(2010) 02 DEL CK 0079

In the Delhi High Court

Case No : Writ Petition (C.) No. 6867 of 2001

K.B. Yadav and Others APPELLANT

Vs

Union of India (UOI) and Others RESPONDENT

Date of Decision : 03-02-2010

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 5D(3), 5D(4), 5D(5), 5D(6), 5D(7)

Citation : (2010) 167 DLT 564 : (2010) 125 FLR 243

Hon'ble Judges : Mool Chand Garg, J;Anil Kumar, J

Bench : Division Bench

Advocate : G.D. Gupta, R.K. Saini, for Petitioners Nos. 1, 2 and 4 and H.D. Sharma, for Petitioner No, for the Appellant; H.K. Gangwani, for the Respondent

Final Decision : Dismissed

Judgement

Mool Chand Garg, J.—The petitioners have filed the present writ petition under Article 226 of the Constitution of India aggrieved from the order passed by the Central Administrative Tribunal (hereinafter referred to as "the Tribunal") dismissing the OA No. 463/2001 filed by the petitioners for quashing/setting aside of the orders dated 05.02.2001 and 13.02.2001 whereby the fourth respondent directed reduction of pay scale of the petitioners and others from Rs. 16,400-20,000 to Rs. 14,300-18,300 on the ground that the higher pay scale was made admissible by the petitioners themselves without the approval of the Central Government.

2. The Tribunal vide order dated 17.09.2001 while dismissing O.A. No. 463/2001 directed the Central Provident Fund Commissioner (CPFC) to withdraw the enhanced pay scale of Rs. 16,400-20,000/- awarded to the petitioners and others and to reduce the same to the pay scale of Rs. 14,300-18,000/-. This order had been passed by the Tribunal in view of the provisions contained u/s 5D(3) to 5D(7) of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as ''the Act'') read with para 22A of the

Employees Provident Fund Scheme 1952 (hereinafter referred to as ''the Scheme'') by making the following observations:

8. We have carefully gone through the relevant sections of the Act. Para 5D (7) clearly states that the method of recruitment, salary and allowances and other conditions of service of ACPFC etc. of Central Board shall be in accordance with the rules and order applicable to the officers and employees of the Central Govt. drawing corresponding scales of pay. The pre-revised pay scale attached to the post of ACPFC was Rs. 4500-5700. This was the pay scale granted to the officers of the rank of Director in the Central Government. After the recommendation of the 5th Pay Commission, the pay scale of the post of Director was revised to Rs. 14,300-18,300 w.e.f. 1.1.1996. Therefore, the ACPFCs who were in the pay scale of Rs. 4500-5700, corresponding to the scale of pay of Director in the Central Government ought to have been given the pay scale of Rs. 14,300-18,300. In case the Central Board wanted to grant revised pay scale to ACPFC higher than Rs. 14,300-18,300, the matter should have been referred to the Central Govt. for approval under the proviso of Section 5D(7)(a) of the Act.

9. A careful reading of the relevant provisions of the Act including Section 5D(7)(a) of the Act and para 22A of the Scheme clearly establishes that the Central Board does not have the power to grant higher pay scale to ACPFC than the corresponding officers and employees of the Central Government drawing corresponding pay scale. In this case, the matter has been referred to the Central Government with regard to revision of the pay scales of FA, CAO etc. for approval but the same has not been agreed to. It is a settled law by the Supreme Court that the revision/grant of pay scale to the incumbent of a particular post is to be looked into by an expert body like the Pay Commission and the Court should not interfere in such matters. In view of the aforesaid position, we do not want to interfere with the impugned orders dated 5.2.2001 and 13.2.2001. In the result, the OA deserves to be dismissed and we do so accordingly. Interim order passed on 13.3.2001 stands vacated. There shall be no order as to costs.

3. The basic issue involved in this writ petition is "as to whether the Central Administrative Tribunal (hereinafter referred to as "the Tribunal") was justified in dismissing the O.A. No. 463/2001 filed by the petitioners for quashing/setting aside of the orders dated 05.02.2001 and 13.02.2001 issued by respondent No. 4 whereby the pay scales of the petitioners were reduced from Rs. 16,400-20,000/- to Rs. 14,300-18,300/-."

