matrix</i> |
|--------------------------|--------------------------------------------------------------|
| <i>070116</i>            | <i>56900/-</i>                                               |
| <i>070117</i>            | <i>58600/-</i>                                               |
| <i>070118</i>            | <i>60400/-</i>                                               |

The aforesaid two Office orders were duly communicated to the petitioner.

9. It is pertinent to mention that in the earlier round of litigation in OA.No.866 of 2014, the petitioner had prayed for two reliefs (i)to direct



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the respondents to grant grade pay of Rs.4600/- to the petitioner w.e.f.

01.01.2006 and arrears arising from the above grant of grade pay of Rs.4600/- w.e.f. 01.01.2006 and (ii) to direct the respondents to grant pre-revised pay scale of Rs.7450-11500/- with effect from 01.01.2006 as found by the Central Administrative Tribunal, Ernakulam Branch in OA.No.107/2011, Smt.T.P.Leena, Junior Hindi Translator v. Union of India and others and the same is implemented in respect of Smt.T.P.Leena, Junior Hindi Translator by implementing the annexure A 1 and 2 in respect of the petitioner also.

10. The Original Application was allowed on 22.08.2016, the same has been challenged by the department before this Court in WP.No.15943 of 2017, this Court dismissed the same by an order dated 14.12.2017. Paragraph 4 of the said order is extracted hereinunder :-

*“4.The Tribunal has allowed the application of the first respondent, since the Full Bench of the Central Administrative Tribunal sitting at Ernakulam has held in its order dated 14.10.2013 in O.A.Nos.656 and 953/2012 that*



*the Junior Hindi Translators in the Subordinate Offices of the Central Government are entitled to the Grade Pay of Rs.4600 from 01.01.2006 on the basis of the Official Memorandum dated 13.11.2009, and the same squarely applied to the facts of the present case. We find that as per the decision of the CAT, Ernakulam Bench in O.A.No.107/2011 which was upheld by the High Court of Kerala as well as the Hon'ble Supreme Court, the said benefit has already been granted to one similarly placed person T.P.Leena, vide order dated 21.11.2012. When such is the factual position, there cannot be any discrimination between the said Leena and the first respondent herein, who is similarly placed like that of the said Leena.”*

11. The petitioner has filed OA.No.1461 of 2019 before the Tribunal for the same relief, on bare perusal of the pay fixation order carried out after the direction of Tribunal in OA.No.866 of 2014 vide



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order dated 22.08.2016, by the respondents has issued Office order dated 09.08.2018, cited supra since, his pay was rightly fixed, hence, in respect of grant of Grade Pay, the same has been corrected vide Office Order dated 25.07.2018 (cited supra) and the benefit has been given to the petitioner. The Tribunal findings that pay has been rightly fixed as per the illustration 4(a) in accordance with Rule 7 regarding fixation of initial pay in the revised pay structure and do not find any merits to interfere in the said Office Order dated 09.08.2018.

12. There is no merits in this writ petition and the same is liable to be dismissed. We do not find any reasons to interfere with the order of the Tribunal.

13. In the result, the writ petition is dismissed, the order passed in OA.No.1461 of 2019 dated 11.09.2023 on the file of the Central Administrative Tribunal, Chennai Bench is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S., J.)  
20.12.2024

(M.J.R., J.)

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No



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To

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**S.M.SUBRAMANIAM.J.**  
**and**

**M.JOTHIRAMAN.J.**  
**tsh**

Pre-Delivery order in

**W.P.No.35670 of 2023**

**20.12.2024.**