

Eastern Railway
(Personnel Department)
17 N. S. Road
Kolkata - 700 001

Serial Circular No. 153/2015

No. E.368/0/ACP/CC/Misc.

Kolkata, Dated: 14/10/2015

ALL CONCERNED

(As per the standard List)

Sub: Sharing of information regarding favourable judgment.

Following copy of Railway Board's letter No. PC-V/2014/CC/Misc dated 07.10.2015, along with its enclosure on the above noted subject is forwarded herewith for information and guidance. Board's earlier letter dated 28.08.2015 mentioned therein was circulated under this office serial No.125/2015.

(K. K. Murmu)

Asstt. Personnel Officer/R&B

For Chief Personnel Officer

Phone No. 24118

Copy of Board's letter No. PC-V/2014/CC/Misc dated 07.10.2015 addressed to the GM (P)/All Zonal Railways & others with a copy to FA&CAOs.

Sub: Sharing of information regarding favourable judgment.

In continuation to Board's letter of even no. dt 28/08/2015 please find enclosed a copy of order Dt. 15.09.2015 of Hon'ble CAT/PB/New Delhi in OA No. 527/2015 (Jayanta Kumar Das & Ors. V/s UOI & Ors.) and 8 other clubbed OAs (536/2015, 534/2015, 3997/2014, 619/2015, 4419/2014, 4004/2014, 3999/2014 and 3998/2014) decided in favour of Union Of India. In this case the applicants had claimed for grant of upgraded pay scale to accounts staff w.e.f 01.01.1996 on actual basis instead of 19.02.2003 as decided by the Union Cabinet. The Hon'ble Tribunal taking note of the fact that the upgraded pay scale was not recommended by the Pay Commission but was a result of policy decision taken by the Government dismissed these OAs vide their order dt. 15.09.2015 in favour of Union of India. Complete order of the Hon'ble Tribunal is available at CAT's website.

2. It is advised that the aforementioned orders of the Hon'ble Tribunal may please be brought to the notice of all the concerned including the officials of the Divisions with instructions to effectively utilise this order while contesting the cases involving identical issue. Please acknowledge the receipt of this letter.

DA: As above.

Sd/-(N. P. Singh)

Dy. Director, PC-5

Railway Board

INDEX No.1060: Favourable judgment in the matter relating to grant of upgraded pay scale to accounts staff

Contd...

Central Administrative Tribunal
Principal Bench

OA 527/2015

With

OA 536/2015, OA 534/2015, OA 3997/2014
OA 619/2015, OA 4419/2014, OA 4004/2014,
OA 3999/2014 and OA 3998/2014

New Delhi this the 15th day of September, 2015

Hon'ble Mr. Justice Syed Rafat Alam, Chairman
Hon'ble Mr. P.K. Basu, Member (A)

O.A. No. 527 /2015

1. JAYANTA KUMAR DAS,
Father's/Husband's Name- Late Bibhuti Bhusan Das,
aged about 62 years,
retired as Ex AA on 31/10/13 bearing PPO_NO 02102048013 Dy CAO/TA/Kol
resident of 6, Monmatha Dutta Road, P.O. Belgachia, P.S. Tala, Kolkata-700037
2. PRABHAT KUMAR GHOSH,
Father's/Husband's Name- Late Biswanath Ghosh,
aged about 62 years,
retired as Ex AA on 31/07/13 bearing PPO_NO 02102040013 Dy CAO/TA/Kol
resident of Chawak Kanthalia, Surya Sen Pally, P.O. Sewli Telenipara,
P.S. Titagarh, Barrackpore, Dt. 24-Pgs(N), Pin-700121
3. MRINMOY KUMAR DUTTA ROY,
Father's/Husband's Name- Late Umapada Dutta Roy,
aged about 62 years,
retired as Ex AA on 30/11/13 bearing PPO_NO 02102052713 Dy CAO/TA/Kol
resident of Mongalavilla, 106, N. Bose Road (Telmarui Road)
P.O+Dt. Burdwan, Pin-713101
4. RABIN HALDER,
Father's/Husband's Name- Late Jatindra Nath Halder,
aged about 67 years,
retired as Ex AA on 31/01/09 bearing PPO_NO 02101833609 Dy CAO/TA/Kol
resident of Vill + P.O= Jaynagar Majilpur (Kayalpara), Haridas Dutta Road,
P.S. Jopynagar, Dt. 24-Pgs(S), Pin-743337
5. RABINDRA NATH BANERJEE,
Father's/Husband's Name- Late Ranujan Kumar Banerjee,
aged about 62 years,
retired as Ex SR.AFA on 31/10/13 bearing PPO_NO 02102049513 Dy
CAO/TA/Kol

resident of P.O + Vill- Jetia(Thakurbari) Via-Hazinagar, Dt.24-Pgs(N),
P.S.Bizpur,Pin-743135

