

भारत संचार निगम लिमिटेड
(भारत सरकार का उद्यम)
निगमित कार्यालय
एसईए अनुभाग, स्थापना वित्त शाखा,
चौथी मंजिल, भारत संचार भवन,
जनपथ, नई दिल्ली-110001



BHARAT SANCHAR NIGAM LIMITED
(A Government of India Enterprise)
Corporate Office
SEA Section, EF-Branch
4th Floor, Bharat Sanchar Bhawan
Janpath, New Delhi-110001

BSNLCO-SEA/16/3/2023-SEA

Dated 08.04.2025

To,

All Heads of Telecom Circles/Metro Districts
& Other Administrative Units,
Bharat Sanchar Nigam Limited

Sub : Hon'ble Supreme Court Order dated 03.01.2025 in the matter of SLP (Civil) Diary No. 51350/2024 in N. K. Mishra & Ors. –reg.

Ref : This office letter of even No. dated 26.03.2025

With reference to the above subject, kind attention is invited to this office letter of even No. dated 26.03.2025 vide which financial implication involved on the captioned subject was sought with request to furnish the information in the prescribed format by 05.04.2024, copy enclosed. However, the requisite information is still pending from Circles.

DoT has intimated that the Department of Expenditure/Ministry of Finance is seeking approximate financial implication involved in the matter and sought for an expeditious reply to their office.

The data may be furnished in respect of DoT/BSNL employees of Organized Accounts Cadre for the period 01.01.1996 to 18.02.2003, who either continued in the same cadre or were subsequently promoted to the higher grade/cadre and at present continuing in service or retired. In this respect, copy of DoE letter No. 6/82/E.III(B)/91 dated 28.02.2003 is enclosed for ready reference.

This information is urgently required for onward submission to DoT. It is, therefore, once again requested to kindly provide the requisite information in the prescribed format latest by 11.04.2025. The matter may be accorded TOP MOST PRIORITY.

This issues with the approval of the Competent Authority.

Encls : As above

Tomy K. I.
Assistant General Manager (SEA)

Copy to: All Circle IFAs, BSNL Circles for necessary action please.

F.No.6/82/E.III(B)/91
 Ministry of Finance & Company Affairs
 Department of Expenditure
 (E.III-B Branch)

New Delhi, the 28th February, 2003.

OFFICE MEMORANDUM

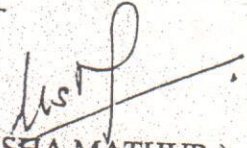
Subject: Pay scales for the staff belonging to the Organised Accounts Departments.

The undersigned is directed to say that the Government had approved grant of higher scales for the Accounts staff of Railways on notional basis w.e.f. 1.1.1996 with actual payments being made prospectively. Keeping in view the fact that pay scales of corresponding categories in various organized Accounts cadres have traditionally been on par, it has been decided that the dispensation approved in case of the Accounts staff of Railways may be extended to the corresponding categories in all the organized Accounts cadres.

2. Pay scales of the following posts and their equivalent posts in the organized Accounts cadres existing in various ministries/departments of the Government of India may accordingly be upgraded on notional basis w.e.f. 1.1.1996 with actual payments being made from 19.2.2003 - the date on which this decision was approved by the Government - as under :-

Designation	Pay scale prior to 1.1.96 (Rs.)	Existing pay scale (Rs.)	Pay scale to be extended notionally w.e.f. 1.1.1996 with actual payments being made prospectively. (Rs.)
Auditor/ Accountant.	1200-30- 1560-40- 2040	4000-100- 6000	4500-125-7000
Sr.Auditor/ Sr. Accountant	1400-40- 1600-50- 2300-60- 2600	5000-150- 8000	5500-175-9000
Section Officer	1640-60- 2600-75- 2900	5500-175- 9000	6500-200-10500
Asstt. Audit Officer/Asstt. Accounts Officer	2000-60- 2300-75- 3200	6500-200- 10500	7450-225-11500

3. In-so-far, as persons serving in the Indian Audit and Accounts Department are concerned, these orders issue after consultation with the C&AG of India.


(USHA MATHUR)
Joint Secretary to the Government of India

To:

1. Secretary, Department of Posts.
2. Member (Finance), Telecom Commission, Ministry of Communications.
3. Financial Commissioner, Ministry of Railways.
4. Deputy Comptroller & Auditor General of India.
5. Controller General of Defence Accounts.
6. Controller General of Accounts.

