

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(1) CWP No. 8772 of 2012

DATE OF DECISION : 16.11.2012

Controller of Defence Accounts

.... PETITIONER

Versus

H.C. Sharma and others

..... RESPONDENTS

(2) CWP No. 13174 of 2012

DATE OF DECISION : 16.11.2012

Union of India and others

.... PETITIONER

Versus

A.S. Bhangalia and another

..... RESPONDENTS

(3) CWP No. 13545 of 2012

DATE OF DECISION : 16.11.2012

Union of India and others

.... PETITIONER

Versus

Ishwar Dass and another

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. D.R. Sharma, Advocate,
for the petitioners.

Mr. R.K. Sharma, Advocate,
for the private respondents.

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SATISH KUMAR MITTAL, J. (Oral)

This order shall dispose of Civil Writ Petitions No. 8772, 13174 and 13545 of 2012, filed by the petitioners against the common order dated 23.11.2010 passed by the Central Administrative Tribunal, Chandigarh Bench (Circuit at Shimla) (hereinafter referred to as 'the Tribunal'), whereby six Original Applications, bearing OA Nos. 356-HP, 128-HP, 168-HP, 336-HP, 337-HP and 338-HP of 2010, were disposed of. The petitioners have accepted the impugned order qua OA Nos. 356-HP, 128-HP and 336-HP of 2010, whereas they have challenged the order qua OA Nos. 168-HP, 337-HP and 338-HP of 2010.

It is the case of the petitioners that in these three cases, the Tribunal has granted relief in excess to the relief claimed by the applicants in the OAs, who are private respondents herein.

Learned counsel for the private respondents has pointed out that on an application (MA No. 364 of 2011) filed by the applicants in OA No. 356-HP of 2010, the Tribunal, vide order dated 2.6.2011, modified its order dated 23.11.2010, while observing as under :-

“After careful consideration of the matter and perusal of the pleadings on record, relevant para 12 is modified as under :

“12. Thus, we are of the view that the applicants, who were in the pay scale of ₹ 1640-2900 w.e.f 1.1.1986 and ₹ 5500-9000 w.e.f. 1.1.1996 are entitled to the first and second financial upgradation in the scale of ₹ 6500-10,500 and ₹ 7400-11500 in accordance with the ACP scheme on

completion of 12 and 24 years of service respectively and the applicants, who were drawing the scale of ₹ 1350-2200 w.e.f. 1.1.1986 and ₹ 4500-7000 w.e.f. 1.1.1996 are entitled to the first and second upgradation to the scale of ₹ 5500-9000 and ₹ 6500-10,500 respectively.”

The remaining contents of para 12 from the words “and said scale of ₹ 1640-2900 (Revised to ₹ 5000-9000) is higher” to the words “merged grade etc.” will remain as it is.

Similarly, the contents of para 15 from the words “....For the parity of reasons given above (occurring in last line of page 9) and onwards, are substituted as under :

“For the parity of reasons given above, the applicants, who were drawing the pay scale of ₹ 1350-2200 w.e.f. 1.1.1986 and ₹ 4500-7000 w.e.f. 1.1.1996 are held entitled to the first and second upgradation under the ACP in the scale of ₹ 5500-9000 and ₹ 6500-10,500 respectively; and those drawing the pay scale of ₹ 1640-2900 w.e.f. 1.1.1986 and ₹ 5500-9000 w.e.f. 1.1.1996 shall be entitled to the first and second financial upgradation in the scale of ₹ 6500-10,500 and ₹ 7400-11,500 as first and second financial upgradations respectively, from due dates with all the consequential benefits of arrears of pay and allowances. However, it is made clear that the recovery sought to be made from the applicants on account of over payment may be adjusted against the amount that are likely to become payable to these applicants. The respondents are directed to pass the necessary orders within a period of three months from the date of receipt of copy of this order.”

MA stands disposed of accordingly.”

Learned counsel for the petitioners has very fairly conceded that while making the aforesaid modifications, the grouse made by the petitioners was duly taken care of and necessary modifications have been made in the impugned order. By making the said modifications, the relief granted to the private respondents is not in excess to the relief claimed by them. However, learned counsel states that the petitioners had also filed a review application, which has been dismissed, therefore, the petitioners apprehend that they have to implement the initial order passed by the Tribunal, and not the modified order.

In our opinion, the apprehension of the petitioners is without any basis, because while dismissing the review application filed by the petitioners, the Tribunal took care of the modifications and thereafter, came to the conclusion that after the aforesaid modifications, there was no ground for review of the order. In view of the said clarification that the original order has already been modified vide the aforesaid order dated 2.6.2011, there is no ground to interfere in the impugned order, as the petitioners have already implemented the order qua the other employees as well as qua private respondents in these cases.

Dismissed.

**(SATISH KUMAR MITTAL)
JUDGE**

November 16, 2012
ndj

**(INDERJIT SINGH)
JUDGE**