6. SAMIRAN DUTTA,
Father's/Husband's Name- Late Fatik Chandra Dutta,
aged about 62 years,
retired as Ex AA on 30/04/13 bearing PPO_NO 02102029013 Dy CAO/TA/Kol
resident of Sahara, Banerjee Para, P.O.Michel Nagar, P.S.Dum Dum Airport,
24-Pgs(N),Pin-700133
7. SUKHESWAR MANDAL,
Father's/Husband's Name- Late Chhitan Mandal,
aged about 61 years,
retired as Ex AA on 31/08/14 bearing PPO_NO 02102092514 Dy CAO/TA/Kol
resident of Vill-Karpur, P.O.Pali Mohan, Ps.Khajaulie, Dt.Madhubani(Bihar),
Pin-847229
8. SHYAMAL KUMAR CHAKRABARTI,
Father's/Husband's Name- Late Bhowani Prasad Chakraboprtty,
aged about 61 years,
retired as Ex SR.SO/A on 31/12/14 bearing PPO_NO 02102107714 Dy
CAO/Con/Kol
resident of 58/1/1-D, Raja Dinendra Street, P.O.Beadon Street,
P.S.Narkeldanga, Kolkata-70006
9. ASIT KUMAR MUKHERJEE,
Father's/Husband's Name- Late,Gobinda Krish Mukherjee,
aged about 63 years,
retired as Ex AA on 31/08/12 bearing PPO_NO 02101993012 Dy
CAO/TA/Kol
resident of 50/2,Kali Kundu Lane.
Po-Howrah.Ps-Howrah.Dist-Howrah.Pin-741101.
10. ARUP KUMAR BHATTACHARYYA,
Father's/Husband's Name- Late Sukdeb Bhattacharyya,
aged about 63 years,
retired as Ex AA on 31/08/12 bearing PPO_NO 02101962712 Dy
CAO/TA/Kol
resident of 76,Nayalankar Road, P.S.Bhatpara,
P.S.Jagadal, Dt.24-Pgs(N),Pin-743123
11. GOPAL KRISHNA DAS,
Father's/Husband's Name- Late Radhika Mohan Das,

ORDER

Mr. P.K. Basu, Member (A)

We heard OA Nos.527/2015, 536/2015, 534/2015, 3997/2014, 619/2015, 4419/2014, 4004/2014, 3999/2014 and 3998/2014 together as they all deal with the same issue and dispose them of by this common order.

2. We take up OA No.527/2015 to analyze the facts and issues that come up for adjudication.

3. The applicants are retired Accounts Assistants, Section Officers and Senior Section Officers of the Railways. Their case is that the V Pay Commission had enunciated a general principle that higher replacement scale would be allotted at such levels where the component of direct recruitment of graduates at the entry level is significant. In the railways, the Junior Accounts Assistants (JAA) had a minimum qualification of graduation but they were given only the normal replacement scale of Rs.1320-2040/- whereas according to the general principle, they should have been given higher replacement scale of Rs.1400-2300/-. The railway ministry, therefore, moved a proposal recommending the scale of Rs.1400-2300/- for JAAs to be paid with effect from 1.01.1996 i.e. the date from which the V Pay Commission recommendations were to be implemented. The government decided to grant the revised pay scale notionally from 1.01.1996 and effectively from 19.02.2003, which was communicated vide Railway Board order dated 7.03.2003 (Annexure A-5). By this order, the following pay scales were granted to this category:

DESIGNATION	IV CPC PAY SCALE (RS)	EXISTING PAY SCALE (RS)	REVISED PAY SCALE NOW ALLOTTED (RS)
Jr. Accounts Assistants	1200-2040	4000-6000	4300-7000
Accounts Assistants	1400-2600	5000-8000	6500-9000
Section Officers/ Inspectors of Accounts/ Cost Accountants (20%)	1040-2900	5500-9000	6500-10500
S. Section Officers/ Sr. Inspectors of Accounts/ Sr. Cost Accountants (80%)	2000-3200	6500-10500	7450-11500

