

**CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH :: HYDERABAD**

**OA/020/194/2020 & 21/195/2020**

**Date of CAV: 17.01.2022**

**Order Pronounced on: 09.02.2022**



**Hon'ble Mr. Ashish Kalia, Judl. Member  
Hon'ble Mr. B.V. Sudhakar, Admn. Member**

**OA No. 194/2020**

1. P.V.S. Prakasa Rao,  
S/o P.Pallaiah, Aged 65 Years  
Occ: Retd, Superintendent  
R/o Narsapur-534275
2. S.M.S.S.V. Prasad,  
S/o Late Sri Narasimha Rao, Aged 60 Years  
Occ: Retd. Superintendent  
R/o Eluru -534001
3. K. Venkateswara Rao,  
S/o K.Kotaiah, Aged 59 Years  
Occ: Superintendent,  
R/o Narasaraopet-522601
4. K. Malakonda Reddy  
S/o Late Sri Subba Reddy, Aged 67 Years,  
Occ: Retd. Superintendent, R/o Ongole-523002
5. D. Satyanarayana,  
S/o Late Sri Narasaiah, Age 61 Years,  
Occ: Retd. Superintendent,  
R/o Chimakurthy-523226
6. G.V. Ramana,  
S/o Late Sri Rama Rao, Aged 65 Years,  
Occ: Retd. Superintendent, RMS,V Dn.,  
R/o Hyderabad-500103
7. Arbind Panda,  
S/o Late Sri LakshmanPanda, Aged 60 Years,  
Occ: Retired Assistant Director Postmaster General, Visakapatnam  
R/o Visakhapatnam-530040
8. P.S. Satyanarayana,  
S/o Late Sri Veeraswamy, Aged 68 Years,  
Occ. Retd. Superintendent PSD,  
R/o Hyderabad-500049



9. V. Venkateswarlu,  
S/o Kondaiah, Aged 64 Years,  
Occ: Retd. Superintendent, Buchireddipalem-524305
10. B. Rayappa,  
S/o B.Lourdaiah, Aged 66 Years,  
Occ. Retd. Assistant Director the Postmaster General, Vijayawada,  
R/o Vijayawada-520008
11. B. Narayanaswamy ,  
S/o Late B.Venkatanna , Aged 62 Years,  
Occ: Retd. Assistant Superintendent,  
R/o Anantapur-
12. B. Bhaskar,  
S/o Late Sri B.Gnanappa, Aged 66 Years,  
Occ: Retired Superintendent,  
R/o Kurnool-518002
13. P. Venkatesu,  
S/o Late Sri P.Narayanappa, Aged 66 Years,  
Occ: Retired Superintendent,  
R/o Anantapur-515004
14. N. Gopal Reddy,  
S/o Late Sri N.NarayanaReddy, Aged 65 Years,  
Occ: Retired Superintendent,  
R/o Anantapur-515004
15. B. Mallikarjuna Sarma,  
S/o Late Sri S.Narasimhulu, Aged 57 Years,  
Occ: Superintendent, PSD  
R/o Guntakal-515801
16. T. Veeraraghavulu,  
S/o Subbaiah, Aged 57 Years,  
Occ: Assistant Director Postmaster General,  
R/o Vijayawada-520003
17. B. Mohammad Ismail,  
S/o Late Sri B.Abdullasha, Aged 57 Years,  
Occ: Assistant Ditector, the Postmaster General,  
R/o Kurnool-518002
18. A. Kantha Rao,  
S/o Late Sri Krishnamurty, Aged 57 Years,  
Occ: Superintendent,  
R/o Parvathipuram-535501
19. P.S. Chandrasekhar,  
S/o Late Sri Radhakrishnamurthy, Aged 63 Years,  
Occ: Superintendent  
R/o Rajahmundry-533101



20. A. Eswara Rao,  
S/o Harinarayana, Aged 56 Years  
Occ: Superintendent  
R/o Kakinada-533001
21. D. Narasimha Rao,  
S/o Late Sri Venkatanarsu, Aged 58 Years,  
Occ: Assist Director % Postmaster General  
R/o Vijayawada-52000
22. K. Srikumar,  
S/o Late Sri K.Parthasaradhi Pillai, Aged 60 Years  
Occ: Retired Superintendent  
R/o Tirupati-517501
23. T.N. Murty,  
S/o Late Sri Subba Rao, Aged 61 Years,  
Occ: Retd.Superintendent  
R/o Visakhapatnam-530017
24. N. Subba Rao  
S/o N.Thata Rao, Aged 63 Years  
Occ: Assistant Superintendent,  
R/o Amalapuram-533201
25. Y. Venkateswarlu,  
S/o Late Sri Yadamma Pentaiah, Aged 56 Years,  
Occ: Superintendent  
R/o Vijayawada-520002
26. K.V.V. Satyanarayana,  
S/o Ramanna, Aged 57 Years,  
Occ: Superintendent,  
R/o Anakapalle-531001
27. J. Sreenivasulu,  
S/o Chalapathaiah, Aged 57 Years,  
Occ: Sr. Superintendent,  
R/o Viajayawada-520001
28. D. Ramanaiah,  
S/ D.Yanadaiah, Aged 58 Years,  
Occ: Sr. Superintendent,  
R/o Bhimavaram-534201
29. Y.S. Narsinga Rao,  
S/o Late Rama Rao, Aged 57 Years  
Occ: Superintendent  
R/o Srikakulam-532410
30. V. Gopal Krishna,  
S/o Late.V.K.Murthy, Aged 67 Years,  
Occ: Retd.Superintendent  
R/o Visakhapatnam-530048

31. A.B.V.M. Durga Rao,  
S/o Late.Vekata Rao, Aged 72 Years,  
Occ: Retd.Superintendent  
R/o Rajahmundry-533124
32. A. Prabhakara Rao,  
S/o Satyanarayana, Aged 71 Years,  
Occ: Retd Assistant Director % Postmaster General, Kurnool,  
R/o Vizianagaram-535003
33. D. Sitarama Murthy,  
S/o Late.Jagannadha Rao, Aged 73 Years  
Occ: Retd. Assistant Superintendent,  
R/o Vizianagaram-535003
34. S. MD.Iqbal,  
S/o Late Sri S.MD.Ali, Aged 58 Years,  
Occ: Assistant Director, % the Postmaster General,  
R/o Kurnool-518002
35. K. Nageswara Rao,  
S/o Late K.Subbaiah, Aged 60 Years  
Occ: Retd. Superintendent of Post offices,  
R/o Cuddapah-516004
36. B. Simhachalam,  
S/o Late Rami Naidu Aged 69 Years,  
Occ: Retd. Superintendent  
R/o Warangal-506004
37. R. Venkataramudu,  
S/o R.Gopi Aged 68 Years,  
Occ: Retd. Superintendent  
R/o Guntupalle, Railway Wagon workshop, Ibrahimpatnam-521241;
38. P. Surya Rao,  
S/o YerukuNaidu, Aged 71 Years,  
Occ: Retd. Postmaster  
R/o Visakhapatnam-530043
39. K.L. Naidu,  
S/o Late Yerraiah, Aged 61 Years,  
Occ: Retd. Superintendent,  
R/o Srikakulam-532001
40. B. GopalaKrishna,  
S/o Ramaraju, Aged 73 Years,  
Occ: Retd. Sr. Postmaster,  
R/o Nellore-524003
41. B. Gurunatha Rao  
S/o Ramulu, Aged 68 Years,  
Occ: Retd. Superintendent,  
R/o Vizianagaram-535002





42. G. Shanmukheswara Rao  
S/o Late Narayanaswamy, Aged 61 Years,  
Occ: Retd. Superintendent,  
R/o Vizianagaram-535003
43. M. Murali Mohan Rao,  
S/o Late.Kurmadas, Aged 63 Years,  
Occ: Retd. Superintendent,  
R/o Vizianagaram-535003
44. R. Veerabhadra Rao,  
S/o Late Appanna, Aged 71 Years,  
Occ: Retd Superintendent  
R/o Vizianagaram-535002
45. M.H. Hanumantha Rao,  
S/o Late Pedda Subba Rao, Aged 72 Years,  
Occ: Retd. Superintendent,  
R/o Anantapur-515004
46. T.R. Prabhakar Rao,  
S/o Late Gurubrahmam, Aged 70 Years,  
Occ: Retd. Assistant Director % Postmaster General, Vijayawada,  
R/o Eluru-534001
47. KVSL Narasimha Rao  
S/o Late .Rama Rao, Aged 61 Years,  
Occ: Retd Assistant Director % CPMG Vijayawada,  
R/o Rajahmundry-533101
48. T.V.R. Narasimha Rao,  
S/o Suryanarayana, Aged 71 Years,  
Occ: Superintendent,  
R/o Gollapudi-521225
49. K.A. Sambasiva Rao,  
S/o Late Radhakrishna Murthy, Aged 61 Years,  
Occ: Assistant Director % Postmaster General, Vijayawada,  
R/o Guntur-522004
50. D.Venkata Ramanaiah,  
S/o Late.D.Naga Ratnaiah, Aged 67 Years,  
Occ: Retd. Superintendent,  
R/o Cuddapah-516004
51. P. Ramachandraiah,  
S/o Late P.Chinnabba, Aged 68 Years,  
Occ: Retd. Superintendent ,  
R/o Tirupati-517507
52. LSN Murthy,  
S/o L.Subba Rao Aged 63 years,  
Occ: Retd. Sr. Superintendent,  
R/o Vijayawada-520002

53. C.H.L.N. Sastry,  
S/o Late Nageswara Sarma, Aged 68 Years,  
Occ. Retd. Assistant Director % Postmaster General, Visakhapatnam,  
R/o Visakhapatnam-530020
54. K. Hanumantha Rao,  
S/o Late Ramakotaiah, Aged 70 Years,  
Occ: Retd Superintendent  
R/o Guntur-522007
55. T. Kanna Rao,  
S/o Late T.Punnayya, Aged 69 Years,  
Occ: Retd. Superintendent,  
R/o Parvathipuram-535501
56. K. Ramakrishna,  
S/o Late Sembhu Naidu Aged 71 Years  
Occ: Retd. Superintendent,  
R/o Vizianagaram-535003
57. B. Devaprasad,  
S/o Late. B.Job, Aged 71 Years,  
Occ: Retd. Assistant Director % Postmaster General,  
R/o Visakhapatnam-530041
58. G. Suryanarayana,  
S/o Late Kanakaraju, Aged 69 Years,  
Occ: Assistant Director, CO Delhi Circle,  
R/o Mugapaka -531003
59. P. Venkataswamy,  
S/o Late Pedda Ramulu, Aged 54 Years,  
Occ: Superintendent  
R/o Tadepallegudem
60. K. Nagabhushanam,  
S/o Late.K.Mosesh, Aged 60 Years,  
Occ: Retd. Superintendent,  
R/o Dhone-518222.
61. S. Munirathnam,  
S/o Late.Ramakrishna Chary, Aged 71 Years  
Occ: Retd. Superintendent,  
R/o Guntur-522034
62. K. Swami Naidu,  
S/o Late Swami Naidu, Aged 71 Years,  
Occ: Retd Superintendent,  
R/o Hyderabad-500049
63. K. P.Bhaskar Rao,  
S/o Vandanam, Aged 69 Years,  
Occ: Asst.Superintendent,



R/o Hyderabad-500072

64. M. Srinivasulu,  
S/o Late Narayanasetty, Aged 71 Years,  
Occ: Retd. Superintendent,  
R/o Anantapur-515005
65. M. Ramana Murthy,  
S/o Late.Samba Murthy, Aged 60 Years,  
Occ: Retd Assistant Director % Postmaster General, Visakhapatnam,  
R/o Visakhapatnam-530048
66. P. David  
S/o Late P.Abraham, Aged 69 Years,  
Occ: Retd. Superintendent,  
R/o Ongole-523001
67. B. Rajarathnam,  
S/o Late B.Pedda Thata Rao, Aged 71 Years  
Occ; Retd.Superintendent,  
R/o Ongole-523001
68. Y. Reddamma.  
W/o Late C.Jayadeva Achary, Aged 67 Years,  
Occ: Retd. Superintendent,  
R/o Hyderabad-500038
69. M. Srinivasa Murthy,  
S/o M.V.Ramana Murthy, Aged 55 Years  
Occ: Assistant Superintendent,  
R/o Vijayawada-520002
70. J. Janardhana Rao,  
S/o Late Musalayya Aged 57 Years,  
Occ: Retd . Assistant Superintendent  
R/o Vizianagaram-535002
71. N.G.R. Bhaaskar Babu,  
S/o N.G.K. Chakravarthi, Aged 69 Years  
Occ:Retd. Superintendent,  
R/o Elur-534007
72. D. Sreeramulu Naik,  
S/o Late.D.Naga Naik, Aged 63 Years,  
Occ: Retd. Superintendent,  
R/o Kurnool-518005
73. P. Venugopal Rao,  
S/o P.Vekatasubba Rao, Aged 57 Years  
Occ: Superintendent,  
R/o Elur-534007
74. D. Tirupati Rao,  
S/o Late.Suranna, Aged 71 Years,



Occ: Retd. Superintendent,  
Rajahmundry-533101

75. Y. Sydulu,  
S/o Venkatanarasaiah, Aged 71 Years,  
Occ: Retd. Superintendent,  
R/o Hyderabad-500089
76. R. Govindaswamy,  
S/o Late R.Munaswamy, 71 Years,  
Occ: Retd. Superintendent,  
R/o Puttur-517583
77. S.Chengamuni,  
S/o Chengaiah, Aged 71 years,  
Retd. Superintendent,  
R/o Punganur-517247
78. M. Guruvaiah,  
S/o Late Gangaiah, Aged 69 Years,  
Occ: Retd. Assistant Superintendent,  
R/o Tirupati-517 503
79. G. Sreenivasamurthy,  
S/o Late Sri G.V.L.Narasimham, Aged 60 Years,  
Occ: Retd. Superintendent  
R/o Kavali- 524201
80. K. Parthasaradhi,  
S/o K.Sreenivasacharlu, Aged 71 Years,  
Occ: Retd.Superintendent,  
R/o Hindupur-515201
81. M.B. Chandrsekhar,  
S/o Isaac, Aged 71 years,  
Occ: Retd. Superintendent,  
R/o Anantapura-515004

... Applicants

(By Advocate: Sri Siva)

**AND**

1. The Union of India, Ministry of Communications and IT, Department of Posts, Dak Bhawan, New Delhi, Represented by its Secretary.
2. The Union of India, Ministry of Finance Department of Expenditure/ (Revenue), New Delhi, Represented by its Secretary.
3. The Chief Postmaster General, Andhra Pradesh Circle, Krishna Lanka, Vijayawada-520013.

