



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No. 2544/2015

This the 21st day of March, 2023

**Hon'ble Mr. Tarun Shridhar, Member (A)
Hon'ble Mrs. Pratima K. Gupta, Member (J)**

1. N.K Mishra
S/o Shri J.P Mishra
Aged about 50 years
Working as CAD in the office of Chief General Manager,
Telecom
BSNL, M.P. Circle, Bhopal
R/o H.No.35, Luxmi Parisar,
E-8, Extn, Shahpura, Bhopal-462039
2. ANIL VERMA,
S/o Shri R.S. Verma,
Aged about 55 years,
Working as CAO in the office of Chief General Manager,
Telecom
BSNL, M.P. Circle, Bhopal,
Resident of A-204, Shahpura,
Near Life Line Hospital,
Bhopal (M.P.)
3. K.K. SINGH, S/o Shri Ram Singh,
Aged about 55 years,
Working as AO in the office of Chief General Manager,
Telecom
BSNL, M.P. Circle, Bhopal,



R/o H.No. 41, Gayatri Vihar Colony, Bagmugaliya, bhopal
(M.P.)

4. D. PUSHPRAJAN,
S/o Shri V.N. Damodaran,
Aged about 55 years,
Working as AO in the office of Chief General Manager,
Telecom
BSNL, M.P. Circle, Bhopal
R/o H.No. 107, Mahabali Nagar, Kolar Road, Bhopal -
462042

5. K.L. RAMTEKE,
S/o Shri N.B. Ramteke,
Aged about 51 years,
Working as SRACTT in the office of Chief General Manager,
Telecom
BSNL, M.P. Circle, Bhopal
R/o G. No. 204, MIG Delux-B Amravatim Sout Bag
Sewania, Housing Board Colony,
AIMS Road, Bhopal -462038

6. GAJANAN DABLI,
S/o Shri Dinkar Jai Krishna,
Working as CAO in the office of Chief General Manager,
Telecom
Aged about 53 years,
BSNL, M.P. Circle, Bhopal
R/o H. No. T.V./5 Officers Colony BSNL,
Saket Nagar, Bhopal

7. MRS. KARUNA GHADLE,
W/o Shri B.S. Ghadle,
Aged about 53 years,



Working as AAO in the office of Chief General Manager,
Telecom
BSNL, M.P. Circle, Bhopal
R/o H. No. B.M. -7 Rajeev Nagar,
B-Sector, Ayodhya By-Pass,
Bhopal

8. MRS. K. MOHANAN,
W/o Shri D. Mohan,
Aged about 50 years,
Working as JAO in the office of Chief General Manager,
Telecom
BSNL, M.P. Circle, Bhopal
R/o Flat No. X-4, Sidharth Enclave,
Narela Sankari, Bhopal - 462021

9. B.B. SAHNI,
S/o Shri J.C. Sahni,
Aged about 50 years,
Working as SR. ACTT in the office of Chief General
Manager,
Telecom BSNL, M.P. Circle, Bhopal
R/o H. No. 9 Peace Valely -1,
Chatrasal Nagar, Narelasankri,
Bhopal -462041

10. S.N. AGARWAL,
S/o Late Shri Brij Mohan Agarwal,
Aged about 55 years,
Working as CAO in the office of Chief General Manager,
Telecom
BSNL, M.P. Circle, Bhopal
H. No. 39, Chatrapati Shivaju Colony,
Chunabhatti, Bhopal – 462042



11. MRS. MINI ISADORE,
W/o Shri M Isadore,
Aged about 50 years,
Working as SR. ACTT in the office of Chief General
Manager,
Telecom BSNL, M.P. Circle, Bhopal
R/o H. No. 34, Somaya Vihar Avadhपुरi,
Kali Bari Road, Piplani, Bhopal 462021
12. MRS. LATA SUBRAMANYAM,
W/o Shri S. Subramanyam, Aged about 55 years,
Working as AO in the office of Chief General Manager,
Telecom
BSNL, M.P. Circle, Bhopal
R/o of H. No. E-7/108, Flat No. S-1 Swapnil Homes -III,
Ashoka Society, Arera Colony,
Bhopal-462016
13. S.T. NANDANWAR,
S/o Shri Tulsiram,
Aged about 60 years,

Working as DGM (Finance), In the Office of
Chief General Manager, Telecom BSNL, M.P. Circle, Bhopal,
Resident of H. No. 59, Bharat Nagar,
Shahpura, E-8, Bhopal - 462039
14. R.S. RATHORE
S/o Shri Dal Singh,
Aged about 54 years,
Working as Chief Account Office, in the Office of
Chief General Manager, Telecom BSNL, M.P. Circle, Bhopal,
Resident of H. No. 59, Bharat Nagar,



