GOVERNMENT OF INDIA (BHARAT SARKAR)
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)
(RAILWAY BOARD)

PC-VI No. 384

No. PC-VI /2014/Misc0/4 **New Delhi, dated 22.3.2018**

The General Manager/CAOs,
All Zonal Railways/Production Units
(as per mailing list)

Sub: Sharing of order dated 30.1.2018 of Hon'ble Supreme Court in Civil Appeal No. 1350/2018 arising out of SLP (C) No. 3315/2018 filed by Union of India & Ors Vs K.V.Rama Raju & Ors.

A number of court cases have been filed by the employees (in the pre-revised scales of Rs. 6500-10500/-/7450-11500) of various Zonal Railways seeking re- fixation of their pay in the upgraded pay scales (in pre-revised scale of Rs. 7450-11500/7500-12000). The issue has been examined by Hon'ble Supreme Court in Civil Appeal No. 1350/2018 arising out of SLP (C) No. 3315/2018 filed by Union of India & Ors Vs K.V.Rama Raju & Ors.and other connected matters & Hon'ble Apex Court has been pleased to pass the following orders:-

"*...It is clear that the pay had to be determined by multiplying the existing basic pay as on 1`st January, 2006 by a factor of 1.86 and rounding off the resultant figure to the next multiple of 10 in terms of the rules.*

The view taken that the multiplying factor is to be applied to the revised pay-scale is contrary to the above rule.

We accordingly hold that under the relevant Rules, the pay-scale is to be determined by multiplying basic pay as on 1st January, 2006 by a factor of 1.86. Thus, the view taken by the Madras Bench of the Central Administrative Tribunal by Order dated 7th July, 2015 in O.A.No. 310/00173/2014, R.Karthikeyan & Ors. V. Union of India & Ors., is upheld. Even though a writ petition against the said order is said to be pending before the High Court of Madras, since the matter has arisen before us and we have considered the issue, we approve the said view. Contrary view on the subject stands set aside.

The appeals are accordingly allowed. No costs."

2. The Railways may bring the above position to the notice of Railway Advocate contesting such other cases and take necessary action to file a copy of above judgement before the respective Tribunals/ court and also to utilize the same during arguments.

3. Receipt of this letter may please be acknowledged.

DA: AS ABOVE

(S.Balachandra Iyer)
Executive Director, Pay Commission-II
Railway Board

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.(s). 1350 OF 2018
(Arising out of SLP(C)No.3315 of 2018 @ CC NO.9986 of 2015)

UNION OF INDIA AND ORS. Appellant(s)

VERSUS

K.V. RAMA RAJU AND ORS. Respondent(s)

WITH

C.A. No. 362/2016

C.A. NO.1366 of 2018
(Arising out of SLP(C) No. 34733/2015)

C.A. NO.1357 of 2018
(Arising out of SLP(C) No. 36405/2015

C.A. NO.1353 of 2018
(Arising out of SLP(C) No. 237/2016)

C.A. NO.1351 of 2018
(Arising out of SLP(C) No. 6082/2016)

C.A. NO.1352 of 2018
(Arising out of SLP(C) No. 6012/2016)

C.A. NO.1355 of 2018
(Arising out of SLP(C) No. 5103/2016)

C.A. NO.1358 of 2018
(Arising out of S.L.P.(C)No.3317 of 2018 (CC No. 6463/2016)

C.A. No. 2790/2016

C.A. NO.1354 of 2018
(Arising out of SLP(C) No. 14940/2016)

C.A. NO.1356 of 2018
(Arising out of SLP(C) No. 3587/2017)

C.A. NO.1359 of 2018
(Arising out of SLP(C) NO.3318 of 2018 @ Diary No(s). 40652/2017)

Signature valid
Digitally signed by MAHABIR SINGH
Date: 2018.12.02 15:40:27 IST
Reason:

O R D E R

Delay condoned.

Leave granted.

We have heard learned counsel for the parties and perused the record.

The question for consideration is as to how the pay of the respondents was to be fixed after coming into force the 6th Pay Commission. It is not disputed that the matter is governed by Notification dated 29th August, 2008, issued by the Ministry of Finance, Department of Expenditure, which is deemed to have come into force w.e.f. 1st January, 2006.