... Respondents

(By Advocate: Sri T. Hanumantha Reddy, Sr. PC for CG)

OA No. 195/2020

1. M. Manmadha Rao,  
S/o Late Balaji, Aged 57 Years  
Occ: A.D Mails O/o CPMG T.S. R/o Hyderabad-500086
2. K. Venkatarami Reddy,  
S/o Late Sri Narasimha Rao, Aged 58 Years  
Occ: Sr.Superintendent, Hyderabad City Dn  
R/o Hyderabad-500001
3. P. Radhakrishna,  
S/o P.S.Sastry, Aged 61 Years  
Occ: Retd.Sr.Superintendent, Hyderabad Sorting Dn  
R/o Hyderabad-500097
4. K. Sivanageswara Rao,  
S/o Late Sri K.Narayana, Aged 61 Years,  
Occ: Retd.Asst. Postmaster General, Tealanga Circle,  
R/o Hyderabad-500088
5. V.V.V. Sivaprasada Rao,  
S/o Late Sri Narasimha Rao, Age 60 Years,  
Occ: Retd. Retd.Asst. Postmaster General, Tealanga Circle,  
R/o Tenali-522201
6. T.V.V. Satryanarayana,  
S/o T.Brahmanandam, Aged 58 Years,  
Occ: Asst.Director, Telangana, Circle,  
R/o Hyderabad-500001
7. J. Pandari, S/o Muthaiah, Aged 57 Years,  
Occ: Superintendent R/o Peddapalle-505172
8. A. Padmanabha Setty,  
S/o Late Sri Veeraiah Setty, Aged 63 Years,  
Occ. Retd. Asst. Divisional Manger (PLI), Telangana Circle,  
R/o Hyderabad-500019
9. P. Rambabu,  
S/o Late Sri Dakshina Murthy Aged 67 Yeas  
Occ: Retd.Sr.Superintendent, Hyderabad Sorting Dn  
R/o Hyderabad-500089
10. S. V.S.Kamaraj,  
S/o Late Sri S.Seshagiri Rao, Aged 69 Years,  
Occ: Retd.Asst. Postmaster General, Telangana Circle,  
R/o Hyderabad-502032
11. P. Somasekhar,  
S/o Late Sri P.Krishnaiah, Aged 66 Years,  
Occ: Retd.Superintendent, Z Division,  
R/o Hyderabad-500097



12. G.V. Satyanarayana,  
S/o G. Appalachar, Aged 62 Years,  
Occ: Retd . Superintendent, Z Division,  
R/o Hyderabad-500070
13. M.N. Raju, S/o Sivarama Raju, Aged 61 Years,  
Occ: Retd. Asst. Director, Hyderabad Region.  
R/o Hyderabad-500085
14. G.V. Rao,  
S/o Satyanarayana, Aged 58 Years,  
Occ: Asst. Director, Hyderabad (HQ),  
R/o Hyderabad-500001
15. Syed Muzaffer Quadri,  
S/o Syed Mohammad Quadri, Aged 67 Years,  
Occ: Retd Superintendent, CSD,  
R/o Hyderabad-500059
16. P. Siddaiah,  
S/o Late Sri Khasim Saheb, Aged 64 Years,  
Occ: Retd Assistant Director, the Postmaster General, Hyderabad Region,  
R/o Badvel-516227
17. D.V. Mahidhar,  
S/o D. Suruswamy Naidu, Aged 63 Years,  
Occ: Retd. Manager, SPCC, Hyderabad,  
R/o Hyderabad-500089
18. M.V. Muralidhar,  
S/o Late Sri Narasimhaswamy, Aged 60 Years,  
Occ: Retd Sr. Superintendent, South East Dn, Hyderabad,  
R/o Hyderabad-500035
19. P. Sivasankaraiah,  
S/o Munesulu, Aged 58 Years  
Occ: Superintendent, Z Division,  
R/o Hyderabad-500001
20. N. Harimuthyam,  
S/o Late Sri Koteswara Rao, Aged 67 Years,  
Occ: Retd Sr. Superintendent, South East Dn, Hyderabad,  
R/o Hyderabad-500097
21. Y.V. Krishna Rao,  
S/o Late Sri Ramaiah, Aged 59 Years  
Occ: Asst. Superintendent  
R/o Parakala-506164
22. P. Rangayya Naidu,  
S/o Late Sri Suryanarayana Murthy, Aged 63 Years,  
Occ: Retd. Asst. Director, Marketing, Telangana Circle,  
R/o Eluru-534005



23. C. Jayarami Reddy  
S/o Late Sri C.Thimmi Reddy, Aged 61 Years  
Occ: Retd. Superintendent, Nalgonda,  
R/o Gangaboyanapalle, Chinthaparthi-517277
24. B. Udaya Sankar Rao,  
S/o Lat Sri Seethaiah, Aged 65 Years,  
Occ: Retd.Superintendent, CSD,  
R/o Kolakalur-522307 Guntur Dist
25. T. Prabhakaram,  
S/o Late Sri Sarraju, Aged 71 Years,  
Occ: Retd.Superintendent,  
R/o Rajahmundry-533103
26. B. Syed Imam,  
S/o B.C.Khaja Hussain, Aged 62 Years,  
Occ: Retd Assistant Superintendent,  
R/o Hyderabad-500054
27. G. Dada Khalander,  
S/o Late Sri Khaja Mohiddin, Aged 62 Years,  
Occ: Retd.Asst.Superintendent,  
R/o Hyderabad-5500089
28. K. Srinivasa Rao,  
S/ o Late Sri Suryaprakash Rao, Aged 56 Years,  
Occ: Asst.Superintendent,  
R/o Suryapet-508213
29. Mohd. Yousuf, S/o Late Mohd Jamal, Aged 67 Years  
Occ: Retd Sr.Superintendent, Hyderabad Stg Division,  
R/o Hyderabad-500064
30. A. Venkatesu,  
S/o Late.Lingappa, Aged 66 Years,  
Occ: Retd.Chief Postmaster, GPO,  
R/o Hyderabad-500020
31. Dornala Sattaih, S/o Ganagaiah, Aged 55 Years,  
Occ: Asst.Superintendent,  
R/o Siddipet-502103
32. M. Krishnamurthy,  
S/o Late Gopalam, Aged 66 Years,  
Occ: Retd. Asst.Director, C.O. Hyderabad,  
R/o Hyderabad-500035
33. T.R.K.M.M. Niranjana Rao,  
S/o Late Thota Durga Rao, Aged 68 Years,  
Occ: Retd.Asst. Director, C.O.,Hyderabad  
R/o Hyderabad-500062
34. V.V. Ramana Murthy  
S/o Nooka Raju , Aged 71 Years,

Occ: Retd. Superintendent, PSD, Hyderabad,  
R/o Hyderabad-500060

35. B.K.M. Satyanarayana,  
S/o Late SambaMurthy, Aged 67 Years,  
Occ: Retd.Sr.Superintendent, Nizamabad,  
R/o Hyderabad-500038
36. V. Ragahava Raju,  
S/o Late Narayana Raju, Aged 70 Years,  
Occ: Retd.Superintendent, CSD, Hyderabad,  
R/o Vijayawada-520003
37. P. Nageswara Rao,  
S/o P.Kotaiah, Aged 71 Years,  
Occ: Retd Superintendent, Hyderabad Stg,  
R/o Vijayawada-520012
38. Mohd. Nayeemullah,  
S/o Late Mohd. Shafiullah, Aged 68 Years,  
Occ.Retd.Superintendent,  
R/o Nizamabad-503001
39. R. Ramakrishna,  
S/o Late R. Venkatapathi, Aged 58 Years,  
Occ: Asst.Superintendent, Hyderabad SouthSub Dn,  
R/o Hyderabad-500087
40. Ch. Someswara Rao,  
S/o Late.Bhavanarushi, Aged 68 Years,  
Occ: Retd.Sr.Superintendent, Hyderabad Stg.Dn,  
R/o Hyderabad-500097
41. R.V. Ramana Rao  
S/o Late.Venkat Rao, Aged 73 Years,  
Occ: Retd. Superintendent,  
R/o Hyderabad-500070
42. P.C. Rama Murthy  
S/o Latre.Narayanaswamy, Aged 71 Years,  
Occ: Retd.Asst.Director, CO Telangana,,  
R/o Hyderabad-500049
43. A. Venugopal Rao,  
S/o Srihari Rao, Aged 66 Years,  
Occ: Retd.Superintendent,  
R/o Kavali-524201
44. R. Subhani, S/o Moulali, Aged 56 Years,  
Occ: Asst.Superintendent, Cental Sub Division, Hyderabad South East,  
R/o Hyderabad-500066
45. K. Audi Murthy,  
S/o Late Lakshminarasimham, Aged 59 Years,  
Occ: Superintendent,



R/o Medak-502110

46. Nanda Banoth,  
S/o Late Chandru Naik, Aged 44 Years,  
Occ: Superintendent,  
R/o Nalgonda-508001

47. D. Thulasi Rao  
S/o Late Sriramulu, Aged 67 Years,  
Occ: Retd.Superintendent,  
R/o Srikakulam-532001



48. T. Venkata Rao, S/o Late Gangaiah, Aged 66 Years,  
Occ: Retd.Chief Postmaster,GPO,  
Hyderabad-500050

49. P. Venkateswara Rao,  
S/o Venkatanarayana Rao, Aged 61 Years,  
Occ: Retd.Assistant Director Postmaster General, Hyderabad region,R/o  
Hyderabad-500056

50. N.V. Prakasa Rao,  
S/o N.V.Vhalapathi Rao, Aged 66 Years,  
Occ: Retd.Chief Posmaster, GPO,  
R/o Hyderabad-500090

51. A. Sreerama Murthy,  
S/o Late Venkateswarlu, Aged 73 years,  
Occ: Retd.Superintendent,  
R/o Tenali-522201

52. M. Seshagiri, S/o Late.M.Satyanarayana, Aged 60 Years,  
Occ: Retd Assistant Director, % The Postmaster General, Hyderabad  
Regon,R/o Hyderabad-500001

53. J. Raja Rao, S/o Late.J.Rajappadu, Aged 71 Years,  
Occ: Retd.Superintendent,  
R/o Vizianagaram-531001

... Applicants

(By Advocate: Sri Siva)

**AND**

1. The Union of India, Ministry of Communications and IT, Department of Posts, Dak Bhawan, New Delhi, Represented by its Secretary
2. The Union of India, Ministry of Finance Department of Expenditure/ (Revenue), New Delhi, Represented by its Secretary
3. The Chief Postmaster General, Telangana Circle, Abids  
Hyderabad – 500 0001.

... Respondents

(By Advocate: Sri B. Siva Sankar, Addl. CGSC)

**COMMON ORDER**  
**(As per Hon'ble Mr. B.V. Sudhakar, Admn. Member)**



2. The OAs are filed in regard to up-gradation of the Grade pay (*for short GP*) of the Asst. Post of Post Offices (*for short ASP*) to Rs.4800 and that of the Supdt. of Post offices (*for short SP*) to Rs.5400 w.e.f 1.1.2006 consequent to the up-gradation of GP of Inspector of Posts (*for short IP*) from 1.1.2006 by the respondents. The relief sought being identical from the same respondents a common order is passed in respect of both the OAs.

