



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MR. JUSTICE BASANT BALAJI

FRIDAY, THE 14TH DAY OF AUGUST 2026 / 23RD SRAVANA, 1948

OP (CAT) NO. 45 OF 2023

ORDER DATED 29.11.2022 IN OA NO.578 OF 2014 OF CENTRAL

ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

PETITIONER/APPLICANT:

ARJUN AMBALAPATTA,
AGED 44 YEARS
PUBLIC PROSECUTOR, NATIONAL INVESTIGATION AGENCY,
MINISTRY OF HOME AFFAIRS, HOUSE NO.28/443 GIRI NAGAR,
KADAVANTHARA, ERNAKULAM, KOCHI, PIN - 682020

BY ADV KUM.NIHARIKA HEMA RAJ

RESPONDENTS/RESPONDENTS:

- 1 UNION OF INDIA,
REPRESENTED BY SECRETARY, MINISTRY OF HOME AFFAIRS,
GOVERNMENT OF INDIA, SOUTH BLOCK, NEW DELHI, PIN - 110001
- 2 THE NATIONAL INVESTIGATION AGENCY,
REPRESENTED BY THE INSPECTOR GENERAL OF POLICE (ADMN),
NATIONAL INVESTIGATION AGENCY, 6TH AND 7TH FLOOR, NDCC
II BUILDING, JAI SINGH ROAD, NEW DELHI, PIN - 110001
- 3 GOVERNMENT OF INDIA,
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF PERSONNEL
AND TRAINING, MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES



AND PENSIONS, NORTH BLOCK, NEW DELHI, PIN - 110001

4 THE SUPERINTENDENT OF POLICE (0),
NATIONAL INVESTIGATION AGENCY, MINISTRY OF HOME
AFFAIRS, HOUSE NO.28/443 GIRI NAGAR, KADAVANTHARA,
ERNAKULAM, COCHIN, PIN - 682020

5 STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, HOME DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM-, PIN - 695001

BY ADVS.

SHRI.K.S.PRENJITH KUMAR, CGC

SHRI.N.K.SUBRAMANIAN, SENIOR PANEL COUNSEL

THIS OP (CAT) HAVING COME UP FOR ADMISSION ON 14.08.2026, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



JUDGMENT

Devan Ramachandran, J.

While the petitioner was serving as an Assistant Public Prosecutor for the State of Kerala, he responded to a notification issued by the National Investigation Agency (NIA) dated 05.07.2010, wherein, candidates were called for appointment on deputation to the post of Public Prosecutor under it.

2. The petitioner asserts that, as per the notification - namely Annexure A3, the pay of the post on deputation is to be governed by the provisions of Clause 65 thereof, namely: "*personnel while on deputation with the NIA would continue to draw the basic pay being drawn by them in their parent department and other allowances admissible to the Central Government employees from time to time*" (sic). He says that, after he was accepted on deputation, the NIA fixed his pay in terms of the aforesaid stipulation, as evident from Annexure A7, in which his basic pay was correctly shown to be Rs.21,240/-, comprising Rs.20,740/- being his basic pay in the State Scale, along with Rs.500/- being notional increment. He asserts that this is evident from Annexure A10 notice dated 21.04.2014, issued to him by the NIA, wherein also, one notional increment in the parent scale (as per the State Scale) of Rs.500/- has been added; and hence that it cannot now be resiled in any manner.



3. The petitioner alleges that, however, while so, he was served with Annexures A23 and A24 demands, directing him to refund large amounts of money for the period during which he was on deputation between the years 2011 and 2014, citing the reason that his pay and allowances had been fixed wrongly and not in conformity with the Central Scale, which he had allegedly opted. He points out that these demands are based on Annexures A15 and A16 orders, by which, his pay and allowances have been completely re-fixed, but without any verifiable basis. He says that he was thus constrained to approach the learned Central Administrative Tribunal, Kochi Bench, ('Tribunal') against the aforesaid orders; but that his Original Application has been rejected, while directing the Authorities to re-fix his scale and pay after affording him an opportunity of being heard.

