

F.No.A,20011/1/2020/P&A  
Indian Red Cross Society  
National Headquarters

Office Order No.558

110

11th January, 2024

Subject: Representation of Assistants for the Grant of pay to the post of Assistant i.e. 18,460/- or Minimum/Entry pay of the post of Assistant i.e. 17,140/- w.e.f. their date of promotion to the post of Assistant

An OA was filed in the Hon'ble CAT, New Delhi on 09<sup>th</sup> July, 2015 by S/Sh. Arun Juriel, Satpal Sharma, Ganga Singh, Raman Kumar, Ravinder Singh and Uttam Chhetri on the above captioned subject seeking that their pay be fixed at Rs.18460 (13860+4600) or at least 17140 (12540+4600) on their promotion to the post of Assistant w.e.f. 28.06.2012 with all consequential benefits including arrears of pay and allowances with interest. Their plea was that as per the 6<sup>th</sup> CPC recommendation in Section -II Part'A' of the First Schedule to CCS(RP) Rules, 2008 pay of all Direct Recruit in the GP of Rs. 4600/- appointed as on 1.1.2006 will get a minimum of pay in the Pay Band II i.e. basic pay Rs. 12540/- + GP Rs.4600/- making it Rs.17,140/-. Thus the pay of the persons promoted to the post of Assistant as on 1.1.2006 or after cannot be less than Rs.17140/-(entry pay) whether appointed as direct Recruit or otherwise.

2. In their OA, the applicants had inter alia, placed as follows:-

i) That 12 other employees i.e. Sh. Suresh Kumar, Smt. Madhu Malhotra, Smt. Veena Puri, Smt Promila Saini, Shri S.K.Sapra, Smt. Usha Mendiratta, Shri G. P. Uniyal, Sh. K.K. Vishambaram, Smt. Sudha Sethi, Smt. Kamlesh Nayyar, Sh. J.S. Lamba and Sh. Ram Nath (hereinafter called Sh. Suresh Kumar and other 11 employees) were working as UDC as on 31.12.2005 drawing the pay in the Pay Scale of Rs. 4000-6000.

On implementation of 6<sup>th</sup> CPC, they were given the fitment of 1.86 on their basic pay drawn by them as on 1.1.2006. However, Sh. Suresh Kumar & 11 other employees were promoted to the post of Assistant on **14.12.2006**. Under 6<sup>th</sup> CPC the pay scale of Assistants were upgraded to the pre-revised pay Scale of Rs. 7450-11500 w.e.f. 1.1.2006.

ii) Another group of 8 employees ie. Sh. M. Ganapathi, Smt. Ravinder Bedi, Sh Jagdish Raj Saini, Sh K. K. Bakshi, Sh N M Sharma, Smt Ranjit Nagi, Sh. G.K. Pillai and Smt. Jayanthi N (hereinafter called Sh. M. Ganapathi and 7 other employees) who were working as Assistant as on 31.12.2005 were drawing the pay in the Pay Scale of Rs. 5500-9000. On the implementation of 6<sup>th</sup> CPC they were given fitment of 1.86 of their basic pay drawn by them as on 1.1.2006. Their pay scale was upgraded to that of Rs.6500-10500 w.e.f. **15.9.2006**. When Sh. M. Ganapathi and other 7 employees agitated on the issue of drawing less pay than newly entrant Assistants (Sh. Suresh Kumar and 11 other employees), who joined on or after 1.1.2006 but drawing PB-2 Rs. 9300-34800 +GP Rs. 4600/-, pay of Sh. M. Ganapathi and other 7 other employees was also fixed at Rs.17,140/-.

iii) Respondent No.1, Department of Expenditure Issued a clarification dt. 14.12.2009 providing that those who were appointed to the post of Assistant by promotion between 1.1.2006 to 30.08.2008 will have the option to get their pay fixed