3. Brief facts of the case are that the applicants were appointed as Inspectors of Posts on various dates in the Dept. of Posts (*for short DOP*) and further promoted as Asst. Supdt. of Posts and Supdt. of Post Offices on seniority basis. As on the date of implementation of the 6<sup>th</sup> CPC, the applicants were working as IP, ASP & SP respectively and some of them have retired in different grades referred to. After around 11 years from the date of implementation of 6<sup>th</sup> CPC, DOP issued a memo dated 24.10.2017 with the approval of the Ministry of Finance (*for short MOF*) vide Inter Departmental note (*for short I.D note*) dated 18.10.2017, upgrading the grade pay of IP from Rs.4200 to Rs.4600 with retrospective effect from 1.1.2006. Consequentially the grade pays of the promotional posts of ASP & SP were not augmented, despite 6<sup>th</sup> CPC recommendations having been accepted by the Govt. of India (*for short GOI*). Aggrieved over the same, the OA is filed.

4. The contentions of the applicant are that the OM dated 24.10.2017 issued by the respondents is not in consonance with para 7.6.14 of the 6<sup>th</sup> CPC report. The Grade pay (*for short GP*) was enhanced to



Rs.4600 from Rs.4200 for IP whereas those of the promotional posts of ASP & SP were not upgraded. The fact that the GP of Rs.4600 was given to pay scale of Rs.9300-34800 would imply that the IP scale was increased from Rs.6500-10,500 to Rs.7450-11,500 and the same was not reflected in the cited memo. Not increasing the grade pay of ASP/SP is hostile discrimination. DOP erred in citing the grade pay of Rs.5400 being same for AO/Sr. AO & ACAO to justify the grade pay of ASP of Rs.4600 to be on par with that of IP, as per paragraph 11(a) of ID note of DOP dated 26.4.2012. Successive Pay Commissions have recommended higher pay scales/GP to ASP/SP posts and accepted by the GOI. DOP cannot deviate from the accepted recommendations of an expert body like the 6<sup>th</sup> Pay Commission at para 7.6.14 that have attained a statutory status with the issue of the resolution dated 29.8.2008. DOP has admitted that the ASP cadre carries higher duties and responsibilities and for higher responsibility, higher pay is warranted. DOP did recommend higher grade pay of Rs.4600 to IP with consequential hikes for ASP/SP of Rs.4800/ Rs.5400 respectively along with matching savings to take care of the expenditure but not found favour with MOF and hence the challenge before the Hon'ble Ernakulam Bench of this Tribunal in OAs 381 of 2010 & 289 of 2013 respectively leading to grant of GP of Rs.4600 to IP. The hike for IP was thus pursuant to the orders of the Tribunal and not as per recommendations of MOF, as claimed by the respondents. The increase in GP for ASP/SP though observed by the Tribunal was not adhered to. In 7<sup>th</sup> CPC, higher pay scale/GP has been recommended to ASP than IP as well as for SP and it has been implemented from 1.1.2016 with the approval of MOF on 18.10.2017. Neither the duties of ASP & IP have changed between 1.1.2006 & 1.1.2016

nor the cadres merged to reject the higher GP for ASP/SP. Rule 16 of CCS (RP) Rules, 2008, dated 29.8.2008 have not been usefully invoked to resolve the grievance. Applicants have cited Hon'ble Supreme Court judgments in support of their contentions.



5. Respondents in their reply statement admit that the ASP post is the promotional post for the IP cadre and it is also the feeder cadre for the post of SP. As per 6<sup>th</sup> CPC, the grade pay of IP was Rs.4200, ASP Rs.4600 and that of SP Rs.4800. When the Inspectors in Income Tax/ Central Excise Department were granted the grade pay of Rs.4600 vide OM of GOI dated 13.11.2009, DOP did propose similar hike in the 6<sup>th</sup> CPC regime, but was rejected by MOF, on the ground that IP cannot be equated with the Inspectors of Income Tax/ Central Excise/ Assistants of CSS and analogous posts. When it came to 7<sup>th</sup> CPC, for the post of IP the grade pay of Rs.4600, ASP- Rs.4800 and SP-Rs.5400, corresponding to the relevant ascending levels, were granted after the recommendations were accepted by GOI. However, with the intervention of the Hon'ble Ernakulam Bench of this Tribunal the grade pay of IP was augmented to Rs.4600 with the approval of MOF vide ID note dated 18.10.2017 for the period from 1.1.2006 to 31.12.2015 and ASP post the GP of Rs.4600 was retained in tune with the recommendation of DOP in their ID note dated 26.4.2012 & OM dated 24.10.2017. There is no inherent impingement of the recommendations of the 6<sup>th</sup> CPC contained in Para 7.6.14. Prior to the 6<sup>th</sup> CPC, there was imbalance between the pay scales of the Superintendents and the inspectors of DOP and Dept of Revenue. MOF in October 2017 intimated that the IP and the ASP posts will have the same grade pay of Rs.4600. Successive Pay

Commissions have reduced the number of pay scales and in 6<sup>th</sup> CPC, it was made clear, that in case the feeder/promotional posts are in the same grade pay, the benefit of FR 22(I)(a)(1) will be extended. Accordingly, orders were issued in 4<sup>th</sup>, 5<sup>th</sup> & 6<sup>th</sup> CPCs and in 6<sup>th</sup> CPC, para 3.8.3 (g) speaks of the merger of pay scales. The existence of same grade pay for the feeder and the promotion posts exists in the Railways, Narcotics Control Bureau etc. and that the interests of those in the promoted post have been protected by ensuring their seniority and fixing higher pay in the revised pay band along with the promotional increment. Hence, for reasons stated, DOP had no objection in having identical pay scales for the two posts in the period specified. The CCS (RP) Rules provide for grant of grade pay of Rs.4600 to ASP during the 6<sup>th</sup> CPC regime. Historically, Sr. AO and ACO were placed in identical pay scale and even in 6<sup>th</sup> & 7<sup>th</sup> CPC, whereas IP/ASP have been placed in distinct pay scales except in 6<sup>th</sup> CPC. The OM dated 24.10.2017 has been issued in consultation with MOF. Respondents reaffirmed the financial implications pointed out by the applicants, that would arise by snowballing the GP of IP/ASP as sought. The Hon'ble Supreme Court judgments cited by the applicants are irrelevant.



6. Heard both the counsel and perused the pleadings on record.
7. I. The dispute is about not granting the higher GP of Rs.4800 to ASP and Rs.5400 to SP during the 6<sup>th</sup> CPC regime comprising of the period from 1.1.2006 to 31.12.2015, consequent to the grade pay of the IP having been revised upwards to Rs.4600 with effect from 1.1.2006 vide memo dated 24.10.2017. The issue has roots in the recommendations of the 6<sup>th</sup> CPC, observations of the Hon'ble Ernakulam Bench of this Tribunal on

dual occasions and the MOF issuing memos increasing the GP of alleged equivalent cadres in certain departments without replicating the same to IP with a cascading increase for ASP/SP. Our endeavor would be to touch upon these issues against the backdrop of rules/law to arrive at a justifiable decision to uphold the interests of Justice.



II. In DOP, the hierarchy of posts is well defined. The Inspector Posts is the feeder cadre to the post of ASP and the latter is the feeder cadre to the post of SP. The duties and responsibilities increase as and when employee gets elevated by promotion from IP to ASP and there on as SP. This aspect is confirmed by the sequential Pay Commissions granting grade pay, which increases as we traverse the spectrum of the posts from IP to SP as under:

Hierarchy of Posts	5 <sup>th</sup> CPC (01-01-1996 to 31.12.2005)	6 <sup>th</sup> CPC (01-01-2006 to 31.12.2005)	7 <sup>th</sup> CPC (01-01-2016 onwards)
Inspector (Posts) (IP) (Lower grade, Non-Gazetted, feeder cadre post to ASP)	5500-175-9000	9300-34800 (PB-2) (Their pre-revised scale of 5500-9000 merged with the pre-revised scale of ASP 6500-10500) GP – 4200	44900-142400 GP-4600 Pay Level 7
Asst. Supdt (Posts) (ASP) (Higher grade, gazetted, Promotion post to IP)	6500-200-10500	9300-34800 (PB-2) (Their pre-revised scale of 6500-10500 Upgraded to 7450-11500) GP – 4600	47600-151700 GP-4800 Pay Level 8
Supdt (Posts) (SP) (Higher grade, Gazetted, Promotion post to ASP)	7500-250-12000	9300-34800 (PB-2) (Their pre-revised scale of 7450-11500 Upgraded to 7500-12000) GP – 4800 (After 4 years = 5400)	53000-167800 GP-5400 Pay Level = 9

From the above table, it is clear that the Pay scale & GP has increased from IP to SP. The respondents do admit that the ASP post carries higher duties and responsibilities in their OM dated 23.10.2018 as under:



“2. The issue has been examined in this Directorate in light of DoP ID Note No. 2-5/2010-PCC dated 26.04.2012 and MoF OM No.10/02/2011-E.III/A dated 07.01.2013 and it is clarified that the Asstt. Superintendent Posts cadre carries higher duties and responsibilities than that of Inspector Posts, as such fixation benefit will be available on promotion from Inspector Posts to Assistant Superintendent Posts cadre.”

Again in their note File No.4-12/2009-PCC (Annexure A-X) at para 2.9, it was made clear that the functions of the IP & ASP are well defined and distinct:

*“There are defined and distinct duties and responsibilities, Administrative and Financial Powers of both these cadres.”*

Thus, from the pay scales recommended by the Pay Commissions and the OMs/Note files of the DOP, it is well established that the ASP post is the promotional post to the IP post and is associated with higher duties and responsibilities. There is no dispute on this count. However, the dispute germinates when an employee is promoted as ASP from IP with no increase in the GP, inviting grievances galore on the ground that the purpose of promotion has been defeated by no associated increase in GP.

III. Promotion would mean moving to a higher pay scale or to a higher post as observed by the Hon’ble Supreme Court in ***State Of Rajasthan vs Fateh Chand Soni on 12 December, 1995*** ,Equivalent citations: 1996 SCC (1) 562, JT 1995 (9) 523, 1996 SCC (1) 562, JT 1995 (9)523, 1995 SCALE (7) 168, as under:

*In the literal sense the word "promote" means "to advance to a higher position, grade, or honour". So also "promotion" means "advancement or preferment in honour, dignity, rank, or grade". [See : Webster's Comprehensive Dictionary, International Edition, p. 1009]. "Promotion" thus not only covers advancement to higher position or rank but also implies advancement to a higher grade. In service law also the expression "promotion" has been understood in the wider sense and it has been held that "promotion can be either to a higher pay scale or to a higher post".*



Telescoping the above legal principle to the case on hand, when an IP is promoted as ASP, he has to get a higher pay scale/grade pay for having been placed in a higher post. When an IP who is granted grade pay of Rs.4600 with effect from 1.1.2006 as per OM dated 24.10.2017 with the approval of MOF, is promoted to the promotional post of ASP he has to be necessarily granted a higher grade pay of Rs.4800 and not Rs.4600 in terms of the above judgment. Further, when an IP is placed in a higher post like ASP, entailing higher duties and responsibilities as admitted by the respondents, the grade pay has to be higher than that of Rs.4600 granted to IP. If not, the very objective of promotion would be overwhelmed as per the judgment cited supra. By not increasing the grade pay for the promotional post of ASP would lead to discrimination among those working in the post of ASP and IP. For example, an employee working in higher post of ASP discharging higher duties and responsibilities than IP with say 25 years of experience, would be drawing same grade pay on 1.1.2006 as the one who has joined the post of IP on the said date. This is exactly what the respondents have done by enlarging the grade pay of IP to Rs.4600 and keeping that of ASP in the same grade pay of Rs.4600 from 1.1.2006 till 31.12.2015. It would thus be apt, in the expounded context, to nomenclature the discrimination meted out to the ASP/SP cadre as hostile. This is candidly inadmissible under service law. Laws are to be equally

applied in the same situation without discrimination, otherwise it would be infringement of Article 14 of the Constitution as held by the Hon'ble Supreme Court in **Dakshin Haryana Bijli Vitran Nigam v. Bachan Singh, (2009) 14 SCC 793**, as under:



*22. This Court time and again had observed that the principle underlying the guarantee of Article 14 of the Constitution is that all persons similarly placed shall be treated alike, both in privileges conferred and liabilities imposed. Equal laws would have to be applied to all in the same situation without any discrimination*

The respondents admit that the ASP is a higher post with greater responsibilities than of IP and pay is related to the duties and responsibilities as held by the Hon'ble Supreme Court in a catena of judgments which we would be touching upon in the succeeding paras. Hence, when the GP of the IP is increased, then the GP of ASP has to robotically go up and not doing so is like granting a benefit to the IP and not to the ASP though the latter is fully eligible for the same. Such a decision contravenes the legal principle cited supra and therefore, requires a review, particularly, in the context of the decision of the respondents/MOF having been found to be discriminatory. Consequently, the discriminatory action of the respondents/MOF, in our view, is liable to be struck down since they have failed to come up with any valid principle, to establish that the decision was not discriminatory. Our view is backed by the observation of the Hon'ble Supreme Court as under:

*In Ramana Dayaram Shetty v. International Airport Authority of India (1979) 3 SCC 489 again this Court observed that a discriminatory action of the Government is liable to be struck down, unless it can be shown by the Government that the departure was not arbitrary, but was based on some valid principle which in itself was not irrational, unreasonable or discriminatory.*

We also observe that there is a clear absence of a rational relation to the object intended to be achieved under law, by not granting the relief sought in terms of the enhancement of the pay structure for the cadres in question.



