

19.01.2026

Item No.21

Ct. No.1

PG

WP.CT. 252 of 2023

**The Comptroller and Auditor
General of India & Ors.**

Versus

Kamalesh Mazumdar & Ors.

Mr. Suman Basu

Ms. Debapriya Ghosh.....for the Petitioners

Mr. Chiradip Sinha

Mr. Siddhartha Sankar Mandal....for the respondents

PER, SUJOY PAUL, CJ.:

1. Parties are represented through their respective learned counsel.
2. With the consent of the parties, the matter is finally heard.
3. In this petition filed under Article 226/227 of the Constitution of India, the petitioners/department has assailed the order of Central Administrative Tribunal, Kolkata Bench, Kolkata (for short '**tribunal**') dated 30.06.2023 in O.A. 67/2018 (Kolkata), whereby the tribunal issued the following directions:

"7. From a plain reading of the above quoted letter, it would appear that by this letter, the department has sought to negate the recommendation of the 6th CPC without explicitly spelling it out. As per this letter, the promotion of the applicants from SO to AAO which took place between 1/1/2006 and 30/8/2008 is to be treated as null and void (Para 2(i) of the letter above). In Para 2(ii) and (iii), the said letter says that the pay of the employees who were posted as AAO's on 1/1/2006 and those promoted as SOs between 1/1/2006 and 29/8/2008 will be

fixed with reference to their actual pay as on 1/1/2006 or as on the date of their promotion. In effect, none of employees who were either SO's or AAO's as on 1/1/2006 would get the pay scale of Rs. 7500-250-12000. However, in the absence of any clear delineation in the said letter it is implicit that in case an employee is promoted to the post of AAO in the merged cadre of SO's and AAO's after 30/8/2008, he would be entitled to the pay scale of Rs. 7500-250-12000/-, a piquant situation indeed. We fail to appreciate the clarification issued vide CAG's letter dated 25.9.2011. As observed above, the letter has the effect of denying the benefits arising out of the implementation of 6th CPC recommendations with respect to merger of the posts of SOs and AAOs w.e.t. 1/1/2006 in the pre-revised pay scale of Rs. 7500-250-12000/- to these employees who were already SOs and AAOs as on 1.1.2006 or even those who were promoted between 1.1.2006 and 30/8/2008. However, there is no acknowledgement in the said letter that the recommendations of the 6th CPC with respect to merger of the posts of SOs and AAOs w.e.t. 1/1/2006 with a pay scale of Rs. 7500-250-12000 have either not been accepted or modified.

8. In the circumstances, we direct the respondents not to act on the clarifications/instructions contained in CAG's letter of 25/9/2014 qua the applicants and fix their pay in the pre-revised scale of Rs. 7500-250-12000 w.e.f. 1/1/2006. Respondents are also directed to extend all consequential benefits to the applicants arising out of such fixation of pay within a period of 90 days from the date of receipt of certified copy of this order."

4. This writ petition was taken up on 08.10.2024

and this Court passed following order:

"Mr. Sinha, learned advocate appearing for the respondents submits that in an identical matter dealing with the same issue, a judgment was delivered by the Central Administrative Tribunal, Ernakulam Bench on 30th November, 2015. The said judgment was affirmed both by the Hon'ble

High Court of Kerala and by the Hon'ble Supreme Court. Pursuant thereto, a memo dated 8th February, 2024 has already been issued by the competent authority. Let a copy of the said memo dated 8th February, 2024, as produced, be kept on record. A copy of the same has already been handed over to Mr. Basu, learned advocate appearing for the petitioners.

Mr. Basu prays for an accommodation today to avail necessary instruction.

In view thereof, list the matter for further consideration under the same heading in the daily supplementary list of this Court on 20th November, 2024."

5. Thus, the pivotal question is whether the judgment as passed by Ernakulam Bench in OA No. 133 of 2013 is passed in case of similarly situated employees or not.
6. Learned counsel for petitioners/department upon instruction, fairly submitted that the impugned order of the tribunal dated 30.06.2023 deals with similarly circumstanced employees who were applicants before Ernakulam Bench in OA No. 133 of 2013. In other words, learned counsel for department fairly urged that applicants before the Kolkata Bench of tribunal in the present case are similarly situated qua the applicants in OA No. 133 of 2013.
7. He fairly admitted that the order of the Central Administrative Tribunal, Ernakulam Bench, aforesaid was unsuccessfully challenged before the Kerala High Court and the Supreme Court. The department has obtained instructions from

the apex body for extending the benefit of Kerala Bench judgment to the original applicants therein. However, no instruction has been received for extending the similar benefit to the present respondents.

8. Learned counsel for respondents/applicants supported the impugned order and urged that the present respondents are sailing in the same boat with the applicants before Ernakulam Bench in OA No. 133 of 2013.
9. In view of aforesaid submissions of learned counsel for the parties, there is no cavil of doubt that present respondents are similarly situated qua the applicants before Ernakulam Bench in O.A. No. 133 of 2013.
10. The said order of Ernakulam Bench was not disturbed by the Kerala High Court and by the Supreme Court.
11. Thus, we find no reason to put the present respondents to a comparatively disadvantageous position qua the similarly situated employees. If we do it otherwise, it will amount to dividing a homogeneous class, which will hit Article 14 of the Constitution. The tribunal has taken a plausible view, which does not warrant any interference.
12. Accordingly, petition is **dismissed**.

13. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(SUJOY PAUL, CJ.)

(PARTHA SARATHI SEN, J.)