4. The Railway Board’s order dated 7.03.2003 was challenged by some JAAs before Ernakulam Bench of the Central Administrative Tribunal in OA 671/2003. Vide order dated 30.06.2006, the OA was allowed and the applicants were held entitled to the benefits of the revised pay scale with effect from 1.01.1996. The respondents were directed to grant the applicants the arrears of revised pay and allowances for the period from 1.01.1996 to 18.02.2003. The above decision of the Ernakulam Bench was affirmed by the Hon’ble Kerala High Court in W.P. (C) No.22276/2007 vide order dated 27.03.2012. A Special Leave to Appeal challenging judgment of the Hon’ble Kerala High Court in W.P. (C)

No.22276/2007 was dismissed by the Hon'ble Supreme Court of India vide order dated 25.02.2013 in CC No.1997/2013. Review Petition filed by the respondents was also dismissed vide order dated 1.08.2013 by the Hon'ble Supreme Court. The order dated 30.06.2006 passed by the CAT Ernakulam Bench was implemented vide Railway Board's order dated 16.08.2013 for the petitioners only.

5. The Hon'ble Patna High Court granted similar relief to some other persons before it vide order dated 9.04.2010 in W.P. (C) No.11452/2005 and, in fact, directed as follows:

"We take this writ petition to be in a representative category for all employees of the Accounts Establishment of the Indian Railways, all of whom shall get the benefits of appropriate pay-scales w.e.f. 1.1.1996, with payment of arrears of salary, but without the obligation of payment of interest. It goes without saying that the post-retirement benefits of such employees, who have already superannuated, shall be revised, apart from payment of arrears of salary."

6. Civil Review No.233/2010 against the order passed in W.P. (C) No.11452/2005 before the Hon'ble Patna High Court was also dismissed vide order dated 3.04.2013. A Special Leave to Appeal against the order of the Patna High Court bearing no.1587-1588 /2014 was also dismissed by the Hon'ble Supreme Court. However, while dismissing the aforesaid Special Leave to Appeal, the Hon'ble Supreme Court observed as follows:

"We do not find any legal and valid ground for interference. The special leave petitions are dismissed. However, the relief granted by the Central Administrative Tribunal (CAT) as affirmed by the High Court shall be confined to the parties before the Tribunal as well as before the High Court. This is without prejudice to the rights of other claimants which will

be adjudicated on its own merit as and when any such claim is raised.”

7. Learned counsel for the applicants argued that the Patna High Court vide order dated 9.04.2010 had directed that the relief granted to the applicants in the Writ Petition be extended to all the employees of the Accounts Establishment of the Indian Railways. While dismissing the Special Leave Appeal against the order of the Patna High Court, the Hon’ble Supreme Court modified the order to the extent “This is without prejudice to the rights of other claimants which will be adjudicated on its own merit as and when any such claim is raised.” Therefore, it is only after the Hon’ble Supreme Court passed the order that the applicants approached the respondents in August 2014 and the respondents communicated the order of the Hon’ble Supreme Court to all its formations through letter dated 23.07.2014. Since no steps have been taken by the respondents to redress their grievances, the applicants have approached this Tribunal.

8. Learned counsel for the applicants stated that in OA 1785/2015, **Anil Kumar Roy and others Vs. Union of India and others**, this Tribunal has laid down that in cases where a principal or common issue of general nature is applicable to a group or category of government employees, the decision of the Courts should be applied to all other identical cases without forcing the other employees to approach the Court of Law for an identical remedy or relief. It was further emphasized that the Hon’ble Supreme Court in **Bharat Sanchar Nigam Limited Vs. Ghanshyam Dass (2) and others**, (2011) 4 SCC 374 has explained the

principle laid down in **K.L. Shephard Vs. Union of India**, (1987) 4 SCC 431 that it is not necessary for every person to approach the Court for relief and that it is the duty of the authority to extend the benefit of a concluded decision in all similar cases. The circumstances have been culled out at para 25 as under:

"a).....

b).....

c) where an order or rule of general application to employees is quashed without any condition or reservation that the relief is restricted to the petitioners before the court; and

d) where the court expressly directs that the relief granted should be extended to those who have not approached the court."

It is submitted that in the present case the order dated 7.03.2003 passed by the respondent whereby the revised pay scales were granted to the railway accounts employees notionally from 1.01.1996 till 18.02.2003 has been set aside by the judgment passed by the CAT, Ernakulam Bench and Patna High Court and both these judgments have been confirmed by the Hon'ble Supreme Court. In the orders passed by the CAT, Ernakulam Bench and Patna High Court, it is nowhere stated that the order dated 7.03.2003 stands modified qua only to the applicants before the Court.