IV. Further, Pay structure is worked out by considering the method of recruitment, hierarchy of the cadre, avenues of promotion, nature of duties and responsibilities, horizontal and vertical relativities, etc., in such a manner that the hierarchical arrangement is not disturbed. To state what we did, we take support of the Hon'ble Apex Court observation in *Secretary, Finance Department and ors v West Bengal Registration Service Association and Ors* on 20.2.1992 reported in **1992 AIR 1203 1992 SCR (1) 897/ 1993 SCC Supl. (1) 153 JT 1992 (2) 27/ 1992 SCALE (1)437**, as under:

*3. Ordinarily a pay structure is evolved keeping in mind several factors, e.g. (i) method of recruitment, (ii) level at which recruitment is made, (iii) the hierarchy of service in a given cadre, (iv) minimum educational/technical qualifications required, (v) avenues of promotion, (vi) the nature of duties and responsibilities, (vii) the horizontal and vertical relativities with similar jobs, (viii) public dealings, (ix) satisfaction level; (x) employers' capacity to pay etc. These factors have to be kept in view while evolving a pay structure and the horizontal and vertical relativities have to be carefully balanced keeping in mind the hierarchical arrangements, avenues for promotion etc. Such a carefully evolved pay structure ought not to be ordinarily disturbed as it may upset the balance and cause avoidable ripples in other cadres as well.*

Admittedly, ASP post is unquestionably associated with higher duties and responsibilities than IP and that the ASP is the promotional post to IP . It would, therefore, not be in accordance with the legal principle cited supra, to grant the same grade pay of Rs.4600 to both the IP and ASP cadre. Besides, applicants cited the verdicts of the Hon'ble Principal Bench in OA 2594 & batch on 26.3.2012 and OA 2351/2012 dated 20.11.2013, with

which we agree, supporting the point of view, that a higher post with higher duties and responsibilities deserve a higher pay scale/grade pay. There is not a whisper in the reply statement about the observations of the Principal Bench in the cited OA.



It is not farfetched to observe that the respondents placing the feeder and the promotional post, in the same grade pay smacks of arbitrariness. Where an act is arbitrary, it is implicit in it that it is unequal in terms of constitutional law as held by the **Hon'ble Apex Court in E.P. Royappa v. State of T.N.** (1974) 4 SCC 3 this Court observed as under: (SCC p.8, para 85)

*“85. ... From a positivistic point of view, equality is antithetic to arbitrariness. In fact equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary, it is implicit in it that it is unequal both according to political logic and constitutional law and is, therefore, violative of Article 14, and if it affects any matter relating to public employment, it is also violative of Article 16. Articles 14 and 16 strike at arbitrariness in State action and ensure fairness and equality of treatment.”*

Therefore, the decision of MOF to grant the same grade pay to IP and ASP is barefacedly out of step with the observation of the Hon'ble Supreme Court as at above and therefore, lacks lawfulness.

V. Besides, when we go into the origins of the grade pay of IP, we would find that the 6<sup>th</sup> CPC has met the demand of the Postal Inspectors to grant a higher pay scale of Rs.6500 -10500 on par with the Inspectors and analogous posts in CBDT/CBEC as well as the Assistants of Central Secretariat Service (*for short CSS*), by recommending the merger of prevised pay scales of Rs.5500-9000 and Rs.6500-10,500 as under:

“9. It has to be noted that the Sixth Central Pay Commission (6<sup>th</sup> CPC) had made a specific recommendation relating to the Inspector (Posts) for granting parity with analogous posts in CBDT/CBEC and also with the Assistants in the CSS. The recommendations of the 6<sup>th</sup> CPC specifically relating to the Inspectors of Posts reads:

“Inspector (Posts) 7.6.14

Postal Inspectors in Department of posts have demanded a higher pay scale of Rs.6500-10500 on par with Inspectors and analogous posts in CBDT/CBEC as well as Assistants of Central Secretariat Service (CSS) on the ground that they are recruited through the same examination. The Commission is recommending the merger of pre-revised pay scales of Rs.5500-9000 and Rs.6500-10500 which will automatically bring Inspector (Posts) on par with Assistants in CSS/ Inspectors and analogous posts in CBDT and CBEC. With this upgradation, Inspector (Posts) shall come to lie in an identical pay scale as that of their promotion post of Assistant Superintendent (Posts) [ASPOs]. ASPOs shall, accordingly, be placed in the next higher pay scale of Rs.7450-11500 corresponding to the revised pay band PB-2 of Rs.8700-34800 along with grade pay of Rs.4600. The net higher post in the hierarchy, that of Superintendent (Posts), which is also a promotion post for ASPOs, shall be placed in the pay scale of Rs.7500-12000 corresponding to revised pay band PB-2 of Rs.8700-34800 along with grade pay of Rs.4800/-. Parity exists between the post of Inspector (Posts) and Inspector in Mail Motor Service (MMS). This parity would need to be maintained and Assistant Manager, Mail Motor Service shall be placed in the higher grade of Rs.7450-11500 whose corresponding replacement pay band and grade pay is PB-2 of Rs.8700-34800 along with grade pay of Rs.4600/-. Similarly, Manager, Mail Motor Service shall be placed in PB-2 pay band of Rs.8700-Rs.34800 along with a grade pay of Rs.4800/- which corresponds to the pre-revised pay scale of Rs.7500-12000.”



Later, MOF issued OM dated 13.11.2009 & 16.11.2009 augmenting the GP of Inspectors of CBDT/CBEC and Assistants of CSS. Noting this development, the DOP approached MOF for similar enhancement to IP by moving ID notes on 7.1.2010 & 2.3.2010 which were rejected by MOF in their ID notes dated 2.5.2010 & 8.3.2010. MOF has asserted in their note dated 28.5.2012 that there can be no comparison between Postal inspector and the Inspectors of the CBDT/CBEC since they perform different duties, as under:

*Therefore, the duties and responsibilities assigned to Assistant of CSS and Inspector CBDT/CBEC are quite different from Inspector Posts. There is no comparison between Assistants of CSS & Inspector CBDT/ CBEC and Inspector Posts. They are performing different duties in their respective cadres.*



The recommendations of the 6th CPC in para 7.6.14 (Annexure A-III) were accepted by the Cabinet and Government has accordingly passed the resolution dated 29.8.2008. The 6<sup>th</sup> CPC not only brought the Postal Inspector on par with the Inspectors of CBDT/CBEC etc. but was categorical that the ASP has to be placed in a higher scale than the IP. MOF issued the memos on 13.11.2009 & 16.11.2009 increasing the grade pay of Inspectors of CBDT/CBEC and the Assistants of CSS without extending the same benefit to IP, though the latter being on par with the former as observed by 6<sup>th</sup> CPC. Once accepted, the recommendations CPC attain the character of statutory rules, since the resolution dated 29.8.2008 was passed under Article 309 of the Constitution. Thus, the claim of the MOF in their note dated 28.5.2012 that there can be no comparison between the Postal Inspector and the CBDT/CBEC Inspectors, having an executive flavor, would not withstand the scrutiny of law, since it is well settled that Statutory rules cannot be altered in terms of meaning and application by issue of executive instructions. We take support of the observation of the Hon'ble Apex Court in **Union of India & Ors vs. Somasundram Viswanath & Ors** on 22 September, 1988, 1988 AIR 2255, 1988 SCR Supl. (3) 146, as under, to state what we did.

*It is well settled that the norms regarding recruitment and promotion of officers belonging to the Civil Services can be laid down either by a law made by the appropriate Legislature or by rules made under the proviso to Article 309 of the Constitution of India or by means of executive instructions issued ;under Article 73 of the Constitution of India in the case of Civil Services under the Union of India and under Article 162 of the Constitution of India in the case of Civil*

*Services under the State Governments. If there is a conflict between the executive instructions and the rules made under the proviso to Article 309 of the Constitution of India, the rules made under proviso to Article 309 of the Constitution of India prevail, and if there is conflict between the rules made under the proviso to Article 309 of the Constitution of India and the law made by the appropriate Legislature the law made by the appropriate Legislature prevails.*



Thus, on two counts the MOF has erred namely taking the stand that the Postal Inspector is not on par with the Inspectors of CBDT/CBEC Inspectors and overlooking the 6<sup>th</sup> CPC observation of granting a higher pay to ASP.

VI. When the view of the MOF as at above was not in consonance with the accepted recommendations of 6<sup>th</sup> CPC, the course open to MOF was to go back to the Cabinet and obtain the Cabinet approval for their observation supra. However, it was not done and hence the assertion that the Postal Inspector is not on par with the Inspectors of CBDT etc. and therefore, cannot be granted grade pay of Rs.4600 does not have a legal basis. Thus, the delicate parity between the Postal Inspector and that of the Inspectors in CBDT/CBEC etc. ushered in by the 6<sup>th</sup> CPC was upset by the OMs dated 13.11.2009 & 16.11.2009 issued by MOF by increasing the grade pay of the Inspectors of CBDT/CBEC and Assistants in CSS to Rs.4600 and not that of the Postal Inspector.

Obviously, this led to a legal battle before the Hon'ble Ernakulam Bench of this Tribunal in OAs 381/2010 and 289/2013. The operative portions of the judgments are extracted here under:

OA 381/2010 dated 19.10.2011

*“33. Thus, within the parameters prescribed by the Apex Court in respect of the powers of the Tribunal in dealing with the fixation of Pay scale the case has been considered and the Tribunal is of the considered view that there is no justification in denying the Inspector (Posts) the higher*

Grade Pay of Rs.4600 when the same is admissible to Inspectors of other Departments with whom parity has been established by the very Sixth Pay Commission vide its report at para 7.6.14 extracted above. The Department of Post also equally recommends the same and as such, at appropriate level, the Ministry of Finance has to have a re-look in the matter dispassionately and keeping in view the aforesaid discussion. The ASPOS, as a result can be granted a grade pay of Rs.4800/- and the Superintendents grade pay of Rs.5400/-, as in the case of Superintendents of Central Excise & Customs.



34. In view of the above, the OA is allowed to the extent that keeping in tune with the observations of the Sixty Pay Commission, coupled with the strong recommendations of the Department of Post and also in the light of our discussion as above, first respondent, i.e. the Ministry of Finance shall have a relook in the matter at the level of Secretary and consider the case of the Inspector (Posts) for upgradation of their grade pay at par with that of the Inspector of Income Tax of CBDT and CBEC. This will make the grade pay of Inspector (Posts) at par with that of the promotional post of Assistant Superintendents of Post Offices, it is expedient to consider and upward revision of the grade pay of ASPs as well. All the necessary details and statistics as required by the Ministry of Finance shall be made available by the second Respondent i.e. the Director General of Posts. It is expected that within a reasonable time, the respondents shall arrive at a judicious decision and implement the same.”

OA 289/2013 dated 16.10.2015

“15. In the above circumstances, this Tribunal directs respondent No.1 to send Annexure A/19 order along with the representation made by the Applicant No.1 Association, the recommendations made by the Department of Posts thereon along with copies of the relevant portion of the 4<sup>th</sup>, 5<sup>th</sup> & 6<sup>th</sup> Central Pay Commission recommendations regarding the pay of Inspector (Posts) to the Member-Secretary of the 7<sup>th</sup> CPC requesting for making appropriate recommendations. Respondent No.1 shall also submit an explanation before the 7<sup>th</sup> CPC as to why despite the Cabinet Resolution accepting the recommendations in para 7.6.14 of the report of the 6<sup>th</sup> CPC the officials in the Finance Ministry took a different view and also under what authority the said official has made such decisions in Annexure A/22 file note.

16. In the event the 7<sup>th</sup> Pay Commission has reached the final stage of its proceedings and is not in a position to include this matter in its report, then the Finance Secretary/ respondent No.1 shall at his level consider the matter as directed by this Tribunal in OA 381/2010 keeping in view the detailed proposal with justification submitted by the Department of Posts, the detailed observations made by this Tribunal in the earlier OA and also the present order and shall pass a detailed and speaking order addressing all these points. “

Based on the orders of the Tribunal cited supra, the GP of IP was increased to Rs.4600 vide DOP orders 24.10.2017 after it was concurred by MOF vide ID note 18.10.2017.

