

Central Administrative Tribunal, Principal Bench

Original Application No.2132 of 2001

New Delhi, this the 21st day of October, 2002

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. M.P. Singh, Member (A)

Shri R.C. Anand
S/o Shri Pran Nath Anand
R/o B-I/352, Janak Puri
New Delhi-54

....Applicant

(By Advocate: Shri Pramod Kumar Sharma)

Versus

1. Union of India
through the Secretary,
Department of Expenditure,
Ministry of Finance, North Block,
New Delhi

2. Chief of the Air Staff
Air Headquarter, Vayu Bhawan
New Delhi

3. Chief Administrative Officer,
Ministry of Defence,
C-II, Hutments South Block,
New Delhi

....Respondents

(By Advocate: Shri R.V. Sinha)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant joined service as Puncher/Verifier Operator on 10.7.68. On 9.3.82, the respondents converted the existing posts of Puncher/Verifier Operator to the posts of Direct Data Entry Technician in the grade of Rs.330-560. As per 5th Pay Commission report, the scale of the applicant was 4500-7000. He had put in more than 24 years of service.

2. It is a common case of the parties that in pursuance of the recommendations made by the 5th Pay Commission, an office memorandum was issued by the Government of India for grant of upgradation under the

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Assured Career Progression Scheme (for short 'ACP Scheme') for Central Government employees. Under the said scheme, the first financial upgradation was to be given after 12 years of regular service and second upgradation after 24 years of regular service. The applicant claims that he was entitled to the financial upgradation on both the occasions because his date of appointment, as already mentioned above, is 10.7.68.

3. The grievance of the applicant is that after introduction of the said ACP Scheme, he has not been given the financial upgradation and therefore, he seeks quashing of the order dated 10.4.2001 whereby his case has not been recommended for the ACP Scheme. It has been asserted that no adverse entry has ever been communicated to the applicant.

4. Needless to state that in the reply filed, the application has been contested. It has been pointed that to avail of the benefit of the ACP Scheme, besides other conditions, the concerned person must fulfil the normal promotion norms such as bench mark, departmental examination etc. for grant of the said financial upgradation. The applicant is stated to have been considered in the years 2000 and 2001 and considering his record of service, his case was not recommended for grant of first financial upgradation.

5. The departmental promotion committee proceedings as well as the confidential reports of the applicant had

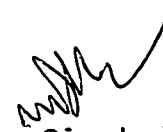
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been produced during the course of submissions. We have gone through the same with the help of the respondents' learned counsel.

6. It was found that though from the year 1995 onwards, on many occasions, the applicant did not come up to the bench mark but in the last three years confidential reports for the years 1998-1999, 1999-2000 and 2000-2001, he did get the bench mark which is stated to be good or above it. In face of the aforesaid, it is obvious and patent that the departmental promotion committee fell into error and did not consider the reports properly. For the earlier occasion, there was little dispute raised at the Bar on perusal of the confidential report about the applicant not making the bench mark. Consequently we are not probing into this matter any further.

7. It is directed that departmental promotion committee will re-consider the confidential reports of the applicant with respect to the committee meeting held in the year 2001 only. The earlier meeting of the DPC does not require any interference.

8. Accordingly we only allow the application in part. It is directed that the DPC will re-consider the confidential reports of the applicant with respect to the meeting held in October, 2001 and pass appropriate recommendations/orders in this regard. With these directions, the O.A. is disposed of.


(M.P. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

Next date of hearing 19.9.2002

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Remark 10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, FARIDKOT HOUSE, NEW DELHI

ORIGINAL APPLICATION NO. 2132 of 2001

IN THE MATTER OF: -

Shri R .C. Anand

Applicant

Versus

Union of India and Others

Respondents

I N D E X

S.No.	PARTICULARS
PAGES	

1. LIST OF DATES
& SNOPIES on behalf
of the applicant

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Recd
copy for Mr. R.V. Sinha.
17/9/02

Applicant
Through

(Pramad Kr. Sharma)
Advocate

Ph. 5036658 , 9811283658

NEW DELHI

DATED 16.9.2002

17 SEP 2002

8570

OFFICE NO/FILE NO
17/9/02

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L I S T O F D A T E S & S N O P S I E S