4. The second question is "as to whether while revising the pay scales of the Additional Central Provident Fund Commissioner (ACPFC), Financial Advisor and Chief Accounts Officer working with Central Boards of Trustees, Employees Provident Fund (CBT, EPF), were entitled in law for revision of the pay scales of the ACPFC and Financial Advisor and Chief Accounts Officer to that of Rs. 16,400-20,000/- by substituting pay scale of Rs. 4500-7500/-, instead of the pay scale of Rs. 14,300-18,300/- conferred upon the officials holding the pay scale of

Rs. 4500-7500/- by the Central Government without the approval of the Central Government as per Rule 22A of ''the Scheme''.

5. While assailing the impugned order, the petitioners have submitted:

(i) The provisions contained u/s 5D(7)(a) of the Act give powers to the (CBT EPF) to appoint as many ACPFCs, Dy. P.F. Commissioners, Regional PF Commissioners, Asstt. PF Commissioners and other employees as it may consider necessary for the efficient administration of the Scheme.

(ii) That Section 5D(7)(a) provides for the method of recruitment, salary and allowances, discipline and other conditions of service of the ACPFCs etc. specified by the Central Board in accordance with the rules and orders applicable to the officers and employees of the Central Govt. drawing corresponding scales of pay, provides that where the Central Board is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government.

(iii) Section 5D(7)(B) provides that the Central Board shall have regard to the educational qualifications, method of recruitment, duties and responsibilities of such officers and employees under the Central Govt. and in case of any doubt the Central Board shall refer the matter to the Central Government whose decision thereon shall be final.

(iv) That after the recommendations of 5th Central Pay Commission were accepted by the Central Government w.e.f. 1.1.1996, Ministry of Labour wrote to the Director General Employees State Insurance Corporation (ESIC) a copy of which was also addressed to the Central Provident Fund Commissioner (CPFC) to consider granting to its staff the pay and other benefits as recommended by the 5th Pay Commission as per Section 17 of the Employees State Insurance Corporation Act, 1948 (ESIC Act) which are similar to Section 5D(3) of the Act. Accordingly, the Executive Committee of the CBT, EPF decided to constitute a Pay Committee for its staff and officers. The terms of reference of the said Committee was as follows:

i) To examine and consider the representation/anomalies/grievances received from the Officers Association and Staff Unions/Federations of employees of EPFO on the implementation of the 5th Central Pay Commission recommendations;

ii) To examine and consider certain issues referred by Ministry of Labour and EPFO to be put up before Sub-Committee;

iii) To make recommendations on each of the foregoing having regard among other relevant factors to be provisions of Section 5D of the Act.

(v) The Executive Committee of CBT, EPF in its 31st meeting held on 13.08.1998 considered the report of the Pay Committee and accepted the recommendations of the Pay Committee whereby it was decided to accept one of the recommendations of the Pay Committee to grant functional pay scale of Rs.

16,400-450-20,000/- to ACPFC. It was also implemented by the said organization.

(vi) That u/s 5D(7)(a), it is the Board which has an unfettered power to specify the method of recruitment, salary and allowances etc. and it is only when the Board has a doubt that the matter has to be referred to the Central Government. It is submitted that the above provisions does not limit the powers of the Board in any way. It has only to be satisfied that they exercise their powers in accordance with the rules applicable to Central Government employees, if this is so and the Board has no doubts at all only then reference is not required to be made to the Central Government.

(vii) That the Pay Committee constituted by the Board has gone into this aspect and has compared functional pay scales in similarly situated organization and there is enough reference to these in its report and therefore there is no doubt in the mind of the Board that the pay scale which was accepted for the ACPFC was fully justified.

(viii) That those recommendations of the Pay Committee accepted by the Executive Committee were in accordance with the powers conferred upon the board and there was no occasion for referring the matter to the Central Government. It is the case of the petitioner that the Pay Committee had gone into in detail and deliberated not only with the staff and officers unions and association but also considered in detail the recommendations of 5th Pay Commission with a view to iron out the anomalies and redress the grievances of the office and staff. It is only then the said Pay Committee makes its recommendations and specified giving of non-functional pay to 15% of the Group-A officer and this recommendation was in accordance with the rules and instructions of the Govt. for organized services.

