

Central Administrative Tribunal
Principal Bench

OA No. 824/2001

New Delhi this the 25th day of February, 2002

Hon'ble Mr. S.R. Adige, Vice-Chairman (A)
Hon'ble Mr. Shanker Raju, Member (J)

Shri Amin Chand
T.No. 2842 Instrument
Mech. (Elect.) Working in 510 Army Base
Workshop, Meerut Cantt.

-Applicant

(By Advocate: Shri V.P.S. Tyagi)

Versus

1. Union of India (Through Secretary
Ministry of Defence) New Delhi.
2. The Director General, Electrical
Mechanical Engineer's,
Army Hqrs., DHQ PO New Delhi.
3. The Condt. 510 Army Base,
Workshop Meerut Cantt.

-Respondents

(By Advocate: Shri Madhav Panikar)

ORDER (Oral)

Hon'ble Shri S.R. Adige, VC(A)

Applicant seeks

(i) consideration of his case for
grant of financial upgradation in
terms of the ACP Scheme contained
in respondents' OM dated 9.8.99
(Annexure A-3)

(ii) removal of the anomaly
occurring in his pay fixation
pursuant to the recommendations of
the Vth Central Pay Commission as
implemented w.e.f. 1.1.96.

2. Heard both sides.

3. In so far as relief (ii) is concerned, the
respondents themselves do not deny in their reply that
as per the pay fixation formula laid down in the
revised pay rules 1997, applicant's pay would stand at

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Rs.6060/- in the pay scale of Rs. 4000-6000 as on 1.1.96.

4. Applicant has requested that his pay should be fixed at Rs.6000/- + 60/- as personal pay to be adjusted in future increments of pay.

5. Respondents have invited our attention to the Minute Sheet dated 21.6.99 (Annexure CA-1) wherein it has been held that the personal pay of Rs.60/- is not admissible as per Ministry of Defence Circular dated 13.7.98. No doubt, in para-3 of the aforesaid Circular dated 13.7.98, it has been stated that in cases where the existing emoluments computed after adding an amount representing 40% of the basic pay in the pre-revised scales in terms of Rule 7 (1) (A) (1) exceeds the maximum of the applicable revised scales, no personal pay is to be allowed in addition to compensate the difference. However, Note-5 below Rule-7 (1) (A) (1) RPR 1997 which has been relied upon by applicant's counsel Shri Tyagi states that where the existing emoluments as calculated in accordance with clause (A), clause (B), clause (C) and clause (D), as the case may be, exceed the revised emoluments in the case of any Government servant, the difference shall be allowed as personal pay to be absorbed in future increases in pay.

6. Respondents' counsel Shri Madhav Panikar has not been able to resolve the apparent contradiction between aforementioned Note-5 occurring Below Rule-7

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(1) (A) (1) and para-3 of the aforementioned Circular dated 13.7.98.

7. Prima-facie, the contents of the RPR 1997 which have been framed under Article 309 of the Constitution would prevail over the Circular dated 13.7.98 and under the circumstances, we are of the considered opinion that applicant cannot be denied Rs.60/- per month as personal pay w.e.f. 1.1.96 to be adjusted in future ^{increases} ~~increments~~ of pay.

8. Under the circumstances, in so far as relief (ii) is concerned, the OA succeeds and is allowed to the extent that respondents are directed to remove the aforesaid anomaly occurring in applicant's pay fixation, pursuant to the Vth Central Pay Commission recommendations as implemented w.e.f. 1.1.96, by means of an order to be passed within two months from the date of receipt of a copy of this order, with such consequential benefits as are admissible in accordance with rules and instructions on the subject.

9. In so far as relief (i) is concerned, namely, consideration of applicant's case for grant of financial upgradation under the ACP Scheme, respondents are directed to examine the same and pass a detailed, speaking and reasoned order in accordance with the aforesaid OM dated 9.8.99 and other relevant rules and instructions on the subject, also within aforesaid period.

10. The OA is disposed of in terms of para 8 & 9 above. No costs.

S. Raju
(Shanker Raju)
Member (J)

S.R. Adige
(S.R. Adige)
Vice-Chairman (A)

cc.

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B

16.8.2002

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S.

MA 922/2002 IN

OA 824/2001

Present:- Sh. M.K. Gupta, proxy counsel of
Sh. Madhav Panikar, for the respts.

In this case MA 922/2002 has been
filed by the respondents for implementation
of Tribunal's order
dated 25.2.2002 which has already
expired on 11.8.2002.

The aforesaid MA, having become
infected, is dismissed.

(Shanker Raju)

(~~Shanker~~)

M(T)

(Govindaraj Tampi)

MCA)

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