10.7.68 Applicant was appointed as Puncher/ Verifier Operator (Civilian Group C post) in the grade of Rs. 260-400.

9.3.82 As per order dated 9.3.82 the Respondents converted the existing posts of Puncher/ Verifier Operator (Civilian Group C post) to the new post as Direct Data Entry Technician in the grade of Rs. 330-560

9.1.91 As per order dated 9.1.91 the Respondents revised the pay scales of E D P posts w.e.f. 11.9.89 on the basis of the report of Dr. Sheshagiri Committee set by the Department of Electronics on the recommendations of the IV pay commission. Therefore the applicant's existing post i.e. Direct Data Entry Technician in the grade of Rs. 330-560 was also revised as Data Entry Operators Grade BB ((DDFEO Grade BB)) in the new pay scale of Rs. 1350-2200 w.e.f. 11.9.89 but later there are various orders passed by various Hon'ble Courts

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and Tribunals including Hon'ble Supreme Court of India also and directed to grant new EDP pay scales w.e.f. 1.1.86 instead of 11.9.89 and refix their pay accordingly, hence the respondents was also granted the same w.e.f. 1.1.86 to the Applicant.

✓ 1.1.96 As per Vth pay Commission the present pay scale of the Applicant is Rupees 4500-7000. He was appointed on the present post (but revised time to time as stated above with the new post names and scales) on 10.7.68. Hence the Applicant has been completed 32 (more than 24 years) years regular service on the same post without any promotion. During his service period he has nothing received a single remark/memo/complaint from his senior/Respondents and always his seniors / Respondents were quite satisfactory from the Applicant's work.

In pursuance to the recommendation made by the Fifth Pay Commission, an office memorandum was issued by the Govt. of India, for grant of financial Upgradation under the Assured Career

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Progression (A C P) scheme for the Central Govt. employees which have no promotional avenues. In the said scheme the first financial upgradation under the A C P scheme shall be allowed after 12 years of regular service and the second upgradation after 12 years of regular service from the date of the first financial upgradation. Therefore as per the said scheme the applicant has entitled for two financial upgradation as he was appointed as on the present post on 10.7.1968

10.11.2000 That after recommendation and introduction of A C P scheme by the fifth pay commission, the Respondent No.3 had also implemented the said scheme by issued an office order vide no. A/43010/ACP/11/CAO/P-2 dated 10.11.2000. In the said order the Respondent No.3 has granted the first financial upgradation only instead of two who are working on the post of D E O 'B'.

22.11.2000 &

20.1.2001 After the above said order was issued by the Respondent No. 3 for grant of financial

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upgradation, the applicant has come to know that his name was not included for the same but the similar benefits were extended to his juniors who were appointed much later without any reason or basis. The applicant immediately made a representation to the respondent No.3 i.e. Ministry of Defence, Govt. of India for grant the same financial upgradation benefits under the A C P scheme which has been granted to his juniors.

4.1.2001 &

10.4.2001 On 4.1.2001 and thereafter 10.4.2001 the Respondent No.3 issued an office memorandum rejecting the representations dated 22.11.2000 and dated 22.1.2001 of the applicant for grant a financial upgradation benefits under the A C P scheme by giving a very worthless reply and informing that the applicant did not meet the minimum bench mark required based on his records of service. It was very surprised to learn that the applicant has not met the minimum benchmark. It is pertinent to here mention that the applicant has not received any

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memo/remark/complaints from the Respondents so far, hence the question of having less benchmark does not arise. It is also submitted that the applicant has a nothing knowledge about which year he has less benchmark as per the respondent's REMARKS. If there is any it is totally un communicated and the principal is well settled that in accordance with the rules of natural justice an adverse report in confidential roll can not be acted upon to deny promotional/or any benefit A C P etc. opportunities unless it is communicated to the person concerned so that he has an opportunity to improve his work and conduct or to explain the circumstances leading to the report. Such an opportunity is not an empty formality, its object ,partially being to enable the superior authorities to decide on a consideration of the explanation offered by the person concerned whether the adverse report/remark is justified

That the applicant is aggrieved by the above rejection of the representation dated 22.11.2000 and dated 22.1.2001 by informing a very

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worthless reply and is filing the above O.A. on the various decisions by Hon'ble Supreme Court and Hon'ble Tribunals to the effect that if there is any adverse remark /report in the applicant's A C P . Which is neither received by the applicant nor the same communicated to the applicant so far, therefore an adverse remark/report in confidential roll cannot be acted upon to deny promotional /other benefits opportunities unless it is communicated to the person concerned.