(ix) The Board while considering the recommendations of the Pay Committee was supplied a detailed position prevalent in the Govt. keeping in view the instructions if any and it was only then that the Central Board having considered and deliberated the same specified the pay scale for ACPFCs of Rs. 16,400-20,000. This pay scale was in existence for the Central Govt. Employees who were earlier drawing the pay scale of Rs. 4500-7500/- (pre-revised). It is also submitted that scale of Rs. 4500-7500/- is equivalent to the pay scale of RPFC Grade - I. While making the above recommendations the Pay Committee considered the scales of pay in similarly placed organizations as have been mentioned in their report which is a part of the case file.

(x) That functionally as would be evident from the deliberations of the Pay Committee as stated in its report literature and duly published by the EPFO approved by the Central Board the duties and functions of each of the functionaries from ACPFC to the APFCs are enormous in nature and encompass not only the administrative function of supervising and overseeing the RPFC Gr.-I and other officers and staff as also lakhs of members of the Fund but the members of funds and its beneficiaries such as pensioners (which are over 30 Lakhs now and have to increase in times to come) and covered establishments which are in lakhs and thus, managing and administering the functioning of the Act besides maintaining industrial peace, fulfilling the aspirations of the subscriber of the funds and the establishment covered under the Act. The officials perform multidirectional multi dimensional functions as may be seen from the annexures produced. The pay scale of Rs. 16400-450-20,000 recommended for ACPFC post is same as has been prevalent in government and other such like institutions as EPFO. The Board had no doubt about it and, therefore, approval of government was not required at all. This pay scale is specified by the Board in token of the functions performed by ACPFC.

(xi) That the pay scale of Rs. 16,400-20,000 to ACPFC is strictly in accordance with the rules and instruction prevailing in the Govt. and the Board, therefore, implemented the recommendation of the Pay Committee which is akin to the Pay Commission.

6. It is submitted that after the acceptance of recommendations of the Pay Committee (just akin to the pay commission for the employees of the EPFO) and its implementation the Central Government takes steps for amending the rules as applicable to Government employees. Similarly, after the implementation of the recommendations of the Pay Committee as aforesaid the scheme has to be suitably amended by amending paragraph 22A of the Scheme and for which the EPFO as per its letter dated 22.08.200 had written to the Ministry for amending para 22A of the Scheme. The Scheme of which para 22A forms part, is framed by the Government u/s 5 of the EPF Act, 1952. The Scheme is a subordinate legislation and cannot override the substantive provisions of Section 5D(7)(a) and (b) of the Act. It cannot override the provisions of the Act. In this context, the petitioners have relied upon the decision of the Apex Court in Government of Andhra Pradesh and Others Vs. Smt. P. Laxmi Devi, .

7. On the other hand, it is the contention of respondent No. 1 that the Board exceeded its power and decided contrary to the provisions of the Section 5D(3) read with para 22A of the EPF Scheme, 1952. As per para 22A of the Scheme, the power is vested in Central Board with regard to the appointment in relation to posts carrying the scale of pay of Rs. 14,300-18,300/-.

8. According to the respondents para 22A specifically provides that u/s 5D(3) to (7) officer can be appointed only up to the pay scale of Rs. 4500-7500/- (pre-revised) now revised to Rs. 14,300-18,300/- by the Central Board. It is a matter of record that the recommendations of the Board were not sent to Central Government for approval before its implementation. Vide letter dated 17.04.2000, the Deputy Secretary, Ministry of Labour, Govt. of India, conveyed the observations of the Ministry that decision of the Executive Committee to grant pay scale of Rs. 16,400-20,000/- was contrary to paragraph 22A of the Scheme and it was directed that implementation of the recommendation be kept in abeyance.

9. The record shows that in the letter written to the Ministry which is dated 15.05.2000 by the EPFO where it was stated that the matter has been examined and it is found that the decision of the Executive Committee is contrary to para 22A of the Scheme which empowers the CBT to make appointments in relation to post carrying maximum pay scale of Rs. 14,300-18,000/- only. There were certain correspondences between the Ministry and EPFO but finally Ministry of Labour informed the EPFO that due to inadequate functional justification and repercussion on similar organizations, the Ministry of Finance has not agreed to enhance the pay scale of ACPFC in the pay scale of Rs. 16,400-20,000/- and directed recovery of excess amount, which has been done.