Rule 7 of the said Notification deals with fixation of initial pay in the revised pay structure which is as follows:

> "7. Fixation of initial pay in the revised pay structure:
>
> (1) The initial pay of a Government servant who elects, or is deemed to have elected under sub-rule (s) of rule 6 to be governed by the revised pay structure on and from the 1st day of January, 2006, shall, unless in any case the President by special order otherwise directs, be fixed separately in respect of his substantive pay in the permanent post on which he hold a lien or would have held a lien if it had not been suspended, and in respect of his pay in the officiating post held by him, in the following manner, namely : -
>
> (A) in the case of all employees:-
>
> (i) they pay in the pay band/pay scale will be determined by multiplying the existing basic pay as on 1.1.2006 by a factor of 1.86 and rounding off the resultant figure to the next multiple of 10.
>
> (ii) if the minimum of the revised pay band/pay scale is more than the amount arrived at as per (I) above, the pay shall be fixed at the minimum of the revised pay band/pay scale;

Provided further that:-

Where, in the fixation of pay, the pay of Government servants drawing pay at two or more consecutive stages in an existing scale gets bunched, that is to say, gets fixed in the revised pay structure at the same stage in the pay band, then, for every two stages so bunched, benefit of one increment shall be given so as to avoid bunching of more than two stages in the revised running pay bands. For this purpose, the increment will be calculated on the pay in the pay band. Grade pay would not be taken into account for the purpose of granting increments to alleviate bunching.

In the case of pay scales in higher administrative grade (HAG) in pay band PB–4, benefit of increments due to bunching shall be given taking into account all the stages in different pay scales in this grade. In the case of HAG+ scale, benefit of one increment for every two stages in the pre-revised scale will be granted in the revised pay scale.

In by stepping up of the pay as above, the pay of a Government servant gets fixed at a stage in the revised pay band/pay scale (where applicable) which is higher than the stage in the revised pay band at which the pay of a Government servant who was drawing pay at the next higher stage or stags in the same existing scale is fixed, the pay of the latter shall also be stepped up only to the extent by which it falls short on that of the former.

(iii) The pay in the pay band will be determined in the above manner. In addition to the pay in the pay band, grade pay corresponding to the existing scale will be payable.

Note - Illustration 1 on the above is provided in the Explanatory Memorandum to these Rules.

(B) In the case of employees who are in receipt of special pay/allowance in addition to pay in the existing scale which has been recommended for replacement by a pay band and grade pay without any special pay/allowance, pay shall be fixed in the revised pay structure in accordance with the provisions of clause (A) above.

(C) In the case of employees who are in receipt of special pay component with any other nomenclature in addition to pay in the existing scales, such as personal pay for promoting small family norms, special pay to Parliament Assistants, Central (Deputation on Tenure) Allowance, etc. and in whose case the same has been replaced in the revised pay structure with corresponding allowance/pay at the same rate or at a different rate, the pay in the revised pay structure shall be fixed in accordance with the provisions of clause (A) above. In such case, the allowance at the new rate as recommended shall be drawn in addition to pay in the revised pay structure form the date specified in the individual notifications related to these allowances.

(D) In the case of medical officers who are in receipt of non-practising allowance, the pay in the revised pay structure shall be fixed in accordance with the provisions of clause (A) above except that, in such cases, the pre-revised dearness allowance appropriate to the non-practising allowance admissible at index average 536 (1982 = 100) shall be added while fixing the pay in the revised pay band, and in such cases, non-practising allowance at the new rates shall be drawn with effect from 1.1.2006 or the date of option for revised pay structure, in addition to the pay so fixed in the revised pay structure. Illustration 2 in this regard is at in the Explanatory Memorandum to these Rules.

Note 1 - (a) In the case of Group D employees, the pay in the revised pay structure will be fixed initially in the - 1S pay band as per Clause (A) above with appropriate grade pay and arrears paid accordingly. Thereafter, pay of such of those Group D employees who already possess the revised minimum qualifications recommended by the Commission prescribed for entry into PB-1 with grade pay of Rs. 1800.

(b) Such of those existing Group D employees who do not possess the revised minimum qualifications for entry into PB- 1 would be retrained by the concerned Department preferably within a period of six months so the payment of arrears on account upgradation are not delayed. After re-training, these Group D staff will also be placed in the Pay Band PB - 1 with the grade pay of Rs. 1800 with effect from 1.1.2006 and arrears drawn accordingly. Once placed in the PB

- 1 Pay Band, this category of Group D staff will regain their seniority vis-a-vis the other category of Group D staff that already possessed the minimum qualifications and were, therefore, placed in the PB -1 Pay Band as on 1.1.2006. Inter- se seniority of all the employees in erstwhile Group D will be fully maintained with Group D employee in a higher pre-revised pay scale being placed higher vis-a-vis an employee in a lower pay scale. Within the same pre-revised pay scale, seniority which existed prior to revision would continue.