Sl. No.	Name of the Officer	Grade	Pay Band	Pay Scale
1
2
3
4
5
6

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BSNLCO-SEA/16/3/2023-SEA

Dated 26.03.2025

To,

All Heads of Telecom Circles/Metro Districts
& Other Administrative Units,
Bharat Sanchar Nigam Limited

Sub: Hon'ble Supreme Court Order dated 03.01.2025 in the matter of SLP (Civil) Diary No. 51350/2024 in N. K. Mishra & Ors. –reg.

With reference to the above subject, it is requested to furnish the information: "What would be the financial implication in the matter, if the Hon'ble Court order is going to be implemented?". The information may be given in the following proforma latest by 05.04.2025 positively.

Name of the Circle	No. of Employees	(Amount in Rupees)		Total Financial Implication
		Amount pertaining to DoT Period 01.01.1996 to 30.09.2000	Amount pertaining to BSNL 01.10.2000 to 18.02.2003	

The matter may be accorded TOP PRIORITY.

This issues with the approval of the Competent Authority.

[Handwritten Signature]
26/03/2025

Tomy K. I.

Assistant General Manager (SEA)

Encls:

- 1) Hon'ble CAT New Delhi, Principal Bench order dated 21.03.2023 in O.A.No.2544/2015
- 2) Decision dated 23.01.2024 of Hon'ble High Court, New Delhi in Writ Petition (Civil) 15760/2023
- 3) Hon'ble Supreme Court order dated 03.01.2025

Copy to: All Circle IFAs, BSNL Circles for necessary action please.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No. 51350/2024
[Arising out of impugned final judgment and order dated 23-01-2024
in WPC No. 15760/2023 passed by the High Court of Delhi at New
Delhi]

UNION OF INDIA & ORS.

Petitioner(s)

VERSUS

N.K. MISHRA & ORS.

Respondent(s)

(IA No:285171/2024-CONDONATION OF DELAY IN FILING)

Date : 03-01-2025 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KAROL
HON'BLE MR. JUSTICE MANMOHAN

For Petitioner(s) Mr. Amrish Kumar, AOR
Mr. Shivank Pratap Singh, Adv.
Ms. Priyanka Terdal, Adv.
Mr. Chandra Prakash, Adv.
Mr. Yashraj Singh Bundela, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

1. Delay condoned.
2. We have heard learned counsel for the Petitioners.
3. We have also perused the materials placed on record.
4. Having considered the contentions made across the Bar, we do not find any reason to grant Special Leave to Appeal.
5. As such, the present Special Leave Petition is dismissed.
6. Pending application(s), if any, shall stand(s) disposed

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RAJNI MUKHI
Date: 2025.01.04
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Reason:

(RAJNI MUKHI)
COURT MASTER (SH)

(ANU BHALLA)
COURT MASTER (NSH)



S~

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision:- 23.01.2024

+ W.P.(C) 15760/2023, CM APPL. 63318/2023, CM APPL. 63319/2023 & CM APPL. 63317/2023 -Stay.

UNION OF INDIA & ORS. Petitioner
Through: Mr. Vijay Joshi, Adv.

versus

N.K.MISHRA & ORS. Respondent
Through: Ms. Sunita Hazarika, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

REKHA PALLI, J (ORAL)

1. The present petition under Article 226 & 227 of the Constitution of India seeks to assail the order dated 21.03.2003 passed by the learned Central Administrative Tribunal (the learned Tribunal) in O.A.2544/2015.
2. Vide the impugned order, the learned Tribunal has allowed the O.A. preferred by the respondents and has consequently directed the petitioners to grant them the benefit of the higher replacement/upgraded scale of pay on actual basis w.e.f. 01.01.1996, as against the date from which the benefit was being extended to them, i.e., 19.02.2003. The learned Tribunal has consequently directed the petitioner to release the arrears to the respondents within twelve weeks.



3. Before dealing with the rival submissions of the parties, the brief factual matrix as is necessary for adjudication of the present petition may be noted.