VII. However, the order of the Tribunal in OA 381/2010 which was reaffirmed by the observations in OA 289/2013, the respondents have not enhanced the grade pay of ASP, despite a specific observation at para 33 of OA 381/2010 that the ASP be granted a grade pay of Rs.4800 and SP the grade pay of Rs.5400 on par with the Supdts. of Central Excise & Customs.



The averment of the respondents that the recommendation of the 6th CPC in para 7.6.14 in regard to ASP was with respect of grade pay of Rs.4600 with no parity with any other post and hence the observation of Hon'ble Ernakulam Tribunal dated 18.10.2011 will not automatically lead to higher pay scale for ASP during the period from 1.1.2006 to 31.12.2015, is way off the mark, since the observations of the Tribunal are lucid that the ASP/SP cadre deserve the higher grade pay of Rs.4800/Rs.5400 respectively. Nevertheless, the respondents/MOF decision to exclusively raise the GP of IP on par with that of ASP has led to a piquant situation wherein the feeder cadre (IP) and the promotional post (ASP) have the same grade pay of Rs.4600. The further submission of the respondents that the 6th CPC after discussing the parity of pay scale between IP and Inspectors of Income Tax/ Central Excise as well as in regard to the parity of the pay scale in respect of IP and Inspector Mail Motor Service, made the recommendations about the pay scales, though true, but the dispute is all about not correspondingly upgrading the pay scale/GP of ASP/SP, that has not been addressed in accordance with rules and law. Though the fixation of pay scales is best left to the executive/ expert body, yet in case the pay scale is unjustly fixed, then such a decision is open for judicial review. The basic principle in pay fixation is that the salary must reflect the nature of duties and responsibilities associated to the post. The pay fixed

has to be proportionate to the task and responsibility to be undertaken by the holder of the post. The 6<sup>th</sup> CPC has originally fixed the grade pay of Rs.4200 for the IP, Rs.4600 to ASP and Rs.4800 to the SP, keeping the duties and responsibilities discharged at each of these levels by accepting the demand the Postal Inspectors to be placed on par with the Inspectors of CBDT/CBEC increased their pay scale by merging the pay scales as discussed supra. While doing so, the 6<sup>th</sup> CPC did observe that with the hike in the pay scale of IP, they would be lying in the same scale of pay of ASP and therefore, the pay scale of ASP requires an upward revision. The argument of the respondents is that the successive Pay Commissions have been reducing the number of pay scales by merger of the feeder and the promotional posts with same grade pay and where it was not possible to do so, due to administrative/ operational/ functional reasons, then such posts were continued by providing benefit under FR 22 (I) (a) (1) to compensate the employee on assumption of duties with higher duties/ responsibilities. This pleading does not persuade us because the Hon'ble Ernakulam bench of this Tribunal in the OAs cited was unambiguous to consider the higher GPs of Rs.4600/ Rs.5400 to the ASP/SP cadres respectively. Moreover, successive Pay Commission recommendations maintained the hierarchy of the IP/ASP & SP cadre. In fact, it was the MOF that has overturned the subtle parity brought out by the 6<sup>th</sup> CPC between postal Inspectors on par with Inspectors of CBDT/CBEC by amplifying the Grade pay of the Inspectors of CBDT/CBEC and Ors to Rs.4600 vide memos cited supra, resulting in a demand for similar hike in the grade pay by the postal Inspectors and the same was conceded to by MOF with the intervention of the Hon'ble Ernakulam Tribunal in OAs cited for reasons referred to.





Having increased the grade pay of IP to Rs.4600 and allowing that of the promotional post of ASP to lie at Rs.4600 without raising it to Rs.4800, in consonance with the observation in OA 385/2010 dated 19.10.2011 would be treating unequals as equals in the fixation of the grade pay which is arbitrary and impermissible. Thereby, in the process the principle of reasonableness, an essential element of equality, was given a go-by violating Article 14 of the Constitution. While making the above remark, we are backed by the observation of the Hon'ble Supreme Court in **Maneka Gandhi v. Union of India(1978) 1 SCC 248** this Court observed as under: (SCC pp. 283-84, para 7)

*“7. ... Equality is a dynamic concept with many aspects and dimensions and it cannot be imprisoned within traditional and doctrinaire limits. ... Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. The principle of reasonableness, which legally as well as philosophically, is an essential element of equality or non-arbitrariness pervades Article 14 like a brooding omnipresence....”*

A decision that lacks reasonableness, in the words of the Hon'ble Apex Court as at above, would not have the force of law and therefore, the DOP-OM dated 24.10.2017 requires to be modified by granting higher GP to the ASP/SP than that of the IP.

Furthermore, for higher responsibility higher pay is ineludibly warranted and in the present case, granting same grade pay to IP & ASP is treating unequals as equals, which has to be avoided as opined by the **Hon'ble Apex Court in State of Rajasthan v. Rajendra Kumar Godika, 1993 Supp (3) SCC 150**, as under:-

*6. We may, however, observe that it would be advisable for the State Government to lay down more clearly its policy for the future to avoid even the semblance of treating unequals as equals for the purpose of promotion, in*

*consonance with the well-known maxim that 'justice should not only be done but should also be seen to be done'.*



VIII. The intricacy of the job to be performed and the responsibilities attached thereto are entitled to be given required consideration in defining the appropriate pay scale for the job. The respondents have not evaluated the said implications while upgrading the GP of the IP to Rs.4600 and by not initiating a reciprocating action in respect of ASP/SP. Therefore, the applicants seeking the relief of consequent hike of the grade pay of ASP & SP requires genuine and germane reconsideration. Albeit, the Tribunal is conscious of the fact that the determination of pay scales is best left to the executive, nevertheless when there is an unjust decision affecting a section of the employees (ASP/SP cadre) it has to step in to right the wrong. More so when the employees wronged ie the ASP cadre have a favourable recommendation of the 6<sup>th</sup> CPC to back their demand. Our above views are supported by the judgment of the Hon'ble Supreme Court in **Secretary, Finance Department and Ors v West Bengal Registration Service Association and Ors on 20.2.1992** reported in 1992 AIR 1203 1992 SCR (1) 897/ 1993 SCC Supl. (1) 153 JT 1992 (2) 27/ 1992 SCALE (1)437, as under:

*2. Equation of posts and determination of pay-scales is the primary function of the executive and not the judiciary and, therefore, ordinarily courts will not enter upon the task of job evaluation which is generally left to expert bodies like the Pay Commissions etc. But that is not to say that the Court has no jurisdiction and the aggrieved employees have no remedy if they are unjustly treated by arbitrary state action or inaction.*

*Parbat Kiran Maithani & Ors. v. Union of India & Anr.,AIR 1977 SC 1553; State of U.P. & Ors. v. J.P. Chaurasia & Ors., AIR 1989 SC 19, cited*

xxx

*4. One of the basic principles for pay fixation is that the salary must reflect the nature of duties and responsibilities attached to the post,*

*meaning thereby that the pay scale must be commensurate with the task to be performed and the responsibility to be undertaken by the holder of the post. Merely because the Sub-Registrars were conferred gazetted status and the Registration Service was included in State Service did not entitle the Sub-Registrars to be placed in the higher scale if their duties and responsibilities did not justify the same. By conferment of gazetted status or placement in State Service, no qualitative change was brought about in the job performance of the Sub-Registrars and their superiors.*



*4.1 The High Court failed to evaluate the difference in the nature of duties and responsibilities of a Munsiff and a Sub-Registrar. The duties and responsibilities of a Munsiff and a Judicial Magistrate are far more onerous than those of a Sub-Registrar. The Sub-Registrar's duties are relatively simple - namely to receive, examine and register the document - whereas the duties of a Judicial Officer at the floor level are to hear cases, examine witnesses, interpret and construe different laws, hear oral arguments and deliver reasoned judgments. He has to keep abreast with a host of laws unlike a Sub-Registrar who is expected to study only a couple of laws connected with the registration of documents like the Registration Act, the Stamp Act etc. The responsibilities of a Judicial Officer are therefore far greater than those of Sub-Registrars. Therefore, to compare the Sub-Registrars with Judicial Magistrates-Munsiffs is to compare unequals. It would, therefore, be wholly arbitrary to place them in the same pay scale.*

*5. One of the inputs for pay determination is educational requirement for the post. The higher the educational qualification the better would be the quality of service rendered and the end result would in the ultimate be far more satisfactory. That indeed cannot be disputed. But educational qualification is only one of the many factors which has relevance to pay fixation. The complexity of the job to be performed and the responsibilities attached thereto are entitled to great weight in determining the appropriate pay scale for the job. Prima facie there appears substance in the grievance of the Sub- Registrars that while the minimum educational qualification for direct entry into the post has been periodically raised, the level of pay scale, for the post has not undergone any change, whatsoever.*

*6. The State Government is directed to re-examine the question of the appropriate pay scale for Sub-Registrars by a speaking order after hearing the representatives of the respondent association. If the State Government decides on the upward revision of the salary of the Sub-Registrars, it will simultaneously consider the question of upward revision of the pay scales of higher posts in the department.*

In accordance with the legal principle laid down as at above, the post of ASP carrying higher duties and responsibilities than IP is justified to be granted a higher grade pay of Rs.4800 and consequentially for SP the grade pay of Rs.5400. Shepherding in any other irrelevant considerations as attempted by the respondents in the reply statement would not influence the

outcome, other than towards Justice, which invariably is on the side of the applicants in respect of the issue on hand.

Indeed, the necessity to grant higher grade pay to the posts of ASP & SP was acknowledged by the 7<sup>th</sup> CPC and recommended higher grade pay as under, vide their recommendations 11.8.21 as under:



*Analysis and Recommendations*

*11.8.21 The Commission has noted that the VI CPC had placed Inspector (Posts) at par with Inspectors of CBDT/CBEC. Subsequently the inspectors of CBDT/CBEC were elevated to GP 4600. The Commission has further noted that Inspector (Posts) and Inspectors of CBDT/CBEC are recruited through the same combined graduate level examination. The Commission, therefore, recommends that Inspector (Posts) who are presently in the GP 4200 should be upgraded to GP 4600. With this upgradation, Inspector (Posts) shall come to lie in an identical grade pay as that of their promotion post of Assistant Superintendent of Posts (ASPOs). A higher grade would thus need to be extended to ASPOs. Accordingly, the Commission recommends that the promotional post of ASPOs be placed in the next higher GP 4800 and further, the post of Superintendent (Posts), which is presently in the GP 4800, be moved up to GP 5400 (PB-2).*

The 7<sup>th</sup> pay commission recommendation was accepted by the Government and implemented with effect from 1.1.2016. The recommendation of the 7<sup>th</sup> CPC was a positive indicator for the MOF to review its decision to reject grant of higher grade pay to ASP & SP posts during the 6<sup>th</sup> CPC regime. Environmental developments in the administrative spheres are pointers to correct the incorrect decisions and the measure of administrative efficacy depends on the ability to respond to such changes which call for midcourse correction. Sadly, it was not to be in the instant case and hence the necessity for the Tribunal to intervene to right the wrong.

IX. Interestingly, the successive Pay Commissions have ensured the distinctiveness of the hierarchy of the IP, ASP & SP cadre in the Postal Department and recommended higher pay scales based on the hierarchy.