4. Smt.Niharika Hema Raj – learned counsel for the petitioner, argued that the directions of the learned Tribunal are unnecessary and superfluous because, when the notification calling for candidature, namely Annexure A3, specifically mandated that her client would continue to draw the basic pay in the State Scale, along with all admissible allowances to Central Government employees from time to time, the calculation in Annexure A7 becomes irreproachable. She pointed out that the basic pay in the State Scale enjoyed by her client, at the time of his deputation, was Rs.20,740/-, to which



a notional increment of Rs.500/- had been added, as evident from Annexure A10 notice; and hence that the statements in Annexures A15 and A16, that this was in error can never be countenanced. She reasserted that, for the very same reason, the demands made on her client, through Annexures A23 and A24, stand without any legal support; and prayed that, hence, the final order of the learned Tribunal be set aside, and the reliefs sought for by her client be granted.

5. Sri.N.K.Subramanian – learned Senior Panel Counsel for the respondents, responded to the afore, saying that it is not merely Annexures A3 or A10 that cover the field, but also Annexure R-1(b), being the option exercised by the petitioner. He impressed upon us that, as per the said option, the petitioner had opted to continue in the Central Scale of Pay; and, hence, that his fixation of pay and allowances as per Annexure A7 was in error. He argued that it is merely to correct this error, that Annexures A15 and A16 orders, followed by Annexures A23 and A24 demands, were made. He prayed that this Original Petition be, therefore, dismissed.

6. It is indubitable that the relevant question in this case is how the petitioner's pay and allowances ought to have been regulated, after he was accepted on deputation by the NIA.

7. In Annexure A3, which is concededly the notification issued to



invite candidates on deputation, the ambit of Clause 65 thereof – extracted in paragraph 2 supra - is unmistakable.

8. In further clarification of the same, Annexure A9 Office Memorandum issued by the Ministry of Personnel, Public Grievances and Pensions of the Government of India, in Clause 5.1(ii)(b), mandates as under:

(b) If the appointment is made to a post whose pay structure and/or DA pattern is dissimilar to that in the parent organisation, pay may be fixed by adding one increment to the pay in the parent cadre post in the scale of his regular parent post (and if he/she was drawing pay at the maximum of the scale, by the increment last drawn) and equating the pay so raised plus dearness allowance (and additional or ad-hoc dearness allowance, Interim relief etc., if any) with emoluments comprising of pay plus DA, ADA, Interim relief etc., if any, admissible, in the borrowing organisation and the pay may be fixed at the stage in the pay scale of the ex-cadre post at which total emoluments admissible in the ex-cadre post as above equal the emoluments drawn in the cadre."

9. Smt.Niharika Hema Raj - learned counsel for the petitioner, asserts that it is based on the sum total of the aforesaid two provisions, that her client was offered the basic pay in the State Scale, namely, Rs.20,740/-; along with a notional increment of Rs.500/-, as evident from Ext. A10 notice and Ext. A7 fixation.

10. The contra argument of Sri.N.K.Subramaniam is based on Annexure R-1(b), which is an option stated to have been exercised by the petitioner to be in the Central Scale of Pay.

11. Though Smt.Niharika Hema Raj argued that Ext.R-1(b) does not



operate in the manner as stated by Sri.N.K.Subramaniam, because her client did not opt for either of the scales mentioned therein, we are of the view that such an issue would be irrelevant to this matter, since the pay and allowances of the petitioner will certainly have to be regulated not by such option alone, but by the relevant stipulations in the governing documents.

12. Undoubtedly, the provisions of the invitation notification, namely Annexure A3, and those contained in Annexure A9 order of the Government of India would have sure bearing; and this is admitted by Sri.N.K.Subramaniam also.

