

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH: ALLAHABAD

ORIGINAL APPLICATION NO.1264 OF 2004

ALLAHABAD THIS THE 10th DAY OF MARCH, 2006

HON'BLE MR. K. B. S. RAJAN, MEMBER-J

Chandra deo Pal,
Son of Sukalu Pal,
Fitter (H.S.) Ticket No.625/508
Army Base Work Shop,
Fort Allahabad,
Resident of House No.E/D/ 51,
A.D.A. Colony, Naini,
District- Allahabad.

.Applicant

By Applicant: Shri C. D. Pal

Versus

1. Union of India, through Secretary,
Ministry of Defence,
Government of India,
New Delhi.
2. Director General E.M.E.
Army Head Quarter,
New Delhi.
3. Commander Base Workshop Group,
MEERUT Cantonment District MEERUT.
4. Managing Director (Commandant) 508,
Army Base Workshop, Fort,
Allahabad.

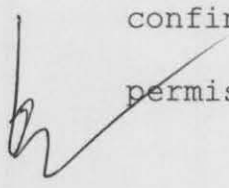
. Respondents

By Advocate: Shri S. Singh

O R D E R

By K.B. S. Rajan, Member-J

At the outset as the applicant has sought multiple relief's, he has stated that he will be confining his case towards grant of ACP and seeks permission to move appropriate forum in respect



of other relief. The prayer is granted. In so far as the applicant's claim relating to LTC advance, Leave etc. (other than ACP vide para 8 of the O.A.), the applicant, if so desired, may prosecute his case by separate O.A. This order is, therefore, confined itself to the entitlement of the applicant to the ACP benefit.

2. Admittedly, the applicant was inducted into service on 20.04.1988 (by a typographical error in the CA the date of appointment is stated to have been 20.4.1998. The appointment letter, however, has been issued dated 20.04.1988 in the pay scale of Rs.950-1500/- vide Annexure RA-1 to the rejoinder affidavit.)

3. According to the applicant on completing his 12 years of service as regular Fitter he become entitled to the benefit of ACP in accordance with the order dated 9.8.1999 whereas the department has afforded him the benefit of ACP only w.e.f. 16.05.2001.

4. The counsel for the respondents submits that the applicant would become entitled to the ACP benefit only subject to his passing the trade test and due to non availability of vacancy in fitter trade, the trade test was conducted on 15.05.2001 in which the applicant appeared and

passed amongst other. Thus he was granted first financial up gradation under ACP scheme from the date of passing the trade test.

5. The rules relating grant of ACP, no doubt mandates, that if for promotion certain trade test etc. had to be passed, the individual should pass the same where after only he becomes eligible for ACP benefit. The question here is whether the department could defer holding the trade test due to non-availability of vacancy. The answer must be no. Normally after certain period of service in the Fitter Grade persons are allowed to participate in the trade test and after passing the trade test they would be awaiting the vacancies and on the availability of vacancies they would be considered for promotion. In so far as ACP is concerned the same is independent of availability of vacancies. As such when the applicant has qualified in the trade test conducted for the first time on 16.05.2001 he is deemed to have passed the same, from the date he completes 12 years of service. As such the applicant is certainly entitled to the benefits of ACP after completing his 12 years of service i.e. w.e.f. 20.04.2000.

6. The O.A. is, therefore, allowed. The respondents are directed to afford the applicant

the ACP benefit of order dated 20.04.2000 and accordingly, fix his pay. Arrears of pay and allowances arising out of the same shall be made available to the applicant within a period of three months from the date of communication of this order. No Costs.



Member-J

/ns/