Shapura, E-8, Bhopal - 462039

(By Advocate: Ms. Sumita Hazarika)

...Applicants

Versus

1. UNION OF INDIA,
Represented by the Secretary to Government of India
Ministry of Communication & Information Technology,
Electronics Niketan
6, CGO Complex, Lodhi Road,
New Delhi-110003

2. ASSISTANT DIRECTOR GENERAL (SEA)
Bharat Sanchar Nigam Ltd
Corporate Office: 7th Floor, Bharat Sanchar Bhawan,
Janpath, New Delhi-110001

3. SECRETARY (EXPENDITURE)
Ministry of Finance, Department of Economic Affairs,
North Block, New Delhi-110001

4. GENERAL MANAGER (FINANCE)
O/o Chief General Manager Telecom,
BSNL MP Circle, Bhopal,
MP-462015

...Respondents

(By Advocate: Dr. Ch. Shamsuddin Khan and Mr. Mohd.
Abhdullah)

ORDER (ORAL)**Hon'ble Mr. Tarun Shridhar, Member (A):-**

The applicants are either working at present or were officials of the Accounts Department of the Department of Telecom. Subsequent to the decision of the Government of India to grant higher scale to the accounts staff in the 2003, they were given upgraded scales of pay with prospective effect from 01.01.1996, which was the relevant date for implementation of the recommendations of the 5th Central Pay Commission (CPC) on notional basis. However, they seek the benefit of actual grant of the upgraded pay scales instead of notional from 01.01.1996. Accordingly, they have sought the following relief(s) in the present O.A.: -

“(a) The Respondents be directed to pay to the Applicants replacement scales on actual basis from 01. 01. 1996 as has been given to other similarly placed employees in view of the decision of the Respondents granting notional benefit from 01.01.1995 till the date of decision i.e. 18.02.2003 having been declared as bad in law and consequently the same having been set aside; and



(b) Pass such other order or orders as this Hon'ble Tribunal deems fit and proper in the interests of justice.”

2. Learned counsel for the applicants takes us through the history and background of the case and submits that initially a proposal was moved by the Railway Board by giving certain reasons for considering an upgraded scale of pay to the officials of the Accounts Department in the Indian Railways. Vide a memorandum dated 28.02.2023 (Annexure A3 colly) the Government of India approved the upgraded scale for the various posts in the Accounts Cadre, not only of the Indian Railways but also in all other Ministries/Departments of Government of India on notional basis with effect from 01.01.1996 but actual payments to be made from 19.02.2003, the date on which the formal approval was given by the competent authority in the Government. Even though the benefit of higher/upgraded pay scales was obtained, some of the employees were not satisfied as their view was that their legal entitlement/eligibility for the upgraded pay scale should have been determined with effect from 01.01.1996 which is



the relevant date for implementation of the recommendations of the 5th CPC.

3. This issue was agitated by way of various O.As. in different benches of the Tribunal and further got to be considered up to the level of the Hon'ble Apex Court. Learned counsel draws support from a judgment dated 30.06.2006 passed by the Ernakulam Bench of this Tribunal in O.A. No. 671/2003. While deciding this issue, the Tribunal had held that the applicants were entitled to the benefit of the revised pay scales including arrears of such pay and allowances with effect from 01.01.1996. She submits that the applicants therein too were the Accounts Cadre of the Indian Railways. She informs that the judgment of the Ernakulam Bench of this Tribunal has been confirmed upto the level of the Hon'ble Apex Court and she has annexed the relevant copies of the judgment passed by the Ernakulam Bench of the Hon'ble High Court of Kerala and the judgment of the Hon'ble Apex Court in the SLP. It would be worthwhile to quote the observations of the Hon'ble High Court while upholding the order of the Tribunal.



“ The short issue is whether the respondents, who are Railway employees, are entitled to arrear of pay on revision of scales with effect from 1.1.1996. They were refused such benefits till 18.02.2003 as per Annexure A-3. That has been interfered with by the Tribunal. We find no rationale to refuse relief to the Railway employees particularly when such relief to the Railway employees has been granted to the employees of the other sector covered by the Pay Commission Order. We find no jurisdictional error or legal infirmity to say that there is any injustice against the establishment on the basis of impugned order. No ground made out for interference under Article 226/227 of the Constitution of India.

*The writ petition fails and accordingly it is dismissed
No costs.”*

4. What we understand is that the Hon'ble High Court had held that if one set of employees gets the benefit from 01.01.1996 there would be no ground or logic to deny it to another. Learned counsel also submits that identical issue was also agitated before the Patna Bench of this Tribunal in O.A. No. 925/2003 but in this case without success. However the applicants had challenged the denial of the relief by the Patna Bench by way of a W.P. before the Hon'ble High Court of Patna which had set aside the judgment of the Tribunal and held that the applicants were



entitled to the benefit of upgraded pay scales with effect from 01.01.1996. Concluding, she draws attention to the recent judgment of this Tribunal passed in a bunch of three O.As. on 16.08.2022 (O.A. No. 795/2015, 1498/2015 and 1735/2015). The said judgment adequately discusses some of the judgments quoted by the learned counsel for the applicants in her arguments.