/3642694/2024

from the date of promotion with reference to the fitment table of the upgraded pay scale i.e. pre-revised Scale of Rs. 7450-11500/-. Accordingly, IRCS fixed the pay of Sh. Suresh Kumar and 11 other employees at Rs.18,460/- w.e.f. 14.12.2006 with reference to the fitment table of the upgraded Pay Scale i.e pre-revised Scale of Rs. 7450-11500. ( $7450 \times 1.86 = 13857/-$  rounded to  $13860 + 4600/-$  (GP) = Rs.18460/-). This led to resentment by Sh. M. Ganapathi and 7 other employees who being senior to Sh. Suresh Kumar and other 11 employees and their pay had been fixed at Rs.17,140/ which was lesser than that of Sh. Suresh Kumar and 11 other employees who were promoted to the post of Assistant w.e.f. 14.12.2006. Therefore, IRCS fixed the pay of Sh. M. Ganapathi and 7 other employees also at Rs. 18,460/- w.e.f. 1.1.2006.

iv) Six number of employees of IRCS i.e. Sh S K Naroola, Sh Shiv Narayan, Sh M.S. Bisht, Sh Daler Singh, Smt. Paramjit Kaur and Smt. Sunita Gaur (hereinafter called Sh. S.K. Naroola and 5 other employees) were working as UDC as on 31.12.2005 drawing the pay under pay scale of Rs.4000-6000. On implementation of 6<sup>th</sup> CPC they were also given the fitment of 1.86 on their pay drawn by them as on 1.1.2006. Sh. S.K. Naroola and 5 other employees were later appointed to the post of Assistant by promotion w.e.f. 1.7.2009 in the Pay of PB-2, Rs. 9300-34800 + GP Rs.4600/- vide order dated 17.7.2009. That vide Order dt.16.6.2014, the date of appointment of Sh. S.K. Naroola and 5 other employees, to the post of Assistant by promotion was wrongly and illegally antedated from 1.7.2009 to 30.8.2008 in order to give them benefit of clarifications dt. 14.12.2009 and accordingly their pay was fixed at Rs.18,460/- w.e.f. 30.08.2008.

v) The 6 applicants were promoted to the post of Assistant by promotion on 28.06.2012 in the pay of PB-2 Rs.9300-34800+GP Rs.4600 and their pay was fixed at Rs.13900/- by IRCS. Accordingly they sought a relief that their pay should either be fixed Rs. 18,460/- or at least Rs.17,140/- w.e.f. 28.6.2012, with all consequential benefits including arrears of pay and allowances with interest.

3. IRCS, NHQ filed its reply to the OA filed by S/Sh. Arun Juriel and others. While contending that the pay of the applicants has been fixed correctly, following submissions were also made before the Hon'ble Tribunal:

- i. That Indian Red Cross Society (herein after referred to as "IRCS") is a humanitarian organization constituted under Act of the Parliament (ACT XV of 1920) and is a part of the International Red Cross and Red Crescent Movement and is classified as a 'National Society' under the Movement. That each National Society under the International Red Cross System must maintain its autonomous status. Non-interference of the local government and independence are basic guiding tenets of the Society.
- ii. Although IRCS has been constituted under the Central Act but it has its independent identity and it is not controlled by the Central Government or any of the States of the Union. The independent and autonomous character of the Indian Red Cross Society is in line with the International Red Cross and Red Crescent Movement.
- iii. There is no pervasive control of the Government in the affairs of the Indian Red Cross Society.
- iv. The Managing Body is for all practical purposes having complete control over the financial and administrative matters of the Society.
- v. The IRCS has its own rules and in the areas not covered by its rules, guidance is taken from the government rules and instructions. But IRCS is an independent body having a special character of its own as per the Act, under which it has been created. The Government orders or even pay commission recommendations are not, per se, applicable to it.

- vi. The Ministry of Health & Family Welfare, Government of India has declared in an affidavit filed in Writ Petition (Civil) No. 18396/2007 before the Hon'ble High Court of Punjab and Haryana that it has absolutely no control over the IRCS.
  - vii. That the answering respondent is a non-profit organization solely committed to the humanitarian cause.
  - viii. The post of Assistant is not filled by direct recruitment in IRCS.
  - ix. The pay of the applicants were fixed on promotion by applying the relevant rules, instructions and there is no infirmity of illegality therein.
4. The Hon'ble CAT disposed of the OA vide Order dated 21.3.2023 with the direction to the applicant to file a fresh detailed representation bringing out all the facts of the case along with citations thereon addressed to respondent no. 2 by 30.4.2023. Hon'ble CAT also directed respondent no. 2 to the OA to dispose of the representation by passing a reasoned and speaking order within a period of 12 weeks from the date of the receipt of the said representation.

