**Before The Hon'ble State Administrative Tribunal At Shimla**

OA No.:\_\_\_\_\_ of 2004

Applicants

Versus

Respondents

Application Under Section 19 of the Administrative Tribunals Act, 1985

Shimla Applicant

\_\_\_\_\_ Through, Advocate

Respectfully Sheweth :

1. Particulars of the Applicant:

As given in the Memo of Parties.

2. Particulars of the Respondents:

As given in the Memo of Parties.

3. Impugned Order:

That the applicants are aggrieved by the impugned order issued by the respondents dated \_\_\_\_\_\_\_ (Annexure A-\_\_\_\_\_\_\_), whereby they are going to make recovery of the alleged excess payment of pay and allowances paid to the applicants after being promoted as Head Teachers and the pay fixed under FR 22 (1) (a) (i).

4. Jurisdiction

That the applicant declares that the subject matter is within the jurisdiction of this Hon'ble Tribunal.

5. Limitation:

That the applicant further declares that the application is within the limitation.

6. Facts of the Case:

6.1 That the applicant No. 1 submits that he was initially appointed as JBT on \_\_\_\_\_. Thereafter, promoted as Head Teacher on \_\_\_\_\_\_ and accordingly the pay of the applicant was fixed at Rs. \_\_\_\_\_/- after giving the benefit of FR-22(I)(a)(1) in the old pay scale in which the applicant has already reached at Rs. \_\_\_\_\_. It is further submitted that after the revised pay scales came into force wef \_\_\_\_\_, the pay of the applicant was accordingly fixed at Rs. \_\_/- in accordance with the FR-22 (I)(a)(1). Thereafter, the pay of the applicant was fixed @ Rs. \_\_/- on \_\_\_\_\_, Rs. \_\_ on \_\_, Rs. \_\_ on \_\_, Rs. \_\_ on \_\_ and Rs. \_\_ on \_\_. The applicant has now been promoted as CHT wef \_\_.

6.2 That the applicant No. 2 submits that he was initially appointed as JBT on \_\_\_\_\_. Thereafter, promoted as Head Teacher on \_\_\_\_\_ and accordingly the pay of the applicant was fixed at Rs. \_\_\_\_/- after giving the benefit of FR-22(I)(a)(1) in the old pay scale in which the applicant has already reached at Rs. \_\_. It is further submitted that after the revised pay scales came into force wef \_\_\_\_\_, the pay of the applicant was accordingly fixed at Rs. \_\_/- in accordance with the FR-22 (I)(a)(1). Thereafter, the pay of the applicant was fixed @ Rs. \_\_/- on \_\_\_\_\_, Rs. \_\_ on \_\_, Rs. \_\_ on \_\_, Rs. \_\_ on \_\_ and Rs. \_\_ on \_\_. The applicant has now been promoted as CHT wef \_\_\_\_\_.

6.3 That the applicant No. 3 submits that he was initially appointed as JBT on \_\_\_\_\_. Thereafter, promoted as Head Teacher on \_\_ and accordingly the pay of the applicant was fixed at Rs. \_\_/- after giving the benefit of FR-22(I)(a)(1) in the old pay scale in which the applicant has already reached at Rs. \_\_. It is further submitted that after the revised pay scales came into force wef \_\_\_\_\_, the pay of the applicant was accordingly fixed at Rs. \_\_/- in accordance with the FR-22 (I)(a)(1). Thereafter, the pay of the applicant was fixed @ Rs. \_\_/- on \_\_\_\_\_, Rs. \_\_ on \_\_, Rs. \_\_ on \_\_, Rs. \_\_ on \_\_ and Rs. \_\_ on \_\_. The applicant has now been promoted as CHT wef \_\_.