9. It is further submitted that the Hon'ble Supreme Court in **K. Ajit Babu and others Vs. Union of India and others**, (1996) 6 SCC 473

has held that the doctrine of precedent is applicable to Central Administrative Tribunal. It has held that wherever an application under Section 19 of the Act is filed and the question involved in the said application stands concluded by some earlier decision of the Tribunal, the Tribunal necessarily has to take into account the judgment rendered in the earlier case, as a precedent and decide the application accordingly.

10. The learned counsel for the applicants also referred to Bharat Sanchar Nigam Limited Vs. Ghamshyam Dass (2) (supra) where the Hon'ble Supreme Court held as follows:

"24. There was, therefore, a clear direction in the judgment of this Court in K.I. Shephard that the excluded employees, who had not approached the Court, shall also be entitled to the same benefits as the petitioners in that case were entitled under the judgment of this Court. In the present case, as we have seen, the Central Administrative Tribunal has not directed in its order dated 7.07.1992 in Santosh Kapoor case that the benefits of the order would also be extended to those who had not approached the Tribunal.

25. The principle laid down in K.I. Shephard that it is not necessary for every person to approach the court for relief and it is the duty of the authority to extend the benefit of a concluded decision in all similar cases without driving every affected person to court to seek relief would apply only in the following circumstances:

- a) where the order is made in a petition filed in a representative capacity on behalf of all similarly situated employees;
- b) where the relief granted by the court is a declaratory relief which is intended to apply to all employees in a particular category, irrespective of whether they are parties to the litigation or not;
- c) where an order or rule of general application to employees is quashed without any condition or reservation that the relief is restricted to the petitioners before the court; and

d) where the court expressly directs that the relief granted should be extended to those who have not approached the court.”

11. Based on the above, the applicants pray that since similarly placed persons have been granted same relief including arrears of pay from 1.01.1996 itself, they should also be granted the same.

12. The first objection of the respondents is that the OA filed by the applicants is hopelessly barred by limitation as more than a decade has passed when the government decided to allow upgraded scale to accounts staff on notional basis from 1.01.1996 and actual payment on prospective basis with effect from 19.02.2003. It is argued that the Hon’ble Supreme Court in **Bhoop Singh Vs. Union of India**, JT 1992 (3) SC 322 have held that the judgment and orders of the Court in other cases do not give cause of action and the cause of action has to be reckoned from the actual date. The Hon’ble Supreme Court held that:

“Inordinate and unexplained delay or laches is by itself a ground to refuse relief to the petitioner, irrespective of the merit of his claim. If a person entitled to a relief chooses to remain silent long, he thereby gives rise to a reasonable belief in the mind of others that he is not interested in claiming that relief.”

The learned counsel further relied upon **Dhiru Mohan Vs. Union of India**, Full Bench CAT 1989-1991 Vol. II page 498 where it has been held that as the Administrative Tribunals Act is special law and provides specific limitation, the Limitation Act cannot be invoked for deciding the question of limitation under this Act.

13. Learned counsel for the respondents argued that pay scales for various categories of government servants are decided by the government based on recommendations of the expert bodies like Pay Commission, Anomaly Committee etc. and while considering recommendations/ grant of pay scale to a category, various aspects viz. mode of recruitment, recruitment qualification, nature of duties and responsibilities, promotional avenues etc. have to be seen and the Hon'ble Supreme Court has held in catena of cases that determination of pay scale for a category is a complex job and is to be decided by the government based on recommendations of the Pay Commission [**State of U.P. Vs. J.P. Chaurasia**, AIR 1989 SC 12; **UOI and another Vs. P.V. Hariharan and another**, 1997 SCC (L&S) 838]. In **J.P. Chaurasia** (supra), the Hon'ble Supreme Court held that the matter of pay scale does not just depend upon either the nature of work or volume of work done as primarily what is needed to be noticed is evaluation of duties and responsibilities of the respective posts. More often than not, functions of two posts may appear to be the same or similar, but there may be difference in degrees in the performance, like the responsibility attached to a particular office. In such cases, it would not be open to the court to consider whether the equation of posts made by the Government or the pay scales accorded to them is right or wrong, as such matters are exclusively within the province of the Government. Perhaps the only question the court can enquire into is whether appropriate policy has been adopted by the Government which does not result in hostile discrimination which is a very narrow and limited area of enquiry. When equation of posts had been done on some basis, the same should not be

altered so as to equate with some other post and enhance their pay scales.