5. Learned counsel for the respondents strongly contests the arguments put forth by the learned counsel for the applicants. Drawing attention to the averments made in the counter reply, he argues that the orders/judgments of the various Courts being relied upon by the learned counsel for the applicants would be confined only to the applicants in the said cases and therefore, by themselves could not be extended to any other persons. He further submits that some of the applicants have approached this Tribunal directly without approaching the competent authority with their representation and claim. He draws attention to a judgment of this Tribunal in O.A. No. 527/2015 which had thrashed out the issues involved in the present O.A. by



making a special mention that the upgraded scale of pay was an outcome of an Executive decision and not an off-shoot of the recommendations of the Pay Commission. Therefore, it could not have been implemented with retrospective effect and further the applicants could not claim the entitlement for the same from 01.01.1996 as a matter of right. He argues that the respondents are to be strictly guided by the instructions of the Department of Expenditure, Ministry of Finance, which is the nodal Ministry for this subject. The O.M. dated 28.02.2003 unambiguously states that the benefit of upgraded pay scale will be extended on notional basis with effect 01.01.1996 and on actual basis only from 19.02.2003. Accordingly, these benefits have been extended in favour of the applicants. He further submits that the rejection of the claim of some of the employees in another identical matter was challenged by them up to the level of Hon'ble Supreme Court wherein the SLP was dismissed.

6. We have heard the arguments to the learned counsel at length. We have also meticulously gone through the documents on record.



7. We find that the judgment/order of the Hon'ble Supreme Court being quoted by the learned counsel for the respondents mentions that the petition is being dismissed as withdrawn without going into the merits of the issue. Further, the judgment of this Tribunal in O.A. No. 527/2015 which too forms the basis of the arguments of the learned counsel for the respondents was reversed by the Hon'ble High Court of Delhi and the observations to this effect have been recorded in the order dated 16.08.2022 passed in a bunch of O.As. which have been referred to in one of the preceding paragraphs.

8. We have given careful consideration to the order passed by the Ernakulam Bench of this Tribunal which has been affirmed up to the level of Hon'ble Apex Court. Nothing to the contrary has been put before us as to whether this order has either been reversed or modified.



9. Our latest order on the subject is the order dated 16.08.2022. It would be worthwhile to quote the said order verbatim:-

“ Learned counsels for the parties submit that the issue involved in all the aforesaid three O.As are identical, the facts are same and therefore, with the consent of the learned counsels for the parties, the aforesaid three OAs have been heard together and are being decided by the instant common order. However for convenience of writing this order the facts have been taken from O.A. No. 795/2015. The applicant seek the following reliefs :-

“(a) The Respondents be directed to pay to the Applicants replacement scales mentioned in Railway Board's order dated 07.03.2003 on actual basis from 01.01.1996 as has been given to other similarly placed employees in view of the order passed by the Respondents dated 28.02.2003 granting notional benefit from 01.01.1996 till the date of decision i.e.18.02.2003 as bad in law and consequently the same having been set aside; and

(b) Pass such other order or orders as this Hon'ble Tribunal deems fit and proper in the interest of justice.”

The applicants in the present O.A. seek the following reliefs:-

2. The brief facts of the case are that over-ruling the recommendations of the 5th Pay Commission the Government had decided to grant upgraded pay scale to the officials of the Accounts Cadre of the respondents department w.e.f. 18.02.2003. The applicants are aggrieved that since the recommendations of the Pay Commission were implemented w.e.f. 01.01.1996 they too



should be granted the actual pay scale w.e.f. such date as it has been granted to others.

3. Learned counsel for the applicant draws attention to various other instances wherein similarly placed officials who approached this Tribunal and other legal forums, on success, were granted the upgraded pay scale w.e.f. 01.01.1996. She argues that denial of the same to the applicants amounts to discriminatory treatment. She also draws attention to the order passed by the Hon'ble Apex Court in SLP No. 1587-1588/2014 in which the order of this Tribunal granting upgraded pay scale w.e.f. 01.01.1996 was challenged by the Union of India, but the same was dismissed. The Hon'ble Court while affirming the relief given to the party had held that without prejudice to the rights of the others, their cases shall be decided on their own merits. Learned counsel further finds support in the judgment rendered by this Bench of the Tribunal on 13.02.2022 in O.A. No. 763/2015 in which similarly placed applicants were awarded the upgraded pay scales from 01.01.1996. While rendering the aforesaid judgment the Tribunal had also directed the respondents to calculate the arrears admissible to the applicants w.e.f. 01.01.1996 to 18.02.2003 and pay the same to the applicants within a period of 12 weeks failing which they shall be liable to pay simple interest at the rate of 6% p.a. Learned counsel argues that since the issue has been fully and finally settled, there is no reason to deviate from the same in the instant case as the facts and circumstances are identical.