4. The respondents were working as Junior Accounts Officer/Junior Accountant in the Department of Telecommunications as a part of the Organized Accounts Cadre till 30.09.2000 where after they w.e.f., 01.11.2000 stood absorbed in the Bharat Sanchar Nigam Limited. Based on the recommendations made by the 5th Central Pay Commission (CPC) to enhance the pay scales of the ministerial staff in various government departments w.e.f., 01.01.1996, the senior clerks, who were in the pay scale of Rs. 1200-2400, were given the replacement scale of Rs. 4500-7000 w.e.f., 01.01.1996. This replacement scale was, however, not extended to the ministerial staff working in Accounts Department and consequently, the Junior Accounts Assistant, who were working in the same pay scale of Rs. 1200-2400, were w.e.f, 01.01.1996 given a lower replacement scale of Rs. 4000-6000. Based on the representations made by the ministerial staff of accounts cadre of various departments, the matter was referred to the anomalies committee, who opined that the pay scale of the ministerial staff in the accounts cadre was also required to be enhanced to Rs. 4500-7000.

5. Based on these recommendations, the matter was reconsidered and consequently, the Ministry of Finance and Company Affairs issued an Office Memorandum (OM) on 28.02.2003, as per which, the pay scales of the office staff belonging to the Organized Accounts Department were upgraded on a notional basis w.e.f., 01.01.1996 with actual payments to be made w.e.f., 19.02.2003.

6. Being aggrieved, an O.A. was filed by similarly placed employees



working in the Accounts Department of the Railways before the Ernakulum Bench of the learned Tribunal, which O.A. came to be allowed by the learned Tribunal on 30.06.2006, by holding as under:

"10) The only question, that arises for consideration is whether the decision to grant the revised pay scales to the Railway Accounts Staff has any nexus to the recommendations of the yth CPC. The Respondents maintained that the new pay scales do not emanate from the recommendations of the Vth CPC and a separate exercise has been under taken for improvement of the pay scales in the behalf and that the Railway Board held identified the issue as an and the matter had been referred to the anomaly committee. The PA was therefore the contention of the Respondent that the consideration of revision of pay scales of the Accounts Staff in the Railways had nothing to do with the Vth Pay Commission recommendations are not borne out by the facts prirecord, Further annexure R-1 which is the Railway Board order dated 16.10 1997 Implementing the recommendations of the Vth CPC has itself specified that the pay scales of categories like the Accounts Assistants were under examination at the time of issue of the orders Note-1 on page 8 of the order states. Recommendations of the Vth Pay Commission on pay scales for other specified categories are under examination. Pending decision, the normal replacement scales as in the First Schedule would apply."

11) The recommendations for the Ministerial Staff in other than Accounts Department are contained at Sl. No. 11 dage 6 of this under and that for the Accounts Department at Sl. No. 13 on page 7 of the order. The category of Junior Accounts Assistant is not shown under the heading of Accounts Department. This clear point to the fact that this category came under "other specific categories mentioned in the above mentioned. "Note" for which proposals were examination. It was pending such a decision that normal replacement scales were made applicable to this category. The improved scales now given after examination of the

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anomaly are very much an offshoot of the with OPC recommendations Therefore we reject the contention of the Respondents that the Pay Scales now granted by the impugned orders did not emanate from the recommendations of the Vth CPC.

12) Further, as the matter of discrepancies in the Pay Scales of Ministerial Staff in other Departments and Accounts Department was treated as an anomaly and examined for redressal of the same, there is no reason why the same treatment given to other category of staff, like the artisans whose cases were also taken up by the Anomaly Committee and were given the revised scale later w.e.f. 1.1.1996, should be denied to the category of Accounts Assistant infact it is seen from the impugned order that the Railways have decided to grant the revised pay scales on notional basis w.e.f. 1.1.1996. If there was no nexus between the Vth CPC recommendations and the scales now granted there was no need for the Government to come to such a decision to make it effective from 1.1.1996. Since this category has already been placed in the normal replacement scale, revision of pay on notional basis will also imply, as argued by the learned counsel for the Applicants, that the pay fixation has to be effected in terms of Railway Services (Revised Pay) Rules 1997. The Respondent have to inevitable take recourse to the provisions of the Revised Pay Rules. Hence mere contending that the revised Pay Scales has nothing to do with ste Vth CPC. Recommendations sounds hollow, it appears that the --are merely repeating the same words for arguments sale."