10. Before this Court also the Central Government has opposed the writ petition by filing a counter affidavit. It has been signed by a Regional Provident Fund Commissioner. The Employees Provident Fund Organization despite being a party to the writ petition has not filed any separate counter affidavit nor they have supported the case of the petitioners even though their counsel had been appearing from time to time the counter affidavit filed on behalf of respondent No. 1 clearly goes to show that the stand taken by the petitioners that the Board had powers to revise the pay scale to the extent of Rs. 16,400-20,000/- was subject to approval of the Central Government, which was not granted in this case. It is the stand of the respondents that the action of the petitioners in conferring the pay scale of Rs. 16,400-20,000/- to themselves through their associate, who were a beneficiary was illegal and was contrary to the scheme of the Act without the approval of the Central Government as such reports of actions was not only contrary to Section 5D(7)(a) of the Act but was also in violation of paragraph 22A of the Scheme which is a scheme framed u/s 5 of the Act. It has been submitted that u/s 5D(3), the Central Board may appoint ACPFCs, RPFCs etc. subject to the condition that the maximum scale of pay should not exceed the limit as may be specified in the Scheme. Accordingly, under paragraph 22A of the Scheme, the Central Board is empowered to make appointment in relation to the posts carrying the maximum scale of pay of Rs. 14,300-18,300(revised). It may be observed here that the third respondent has neither questioned the order of the Central Government directing keeping the pay scale of Rs. 16,400-20,000/- in abeyance or the order reducing the pay scale or to effect the recoveries. They have also not supported the case of the petitioners rather they are depending upon the affidavit filed by respondent No. 1 which has been signed by the Resident Provident Fund Commissioner who has also stated in his affidavit that the Board had no powers to refuse the pay scale from Rs. 4500-7500/- beyond the pay scale of Rs. 14300-18300/-.

11. Section 5D(7)(a) and (b) of the Act regulates the appointment of the officers and Members of Staff along with pay scales and other allowances. This Section lays down as under:

(7)(a) The method of recruitment, salary and allowances, discipline and other conditions of service of the Additional Central Provident Fund Commissioner, Assistant Provident Fund Commissioner and other officers and employees of the Central Board shall be such as may be specified by the Central Board in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay:

Provided that where the Central Board is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government.

(b) In determining the corresponding scales of pay and officers and employees under Clause (a), the Central Board shall have regard to the educational qualifications, method of recruitment, duties and responsibilities such officers and employees under the Central Government and in case of any doubt, the Central Board shall refer the matter to the Central Government whose decision thereon shall be final.

12. It will also be appropriate to take note of Rule 22A of the Scheme, which reads as under:

22A. Appointment of officers and employees of the Central Board.- The power of appointment vested in the Central Board under Sub-section (3) of Section 5D of the Act shall be exercised by the Board in relation to posts carrying the maximum scale of pay of Rs. 14,300-18,300.

13. Under para 22A of the Scheme of 1952 amended w.e.f. 1.7.1989, the power of appointment in Central Board under Sub-section 5D of the Act, is to be exercised by the Board in relation to posts carrying upto the maximum scale of pay of Rs. 4500-7500 (pre revised) equivalent to Rs. 14,300-18,300 (revised). Section 5D(7)(b) provides that, in case of any doubt, the Central Board has to refer the matter to Central Government whose decision therein shall be final. The ACPFC, a post in the EPFO hierarchy was so far functioning in the pay scale of Rs. 4500-7500 (pre-revised) - Rs. 14,300-18,300 (revised). It may not be disputed that the Board may have appointed a Committee for advising it regarding the revision of pay scale of the ACPFC post in the EPFO hierarchy after the revision of pay scale accepted by the Central Government with effect from 1.1.1996. However, the said committee though could have recommended higher pay scales i.e. the pay scale of Rs. 16,400-20,000/- but in view of Rule 22A of the Scheme, the said proposal ought to have been sent to the Central Government for approval. As per the records it is apparent that the said proposal has not been acceded to by the Central Government. In these circumstances, the recommendation of the sub-committee / pay committee could not be implemented by the executive committee as it had no authority to confer such pay scales upon the petitioners without prior approval of the Government. It may be observed here that as per the records, the Board has not considered the recommendations of the Pay Committee and it was executed only by the Executive Committee. Thus, the implementation of the higher pay scale by the Board is without obtaining prior approval of the Central Government.