13. Going by the calculation adopted by the NIA, at the time when the petitioner was admitted to service on deputation, his basic pay in the pay scale was Rs.20,740/-, to which the notional increment of Rs.500/- was then added, making it Rs.21,240/-. They however, in Annexure A15 and A16, say that the pay scale ought to have been taken as only Rs.15,600 and not Rs.21,240 because, of the alleged option he had made through Annexure R-1(b), mentioned above.

14. It is here that the submissions of Smt.Niharika Hema Raj obtains force because, Annexure A3 notification limpidly says that the petitioner would continue to draw the basic pay drawn in the parent department and other allowances admissible to the Central Government employees. This is cemented by the further stipulations in Annexure A9, particularly Clause 5.1(ii)(b) that, where an



appointment is made to a post whose pay structure and DA pattern is dissimilar to the parent organisation, one increment will be added to the parent cadre in the scale of his regular parent post. It is this, which is reflected in Annexure A7 fixation of pay; further fortified by Annexure A10 notice issued by the Government of India.

15. The learned Tribunal, however, seems to have been swayed by the various calculations that were placed before it by the respondents, to then think that there is a confusion in the manner in which the pay and allowances of the petitioner ought to have been regulated. This is primarily because of the assertion of the respondents, that an option had been exercised by the petitioner to remain in the Central Scale and not in the State Scale.

16. However, as seen above, when Annexure A3 is unmistakable that the candidate will benefit from the pay in the parent scale complemented by all the allowances in the Central pay, we fail to comprehend how the NIA can then rely upon a subsequent option stated to have been made by him, albeit in which he has not exercised his desire to continue to be in either of the pay scales. This is explained by Smt.Niharika Hema Raj, saying that, since his client was given the offer as in Annexure A3, there was no requirement for him to have exercised either of the scales of pay, because he would certainly be entitled only to that which was offered to him.

17. There is force in the afore explanation.

18. That being said, we are told that the petitioner, after the period of deputation, was recruited into the NIA through the Union Public Service



Commission, where he now works as a Deputy Legal Advisor, which is fairly a senior post. He was in deputation in the NIA for a brief period between 2011 and 2014; and it is only much later that Annexures A23 and A24 demands were made on him, on 29.01.2015 and 30.01.2015 respectively. One fails to fathom why there was no refixation of pay attempted when he was in service; but sought to be done through Annexures A15 and A16, which are dated 28.05.2014 respectively, much later. The delay has not been explained, though the respondents assert that it was done based on the option exercised by the petitioner.

19. We cannot, therefore, see any cause to support either Annexures A15 or A16 orders, or Annexure A23 or A24 demands made qua the petitioner.

20. For the afore reasons, we find it necessary to intervene; and consequently allow this Original Petition and set aside the impugned order, as also Annexures A15 and A16.

21. As a corollary, we order that no recovery from the petitioner, based on Annexures A23 and A24, can be pursued.

This Original Petition is thus ordered.