This view of the Pay Commissions seriatim is one good reason for grant of higher grade pay to ASP and SP posts as sought by the applicants. Even in the 6<sup>th</sup> CPC, the principle emphasized was that the ASP has to be placed in the next higher pay scale. However, MOF by granting higher grade pay to analogous cadre of CBDT/CBEC Inspectors and not to postal Inspectors, have disrupted the equilibrium maintained by the Pay Commissions among the similar cadres. With the intervention of the Hon'ble Ernakulam Bench of this Tribunal, the GP of Rs.4600 was granted to the IP, leaving the ASP / SP cadre high and dry by denying reciprocal increase in their grade pay. The disequilibrium caused in by the MOF has been set right by the 7<sup>th</sup> CPC by restoring the hierarchical grade pay that has to be granted to IP, ASP & SP by allowing grade pay of Rs.4600, Rs.4800 & Rs.5400 respectively to the said cadres. The trend in the recommendations of the successive Pay Commissions should have been an eye opener to the MOF to go along with the trend and not against. Swimming upstream will not take anyone anywhere as has been the decision to reject higher GP to ASP/SP turning out to be wrong with the recommendation of the 7<sup>th</sup> CPC to grant higher GP to the said cadres and the findings of the Hon'ble Ernakulam Bench. Indeed, the grievance of the applicants is restricted to the period from 1.1.2006 to 31.12.2015 for the grant of higher grade pay for the posts of ASP and SP. The insistence of the respondents about the existence of same grade pay for the feeder and the promotion post, is not uncommon and that the same exists in the Railways, Narcotics Control Bureau etc. is an unrelated comparison since the case under reference with all its ramifications, has been legally contested in the context of the 6<sup>th</sup> CPC recommendations and a view was taken by the Hon'ble Ernakulam Bench



in OAs cited to provide the relief to the IP/ASP/SP as sought, which was respected by the respondents to the extent of IP vide memo dated 24.10.2017. Respondents failed to produce any documentary evidence to affirm that the other departments referred to by them have faced the legal challenge as in the instant issue and therefore, any comparison with the departments cited lacks legal relevance and logic. Another submission of the respondents is that DOP has clarified vide letter dated 23.10.2018 (Annexure R-III) in the background of the DOP – ID note dated 26.4.2012 & MOF memo dated 7.1.2013 that since ASP post carries higher duties and responsibilities, the fixation benefit of 3% increment will be granted on promotion from IP to ASP and therefore, the interests of those in the promoted post grade have been protected by ensuring seniority as well as higher pay in the revised pay band along with the promotional increment. This submission is wholly inconsequential as it is not in congruence with the need to provide for higher grade pay to ASP/SP as observed by the Hon'ble Ernakulam Bench in its judgments cited supra and the existence of a unique and single pay band with the grade pay of Rs.4600, which has been discussed in the succeeding para XIV. It requires no elaboration that seniority is a foremost factor that decides the promotional eligibility and promotion upraises the pay scale. The question is not just about maintaining seniority but grant of higher pay/ GP in the promoted post as per the spirit of the 6<sup>th</sup> CPC and the Hon'ble Ernakulam Bench orders referred to. Our view is that the respondents did not accept the ground reality staring at them but heavily relied on an irrelevant factor of an invalid comparison with the AO cadre ingrained in clause 11 (a) of the ID note of DOP dated 26.4.2012, as discussed later in the judgment at para

XIV. The predominant factor of the proposal of DOP that there would be insignificant expenditure, if the hike demanded were to be agreed to, was not looked into the way it ought to have been. Resultantly, when the doors of all the possible resolutions were closed, the sprouting of the present dispute was a natural outcome. It is time that the respondents need to orient themselves to look at resolution of disputes of employees where facts are heavily weighed in favour of the employees to avoid superfluous expenditure by resorting to unnecessary litigation by respondents, rather than liquidating the genuine needs of the employees, which is the underlying spirit in the Insolvency and Bankruptcy Code 2016.



X. Usually, the dominant factor, that is closely examined, in upgrading pay scales, is the expenditure that would be incurred. The observation of DOP in its note dated 1.1.2010 (Annexure A-X – page 10/N) makes an interesting reading. The same is extracted hereunder:

*“The cadre of the Inspector of Post Offices and Assistant Superintendent (Posts) is very small in number compared to the CBDT/CBSE and the financial implication would be very meager. There are 2117 posts of Inspectors in various offices of this country and the number of Assistant Superintendents is 2036 and their proportion is 1:1.03%. The financial implication by the proposed upgradation is as below:*

<i>Number of Inspectors</i>	<i>2117</i>
<i>Financial Implication per month</i>	<i>Rs.400 per month for each IPO</i>
<i>Financial implication per year</i>	<i>1.01 Crores per annum</i>

*The financial implication for upgradation of grade pay of higher selection grade post i.e. Assistant Superintendent is also projected in the following table:*

<i>Number of Asst. Superintendents</i>	<i>2036</i>
<i>Financial Implication per month</i>	<i>Rs.200 per month for each ASP</i>
<i>Financial implication per year</i>	<i>48.86 lakhs per annum</i>
<i>Total Expenditure</i>	<i>1.50 Crores</i>

*However, the above extra expenditure would be offset by savings in payment of productivity linked bonus to the Inspectors who are now eligible for the same. Consequent, on upgradation, they will be conferred the status of Group B gazette and they will be out of the purview of productivity linked bonus and annual savings on this account per year will be Rs.1.48 crore and the extra*

*expenditure is totally matched by savings. This proposal would also involve upgradation of the grade pay of Postal Supdts. Group B from Rs.4800 to Rs.5400. Here again, the financial implication would be very minimal since all the PS Group B Officers after rendering 4 years service have been given non functional grade pay of Rs.5400 as approved by the Govt. and those entrants will only be benefitted by this upgradation. Assuming that 50% of the PS Group B Officers and new entrants, the financial implication comes to Rs.32.40 lakhs per annum, which is quite miniscule.”*



The conclusion of DOP was to grant grade pay of Rs.4600 to IP, Rs.4800 to ASP and Rs.5400 to SP. From the cost perspective it was suggested that if the IP cadre is granted Gazetted status then the expenditure of Rs.1.50 crore per annum due to enhancement of the GPs for the IP/ASP can be saved from the productivity linked bonus that is liable to be paid to the IPs for being presently in the non Gazetted cadre. In view of the matching savings, there could not have been any objection to see through the proposal. Coming to the case of SPs the likely expenditure was reported to be Rs.32.40 lakhs per year which is paltry as observed by DOP in the cited note. For that matter, this trifling expenditure would be incurred only for the period from 1.1.2006 to 1.1.2016, since from 7th CPC onwards there is no angularity in regard to the issue disputed, as the desired hike has been granted. Overlooking the vital suggestion by DOP, the MOF went ahead and increased the grade pay of IP to Rs.4600 vide their ID note 18.10.2017, despite the fact that the treasury was burdened with an expenditure of Rs.1.01 crore per year. It is not understood as to why the proposal of the DOP to set off the expenditure to the extent of nearly Rs 1.50 crore, did not impress the MOF. We could not discover any justifiable reasons from the reply statement in regard to the disinclination of the MOF for accepting the matching savings. If the matching savings were to be reckoned as proposed, the uncovered expenditure of Rs.32.40 lakhs to upgrade the GP of SP is



insignificant. It is surprising that the MOF has given the nod for the IP cadre for higher grade pay of Rs.4600 involving a higher outflow of funds every year to the extent of a crore but not for the ASP and SP cadre though the expenditure involved was relatively less and that too when a matching savings proposed to the extent of Rs.1.48 crore against the total expenditure of around Rs.1.82 crores was put forth by DOP. We find it perplexing as to why the MOF, which usually approves proposals where in matching savings are suggested, could not approve the proposal of DOP to increase the grade pay of ASP and SP to Rs.4800 & Rs.5400 respectively. Granting Gazetted status to the IP cadre would bestow higher responsibility on the IP cadre as well which is beneficial to the respondents' organization. To reiterate, the minor expenditure indicated is only for the period from 1.1.2006 to 31.12.2015 and is definably not a perpetual expenditure. After absorbing the contours of the dispute we cannot but help to observe that the respondents are making a mountain out of a molehill. A simple issue has been blown out of proportion by focusing on irrelevancy rather than on related relevancy.

XI. Our above view is substantiated by the fact that the non-grant of higher grade pay to ASP and SP has triggered a tsunami of unnecessary litigation before the courts in respect of grant of grade pay of Rs.5400 after rendering 4 years of service in the grade pay of Rs.4800, grant of MACP/ACP, bunching of increments etc. This tribunal has been adjudicating on the said issues for years on. A definite and defining resolution to the present dispute is the need of the hour to put a quietus to the consequential litigations referred to. We would not be off the mark to

hold that the expenditure involved in the litigations that emerged due to an improper decision to allow the ASP to lie in the same grade pay of Rs.4600 as that of IP, would be of astronomical proportions than the cost incurred in granting the higher grade pay of Rs.4600 & Rs.5400 to ASP & SP cadre for the limited period in question. It is the policy of the GOI to not to litigate in matters where the relief claimed is less than the cost of litigation in terms of the National Ligation Policy of GOI, as under:



*Ministries and Departments like the Railways and Department of Revenue, involved in a high number of litigations have been taking several measures for reducing the number of Court cases. Ministry of Railways have issued instructions for effective monitoring of Court cases at all levels. Zonal Railways and Production Units have been asked to take effective steps to reduce the number of cases in which the Government is a party and reduce the burden of courts, expedite finalization of all the cases in all courts at the earliest and to cut down the expenditure in contesting court cases. For achieving this, emphasis has been laid on effective monitoring of cases by having regular meetings with empanelled advocates, for briefing and necessary directions to be given at the highest level, besides ensuring timely submission of replies, Counter replies and necessary documents to the advocates.*

In addition, the Raksha Mantri's Committee of Experts review of service and pension matters including potential disputes, minimizing litigation and strengthening institutional mechanisms related to redressal of grievances has recommended in 2015 as under:

*(e) We recommend that the right to challenge the order of a Tribunal in service matters should be exactly similar for civil as well as defence employees emanating out of orders of the CAT and the AFT. However, a change in attitude of Government instrumentalities must be initiated wherein the decision of the Tribunal in favour of an employee should normally be accepted and a challenge to the same should lie before the High Court but such judicial review in the High Court should only be initiated in exceptional cases and not as a routine, and a further challenge in the Supreme Court must be in the extremely rarest of rare cases.*

The recommendation is relevant to the instant case since there being minimal expenditure involved as per the proposal of DOP with matching



savings and if it were to be agreed by MOF, the unnecessary litigation by incurring more expenditure than the cost involved in granting the relief sought, could have been avoided. Thus, the decision of the MOF is not synchronizing with the National Litigation Policy of GOI which cannot be appreciated. Even as per rules in regard to abiding by the 6<sup>th</sup> CPC recommendations as well as following the trend of the recommendations of the successive Pay Commissions, the MOF need to have weighed the pros and cons of the issue and agreed to the request in a conciliatory manner rather than fighting it out in the Courts. We say so by keeping in view the observation of the Hon'ble Supreme Court in **State of Punjab v Geetha Iron & Brass Works Ltd** reported in (1978) 1 SCC 68, wherein it was held that the disputes of the Govt. with citizens has to be in a conciliatory manner and not in a fighting mode, with the intention to unburden the Courts from avoidable litigation and curb wastage of public money in the process. The observation aptly applies to the case on hand. Public money is a scarce and valuable resource that cannot be frittered away in a questionable manner as is evident in the instant case.

XII. Expenditure apart, delving deeper into the dispute, we find that the OM dated 24.10.2017 (Annexure A-I) issued by DOP suffers from factual inaccuracy, since it states that the grade pay of IP has been increased to Rs.4600 in pursuance of the 6<sup>th</sup> CPC recommendations. The relevant portion is extracted here under:

*“The issue regarding upgradation of Grade Pay of Inspector Posts cadre w.e.f. 01.01.2006 has been considered giving a fresh look and the competent authority is pleased to grant Grade Pay of Rs.4600 (PB-2) to Inspector Posts from 01.01.2006 in the 6<sup>th</sup> CPC structure in pursuance of Para 7.6.14 of its report. It is further ordered that the higher post of ASPO shall continue to lie in the Grade Pay of Rs.4600 (PB-2).*”

2. *This is in compliance with the orders of the Hon'ble CAT Ernakulam Bench dated 16.10.2015 in OA 289/2013 filed by All India Association of Inspector Posts and Asst. Superintendent of Posts & Ors v. UOI."*



Thus, in the first para of the OM dt. 24.10.2017 extracted supra, the respondents state that the GP of Rs.4600/- has been granted to Inspector Posts in pursuance of Para 7.6.14 of the 6 CPC report. In the very next para thereof, the respondents state that the said decision has been taken in compliance of the order of the Hon'ble Ernakulam Bench of this Tribunal. This is self-contradictory to each other and leads to confusion. Even the ID Note dt. 18.10.2017 of MOF also states that GP Rs.4600 has been agreed to be given to IP in pursuance of the 6 CPC report. The fact remains that the above OM was issued in pursuance of the order of the Tribunal cited.