14. It is also a matter of record that after the intervention of the Central Government (Labour Ministry), the case was referred to them with detailed proposals for giving concurrence for implementation of functional pay scale for the post of ACPFC, FA & CAO vide No. HRM-IV/1(6)/1409 dated 22.08.2000 but the Central Government has not agreed to grant of functional pay scale for the post of ACPFC in view of inadequate functional justification and repercussions on similar organizations vide their letter No. A-11014/1/2000-SS.I dated 5.2.2001. Accordingly, the functional scale allowed to ACPFC, FA & CAO has been withdrawn by organization and the excess amount already paid to the concerned officers is required to be recovered in easy installments.

15. We have given our thoughtful consideration to the rival submissions. We have also examined the provisions contained under the Employees Provident Fund and Miscellaneous Provisions Act as well as Employees Provident Fund Scheme 1952 which has been framed by the Central Government pursuant to the powers given to the said Government u/s 5 of the Act. While Section 5 deals with the powers of the Board, the Scheme gives finest details and the procedure to be followed by the Board in carrying out the affairs of the Board under the overall supervision and direction of the Central Board of Trustees (CBT).

16. Perusal of Sections 5D(3), 5D(7)(a) of the Act read with Rule 22 A of the Scheme (supra) leaves no room for doubt that while the power is available to revise the pay scales to the Board of Trustees with respect to the employees of the Board in particular ACPFC etc. but the said power is restricted to revise the pay scale only to the extent of Rs. 14,300-18,300/-. It is true that the power has been given to appoint officers including ACPFCs, RPFCs, etc. to the Board but that power is restricted to appointing officers upto the pay scale mentioned in Rule 22A.

17. Moreover, reading of the aforesaid provisions simultaneously shows that the power of appointment would also confine the power of revision of pay scale only to the extent of Rs. 14,300-18,300/- and would not extend to revise the pay scale of Rs. 4500-7500/- to the pay scale of Rs. 16,400-20,000/-. This is true because if revision of pay scale is permitted as contended by the petitioners to the pay scale of Rs. 16,400-20,000/- the next vacancy which may arise with respect to the post of ACPFC, the said vacancy will have to be filled up in the pay scale of Rs. 14,300-18,300/- which would not be within the power of the Board and would create anomalous situation. Thus, the submission made on behalf of the petitioners that while the restriction is imposed under Rule 22A is valid for the purpose of appointment, it is not valid for the purpose of revision of pay, cannot be accepted.

18. As stated above, in the present case, it is not that the Board has supported the case of the petitioners rather the Board has accepted the direction of the Central Government and has already recovered the excess pay from the salary of the petitioners. Thus, it is not a case where the Board is adhering to a decision taken by the Pay Committee or its Executive Committee or is trying to justify the

said decision. Petitioners have not come against any specific orders passed by the Employees Provident Fund Organisation nor have alleged any mala fide against any of the officers of the said organization so as to seek support to their contention before us. It was also not their plea before the Tribunal.

19. Now, coming to the recommendations of the Pay Committee on which much reliance has been placed by the petitioners. We find that the said Committee while recommending the higher pay scale has taken note of other services such as IPS and IFS without discussing the service conditions in those services and without comparing those services with the services to be performed by ACPFCs. In fact, according to the respondents the pay scales are determined taking into consideration the overall structure of the employees in the Government and the pay scale which has been conferred to ACPFCs, is the pay scale equivalent to the pay and scale of Director which the Government has revised to the pay scale of Rs. 14300-18300 and thus, the power of revision available to the Board was only to the extent of revising the pay scale of Rs. 14300-18300/-. It has been submitted that anomaly as discussed in the pay committee report depends upon the change of service rules, recruitment rules for the post of Resident Provident Fund Commissioners etc. which is to be done by the UPSC, RPFC, etc. Till such time this exercise is undertaken and functional scales as recommended by the Board is given to them the anomaly which has been taken as the basis of revising the pay scale to Rs. 16,400-20,000/- is not justified and in any event even if there is justification of revision of pay scale to Rs. 16,400-20,000/- the said revision can be exercised only under the orders of the Central Government with the approval of the Central Government which in this case is not forthcoming.