14. It is further argued that the core question of law involved in this matter is as to whether a category of employees who have been allowed higher/ upgraded pay scales based on Government's decision not specifically recommended by Pay Commission, is entitled for grant of the higher/upgraded scales from the date of implementation of Pay Commission Report or otherwise. This legal issue has already been settled by the Hon'ble Supreme Court in the matter of Arun Jyoti Kundu's case (CA No.2468-2469 of 2005). The Hon'ble Supreme Court while deciding the matter of Arun Jyoti Kundu vide their order dated 27.07.2007 have ruled as under:-

".....Once we find that it was open to the Government to extend a benefit to a set of its employees with effect from a particular day on the basis of some anomaly found in the report of the fifth Pay Commission, there would arise no discrimination because the very implementation of the Fifth Pay Commission Report would not entitle the respondents to any benefit. The very right to their benefit arose because of the decision of the Government to extent to them a particular benefit not specified in the Fifth Pay Commission Report. It is, therefore, not possible to postulate that the decision of the Government must be given retrospective effect and if no such effect is given, the tribunal or court can interfere and direct the giving of such retrospective effect. Once it is found that paragraph 83.296 is attracted to the case, it has to be found that the applicants before the Tribunal were not entitled to any relief".

“We are, therefore, of the view that the Central Administrative Tribunal has exceeded its jurisdiction in issuing the directions it has issued and the High Court was in error in not setting them aside. We, therefore, allow these appeals and setting aside the decision of the High Court and that of the Central Administrative Tribunal dismiss the OA filed before the CAT/Calcutta.....”

15. It is also argued that the matter of grant of pay scale by the Courts/ Tribunals over and above as recommended by the Pay Commission is to be considered as judgment *in personam* and not as if they are judgments *in rem*.

16. In counter to OA 536/2015, at para 2.6, the respondents have further stated that the applicants have attempted to equate their case with the category of Artisan Staff, Master Cook and Primary School Teachers. However, these cadres are distinct and not comparable at all with the Accounts Staff, the category to which the applicants belong.

17. In OA 3997/2014, Shri Krishna Kumar, learned counsel for the respondents also raised the issue that this OA is not maintainable also on the ground that the applicants have accepted the pay scale in the year 2003 without any protest and later they cannot agitate on the same. He argued that when the Hon'ble Supreme Court vide order dated 7.07.2014 dismissed the SLA, it observed that “This is without prejudice to the rights of other claimants which will be adjudicated on its own merit as and when any such claim is raised” and thus it would not be applicable

here but only in respect of those whose cases are pending before any Court.

18. Lastly, it is argued that if the applicants' prayer is accepted, this will lead to a huge financial implication of Rs.200 crores for Railways alone and for the other departments of Central Government, it will cause financial implication of about Rs.800 crores. In this regard, reliance was placed on **State of Punjab Vs. Amar Nath Goyal**, (2005) 6 SCC 754 and it was stated that the Hon'ble Supreme Court in several cases has ruled that financial implications have definite role in fixing a specific date while deciding such cases and taking decision in that regard.

19. Shri Kripa Shankar Prasad learned counsel for the respondents mentioned that the Hon'ble Supreme Court in Special Leave to Appeal No.1587-1588/2014 (supra) has clearly stated that their order was without prejudice to the rights of other claimants which will be adjudicated on its own merit as and when any such claim is raised. It is argued, therefore, that this would clearly mean that the claim of the applicants has to be examined on merits and not on the mere fact that similarly placed persons have been granted benefit by the Hon'ble High Courts of Kerala and Patna.

20. On reliance upon the judgment in J.P. Chaurasia (supra), learned counsel for the applicants submitted that both CAT, Ernakulam Bench as well as Patna High Court have decided the case in favour of the applicants after arriving at the conclusion that the applicants have been meted with

hostile discrimination in not granting arrears from 1.01.1996 to 18.02.2003.

21. We have heard learned counsel for the parties, gone through the pleadings available on record and perused the judgments cited.

22. On the question of limitation, we agree with the learned counsel for the applicants that it is only after the Hon'ble Supreme Court's judgment that they could approach the respondents in August 2014 for redressal of their grievances and, therefore, while filing the OA in February 2015, there has been no delay. This objection of the respondents is, therefore, not sustainable.