sd/-

DEVAN RAMACHANDRAN
JUDGE

sd/-

BASANT BALAJI
JUDGE

akv/Sru

APPENDIX OF OP (CAT) NO. 45 OF 2023

PETITIONER ANNEXURES

Annexure A15	TRUE COPY OF ORDER NO. B-07/PAY FIXATION/NIA/KOCHI/2013/261 DATED 28.05.2014 ISSUED BY THE NATIONAL INVESTIGATION AGENCY.
Annexure A16	TRUE COPY OF ORDER NO. B-07/PAY 4. FIXATION/NIA/KOCHI/2014-15/266 DATED 28.05.2014 ISSUED BY THE NATIONAL INVESTIGATION AGENCY.
Annexure A23	TRUE COPY OF ORDER NO. B-07/PAY FIXATION/NIA/KOCHI/2015/86 DATED 29.01.2015 ISSUED BY THE NATIONAL INVESTIGATION AGENCY.
Annexure A24	TRUE COPY OF ORDER NO. B-07/PAY FIXATION/NIA/KOCHI/2014-15/96 DATED 30.01.2015 ISSUED BY THE NATIONAL INVESTIGATION AGENCY.
Annexure A1	TRUE COPY OF G.O.(MS) NO.6/2008/HOME DATED 05.01.2008 ISSUED BY THE GOVERNMENT.
Annexure A2	TRUE COPY OF SALARY SLIP OF THE APPLICANT ISSUED BY THE OFFICE OF THE ACCOUNTANT GENERAL.
Annexure A3	TRUE COPY OF NOTIFICATION DATED 05.07.2010 ISSUED BY THE 2ND RESPONDENT.
Annexure A4	TRUE COPY OF G.O.(RT)3866/2010/HOME DATED 28.12.2010 ISSUED BY THE GOVERNMENT.
Annexure A5	TTRUE COPY OF ORDER NO.112/2011 DATED 06.01.2011 ISSUED BY THE 2ND RESPONDENT.
Annexure A6	TRUE COPY OF THE PAY SLIP OF THE APPLICANT FOR THE MONTH OF MARCH, 2011.
Annexure A7	TRUE COPY OF PAY SLIP OF THE APPLICANT FOR THE MONTH OF JULY, 2011.
Annexure A8	TRUE COPY OF OFFICE MEMORANDUM DATED 05.01.1994 ISSUED BY GOVT. OF INDIA.
Annexure A9	TRUE COPY OF OFFICE MEMORANDUM DATED 17.06.2010 ISSUED BY GOVERNMENT OF INDIA.
Annexure 10	TRUE COPY OF SHOW CAUSE NOTICE DATED 21.04.2014 ISSUED BY THE 4TH RESPONDENT.
Annexure A11	TRUE COPY OF ORDER DATED 12.06.2013 IN O.A.NO.374/2012 OF THE CAT, HYDERABAD. WITH TYPED COPY



Annexure A12	TRUE COPY OF LETTER DATED 12.12.2013 ISSUED BY SENIOR ACCOUNTS OFFICER, REGIONAL PAY AND ACCOUNTS OFFICE.
Annexure A13	TRUE COPY OF LETTER DATED 14.06.2012 ISSUED BY THE NATIONAL INVESTIGATION AGENCY.
Annexure A14	TRUE COPY OF REPLY SENT BY THE APPLICANT BEFORE THE SUPERINTENDENT OF POLICE, NIA, KOCHI DATED 20.05.2014.
Annexure A17	TRUE COPY OF INTERIM ORDER DATED 9.06.2014 IN O.A.NO.180/385/2014 OF THIS HON'BLE TRIBUNAL.
Annexure A18	TRUE COPY OF ORDER DATED 22.07.2014 IN O.A.NO.180/385/2014 OF THIS HON'BLE TRIBUNAL.
Annexure 19	TRUE COPY OF OFFICE ORDER NO.939/2014 DATED 16.07.2014 ISSUED BY THE 2ND RESPONDENT.
Annexure A20	TRUE COPY OF ORDER DATED 26.11.2013 IN O.A.NO.1432/2014 OF THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD.
Annexure A21	TRUE COPY OF ORDER NO.B-07/PAY FIXATION/NIA/KOCHI/2014/726 DATED 03.12.2014 ISSUED BY THE NATIONAL INVESTIGATION AGENCY
Annexure A22	TRUE COPY OF THE REPLY DATED 02.01.2015 SUBMITTED BY THE APPLICANT TO THE SHOW CAUSE NOTICE.
Annexure R1 (a)	COPY OF JOINING LETTER DATED 06.01.2011
Annexure R1 (b)	OPTION CERTIFICATE & UNDERTAKING CERTIFICATE.
Annexure R1 (c)	COPY OF PAY FIXATION ORDER ISSUED BY DIG, NIA HYD DATED 06.07.2011
Annexure R1 (d)	COPY OF DOP&T ORDER DATED 17.06.2010.
Annexure R1 (e)	COPY OF IAW, JAM NAGAR, NEW DELHI LETTER NO.CA/IAWMHA/CLARIFICATION/11-12/1863 DATED 30.12.2011
Annexure R1 (f)	COPY OF JOINING ORDER IN NIA B.O. KOCHI ON 18.06.2012.
Annexure R1 (g)	COPY OF REPATRIATION ORDER DATED 30.06.2014.
Annexure R1 (h)	COPY OF JOINING LETTER AS PUBLIC PROSECUTOR IN NIA BO KOCHI DATED 04.07.2014
Annexure R1 (i)	COPY OF O.A.NO.374/2012 OF CAT HYDERABAD ORDER DATED 12.06.2013
Annexure R1 (j)	COPY OF LETTER NO.B-07/PAY FIXATION/NIA/KOCHI/2014-15/266 DATED 28.05.2014.



