

Central Administrative Tribunal  
Principal Bench, New Delhi.

OA-657/2012

With

OA-931/2012

OA-3582/2011

MA-2620/2011

Reserved on: 07.01.2013.  
Pronounced on:10.01.2013.

Hon<sup>ble</sup> Mr. G. George Paracken, Member (J)  
Hon<sup>ble</sup> Mr. Shekhar Agarwal, Member (A)

OA-657/2012

1. Uttam Singh (TGT-Hindi),  
S/o Sh. Ratan Singh,  
R/o A-21/3, Ram Vihar,  
Loni Road, Johri Pur Extension,  
Delhi-94.

Office Address:

Uttam Singh (TGT-Hindi),  
Govt. Boys Senior Secondary School,  
G.T. Road, Shahdara,  
Delhi.

2. Omkar Singh (TGT-Sanskrit),  
Employee ID: 20051162  
S/o late Sh. Shiv Charan,  
R/o 9/4825, Old Seelam Pur,  
Delhi-31.

Office Address:

Omkar Singh (TGT-Sanskrit),  
Govt. Boys Senior Secondary School,  
G.T. Road, Shahdara,  
Delhi.

3. Parikshit Kumar (PGT-Commerce),

Employee ID: 20025053  
S/o Sh. Ved Pal Singh,  
R/o A-6, Shiv Vihar,  
Shalimar Garden Ext.II,  
Sahibabad, UP.

Office Address:

Parikshit Kumar (PGT-Hindi),  
Govt. Boys Senior Secondary School,  
G.T. Road, Shahdara,  
Delhi.

☒..

Applicants

(through Sh. K.P. Gupta, Advocate)

Versus

1. Govt. of NCT of Delhi through  
Its Chief Secretary,  
Delhi Secretariat, I.P. Estate,  
New Delhi.
2. Director of Education,  
Directorate of Education,  
Govt. of NCT of Delhi,  
Old Secretariat,  
Delhi.
3. Deputy Director of Education,  
District North East,  
Office of the Deputy Director of Education,  
District North East,  
Yamuna Vihar,  
Delhi.
4. Principal,  
Govt. Boys Senior Secondary School,  
G.T. Road, Shahdara,  
Delhi.
5. Vice Principal,  
Govt. Boys Secondary School,  
Saboli,  
Delhi-93.

☒..

Respondents

(through Sh. Vijay Pandita, Advocate)

OA-931/2012

Ranjan Sharma,  
TGT English  
GBSSS Chirag Delhi,  
New Delhi-19.

②.. Applicant

(through Sh. T.D. Yadav, Advocate)

Versus

1. GNCT of Delhi through  
Its Chief Secretary,  
Vth level Delhi Secretariat,  
IP Estate, New Delhi-2.
2. The Director of Education,  
Directorate of Education of Delhi Govt.,  
Old Secretariat Civil Lines,  
Delhi-54.

②.. Respondents

(through Sh. B.N.P. Pathak, Advocate)

OA-3582/2011, MA-2620/2011

1. Sanjay Bansal,  
S/o Sh. Mahesh Bali Bansal,  
R/o B-64, Prashant Vihar,  
Delhi-85.

Office Address:

Sanjay Bansal(TGT-Hindi),  
ID No. 19931410  
Sarvodaya Bal Vidyalaya,  
C.C. Colony,  
Delhi-7.

2. Mohd. Ali Khan,  
S/o Sh. Qutubuddin,  
R/o 72, Gali No. 4, Prem Nagar,  
Natthu Pura,

Delhi-84.

Office Address:

Mohd. Ali Khan (TGT-English),  
ID No. 20070345  
Sarvodaya Bal Vidyalaya,  
C.C. Colony,  
Delhi-7.