The 6<sup>th</sup> CPC recommendation extracted at para V supra, has recommended the grade pay of Rs.4600 to the post of ASP and not to the IP post. In fact the increase in IP grade pay to Rs.4600 was necessitated due to the orders of the Hon'ble Ernakulam Bench of this Tribunal in OAs referred to. The revision of grade pay basing on the orders of the Tribunal is confirmed by the ID note of MOF dated 18.10.2017 (Annexure A-II), which reads as under:

*"2. The matter has been given a fresh look in the light of the orders of the Hon'ble CAT dated 18.10.2011 and 16.10.2015 as well as an earlier proposal of Department of Posts as per their I.D. Note No.2-5/2010-PCC dated 26.04.2012. Based on this reconsideration, the proposal of Department of Posts as contained in the said note dated 26.04.2012 for accepting para 11(a) of that note for grant of Grade Pay of Rs.4600 in case of Inspectors of Posts, this Ministry agree to the Grade Pay of Rs.4600 in this case of Inspector of Posts from 1.1.2006 in the 6<sup>th</sup> CPC structure in pursuance of para 7.6.14 of its Report. As proposed by Department of Posts, the higher post of ASPO shall continue to lie in the Grade Pay of Rs.4600."*

Thus, we find gross non application of mind in issuing the OM dated 24.10.2017. The OM is not a speaking and reasoned order, as was directed to be issued in the OAs cited, filed before the Hon'ble Ernakulam Bench of this Tribunal. Reason is the heart beat of any administrative decision and its absence makes the order void *ab initio* because such an order violates the Principles of Natural justice, as held by the Hon'ble High Court of Jharkhand in **Jit Lal Ray v. State of Jharkhand, WP(C) No. 469 of 2019**, decided on 26-04-2019 in regard to a reasoned order as under:



*“It is settled position of law that a decision without any reason will be said to be not sustainable in the eyes of law, because the order in absence of any reason, also amounts to the violation of the principles of natural justice.”*

In the words of Hon'ble **Supreme Court of India in Union Of India & Ors vs E.G. Nambudiri on 23 April, 1991**, 1991 AIR 1216, 1991 SCR (2) 451, the importance of a reasoned order is highlighted as under:

*Where a vested right is adversely affected by an administrative order, or where civil consequences ensue, principles of natural justice apply even if the statutory provisions do not make any express provision for the same, and the person concerned must be afforded opportunity of hearing before the order is passed.*

Xxxx

*Though the principles of natural justice do not require reasons for decision, there is necessity for giving reasons in view of the expanding law of judicial review to enable the citizens to discover the reasoning behind the decision. Right to reasons is an indispensable part of a sound system of judicial review. Under our Constitution an administrative decision is subject to judicial review if it affects the right of a citizen, it is therefore desirable that reasons should be stated.*

Thus the issue of the OM dated 24.10.2017 under challenge in the OAs is not based on sound legal propositions and hence lack legal sanctity. The applicants relied on the judgment of the Hon'ble Supreme Court in **K.C.Bajaj and ors v. Union of India & Ors in CA No.10640-46 of 2013**,

wherein it was held that the Govt. policy formulated by a decision of the President cannot be negated by a departmental classification, to claim that the OM 24.10.2017 is invalid. There is no counter to this contention by the respondents in the reply statement, implying tacit admission of the claim of the applicants. Further, the judgments of the Hon'ble Supreme Court in Ex. Capt. K.C.Arora and anr v State of Haryana & Ors. reported in (1984) 2 SLR 97 and Aditya v State of A.P in AIR 1985 SC 165 were cited by the applicants, wherein it was held that the provisions which touch a right in existence at the passing of the statute are not to be applied retrospectively in the absence of express enactment or necessary amendment. The claim of the applicants that the issue of OM 24.10.2017 is in violation of the cited observation of the Hon'ble Apex Court has found no response in the reply statement. Thus the OM dated 24.10.2017 is factually and legally not defensible.



XIII. From a close reading of the 6<sup>th</sup> CPC recommendation referred to in OM 24.10.2017 and as extracted above, it is clear that when the pay scale of IP is upgraded, it came to lie in the same pay scale of promotional post of ASP and therefore, the ASP post has to be placed in the next higher pay scale than IP and thereon SP in a scale higher than that of ASP. This recommendation of the 6<sup>th</sup> CPC has been accepted by the cabinet. Hence to uphold the accepted recommendation, any increase in the grade pay of IP to Rs.4600 has to be concomitantly followed by increase in the grade pay of ASP to Rs.4800 and SP to that of Rs.5400. Having not been done, the dispute arose. A pertinent aspect of the dispute is that only the pay band of Rs.9300- 34,800 corresponding to the pre-revised pay scale

of Rs.7450-11500, has the grade pay of Rs.4600 (Annexure A-IV). No other pre- revised pay scale has this grade pay. Hence the pay scale associated with the grade pay of Rs.4600 ie Rs.7450-11,500 has to be granted to the IP post, is the contention of the applicants, which has not been answered by the respondents. There is logic in this contention since the concept of pay band as visualized by the 6th CPC, the grade pay is an innate element. When you refer to a grade pay, the relevant pay band would come into play. Hence when the grade pay of IP was increased to Rs.4600, the corresponding pay band is Rs.9300-34,800 and the relevant pre-revised pay scale is Rs.7450-11500. Extrapolating this logic, when the ASP has to be place in the higher pay scale as observed by the 6<sup>th</sup> CPC would mean placing the ASP in the pay band of Rs.9300- 34,800 but with the pay band of Rs.4800. The reply statement is devoid of any submission as to why it should not be. Therefore, respondents have seriously erred in not looking at this aspect before upgrading the GP of IP to Rs.4600.



There can, therefore, be no second opinion that not granting higher grade pay to ASP post, is a clear violation of the 6<sup>th</sup> CPC recommendation. Indeed, once the recommendations are accepted by the Cabinet they cannot be modified without the permission of the cabinet. We find no such modification of the recommendation of the 6th CPC in respect of the IP/ASP cadre by the Cabinet has been placed on record by the respondents. In **Purushottam Lal v UOI (AIR 1973 SC 1088)**, relied on by the applicants, Hon'ble Supreme Court, has observed that once the recommendations of the pay commission are accepted, it is binding on the Govt. to implement the recommendation in respect of all the Govt.

Employees. For a section of employees not implementing the recommendations is incorrect. Increasing the grade pay of the IP and not that of the ASP & SP, notwithstanding observations of the 6<sup>th</sup> CPC that were reaffirmed in the orders of the Hon'ble Ernakulam Bench to place them in a higher pay scale, is forthrightly an infringement of the observation of the Hon'ble Apex Court. Therefore, the decision of MOF to not to increase the GP of ASP and SP is *non est* in law.



XIV. Further, the MOF -ID note dated 18.10.2017 relied on clause 11 (a) of the ID note of DOP dated 26.4.2012, for concurring with the proposal of DOP. It would be pertinent to extract clause 11 (a) for further resolution of the dispute, as under:

*“11. The opinion of the department has been furnished against para 10 of page 14/N may please be seen. The PCC section has brought out 3 options to settle the issue, viz.,*

*(a) The IP cadre (Group B- Non Gazetted) may be granted Grade Pay of Rs.4600 and retaining its promotional cadre of ASPs (GCS Group-B Gazetted) also in the identical grade pay of Rs.4600.*

*To cite an example, the grade pay of Rs.5400 allowed to AO (9300-34800-IP & TAFS – Group B Gazetted pay band-2), its promotional post of Senior AO (15600-39100 - IP & TAFS – Group B Gazetted Pay Band -3) and further promotional post of ACAO (15600-39100 – Group A Gazetted) has been indicated. This will be a viable option because it will not disturb the existing cadre structure of ASPOs and Superintendent of Post Offices, which was already decided by the 6 CPC. As the post of ASPOs carries higher duties and responsibilities, on their promotion from IP to ASPOs fixation benefit by way of 3% has to be allowed. In view of this fixation benefit, such promotion shall be counted towards ACPS/MACPS as IP/ASP cadres are covered by erstwhile ACP scheme from 1.1.2006 to 31.08.2008.”*

Respondents strongly pleaded that the Integrated Finance Wing of DOP has moved the ID note and it has justified placing both the IP and ASP in the same grade pay of Rs.4600 by claiming that the GP of AO, Sr. AO and ACAO were placed in the same GP of Rs.5400 and therefore on a similar

basis the GP of IP and ASP can be Rs.4600. In this regard it would be apt to examine the revised pay bands and GPs for Group A & B posts as presented in the first schedule of 6<sup>th</sup> CPC- Part A, Section-I (Annexure A-IV). We confine our observation to the grade pay of Rs.5400 since it is in this grade pay that the AO/Sr.AO and ACAO have been positioned.



Present Scale			Revised Pay Structure		
Sl. No.	Post/ Grade	Present Scale	Name of Pay Band/ Scale	Corresponding Pay Bands/ Scales	Corresponding Grade Pay
(1)	(2)	(3)	(4)	(5)	(6)
16	S-15	8000-275-13500	PB-2	9300-34800	5400
17	New Scale	8000-275-13500 (Group A Entry)	PB-3	15600-39100	5400
18	S-16	9000	PB-3	15600-39100	5400
19	S-17	9000-275-9550	PB-3	15600-39100	5400

Thus as per first schedule of 6th CPC, GP of Rs.5400 was attached to different pay scales and in different pay bands. The GP of Rs.5400 given to AO, Sr. AO & ACAO are to different and distinct pay scales/pay bands. The same GP attached to different pay scales/pay bands is treated as separate vide DOPT memo dated 19.5.2009 (Annexure A-XIII) at clause 8.1 as under:

*“8.1 Consequent upon the implementation of Sixth CPC’s recommendations, grade pay of Rs.5400 is now in two pay bands viz., PB-2 and PB-3. The grade pay of Rs.5400 in PB-2 and Rs.5400 in PB-3 shall be treated as separate grade pays for the purpose of grant of upgradations under MACP Scheme.”*

The GP of Rs.4600 granted to IP/ASP is attached to one single Pay scale/Pay band at Sl. No.14 of Annexure IV and hence is not treated as separate/distinct & different as seen in the case of AO, Sr.AO & ACAO. Further, AO & Sr. AO belong to the Group B cadre whereas ACAO to the

Group A cadre. In contrast IP belongs to the non Gazetted cadre and ASP to the Gazetted cadre, with the IP cadre being the feeder cadre to the ASP cadre. The distinctiveness of the AO/Sr. AO & ACAO cadre in respect of grades/Posts/status has been maintained and therefore comparison of AO cadre with the IP/ASP cadre lacks substance. A wrong example has led to a wrong decision since the MOF has relied on this wrong presumption in allowing higher grade pay of Rs.4600 to IP and retaining the same grade pay of Rs.4600 to the ASP cadre. The respondents submission in the reply statement that historically Sr. AO and ACAO were placed in identical pay scale and even in 6th & 7th CPC, whereas IP/ASP have been placed in distinct pay scales except in 6th CPC, does not persuade us in view of para 8.1 of DOPT extracted supra.



XV. The hierarchy of IP and ASP existed since their inception and the same has been erased by granting the same grade pay to both the cadres, albiet Ministry of Finance has accepted the interlacing of the IP/ASP/SP cadre in their note ( A-VIII) dated 28.5.2012 as under:

*“2(d) xxx Since Inspector Posts have come in the Pay Scale of Rs.9300-34800 GP of Rs.4200/- PB-2 corresponding to pre-revised scale of Rs.6500-10500, the hierarchical posts in their cadre i.e. ASP and SP had to be placed in the GP of Rs.4600/- and Rs.4800/- respectively to maintain the relativity in the cadre. xxx”*

Having stated the hierarchy of the ASP/SP cadres and the fact of higher grade pay of Rs.4600 & Rs.4800 respectively for ASP & SP, it is surprising that the MOF has agreed to the same grade pay for IP/ASP cadres. It appears that the MOF has been influenced solely by para 11 (a) of the note

of the Integrated Finance Wing of DOP extracted supra, rather than making an independent analysis and taking a holistic view of the issue. We find no reasons given by MOF/respondents as to why the relativities of the IP/ASP cadre existing from their inception have been ignored. By doing so they have perturbed the age old relativities of IP and ASP cadre which is against the law laid down by the Hon'ble **Supreme Court in Secretary, Finance Department and ors v West Bengal Registration Service Association** cited supra. There is no merger of the IP and the ASP cadre till date nor the recruitment rules were amended to this effect. In addition, there is no reduction in the duties and responsibilities of each of the cadre ie IP/ASP/SP vis-à-vis each other and on the contrary, they have increased with the induction of Technology and business expansion of DOP into uncharted domains of the market, requiring definite consideration to augment the GP as sought in a cascaded manner to the 2 grades in question. When there is no change in the recruitment rules of the IP/ASP cadre, can an adverse change be brought about in the emoluments defeating the spirit of recruitment rules upholding the supremacy of ASP post over that of the IP post, is a moot point that has not been thought about in effecting the change in IP grade pay but not for the ASP/SP posts. The Hon'ble Ernakulam Bench of this Tribunal has justly observed the need to upgrade the grade pay of ASP and no where it has touched upon the aspect of merger of the IP and ASP cadre. In the absence of any merger, granting identical grade pay to the IP and ASP is not in the realm of reason. *Defacto*, DOP in its note dated 7.1.2010 (Annexure A-X) has explored the option of merging the IP and ASP as well the ASP and SP cadres to work out a solution to the dispute that arose and found them not to be



administratively/ functionally feasible. The relevant portion is reproduced hereunder to bring in clarity to the issue.

