

(u)
CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.557/2004

New Delhi this the 15th day of December, 2005

Hon'ble Shri V.K. Majotra, Vice Chairman (A)
Hon'ble Shri Shanker Raju, Member (J)

1. Shri Parkash Chand, UDC
S/o Shri Chima Ram
2. Shri Raj Kumar, UDC
son of Shri Hoshiyar Singh
3. Smt. Uma Rawat
W/o Late R.S. Rawat
4. Shri Rajinder Singh UDC
Son of Shri Rai Singh
5. Smt. Mamta Marwaha, UDC
W/o Late Shri M.K. Marwaha
6. Shri Madan Mohan, UDC
S/o Late Shri Shiv Jot Ram
7. Smt. Rekha Mathur, UDC
W/o Shri Y.N. Mathur.
8. Smt. Jeevan Jyoti, UDC
W/o Shri S.C. Grover.

All C/O
Small Industries Service Institute,
Ministry of Small Scale Industries,
Okhla, New Delhi-110020.

-Applicants

(By Advocate: Shri P.K. Sharma)

Versus

Union of India

Through

1. Secretary
Ministry of Small Scale Industries,
Udyog Bhawan, New Delhi.
2. Development Commissioner,
Ministry of Small Scale Industries,
Nirman Bhawan, New Delhi.
3. Director,
Small Industries Service Institute,
Ministry of Small Scale Industries,
Okhla, New Delhi-110020.

-Respondents

(By Advocate: Shri N.K. Aggarwal)

(b)

ORDER (Oral)

Hon'ble Shri V.K. Majotra, Vice Chairman (A)

By virtue of this application, applicants had assailed respondents' order dated 19.1.2004 whereby financial upgradation under Assured Career Progression Scheme (ACP, Scheme) granted to the applicants in scale Rs.5500-9000 was down scaled to Rs.5000-8000 in the light of Clarification No.56 under the ACP Scheme issued by DoP&T on 19.1.2004 with consequential recoveries.

2. Applicants, who were appointed as LDCs, were promoted as UDC in scale Rs.4000-6000/- in the Ministry of Small Scale Industries.

3. In pursuance of V Central Pay Commission (V CPC) recommendations, first financial upgradation is accordable after 12 years of service and in case of completion of 24 years of service, two financial upgradations are accordable simultaneously. While originally applicants were granted benefits of ACP Scheme in scale Rs.5500-9000 vide impugned orders dated 19.1.2004 in the OA, the benefit of ACP Scheme was granted in the lower scale of Rs.5000-8000 w.e.f. 10.5.2002. The direction was also given for effecting consequential recovery.

4. Vide order dated 25.11.2004, the matter was referred to a Full Bench of this Tribunal on the following question:-

"Whether Clarification No.56 issued by the DoP&T on 18.7.2001 would have an effect of rendering condition no. 7 of the ACP Scheme redundant and to take away the right accrued to a Government servant in his hierarchy to be granted financial upgradation under the ACP Scheme?"

5. The Central Administrative Tribunal, Principal Bench (Full Bench) in OA-557/2004 dated 16.2.2005 answered the question as follows:-

"Clarification No.56 issued by the Department of Personnel & Training on 18.07.2001 will have the effect of rendering condition no. 7 of the ACP Scheme as redundant. It cannot take away the right that has accrued to the Government servant in his existing hierarchy with respect to the grant of the scale to be granted by way of financial upgradation".

Thereafter arguments have been heard in OA-557/2004 in the Division Bench.

6. In the light of the aforesaid Full Bench decision, Clarification No.56 issued by DoP&T on 18.7.2001 having been made ineffective, condition No.7 of the ACP Scheme stands revised and the right accrued to the applicant in his



2

hierarchy for grant of financial upgradation under ACP Scheme restored. As such, Annexure A-1 dated 19.1.2004 is quashed and set aside and respondents are directed to restore financial upgradation to the applicants in scale Rs.5500-9000 w.e.f. 10.5.2002 as accorded to them originally. Applicants shall be entitled to consequential benefits. OA is allowed accordingly.

S. Raju
(Shanker Raju)
Member (J)

cc.

V.K. Majotra
15.12.05
(V.K. Majotra)
Vice Chairman (A)