23. On merits of the case, we find that the Pay Commission had recommended a certain scale for these categories of staff. The government in its wisdom, later on, revised the pay scales with effect from 1.01.1996 notionally but permitted the benefits from 18.02.2003. The Patna High Court gave the benefit of arrears from 1.01.1996 on the ground that three other cadres *namely* Artisan Staff, Master Cook in Catering, Medical and Canteen and Primary School Teachers of Indian Railways have been given the benefit from 1.01.1996 whereas the Accounts Assistants were denied this benefit and the respondents failed to explain as to why Accounts persons had been treated differently. The Ernakulam Bench of the CAT in its order in OA 671/2003 relied on Full Bench order of the Tribunal in **Pradeep Kumar Sharma and others Vs. Union of India and others**, 2003 (1) ATJ 1 where similar issue in

respect of Data Entry Operator Group 'A' in the Department of Census was considered and benefit was given. Therefore, a situation has arisen where large number of employees pertaining to this category in the Railways have been given the monetary benefit of higher pay scale from 1.01.1996 and another category of employees have only been given notional benefits. This clearly creates discrimination within the same category of employees. On the other hand, the Hon'ble Supreme Court vide its order dated 7.07.2014 in Special Leave to Appeal no.1587-1588 /2014 (supra) has directed that the relief granted by CAT as affirmed by the High Court shall be confined to the parties before the Tribunal as well as before the High Court. Further it left it open for new cases to be decided on merits, which means that it has in effect nullified the judgment of the Patna High Court that the Writ Petition has to be in a representative category for all employees of the Accounts Establishment of the Indian Railways, all of whom shall get the benefits of appropriate pay-scales w.e.f. 1.01.1996, and the judgment of the Patna High Court would be applicable to the petitioners in the aforesaid writ only.

24. In our view, the issue here is not of deciding pay scales. That has already been decided by the government and according to P.V. Hariharan (supra) is best left to government to decide on recommendations of expert bodies like a Pay Commission. The issue here is that once the Pay Commission has recommended a pay scale and thereafter the government in its wisdom revised the same with effect from the date the Pay Commission recommendations have been made effective i.e. 1.01.1996, does it automatically mean that all monetary benefits are also

to be given from that date i.e. 1.01.1996. We feel that this purely a matter for the government to decide based on several factors including the financial burden to the exchequer, which in this case has been pointed out to be a huge burden. Had it been a recommendation of the Pay Commission and if different employees had been given benefits from different dates, then there would have been a question of discrimination. This is not an isolated case where the government has upgraded the pay scale of a category of employees after the implementation of the recommendations of the Pay Commission. For example, the pay scale of Assistants and Steno Grade 'C' was upgraded from Rs.5500-9000 to Rs.6500-10500 vide DoP&T order dated 25.09.2006, which reads as follows:

"The undersigned is directed to say that the issue of perceived anomaly in the pay scale of Assistants/PAs in the CSS/CSSS vis-à-vis Inspectors/analogous posts in Central Board of Direct Taxes/Central Board of Excise & Customs has been engaging the attention of the Government for some time. It has now been decided that the pay scale of the posts of Assistants in the Central Secretariat Service (CSS) and the Personal Assistants (Steno Grade 'C') of the Central Secretariat Stenographers' Service (CSSS) shall be upgraded to the scale of Rs.6500-200-10500/-. This upgradation has been done as an exception **specific to Assistants of CSS and the Steno Grade 'C' of CSSS only**, and will take effect from the 15th September 2006."

The scale was not even revised from 1.01.1996, the date of implementation of 5th CPC scales.

25. It will be clear from the above quoted order that this upgradation was not recommended by the Pay Commission but was a result of policy decision taken by the government in September 2006 and the pay revision benefits were given from 15.09.2006. Therefore, this is clearly

within the domain of the government to decide from which date a particular pay scale would be made effective. This view is consistent with the ratio laid down by the Hon'ble Supreme Court in Arun Jyoti Kundu (supra) case. Moreover, as stated earlier, the Hon'ble Supreme Court by its order dated 7.07.2014 in Special Leave to Appeal no.1587-1588/ 2014 (supra) has confined the earlier CAT order as affirmed by the High Court to the parties before CAT/ High Court and further left it open for new cases to be decided on merits.

26. In view of above discussion, we are of the view that this cannot be treated as a case of hostile discrimination at all. We are, therefore, not inclined to interfere in the matter. The OAs are accordingly dismissed. No costs.

(P.K. Basu)
Member (A)

(Syed Rafat Alam)
Chairman

/dkm/