7. The aforesaid decision of the Ernakulam Bench was unsuccessfully assailed before the Kerala High Court as also before the Apex Court and has therefore attained finality. A similar O.A seeking identical reliefs was also preferred before the Patna bench of the Tribunal, by some other employees also working in the Accounts Department of the Railways, which O.A was

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dismissed. This decision of the learned Tribunal was assailed before the Patna High Court by way of W.P.(C) 11452/2005, which petition came to be allowed by holding that the learned Tribunal had failed to give any reason for granting only notional benefits to the employees of the Accounts Department w.e.f., 01.01.1996 when all the similarly placed employees of the other departments of the Railways had been granted full monetary benefits w.e.f., 01.01.1996. A Special Leave Petition (SLP) before the Apex Court was then filed assailing this order passed by the Patna High Court. The SLP was dismissed on 07.07.2014 by clarifying that the relief granted by the High Court was to be confined only to the parties before the High Court and rights of other claimants would be adjudicated on its own merits as and when any such claim is raised.

8. Once this order passed by the Patna High Court was implemented, the respondents submitted representations to the petitioners seeking grant of the actual benefits of the higher replacement scales w.e.f., 01.01.1996 as against the notional benefits granted from the said date. Upon receiving no response thereto, the respondents approached the learned Tribunal by way of O.A. 2544/2015, which has been allowed vide the impugned order.

9. In support of the petition, learned counsel for the petitioners submits that the impugned order is wholly perverse as the learned Tribunal has failed to appreciate that as per O.M dated 28.02.2003, the decision of the Government was to grant actual benefits of the higher replacement scale only w.e.f., 19.02.2003 and therefore the respondents were not entitled to claim the said benefits from an earlier date, i.e., 01.01.1996, from which date only notional fixation was granted. Furthermore, the Apex Court, while dismissing the SLP against the aforesaid order passed by the Patna High



Court, had clarified that the relief granted by the High Court would be confined to the applicants before the Tribunal and therefore the said benefits could not be extended to the respondents herein.

10. He finally submits that even otherwise, the respondents having themselves approached the learned Tribunal in the year 2015, their claim for actual benefits of the same higher replacement scale w.e.f., 01.01.1996, though granted to similarly placed employees of the Railways, was barred by delay and laches. He, therefore, prays that the writ petition be allowed.

11. On the other hand, learned counsel for the respondent, who appears on advance notice, supports the impugned order and submits that once the recommendations of the 5th CPC to grant higher replacement scale has been accepted by the Government, the petitioners were expected to extend actual benefits of the said replacement on its own to all the employees without compelling them to approach the Court. She contends that the decision of the petitioners to grant notional benefits of the higher replacement scale to the respondents w.e.f., 01.01.1996 in itself shows that the petitioners were well aware that the entitlement of the respondents to receive the said benefits was from 01.01.1996, i.e., the date from which the recommendations of the 5th CPC became effective.

12. Furthermore, the Apex Court while dismissing the SLP against the order passed by the Patna High Court and directing that the said relief would be confined to the parties before the High Court/Tribunal, had specifically clarified that the same was to be without prejudice to the rights of the other claimants and will be adjudicated on its own merits as and when any such claim is raised. She, therefore, submits that the petitioners' plea that the order passed by the Apex Court precluded the learned Tribunal from

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examining the respondents' claim is wholly misconceived. The respondents having approached the learned Tribunal soon after the decision of the Patna High Court, cannot be said to be guilty of delay and laches especially when it was incumbent on the petitioners itself to extend the benefits of the recommendations made by the 5th CPC w.e.f., 01.01.1996 itself.

13. Having considered the submissions of the learned counsel for the parties and perused the record, we may begin by noting the relevant extracts of the impugned order as we find that the learned Tribunal has based its decision on its earlier order dated 16.08.2022 passed in O.A. 527/2015, which order has admittedly, attained finality. The learned Tribunal had therefore proceeded to allow the OA preferred by the respondents in the same terms as O.A. 527/2015. We may, therefore, refer to para nos. 8 to 11 of the impugned order, which read as under:

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

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

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

(a) The Respondents be directed to pay to the



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

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

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

2. The brief facts of the case are that over-ruling the recommendations of the 5m Pay Commission the Government had decided to grant upgraded pay scale to the officials of the Accounts Cadre of the respondents department w.e.f. 18.02.2003. The applicants are aggrieved that since the recommendations of the Pay Commission were implemented w.e.f. 01.01.199. They too should be granted the actual pay scale w.e.f. such date as it has been granted to others.