4. Further she draws attention to the judgment passed by the Hon'ble High Court of Delhi in WP (C) No. 1523/2016 wherein the All India Railway Accounts Staff Association had challenged the orders of this Tribunal in a few O.A.s wherein the Tribunal had held that there was no hostile discrimination against the applicants and once a policy decision had been taken by the Government to grant the upgraded pay scale from 18.02.2003, the



applicants could not claim the upgraded pay scales from 01.01.1996 as a matter of right, especially when the Pay Commission had not recommended the same. However, while quashing the orders of this Tribunal, the Hon'ble High Court vide the order dated 18.01.2019 in the aforesaid Writ Petition clearly directed that the pay scale is to be granted from 01.01.1996 and further directed that the same be granted along with the arrears within a period of 12 weeks, failing which the petitioners in the WP(C) shall be entitled to a simple interest of 6% p.a. and such arrears. The said judgment of the Hon'ble High Court has been followed in letter and spirit in the order of this Tribunal dated 03.03.2022 in O.A. No. 763/2015 which has already been quoted above. 5. 5. Although the learned counsel for the respondents argues on the basis of the averments he has made in his counter reply that it was a conscious decision of the Government to grant the enhanced pay scales from the date such decision was taken and only notional benefits of the upgraded pay scales was to be given from 01.01.1996 hence the applicants are not deserving of the present reliefs. He reiterates that the upgraded pay scale has not been recommended by the Pay Commission and was awarded to the applicants only by way of an administrative decision of the Government, therefore, it could not be applied retrospectively.

6. We have heard the learned counsel for the parties and gone through the documents on record.

7. The matter has been agitated up to the level of Hon'ble Apex Court. It is not in dispute that quite a few other similarly placed officials have already been awarded the benefit of upgraded pay scale along with arrears w.e.f. 01.01.1996, the date on which the recommendations of the 5th Pay Commission were implemented. Moreover, the grant of this benefit along with arrears has been both on account of a direction of various Courts as also on their own initiative



by the Government in certain cases. In O.A. No. 763/2015 which has already been referred to twice in the preceding paragraphs of this judgment, the Tribunal has clearly awarded this benefit in absolutely identical facts and circumstances. The judgment of this O.A further draws strength from the judgment of the Hon'ble High Court of Delhi in WP(C) No. 1563/2015. There being no ambiguity in the said orders we have no cause to hold a different view in the instant matter.

8. Accordingly, the OA is allowed with a direction to the Competent Authority amongst the respondents to grant the upgraded pay scales to the applicants w.e.f. 01.01.1996 along with arrears within a period of 12 weeks from the date of this order failing which they shall be liable to pay the arrears along with a simple interest of 6% p.a. The Competent Authority amongst the respondents is also directed to take a conscience view to grant the said relief in the form of upgraded pay scales from 01.01.1996 to all such similarly placed employees instead of compelling them to take recourse to litigation.

6. The O.A. stands disposed of in view of the aforesaid directions.

7. Pending M.A.s also stands disposed of accordingly."

10. No evidence has been brought before us that the order has been either reversed or stayed. Accordingly, we have no ground to take a view which would be at divergence.

11. In light of the facts and arguments detailed above, the present O.A. is allowed. All the applicants are held to be entitled to the benefit of replacement/upgraded scale of pay



on actual basis with effect from 01.01.1996 as against 19.02.2003. Pursuant to this they are also held to be entitled to the payments of arrears which would have accrued in their favour from this date. The competent authority amongst the respondents is directed to issue appropriate orders for grant and release of the upgraded pay scale in favour of the applicants with effect from 01.01.1996 along with the arrears within a period of twelve weeks from the date of receipt of a certified copy of this order.

12. It is made clear that if payment is made within the time period allowed, the applicants shall not be entitled to any interest on this payment. However, in the event of a delay the payment shall carry an interest at the rate applicable upon the deposits in the General Provident Fund.

13. Before parting we would also express a hope that the competent authority shall on its own extend the benefit of upgraded pay scales to all eligible employees with effect from 01.01.1996 irrespective of the fact whether they have



approached an appropriate judicial forum for the same or not so that unnecessary litigation is avoided.

14. The O.A. stands allowed against the background of the aforequoted directions.

15. There shall be no order as to costs.

(Pratima K. Gupta)
Member (J)

(Tarun Shridhar)
Member (A)

/dd/