(c) Arrears shall be payable with effect from 1.1.2016 in both the cases i.e. to those Group D employees who possess the qualifications and are placed in PB-1 straight away and those Group D employees who do not possess the qualifications and are placed after re-training.

Illustration 3 in regard to fixation of pay for Group D staff is in the Explanatory Memorandum to these Rules.

Note 2 - Where a post has been upgraded as a result of the recommendations of the Sixth CPC as indicated in Part B or Part C of the First Schedule to these Rules, the fixation of pay in the applicable pay band will be done in the manner prescribed in accordance with Clause (A) (I) and (ii) of Rule 7 by multiplying the the existing basic pay as on 1.1.2006 by a factor of 1.86 and rounding the resultant figure to the next multiple of ten. The grade pay corresponding to the upgraded scale as indicated in Column 6 of Part B or C will be payable in addition. Illustration 4 in this regard is in the Explanatory Memorandum to these Rules.

Note 3 - A government servant who is on leave on the 1st day of January, 2006 and is entitled to leave salary shall become entitled to pay in the revised pay structure from 1.1.2006 or the date of option for the revised pay structure. Similarly, where a government servant is on study leave on the first day of January, 2006 he will be entitled to the benefits under these Rules from 1.1.2006 or the date of option.

Note 4- A Government servant under suspension, shall continue to draw subsistence allowance based on existing scale of pay and his pay in the revised pay structure will be subject to the final

order on the pending disciplinary proceedings.

Note 5 - Where a Government servant is holding a permanent servant is holding a permanent post and is officiating in a higher post on a regular basis and the scales applicable to these two posts are merged into one scale, the pay shall be fixed under this sub-rule with reference to the officiating post only, and the pay so fixed shall be treated as substantive pay.

The provisions of this Note shall apply mutatis mutandis, to Government servants holding in an officiating capacity, posts on different existing scales which have been replaced by the revised pay structure.

Note 6 - Where the 'existing emoluments' exceed the revised emoluments in the case of any Government servant, the difference shall be allowed as personal pay to be absorbed in future increases in pay.

Note 7 - Where in the fixation of pay under sub-rule(1), the pay of a Government servant, who, in the existing scale was drawing immediately before the 1st day of January, 2006 more pay than another Government servant junior to him in the same cadre, gets fixed in the revised pay band at a stage lower than that of such junior, his pay shall be stepped upto the same stage in the revised pay band as that of the junior.

Note 8 - Where a Government servant is in receipt of personal pay on the 1st day of January, 2006, which together with his existing emoluments exceeds the revised emoluments, then, the difference representing such excess shall be allowed to such Government servant as personal pay to be absorbed in future increases in pay.

Note 9- In the case of employees who are in receipt of personal pay for passing Hindi Pragya, Hindi Typewriting, Hindi Shorthand and such other examinations under the "Hindi Teaching Scheme", or on successfully undergoing training in cash and accounts matters prior to the 1st day of January, 2006, while the personal pay shall not be taken into account for purposes of fixation of initial pay in the revised pay structure, they would continue to draw personal pay after fixation of their pay in the revised pay structure on and from

the 1st day of January, 2006 or subsequently for the period for which they would have drawn it but for the fixation of their pay in the revised pay structure. The quantum of such personal pay would be paid at the appropriate rate of increment in the revised pay structure from the date of fixation of pay for the period for which the employee would have continued to draw it.

Explanation - For the purpose of this Note, "appropriate rate of increment in the revised pay structure" means 3% of the sum of the pay in the pay band an the grade pay at the stage at which the pay of the employee is fixed in the revised pay structure.

Note 10 - In cases where a senior Government servant promoted to a higher post before the 1st day of January, 2006 draws less pay in the revised pay structure than his junior who is promoted to the higher post on or after the first day of January, 2006, the pay in the pay band of the senior Government servant should be stepped up to an amount equal to the pay in the pay band as fixed for his junior in that higher post. The stepping up should be done with effect from the date of promotion of the junior Government servant subject to the fulfillment of the following conditions, namely:-

(a) both the junior and the senior Government servants should belong to the same cadre and the posts in which they have been promoted should be identical in the same cadre.