“2.9 Resultant implications

- There is already one cadre i.e. Asstt. Superintendent (Posts) (GCS Group B) that is a promotional post for the Inspector (Posts) in the hierarchy of the promotional posts that carries the same Grade Pay of Rs.4600 as per existing orders of the Govt.
- Consequent upon allowing Grade Pay of Rs.4600 to the Inspector (Posts), both these cadres will come to lie in the same Grade Pay. To overcome this situation there seems to be two options i.e. Merger of these two cadres or Grant of next higher Grade Pay of Rs.4800 to Asstt. Superintendent (Posts).
- There are defined & distinct duties and responsibilities, Administrative and Financial Powers of both these cadres. The deployment of Inspector and Asstt. Superintendent is a sunder: \



Deployments	Inspector Posts		Assistant Superintendent Posts	
	Postal	RMS	Postal	RMS
Sub Divisions	1202	117	596	31
Operative Offices		87	137	7
Administrative Officers	676	35	976	96
Total	1878	239	1709	327

- As per notification already issued by Dept. of Posts Order No. 25-18/2000-PE-I dated 28<sup>th</sup> July, 2005, the Asstt. Superintendent (Posts) is notified as GCS Group 'B' service cadre, Currently, ASP is designated as Gazetted Group B whereas the Inspector Posts is Non-Gazetted Group 'B'. Further, there is a direct entry at the level of Inspector (Posts) and parity with the Inspector in other Departments like CBDT/CBEC as well as Assistants (CSS) has already been recognized & maintained by the Govt. On designating the entry cadre as Asstt. Superintendent (Posts) after merger of both the cadres the existing parity with the identical cadres will be disturbed besides unduly enlarging the percentage of induction of direct entry recruits in Inspector cadre. The possibility of Merger of Asstt. Superintendent (Posts) with the Superintendent (Posts) has also been examined and it is observed that it will involve change in the selection method, all India Transfer liability for the incumbents presently in Asstt. Superintendent which is a Circle Cadre besides this will disturb the existing administrative set up and will involve administrative & operational difficulties in postings & transfers of these incumbents.
- The other option i.e. Grade Pay of Rs.4800 to Asstt. Superintendent (Posts) seems to be more reasonable & practicable.
- Consequent upon allowing Grade Pay of Rs.4800 to Asstt. Superintendent (Posts), the Superintendent (Posts) in Postal

*Service Group 'B' may be allowed the next higher Grade Pay of Rs.5400 in PB-2.*

2.10 *In consideration of the facts mentioned above, it is summed up that by extending the provisions of Ministry of Finance OM dated 13.11.2009 & 16.11.2009, the Inspector (Posts) needs to be placed in the grade pay of Rs.4600 to maintain parity between the similar cadres. Further, to avoid any functional disturbance in the existing set up, this would necessarily require next higher Grade Pay of Rs.4800 for Assistant Superintendent (Posts) (GCS Group B) in PB-2 which is a promotional post for Inspector (Posts) and to maintain the present hierarchy in the administrative & operational set up, the Superintendent (Posts) in Postal Service Group B may be allowed Grade Pay of Rs.5400 in PB-2.*



2.11 *It is proposed to take up the case with Ministry of Finance for consideration & approval of the above proposal."*

There was thus a sizzling analysis of the issue from all angles and thereafter the recommendation was made by DOP to grant the higher grade pay of Rs.4800/ Rs.540 to the ASP/SP cadre involving no significant additional expenditure, by proposing the curtailment of bonus to the IP by proposing to upgrade their status to Gazetted status from non Gazetted status. Though MOF was aware of the need to grant the higher grade pay sought, it was swayed by the Integrated finance wing suggestion at 11 (a) of note referred to, resulting in a decision of rejection of relief sought and such a decision is not maintainable under law for reasons scribed so far. In view of the aforesaid, we reject the contention of the respondents that DOP has no objection in having identical pay scales for the two posts in the period specified, as it is neither in accordance with the continuing theme of the CPC recommendations to maintain hierarchy in the cadre under reference nor is it in accordance with law as elaborated in different paras.

XVI. To be precise, we observe that the respondents have considered irrelevant facts and ignored the relevant facts and hence the decision to allow ASP cadre to lie in the same GP of Rs.4600 as of IP by taking the example of AO cadre, is patently illogical and smacks of non-

application of mind. Law respects relevance and not irrelevance. Illogic is conspicuous in relying on the note of the Integrated Finance wing of DOP in arriving at a wrong conclusion, when the MOF has been clear about the relativeness of the IP/ASP as brought out in the preceding para. MOF has done the right thing of granting the grade pay of Rs.4600 to the postal Inspector on par with the CBDT/CBEC/Assistants of CSS but in a wrong way of glossing over the need to increase the grade pay of ASP and SP which are in the promotional hierarchy for the IP cadre and are vested with advanced duties and responsibilities. Doing a right thing in wrong way will lead to unfairness as observed by the Hon'ble Supreme Court in *Swadeshi Cotton Mills vs Union of India* AIR 1981 SC 818. Unfairness has no place in the justice delivery system.



*It is trite law that even doing what is right may result in unfairness if it is done in the wrong way*

XVII. The repercussions of the increase of the GP of IP without upgrading the GP of ASP/SP are that a new entrant to the IP cadre on 1.1.2006 would have the same grade pay of Rs.4600 along with an employee in the ASP post, which is the promotional post to IP, with 30 years of service as on 1.1.2006. The case of Sri N. Hari Muthyam referred to at page 120 of the OA is a case substantiating this fact. Granting the same grade pay to an employee with 30 years of service with that of a new entrant in the IP cadre as on 1.1.2006 would be irrational, unlawful and qualifies to be termed as rank arbitrariness. A decision that is arbitrary negates equality and hence injurious to Article 14 of the Constitution, as

held by the Hon'ble Apex Court in **Ajay Hasia v. Khalid Mujib**  
**Sehravard** (1981) 1 SCC 7220 (SCC p.741, para 16) as under:

*“16. ... It must, therefore, now be taken to be well settled that what Article 14 strikes at is arbitrariness because any action that is arbitrary, must necessarily involve negation of equality.”*



XVIII. In administering the departments there are bound to be certain administrative hurdles that arise while implementing the rules framed. Hence, an exceptional clause is always inbuilt in the Rules to find a way out. The same methodology has been adopted in evolving the CCS (Revised Pay) Rules, 2008 dated 29.8.2008 (Annexure A-XII). In the said rules, clause 16 empowers the competent authority to relax the rule that causes any hardship in any particular case to deal with it in a just and equitable manner. The said clause is reproduced hereunder:

*“16. **Power to relax** - Where the President is satisfied that the operation of all or any of the provisions of these rules causes undue hardship in any particular case, he may, by order, dispense with or relax the requirements of that rule to such extent and subject to such conditions as he may consider necessary for dealing with the case in a just and equitable manner.”*

MOF and the respondents could have invoked this clause to come out of the impasse, created by them by issue of DOP - OM dated 24.10.2017 and MOF ID note dated 18.10.2007 without properly evaluating the legal and administrative complexities that they would create. Granting a higher GP for IP and not to the promotional post of ASP /SP cannot be rated as fair and equitable. Any decision that is not fair and equitable would not be lawful. Administrative action has to be tested in regard to fair play and reasonableness. The doctrine of equality is a synonym of fairness in the

concept of Justice and is the accepted tool for Governmental action as made evident by the Hon'ble Supreme Court in its observation in **Man Singh v. State of Haryana, (2008) 12 SCC 331, at page 337**, as under:



*20. We may reiterate the settled position of law for the benefit of the administrative authorities that any act of the repository of power whether legislative or administrative or quasi-judicial is open to challenge if it is so arbitrary or unreasonable that no fair-minded authority could ever have made it. The concept of equality as enshrined in Article 14 of the Constitution of India embraces the entire realm of State action. It would extend to an individual as well not only when he is discriminated against in the matter of exercise of right, but also in the matter of imposing liability upon him. Equals have to be treated equally even in the matter of executive or administrative action. As a matter of fact, the doctrine of equality is now turned as a synonym of fairness in the concept of justice and stands as the most accepted methodology of a governmental action. The administrative action is to be just on the test of "fair play" and reasonableness.*

There was a solution inbuilt in the rules, but the mind to look at it was absent. We for one, having traversed the lanes and by lanes of the dispute, are of the view that the respondents/MOF have not been fair and reasonable in rejecting the fair demand of the applicants for the hike in the grade pay in respect of the ASP/SP. The decision of the respondents to reject the relief prayed for, does not resonate with the above legal principle and hence does not stand in good stead before the eyes of law.

XIX. The Postal Officers Association and the applicants submitted individual representations which have not been responded to. The reply statement does not spell out the reasons as to why they have not been disposed. When a representation is disposed the mind of the decision maker would be known and such disposal would settle the grievance or give scope for the employee to bring to the notice of the respondents the likely grey areas requiring reconsideration by the respondents to resolve the grievance.

DOPT, the nodal agency has time and again harped on the need to dispose of the representations of employees in a timely manner. Yet, the respondents, not disposing the representations is baffling and we are constrained to observe that we are pained to note such indifference.



XX. Lastly, a genuine demand of the applicants on the strength of the recommendations of the 6<sup>th</sup> CPC and successive Pay Commission recommendations coupled with law in all its hues in patronage of their demand, instead of having been met, respondents/MOF negating the same reflects their abstinence to be a model employer as is expected of them under Article 12 of the Constitution. Disregarding the fair claim of the applicants despite law and rules backing the claim would tantamount to frustrating it. The legitimate aspirations of the applicants in seeking the relief sought should not have been guillotined since it has created a situation where their rightful hopes have almost ended in despair. Playing a game of chess by selectively favoring a section of the employees by increasing their grade pay to Rs.4600 and check mating a justifiable increase to the others though they were fully eligible is unperceivable. Calm sensibility and required sincerity in every step of dealing with the demand over a period of time was vividly lacking. Good governance, an essential trait of a model employer can be ushered in only when the employees are treated with dignified fairness by being cognizant of the trust they reposed in the respondents in resolving their genuine grievance. The approach we observed from the history of the dispute was denuded with any of the elements as brought out above. Our views expressed above are an echo of the Hon'ble Apex Court observations in **Bhupendra Nath**

**Hazarika & Anr vs State Of Assam & Ors on 30 November, 2012 in****CA Nos 8514-8515 of 2012 as under:**

*53. We have stated the role of the State as a model employer with the fond hope that in future a deliberate disregard is not taken recourse to and deviancy of such magnitude is not adopted to frustrate the claims of the employees. It should always be borne in mind that legitimate aspirations of the employees are not guillotined and a situation is not created where hopes end in despair. Hope for everyone is gloriously precious and a model employer should not convert it to be deceitful and treacherous by playing a game of chess with their seniority. A sense of calm sensibility and concerned sincerity should be reflected in every step. An atmosphere of trust has to prevail and when the employees are absolutely sure that their trust shall not be betrayed and they shall be treated with dignified fairness then only the concept of good governance can be concretized. We say no more.*

XXI. The other judgments of the Hon'ble High Court of Punjab & Haryana in ***Mehar Chand & Anr v State of Punjab and Ors*** in CWP No. 6429 of 1996 and that of the Hon'ble High Court of Calcutta in ***Dr. Aminul Islam Khan & Ors v Board of Trustees for the Port of Kolkata*** in WP No.1128 of 2016 in regard to pay revision cited by the applicants in support of their contentions were not responded to by the respondents. The only line of defense taken by the respondents is that the judgments relied upon by the applicants are not relevant without distinguishing them. We find it surprising. The judgments cited support the contentions of the applicants.

XXII. To conclude, we declare that the decision of the respondents to reject the relief sought was against the recommendations of the trend set by the successive Pay Commissions and in particular, 6<sup>th</sup> CPC. A wrong decision was taken relying on a wrong premise floated by the Integrated Finance Wing of the DOP. Lack of application of mind to honour the hierarchy of the cadre as laid down in the relevant recruitment rules of IP/ASP and noted by the Pay Commissions was agreeably evident. Executive instructions

were issued overriding the statutory rules. Accepted recommendations of the Pay Commission which are binding as per law were not followed. Unequals were treated as equals. Fairness and equitable treatment, the basic tenet of administration and the minimum expectancy in the delivery of Justice, was not extended. The orders of the Hon'ble Ernakulam Bench of this Tribunal in the 2 OAs cited have not been followed. Above all, Article 14 of the Constitution has been disregarded. Many legal principles laid down by the superior judicial fora, as was discussed in the preceding paras, were trespassed.



XXIII. Therefore, in view of the aforesaid circumstances, we direct the respondents to take up with MOF for granting the grade pay of Rs.4800 to ASP and Rs.5400 to SP respectively for the period from 1.1.2006 to 31.12.2015 and fix their pay and pension accordingly with consequential benefits. Applicants would be eligible for arrears of pay and pension as observed by the Hon'ble High Court of Telangana State on 22.10.2021 in WP No. 20431/2021. Time period allowed to implement the judgment is 3 months from the date of receipt of this judgment.

XXIV. With the above direction, the OAs are allowed with no order as to costs.

**(B.V. SUDHAKAR)**  
**ADMINISTRATIVE MEMBER**

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

/evr/