Annexure R1(k) COPY OF NOTE DATED 06.02.2014 VETTED BY PAO, NSG, HYDERABAD.

Annexure R1(l) COPY OF DOPT UO NO. 52549/2013-ESTT (PAY.II) DATED 19.07.2013.

Annexure R1(m) COPY OF LETTER NO. B-07/PAY FIXATION/ NIA/ KOCHI/2013/261 DATED 28.05.2014

Annexure R1(n) COPY OF NOTICE/LETTER NO.B-07/PAY FIXATION/ NIA/KOCHI/2014/726 DATED 03.12.2014.

Annexure R1(o) COPY OF ORDER ISSUED TO PETITIONER LETTER NO.B07/PAY FIXATION/NIA/KOCHI/2015/86 DATED 29.01.2015.

Annexure R1(p) NIA PUBLICITY NOTICE DATED 05.07.201

Annexure R1(q) PAY FIXATION ORDER NO.09/2015 DATED 30.01.2015.

Annexure R1(r) CAT HYDERABAD O.A.NO.1432/2013 DATED 27.07.2015.

Annexure R1(s) CAT GUWAHATI O.A.NO.166/2013 ORDER DATED 12.08.2014

Annexure R1(t) DOPT O.M.NO.F.NO.18/26/2011-ESTT (PAY-I) DATED 06.02.2014

Annexure R1(u) TRUE COPY OF LPC OF THE APPLICANT.

Annexure A25 TRUE COPY OF THE CORRIGENDUM - FOR DEPUTATION/ (ISTC)/ABSORPTION TO NIA AS DY LEGAL ADVISOR AND SENIOR PUBLIC PROSECUTOR DATED 7.9.2016 ISSUED BY THE 2ND RESPONDENT.

Exhibit P1 TRUE COPY OF ORIGINAL APPLICATION (AMENDED) OA 578 OF 2014

Exhibit P2 REPLY STATEMENT FILED ON BEHALF OF THE RESPONDENTS

Exhibit P3 ADDITIONAL REPLY STATEMENT FILED BY THE RESPONDENTS NO.1 TO 4

Exhibit P4 2ND ADDITIONAL REPLY STATEMENT FILED BY RESPONDENTS NO.1 TO 4

Exhibit P5 REJOINDER FILED BY THE APPLICANT

Exhibit P6 M.A. NO.227 OF 2021 DATED 23.03.2021 IN O.A. NO. 578 OF 2021 FILED BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM

Exhibit P7 STATEMENT FILED BY THE COUNSEL FOR THE APPLICANT

Exhibit P8 WRITTEN SUBMISSION FILED BY THE RESPONDENT NOS 1 TO 4



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Exhibit P9

**THE ORDER OF THE HON'BLE CAT DATED 31.03.2022
IN O.A. NO. 578 OF 2014**

Exhibit P10

**THE ORDER OF THE FULL BENCH OF THE HON'BLE
CAT DATED 29.11.2022 IN O.A. NO. 578 OF 2014**