3. Roshpal Singh,  
S/o late Sh. Inder Singh,  
R/o Jhugi No. H-4, N-30/B/462,  
Jahangir Puri,  
Delhi.

Office Address:

Roshpal Singh(Assistant Teacher,  
ID No. 19991044  
Sarvodaya Bal Vidyalaya,  
C.C. Colony,  
Delhi-7.

②.. Applicants

(through Sh. K.P. Gupta, Advocate)

Versus

1. Govt. of NCT of Delhi through  
Its Chief Secretary,  
Delhi Secretariat,  
IP Estate, New Delhi-2.
2. Director of Education,  
Directorate of Education,  
Govt. of NCT of Delhi,  
Old Secretariat,  
Delhi.
3. Principal,  
Sarvodaya Bal Vidyalaya,  
C.C. Colony,  
Delhi-7.
4. Municipal Corporation of Delhi,

Civic Centre,  
JLN Marg, Minto Road,  
New Delhi-2  
Through its Commissioner,  
Concerned Department : Department of Education,  
Civil Line Zone, 16, Rajpur Road,  
Delhi-54.

☒.. Respondents

(through Sh. B.N.P. Pathak and Sh. Rahul Singh, Advocate)

## O R D E R

Sh. Shekhar Agarwal, Member (A)

The subject matter of these three cases being the same, they are being disposed of by this common order. However, for the sake of convenience facts in OA-657/2012 are discussed.

2. The applicants have sought the following relief:-

☒(a) To re-fix the basic pay of the applicant No.1 & 2 at Rs.18,460/- on 01.01.2006 treating their pre-revised basic pay at Rs.7450/- the of the revised pay scale of Rs.7450-11500.

To re-fix the basic pay of the applicant No.3 at Rs.18,750/- on 0.1.01.2006 treating his pre-revised basic pay at Rs.7500/- the minimum of the revised pay scale of Rs.7500-12000.

To re-fix the pay of the applicants for the succeeding years granting their increments in accordance with rule.

Pay all the arrears to the applicants within a period of 3 months along with interest @ 12% per annum.

Award the cost for the present application.☒

3. Brief facts of the case are that the applicants have been working as Post Graduate Teachers (PGTs) and Trained Graduate Teachers (TGTs) in different schools under the Government of NCT of Delhi. The pay scales of the teachers of different categories were revised as a consequence of the report of the Sixth Central Pay Commission, which has been implemented w.e.f. 01.01.2006. The impugned orders of pay fixation were passed in November, 2008. The applicants have subsequently represented to their Principals for removing the anomaly in their pay fixation as it was much less as compare to new entrants who were their juniors. The applicants had earlier filed OA-610/2011

before this Tribunal, which was disposed of on 04.11.2011 with the direction to the respondents to re-examine the issue of pay fixation of the applicants within a period of two months. Accordingly, the respondents have passed the impugned orders in compliance of the directions of the Tribunal. The present Original Application has been filed against the aforesaid orders.

4. The applicants have contended that pay in revised pay scales has to be fixed under Rule 7(1)(A)(i) and Rule 7(1)(A)(ii), which read as under:-

☐The Rule 7(1)(A)(i) stipulates the pay in the pre-revised scale will be deemed in the revised pay /pay scale by multiplying by a factor of 1.86.

The Rule 7(1)(A)(ii) further stipulates that if the minimum of revised pay band/pay scale is more than the amount arrived as per (i) above, the pay shall be fixed at the minimum of the revised pay band/pay scale.☐

Applicant

No.