6.4 That the applicant No. 4 submits that he was initially appointed as JBT on \_\_. Thereafter, promoted as Head Teacher on \_\_ and accordingly the pay of the applicant was fixed at Rs. \_\_/- after giving the benefit of FR-22(I)(a)(1) in the old pay scale in which the applicant has already reached at Rs. \_\_. It is further submitted that after the revised pay scales came into force wef \_\_\_\_\_, the pay of the applicant was accordingly fixed at Rs. \_\_/- in accordance with the FR-22 (I)(a)(1). Thereafter, the pay of the applicant was fixed @ Rs. \_\_/- on \_\_\_\_\_, Rs. \_\_ on \_\_, Rs. \_\_ on \_\_, Rs. \_\_ on \_\_ and Rs. \_\_ on \_\_. The applicant has now been promoted as CHT wef \_\_.

6.5 That the applicant No. 5 submits that he was initially appointed as JBT on \_\_. Thereafter, promoted as Head Teacher on \_\_ and accordingly the pay of the applicant was fixed at Rs. \_\_/- after giving the benefit of FR-22(I)(a)(1) in the old pay scale in which the applicant has already reached at Rs. \_\_. It is further submitted that after the revised pay scales came into force wef \_\_\_\_\_, the pay of the applicant was accordingly fixed at Rs. \_\_/- in accordance with the FR-22 (I)(a)(1). Thereafter, the pay of the applicant was fixed @ Rs. \_\_/- on \_\_\_\_\_, Rs. \_\_ on \_\_, Rs. \_\_ on \_\_, Rs. \_\_ on \_\_ and Rs. \_\_ on \_\_. The applicant has now been promoted as CHT wef \_\_\_\_\_.

6.6 That the applicant No. 6 submits that he was initially appointed as JBT on \_\_. Thereafter, promoted as Head Teacher on \_\_ and accordingly the pay of the applicant was fixed at Rs. \_\_/- after giving the benefit of FR-22(I)(a)(1) in the old pay scale in which the applicant has already reached at Rs. \_\_. It is further submitted that after the revised pay scales came into force wef \_\_\_\_\_\_, the pay of the applicant was accordingly fixed at Rs. \_\_/- in accordance with the FR-22 (I)(a)(1). Thereafter, the pay of the applicant was fixed @ Rs. \_\_/- on \_\_\_\_\_\_, Rs. \_\_ on \_\_, Rs. \_\_ on \_\_, Rs. \_\_ on \_\_ and Rs. \_\_ on \_\_. The applicant has now been promoted as CHT wef \_\_.

6.7 That now the respondent department has all of a sudden issued the impugned order \_\_\_\_\_, whereby it has been ordered that the recovery of excess payment will be made from the applicants to the tune of Rs. \_\_\_\_\_. The respondent department has also stopped the increments granted to the applicant under FR-22(I)(a)(1) arbitrarily and illegally and without affording an opportunity of being heard to the applicants or issuing any show cause notice before resorting the impugned illegal and arbitrary action. Hence the present OA.

GROUNDS

6.8 That feeling aggrieved by such an arbitrary, malafide, discriminatory and illegal actions of the respondents, the applicant seeks the indulgence of this Hon'ble Tribunal on the following grounds amongst others, which may be taken at the time of arguments, each one of which is without prejudice to and independent of others :-

(a) That the impugned order issued by the respondent is arbitrary, malafide, illegal, ultra vires, against the Articles 14 and 16 of the Constitution of India, dehors the rules and regulations and against the natural justice.

(b) That the impugned action whereby the respondents are resorting to making recovery of the alleged excess payment is illegal and arbitrary. It is submitted that the pay of the applicants have rightly been fixed as they were promoted from the post of JBT to the post of Head Teachers with the responsibilities and duties of greater importance. As such for fixation of their pay, the provisions as envisaged under FR-22(I)(a)(1) are attracted.

(c) That the respondents are estopped due to their own act, deed and conduct. The principle of the Promissory Estopple applies against the respondents.

(d) That the impugned order is against the well settled principles of the law as laid down by the Hon'ble Supreme Court and this Hon'ble Tribunal in catena of cases.