20. Insofar as the submissions made on behalf of counsel for Respondent No. 3 who has relied upon the judgment delivered in the case of Government of Andhra Pradesh and Ors. v. Smt. P. Laxmi Devi contending that Rule 22A being part of the subsidiary legislation cannot override powers conferred upon the Board u/s 5D(3), it would be appropriate to take note of the judgment cited by the respondents delivered by the Hon''ble Supreme Court in Mahe Beach Trading Co. and Others Vs. Union Territory of Pondicherry and Others, wherein it has been held:

13. The principle which emanates from the aforesaid decision relied upon by the appellants is very clear namely : that if there is abdication of legislative power or there is excessive delegation or if there is a total surrender or transfer by the legislature of its legislative functions to another body then that is not permissible. There is, however, no abdication, surrender of legislative functions or excessive delegation so long as the legislature has expressed its will on a particular subject-matter, indicated its policy and left the effectuation of the policy to subordinate or subsidiary or ancillary legislation, provided the legislature has retained the control in its hand with reference to it so that it can act as a check or a standard and prevent or undo the mischief by subordinate

legislation when it chooses to or thinks fit. It is however, not necessary for us to go into these aspects in any great detail because this question of excessive delegation doe not really arise in the present case.

21. As stated above, the Scheme has also been framed by the Central Government who are also the appointees of the Board. The relevant provisions of Section 5 of Act from where the authorities of the Board are extracted is subject to Rule 22 A. Reading the two provisions together does not show any dichotomy or any overriding power given to the CBT who were also the trustees for carrying out the overall responsibilities of the Board.

22. We have also gone through the recommendation of the Pay Committee which has been accepted by the Executive Committee of the EPFO. One of the reasons given to grant pay scale of Rs. 16,400-20,000/- to Additional CPFCs and the post FA & CO has been given in letter dated 23.6.2000 written by the Additional CPFC (HR) to the Secretary, Government of India, which is as under:

2. As already submitted to Ministry of Labour vide Headquarters, EPFO letter No. HRM-IV/1(6)/99/532 dated 15th May, 2000, the revision in the pay scale of Addl. CPFC and FA & CAO has necessitated due to implementation of Fifth Central Pay Commission recommendations to the Commissioners cadre of EPFO. The incumbents in the posts of FA & CAO and Addl. CPFC are to supervise the work of their subordinate officers i.e. RPFC Grade-I equivalent who are in the pay scale of Rs. 12000-16500 and Rs. 14300-18300 (non-functional selection grade). The incumbents in the post of Addl. CPFC and FA & CAO are, therefore, to be provided the functional pay scale which have been made available in certain Government Departments and Police Organisations.

23. However, it is observed that there is no record to show that any comparison is done with the duties and responsibilities and the way of working of other government departments and police organizations as referred to in the aforesaid. The petitioners has also relied upon some of the recommendations with regard to pay of IPS and IFS as per Annexure P-11A and further in those cases the higher pay scale was granted by the Central Government which is not the case before us. Moreover, in the letter dated 6.7.2000, the Government of India has very categorically stated that:

2. All along, posts of Senior Officers in the EPFO have been given pay scales comparable to secretarial posts in Government. The recommendation of the EPFO in this regard has to be in accordance with Section 5D(7)(b) of the EPF & MP Act, 1952 which provides that in determining corresponding scales of pay, the Board will have regard to educational qualifications, method of recruitment, duties and responsibilities etc. For obvious reasons duties and responsibilities of the EPFO Officers are not comparable with the duties and responsibilities of police officers.

24. Thus, it will be seen that the upgradation of pay of the petitioners and others was recommended in the pay scale of Rs. 16,400-20,000/- by the Pay Committee accepted by the Executive Committee, was without any material

available to them. The so-called anomalies have also not been discussed which have not been resolved. No representation regarding any such anomaly has been brought to our notice.

25. In any event even if there are justifiable reasons to grant scales of pay over & above the scales of pay from Rs. 14,300-18,000/-, the matter had to be considered by the Central Government & approval sought by the Board which has not been done.

26. Taking all the facts into consideration and having gone through the decision of the Tribunal as quoted above, which is a detailed and well-reasoned one and is in accordance with the provisions contained u/s 5D(7)(a) of the Act and Rule 22 A of the Scheme, we find no justification to interfere with the orders passed by the Tribunal under Article 226 of the Constitution of India. The petition is dismissed with costs of Rs. 5000/- each to be paid by the petitioners.