(b) the pre-revised scale of pay and the revised grade pay of the lower and higher posts in which they are entitled to draw pay should be identical.

(c) the senior Government servants at the time of promotion should have been drawing equal or more pay than the junior.

(d) the anomaly should be directly as a result of the application of the provisions of Fundamental Rule 22 or any other rule or order regulating pay fixation on such promotion in the revised pay structure. If even in the lower post, the junior officer was drawing more pay in the pre-revised scale than the senior by virtue of any advance increments granted to him, provision of this Note need not be invoked to step up the pay

of the senior officer.

(2) Subject to the provisions of rule 5, if the pay as fixed in the officiating post under sub-rule(1) is lower than the pay fixed in the substantive post, the former shall be fixed at the stage next above the substantive pay."

It is clear that the pay had to be determined by multiplying the existing basic pay as on 1st January, 2006 by a factor of 1.86 and rounding off the resultant figure to the next multiple of 10 in terms of the rule.

The view taken that the multiplying factor is to be applied to the revised pay-scale is contrary to the above rule.

We accordingly hold that under the relevant Rules, the pay-scale is to be determined by multiplying basic pay as on 1st January, 2006 by a factor of 1.86. Thus, the view taken by the Madras Bench of the Central Administrative Tribunal by Order dated 7th July, 2015 in O.A. NO.310/00173/2014, R. Karthikeyan & Ors. v. Union of India & Ors., is upheld. Even though a writ petition against the said order is said to be pending before the High Court of Madras, since the matter has arisen before us and we have considered the issue, we approve the said view. Contrary view on the subject stands set aside.

The appeals are accordingly allowed. No costs.

.....J.
(ADARSH KUMAR GOEL)

.....J.
(UDAY UMESH LALIT)

New Delhi,
January 30, 2018.

ITEM NO.12 COURT NO.11 SECTION XII-A

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

Petition(s) for Special Leave to Appeal (C)..... of 2018
CC No(s). 9986/2015

(Arising out of impugned final judgment and order dated 16-10-2014 in WP No. 16002/2014 passed by the High Court Of Andhra Pradesh At Hyderabad)

UNION OF INDIA AND ORS. Petitioner(s)

VERSUS

K.V. RAMA RAJU AND ORS. Respondent(s)

WITH C.A. No. 362/2016 (XIV)

SLP(C) No. 34733/2015 (XIV)

SLP(C) No. 36405/2015 (IV-B)

SLP(C) No. 237/2016 (XVI)

SLP(C) No. 6082/2016 (XII-A)

SLP(C) No. 6012/2016 (XII-A)

SLP(C) No. 5103/2016 (XVI)

S.L.P.(C).....of 2018 (CC No. 6463/2016) (IV-B)

C.A. No. 2790/2016 (IV-A)

SLP(C) No. 14940/2016 (XVI)

SLP(C) No. 3587/2017 (XVI)

Diary No(s). 40652/2017 (XI)
(With Interim Relief and IA No.4283/2018-CONDONATION OF DELAY IN FILING)

Date : 30-01-2018 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Mr. R. Balasubramanian,Adv.
Ms. Binu Tamta,Adv.

Mr. Mukul Singh,Adv.
Mr. Abhinav D.,Adv.
Ms. Arunima Dwivedi,Adv.
Mr. Mukesh Kumar Maroria, AOR

For Respondent(s) Mr. C. K. Rai, AOR
Mr. Umesh Prasad,Adv.
Mr. Mohit Rai,Adv.

Ms. Krishna Parkhani,Adv.
Ms. Kawaljit Kochar,Adv.
Ms. Vasundhra Singh,Adv.
Mr. Kusum Chaudhary, AOR

Ms. Reshmi Rea Sinha, AOR

Mr. Hitendra Nath Rath, AOR

Mr. Y. Raja Gopala Rao, AOR

UPON hearing the counsel the Court made the following

O R D E R

Delay condoned.

Leave granted.

In terms of the signed order, the appeals are allowed.

Pending applications, if any, shall also stand disposed of.

(MAHABIR SINGH)
COURT MASTER

(PARVEEN KUMARI PASRICHA)
BRANCH OFFICER

(Signed order is placed on the file)