3. Learned counsel for the applicant draws attention to various other instances wherein similarly placed officials who approached this Tribunal and other legal forums, on success, were granted upgraded pay scale w.e.f. 01.01.1996. She argues that denial of the same to the applicants amounts to discriminatory treatment. She also draws attention to the order passed by the Hon'ble Apex Court in SLP No. 1587-1588/2014 in which the order of this Tribunal granting upgraded pay scale w.e.f. 01.01.1996 was challenged by the Union of India, but the same was dismissed. The Hon'ble Court while affirming the relief given to the party had held that without prejudice to the rights of the others, their cases shall be decided on their own merits.

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Learned counsel further finds support in the judgment rendered by this Bench of the Tribunal on 13.02.2022 in O.A. No. 763/2015 in which similarly placed applicants were awarded the upgraded pay scales from 01.01.1996. While rendering the aforesaid judgment the Tribunal had also directed the respondents to calculate the arrears admissible to the applicants w.e.f. 01.01.1996 to 18.02.2003 and pay the same to the applicants within a period of 12 weeks failing which they shall be liable to pay simple interest at the rate of 6% p.a. Learned counsel argues that since the issue has been fully and finally settled, there is no reason to deviate from the same in the Instant case as the facts and circumstances are identical.

4. Further she draws attention to the judgment passed by the Hon'ble High Court of Delhi in WP (C) No. 1523/2016 wherein the All India Railway Accounts Staff Association had challenged the orders of this Tribunal in a few wherein the Tribunal had held that there was no hostile discrimination against the applicants and once a policy decision had been taken by the Government to grant the upgraded pay scale from 18.02.2003, the applicants could not claim the upgraded pay scales from 01.01.1996 as a matter of right, especially when the Pay Commission had not recommended the same. However, while quashing the orders of this Tribunal, the Hon'ble High Court vide the order dated 18.01.2019 in the aforesaid Writ Petition clearly directed that the pay scale is to be granted from 01.01.1996 and further directed that the same be granted along with the arrears within a period of 12 weeks, failing which the petitioners in the WP(C) shall be entitled to a simple interest of 6% p.a. and such arrears. The said judgment of the Hon'ble High Court has been followed in letter and spirit in the order of this



Tribunal dated 03.03.2022 In O.A. No. 763/2015 which has already been quoted above. 5. 5.

~~Although the learned counsel for the respondents argues on the basis of the averments he has made in his counter reply that it was a conscious decision of the Government to grant the enhanced pay scales from the date such decision was taken and only notional benefits of the upgraded pay scales was to be given from 01.01.1996 hence the applicants are not deserving of the present reliefs. He reiterates that the upgraded pay scale has not been recommended by the Pay Commission and was awarded to the applicants only by way of an administrative decision of the Government, therefore, it could not be applied retrospectively.~~

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

7. The matter has been agitated up to the level of Hon'ble Apex Court. It is not in dispute that quite a few other similarly placed officials have already been awarded the benefit of upgraded pay scale along with arrears w.e.f. 01.01.1996, the date which the recommendations of the 5th Pay Commission were implemented. Moreover, the grant of this benefit along with arrears has been both on account of a direction of various Courts as also on their own initiative by the Government in certain cases. In O.A. No. 763/2015 which has already been referred to twice in the preceding paragraphs of this judgment, the Tribunal has clearly awarded this benefit in absolutely identical facts and circumstances. The judgment of this O.A further draws strength from the judgment of the Hon'ble High Court of Delhi in WP(C) No. 1563/2015. There being no ambiguity in the said orders we have no cause to hold a different view in the instant matter.

8. Accordingly, the OA is allowed with a direction to the Competent Authority amongst the respondents to



2024:DHC:516-DB



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

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

7. Pending also stands disposed of accordingly."

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

11. In light of the facts and arguments detailed above, the present O.A. is allowed. All the applicants are held to be entitled to the benefit of scale of pay on actual basis with effect from 01.01.1996 as against 19.02.2003. Pursuant to this they are also held to be entitled to the payments of ~~arrears which would have accrued in their favour from this date.~~ The competent authority amongst the respondents is directed to issue appropriate orders for grant and release of the upgraded pay scale in favour of the applicants with effect from 01.01.1996 along with the arrears within a period of twelve weeks from the date of receipt of a certified copy of this order."