5. Accordingly, a fresh joint representation was filed on 25.04.2023 by S/Sh. Uttam Chhetri, Arun Juriel, Raman Kumar, Satpal Sharma and Ravinder Singh on the above captioned subject seeking that their pay be fixed at Rs.18460 (13860+4600) or at least 17140 (12540+4600) w.e.f. 28.06.2012 with all consequential benefits including arrears of pay and allowances with interest. In their fresh representation the applicants, besides the grounds taken in their OA, have also quoted the Judgement dt 29.7.2022 in WP No. 7792/2020 passed by the Hon'ble High Court of Delhi wherein in para 17 it was held as under:

*"the pay of Central Government employees, who were appointed to their posts by way of promotion on or after 01.01.2006 and those, whose pay as fixed by the revised pay rules happens to be lower than the entry pay, shall also not be less than such entry pay from the date of their promotion taking place on or after 01.01.2006".*

6. In view of above and the directions of Hon'ble Tribunal, the joint representation submitted by the applicants on 25.4.2023 has been examined and the position which emerges is as follows:-

- a) That the basic pay drawn by them as on 01.01.2006 was revised/refixed under 6<sup>th</sup> CPC by applying the fitment formula of 1.86.
- b) The applicants were promoted to the post of Assistant w.e.f. 28.06.2012.
- c) The contention of the applicant that their pay on promotion to the post of Assistant w.e.f. 28.6.2012 was fixed at Rs.13900/- is not correct. The actual pay on their promotion as on 28.6.2012, was fixed at Rs.15240/- inclusive of a Grade pay of Rs.4600/-.
- d) The applicants have also pointed out that the date of promotion of Sh. S.K. Naroola, and five other employees to the post of Assistant was wrongly and illegally antedated from 1.7.2009 to 30.8.2008 in order to give them benefit of clarification dt 14.12.2009, and their pay was also fixed at Rs.18460. In this regard, the Managing Body of IRCS gave them a notional promotion w.e.f. 31.08.2008, subject to the condition that no financial benefit will accrue retrospectively. Therefore, their pay was fixed strictly in accordance with instructions contained in Ministry of Finance, Dept. of Expenditure OM No. 1/1/2008-IC dated 16.11.2009

/3642694/2024

as clarified by Implementation Cell of Dept. of Expenditure vide UO No. 10/1/2009-IC dt 14.12.2009 and that no arrears on account of re-fixation was payable. This confirms that the orders of the Government are not per se applicable in IRCS, as the clarification dated 14.12.2009 was not implemented by the Managing Body in toto and the financial benefits were allowed only prospectively from the date of the meeting of the Managing Body, i.e. 02.05.2014 and not from the date of their promotion.

e. The Judgment dated 29.7.2022 in WP No. 7792/2020 passed by the Hon'ble Delhi High Court, relied upon by the representationists is not applicable to the facts of their case because the same has been passed in the case of Central Government employees, which the employees of IRCS are not, and there is no element of Direct Recruitment in the IRCS and hence the question of less entry pay does not arise.

f. The applicants were promoted to the post of Assistant w.e.f. 28.06.2012 and their pay was fixed on promotion by applying the relevant rules, instructions being followed in IRCS with the approval of the competent authority. It is also submitted that IRCS as stated above is an independent body having a special character of its own as per the Act, under which it has been created and the Government orders or even pay commission recommendations are not, per se, applicable to it.

7. In view of the above explained position, the pay of these Assistants who were promoted w.e.f. 28.06.2012 have been fixed correctly and there is no merit in their representation seeking refixation of pay either at Rs.18460 or 17140 w.e.f. 28.06.2012. The representation is accordingly disposed of.

8. This order is issued with the approval of the competent authority.

( N. K. Singh )

Deputy Secretary

Copy to:-

1. Shri Uttam Kumar Chettri
2. Shri Arun Juriel
3. Shri Raman Kumar
4. Shri Sat Pal Sharma
5. Shri Ravinder Singh.
6. Shri Ganga Singh
- ✓ 7. Copy uploaded on the website of IRCS, NHQ.
8. Copy to Shri L.R. Khatana, Advocate, for further necessary action.