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**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH**

**M.A.No.2080/2008
OA NO.662/2007**

Allahabad, this the 15th day of September, 2008

**HON'BLE SHRI JUSTICE M. VENKATESWARA REDDY, MEMBER (J)
HON'BLE SHRI SHAILENDRA PANDEY, MEMBER (A)**

1. K.C.Kureel
s/o Shri Maiku Lal
presently posed as Tracer in Field Gun Factory
Kanpur
R/o F 794, Gujaini,
Kanpur.

2. Rampreet,
s/o Late Maghuram
r/o LIG 1404 Awas Vikas
Panki Road Kalyanpur,
Kanpur City
Presently posted as Tracer in
Field Gun Factory, Kanpur.

... Applicants

(By Advocate:Shri V.Budhwar)

Versus

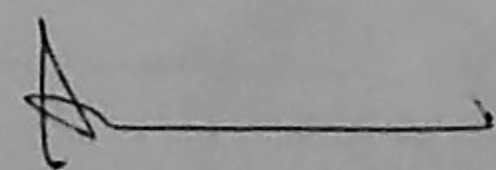
1. Union of India, through
Secretary
Ministry of Defence Production
Ministry of Defence
Government of India,
New Delhi.

2. Ordnance Factory Board
Ministry of Defence
Government of India,
10-A, Shaheed Khudiram Boase Road
Kolkata, through its Chairman.

3. General Manager,
Field Gun Factory
Kalpi Road
Kanpur City.

... Respondents

(By Advocate: Sh. S.Srivastava)



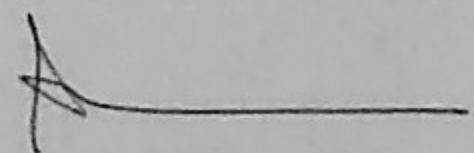
(7)

ORDER (Oral)

BY JUSTICE M. VENKATESWARA REDDY, MEMBER (J):

Applicant No.1 and Applicant No.2 were appointed as Tracer in the pay scale of Rs.3200-3900 and Rs.3200-4900 respectively with effect from 01.01.1996. Later, in terms of letter dated 45(1)/98/III/D(Fy-II) dated 25.07.2003, after completion of seven years in the grade of Tracer, they were granted the pay scale of Rs.1200-2040 with effect from 25.09.1988. The same was re-fixed in the scale of Rs.4000-6000 w.e.f. 1.1.1996. Later, they were given the 1st financial up-gradation in the pay scale of Rs.4500-7000 with effect from 09.08.1999 under Assured Career Progression Scheme introduced as per the Ordnance Factory Board's letter No.PA-2631/A/CCC dated 18.08.2000. When the matter stood like that, show cause notices dated 5.6.2006 (Annexure A7 & 8 to the application) were issued asking them to show cause as to why the 1st financial up-gradation granted under ACP Scheme should not be withdrawn. On receipt of the aforesaid show cause notice, they made their representations. Thereafter, the following order dated 05.06.2006 (Page 13), i.e, impugned order, came to be passed:

"with reference to your above representation addressed to GM/FGK, it is intimated that the matter for grant of ACP benefit to you as given to the applicant in O.A.No.28 of 2004 of O.F. Dehu Road was taken up with O.F. Board. It has been intimated by O.F. Board that the Tracers of FGK cannot be given ACP benefit as given to the applicant in O.A.No.28 of 2004 of O.F. Dehu Road. Therefore, you cannot be given ACP benefit at par with the employee of OF Dehu Board."



(2)

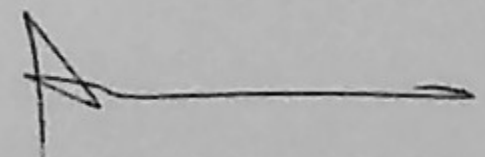
2. The applicants are questioning the same.

3. In the counter reply filed by the respondents, various reasons were put forward for withdrawing the promotion granted under ACP Scheme which had not been stated in the impugned order dated 05.06.2006.

4. The learned counsel for the applicants would submit that if a financial benefit already is to be withdrawn, the minimum requirement is that the respondents should give reasons thereof and as no reasons have been assigned in the impugned order, the same may be set aside and the respondents may be directed to consider the matter de-novo and pass a speaking order.

5. On the other hand, the learned counsel for the respondents has drawn our attention to various reasons assigned in the counter reply filed by the respondents. The counter reply cannot be a substitute for the impugned order nor can it be a supplement.

6. It is also brought to our notice at this juncture by the learned counsel for the applicants that a Coordinate Bench of this Tribunal at Mumbai in OA 28/2004 (D.S.Patole vs. Union of India & Others) quashed the clarification order given by the Ministry of Defence dated 30.04.2003 and the order dated 7.6.2003 where under ACP already granted was cancelled, made against the applicant therein. It is on the basis of the above mentioned order dated 30.04.2003 only, which was quashed, the 1st financial up-gradation granted to the applicants is also cancelled.

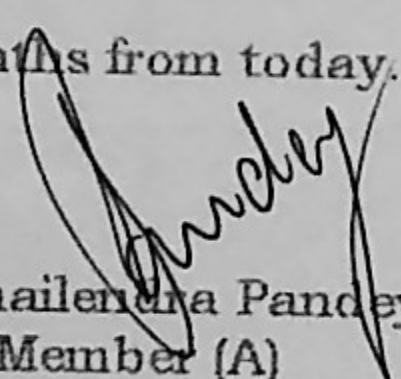


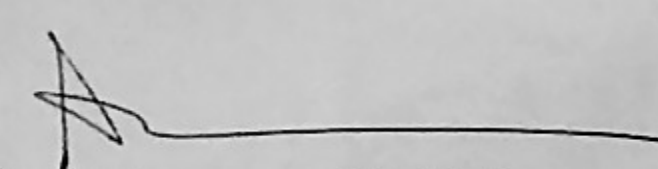
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7. We see sufficient force in the contention of the learned counsel for the applicants that the minimum requirement while withdrawing ACP granted is to make a speaking order.

8. The impugned order by any stretch of imagination cannot be said to be a speaking order. Objectivity is the sustaining force of any order, and the same is lacking in the impugned order. Therefore, we are of the opinion that it is a fit case where the impugned order can be quashed and a direction may be given to the respondents to pass a fresh order after taking into consideration of all the aspects of the case.

9. In the result, the OA is allowed. The impugned order dated 5.06.2006 (Annexure A1) is set aside. The respondents are directed to consider the matter afresh and pass a speaking order within three months from today. No costs.


(Shailendra Pandey)
Member (A)


(Justice M. Venkateswara Reddy)
Member (J)

/nsnrsp/