14. ~~Despite the aforesaid position emerging from the record that the impugned order is based on an earlier order passed by the learned Tribunal in O.A. 527/2015; which order dated 16.08.2022 has attained finality, we~~

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have still examined the matter on merits but find no reason to differ with the learned Tribunal. We are of the view that taking into account the admitted position that it is only pursuant to the recommendations made by the 5th CPC, which were duly accepted by the Government, that the pay scale of the respondents was enhanced on 19.02.2003, the necessary corollary thereof was to grant all the benefits to the respondents on actual basis from the date, the recommendations were accepted. Once the government chose to accept the recommendations of the 5th CPC, it was not permissible for the petitioners to take a view that actual benefits will not be granted w.e.f., 01.01.1996. Furthermore, once the benefits of the higher replacement scale being extended to similarly placed employees was not only covered by the decision of the Ernakulum Bench in 2006, but also by the Patna High Court and by the Principal Bench of the Tribunal in O.A. No. 527/2015, we are of the view that the respondents are also entitled to receive the same benefits. Infact, after the series of these decisions by different Courts, the petitioners were expected to itself extend the benefits to all similarly placed employees including the respondents herein. We, are, therefore of the considered view that in this factual matrix, it cannot be said that the claim of the respondents was barred by delay or laches.

15. We have also considered the orders passed by the Apex Court on 07.07.2014 in *Union of India & Ors. V. Sudama Singh & Ors.[SLP(C)1587-88/2014]* and on 27.08.2007 in *Union of India v. Arun Jyoti Kundu & Ors.[Appeal(Civil)2468-2469/2005]* and find that the Apex Court did not foreclose the right of other similarly placed claimants and therefore clarified that if similar claims are raised, the same would be considered on its own merits. In the present case, when the learned Tribunal



has after examining the factual matrix and relying on its earlier orders, come to a categoric conclusion that it will be unfair to deny the actual benefits of the higher replacement granted by the 5th CPC to the respondents w.e.f., 01.01.1996, we do not find any reason to interfere with the impugned order.

16. The writ petition being meritless is along with all pending applications, dismissed.

REKHA PALLI
(JUDGE)

RAJNISH BHATNAGAR
(JUDGE)

JANUARY 23, 2024

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

O.A. No. 2544/2015

This the 21st day of March, 2023

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

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



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

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

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

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

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



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

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

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

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



11. MRS. MINI ISADORE,
W/o Shri M Isadore,
Aged about 50 years,
Working as SR. ACTT in the office of Chief General
Manager,
Telecom BSNL, M.P. Circle, Bhopal
R/o H. No. 34, Somaya Vihar Avadhपुरi,
Kali Bari Road, Piplani, Bhopal 462021

12. MRS. LATA SUBRAMANYAM,
W/o Shri S. Subramanyam, Aged about 55 years,
Working as AO in the office of Chief General Manager,
Telecom
BSNL, M.P. Circle, Bhopal
R/o of H. No. E-7/108, Flat No. S-1 Swapnil Homes -III,
Ashoka Society, Arera Colony,
Bhopal-462016

13. S.T. NANDANWAR,
S/o Shri Tulsiram,
Aged about 60 years,

Working as DGM (Finance), In the Office of
Chief General Manager, Telecom BSNL, M.P. Circle, Bhopal,
Resident of H. No. 59, Bharat Nagar,
Shahpura, E-8, Bhopal - 462039

14. R.S. RATHORE
S/o Shri Dal Singh,
Aged about 54 years,
Working as Chief Account Office, in the Office of
Chief General Manager, Telecom BSNL, M.P. Circle, Bhopal,
Resident of H. No. 59, Bharat Nagar,

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O.A. No. 2544/2015



Shapura, E-8, Bhopal - 462039

...Applicants

(By Advocate: Ms. Sumita Hazarika)

Versus

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

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

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

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

...Respondents

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

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

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

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



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

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



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

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



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

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

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



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

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



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

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



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

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



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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

15. There shall be no order as to costs.

(Pratima K. Gupta)
Member (J)

(Tarun Shridhar)
Member (A)

/dd/