Name (Desg.)		Date of appointment in DOE	Date of joining in this school	Pre-revised scale Basic pay in the Pre-revised scale	Revised Pay band	Minimum of Revised Pay band
Pay in PB=column 6*1.86 and rounding off to the nearest multiple of 10 Total BP on 1.1.2006						
1	2	3	4	5	6	7
1	Sh.					10
	Uttam Singh					
	(TGT)**	9.8.2002	4.7.2009	Rs.5500-175-9000	Rs.6025PB-2	
		Rs.9300-34800	Rs.9300Rs.11210	15810		
2	Sh.					
	Omkar Singh (TGT)	9.8.2005	9.8.2005	Rs.5500-175-9000	Rs.5675	
	PB-2	Rs.9300-34800	Rs.9300Rs.10560	15160		
3.	Sh. Parikshit Kumar (TGT)	4.3.2002	23.8.2004	Rs.6500-200-10500		
		Rs.7100PB-2	Rs.9300-34800	Rs.9300Rs.13210	19010	

5. The contention of the learned counsel for the respondents is that Rule 7(1)(A)(ii) is not applicable in the case of applicants as their revised pay arrived at as per Rule 7(1)(A)(i) is more than the minimum of the revised pay scale. The respondents have given a table as under indicating the manner in which the applicant's pay has been fixed:

6. We have heard the learned counsel of both sides and have perused the material placed on record.

7. While both sides agree to the rules that are applicable for pay fixation, the difference appears to be in the manner in which these rules have to be applied. The applicants have contended that their basic pay in the old scale was less than the minimum of the revised pay scale, hence their

basic pay should have first been stepped up to the minimum level of the new scale and then multiplied by a factor of 1.86. To this grade pay applicable in the pay band should have been added to arrive at the revised basic pay. On the other hand, the respondents have contended that the basic pay on re-revised scale is to be multiplied by a factor of 1.86 and if the figure arrived at is less than the minimum of the revised pay band then only the basic pay is increased to the level of minimum of the revised pay band. However, in the case of the applicants this figure is more than the minimum of the revised pay band, hence Rule 7(1)(A)(ii) is not applicable. The respondents have also contended that they have followed the fitment table of Ministry of Finance while computing the revised pay of the applicants.

8. We have gone through the rules and we find that Rule 7(1)(A)(i) clearly stipulates that the pre-revised pay has to be multiplied by a factor of 1.86 to determine the new basic pay in the new scales. Rule 7(1)(A)(ii) becomes applicable only when the new pay so arrived at is less than the minimum of the revised pay scale. Thus, there is no merit in the contention of the applicants. However, it appears that the main grievance of the applicants has arisen on account of the fact that the Teachers who have been appointed on or after 01.01.2006 have been given basic pay of Rs.17140/- which is more than the revised pay of the applicants even though the applicants are senior to them. The respondents have contended that as per the Circular dated 10.03.2010 issued by DCA (Education), the pay of senior teachers with respect to that of direct recruit junior teachers appointed in the entry pay on or after 01.01.2006 will be considered for stepping up under FR-27. Accordingly, all heads of schools have been directed to forward such cases to DCA (Education). It appears that the cases of the applicants have so far not been considered under this Circular.

9. In the case of some applicants, it is found that the pay had already been stepped up by the Heads of the schools but by the above mentioned Circular, they have been directed to send such cases to DCA (Education), who is the competent authority for doing so under FR-27. Accordingly, the revised pay of some of the applicants was stepped down and recovery has been ordered for any excess payment that has been made. The applicants have sought stoppage of recovery pending final fixation of their pay. The fixation can be said to be completed only once the relevant rules have been applied including FR-27. It would be unfair to make any recovery from the applicants as already nearly three years have elapsed since the issue of the Circular and cases of many similarly placed teachers have not been decided. We, therefore, direct that recovery, if any, may be made only after the cases of the applicant have been considered under FR-27 as well.

10. Thus it is held that while the pay of the applicants has been rightly fixed as per the formula provided in Rule-7(1)(A)(i) & (ii), all the cases need to be considered under FR-27. The respondents are directed to complete the process under the said Rule within a period of three months from the date of receipt of a copy of this order. Till then recovery shall not be made from the applicants on account of stepping down of pay by Heads of Schools. There shall be no order as to costs.

(Shekhar Agarwal)  
Member (A)

(G. George Paracken)  
Member (J)

/vinita