7. Reliefs Sought:

That the applicant, therefore, prays that your Lordship be pleased to issue an appropriate writ, orders or directions to grant the following reliefs in favour of the applicant in the interest of justice:-

(a) Quash the impugned order/action of the respondents whereby they have directed to recover the payment of increment under FR 22(I)(a)(i) and to stop future increments being arbitrary, malafide and illegal;

(b) Direct the respondents to restore the increments of the applicants in accordance with FR-22(I)(a)(i) as fixed earlier with all the consequential benefits and interest @ 18% pa till the payment of the arrears thereof;

(c) Direct the respondents to produce all the relevant documents alongwith their reply for perusal by this Hon'ble Tribunal;

(d) Allow the cost of this OA;

(e) Pass such other order or directions as deemed fit and proper in favour of the applicant.

8. Interim Orders, If Prayed:

That it is most respectfully prayed that during the pendency of this OA, the respondents may kindly be restrained from effecting recoveries from the applicants in the interest of justice as the interim order has also been passed by this Hon'ble Tribunal in one similarly situated persons' OA No. \_\_\_\_\_\_titled as \_\_\_\_\_\_ Vs \_\_\_\_\_\_

9. Details of Remedies Exhausted:

That the applicant submits that since the matter being of an urgent nature, there is no other alternative speedy and efficacious remedy available to him except to approach this Hon'ble Tribunal.

10. Matter not Pending with any Other Courts Etc:

That the applicant further declares that the matter regarding which this application has been made, is not pending before any court of law or any other Authority or any other bench of this Hon'ble tribunal.

11. Particulars of Court Fees:

Court fees worth Rs 50/- is attached herewith.

12. Details of Index:

An index containing the details of the documents to be relied upon is enclosed herewith.

Shimla Applicant

\_\_\_\_\_\_ Through, Advocate

**BEFORE THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL AT SHIMLA**

OA No.:\_\_\_\_\_\_ of 2004

Applicant

Versus

Respondents

Affidavit in support of OA under Section 19 of the Administrative Tribunals Act 1985

I,\_\_\_\_\_\_, do hereby solemnly, affirm and declare as under :-

1. That the accompanying OA has been prepared under my instructions.

2. That the contents of paras 1 to 12 of the accompanying application are correct and true to the best of my knowledge.

3. That I further solemnly affirm and declare that this affidavit of mine is correct and true to the best of my knowledge and no part of it is false and nothing material has been concealed therein.

Affirmed at Shimla this the \_\_\_\_\_\_.

**BEFORE THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL AT SHIMLA**

OA No.:\_\_\_\_\_\_ of 2004

Applicant

Versus

Respondents

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Shimla Applicant

\_\_\_\_\_\_ Through, Advocate

**BEFORE THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL AT SHIMLA**

MA No. No\_\_\_\_\_\_ of 2004 in OA No: \_\_\_\_\_\_ of 2004

Applicants

Versus

Respondents

Application Under Rule 4(4)(a) of HP Administrative (Procedure) Rules 1986 for permission to file joint application

Shimla Applicants

\_\_\_\_\_\_ Through, Advocate

Respectfully Sheweth :

1. That the Original applicants have filed OA in this Hon'ble Tribunal jointly.

2. That from perusal of the relief sought by the original applicants, it is evident that all the applicants have common cause which adversely affect the interests of the present applicants.

3. That the interest of justice demands that the present applicants are allowed to file the present OA jointly in the interest of justice.

4. It is, therefore, most humbly prayed that the present applicants may kindly be allowed to file the present OA jointly in the interest of justice. Such other orders be also passed as deemed fit and proper in the facts and circumstances of the case.

Shimla Applicants

\_\_\_\_\_\_ Through, Advocate

**BEFORE THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL HP AT SHIMLA**

MA No.:\_\_\_\_\_ of 2004 in OA No.:\_\_\_\_\_ of 2004

Applicants

Versus

Respondents/Applicants

Affidavit in support of application under Rule 8 (3) of HP Administrative Tribunal Rules

I,\_\_\_\_\_, do hereby solemnly affirm and declare as under:-

1. That the accompanying application has been prepared under my instructions.

2. That the contents of paras 1 to 4 of the accompanying application are correct and true to the best of my knowledge.

3. That I further solemnly affirm and declare that this affidavit of mine is correct and true and no part of it is false and nothing material has been concealed therein.

Affirmed at Shimla this the \_\_\_\_\_.