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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

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 ~~increments~~ <sup>increases</sup> 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. 7

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.

16.8.2002

5.  
 MA 900/2002 11  
 OA 824/2002

Present:- Sh. M. K. Gupta, proxy counsel of  
 Sh. Madhav Paikeal, for the respsn.

In this case MA 900/2002 has been  
 filed by the respondents for implementation  
 implementation of Tribunal's order  
 dated 25.2.2002 which has already  
 expired on 11.8.2002.

The aforesaid MA, having become  
 ineffective, is dismissed.

*✓*  
 (Shankar Raju)

(~~Govind~~ M(T))

*✓*  
 (Govindaraj Tampi)  
 MCA

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