

X

O.A.NO.618 OF 2005

ORDER DATED 04.01.08

CORAM: DR.D.K.SAHU, MEMBER(J)

AND

SHRI C.R.MOHAPATRA, MEMBER(A)

Heard the Ld.Counsel for both the parties. Admittedly applicant was holding an isolated post in scale of pay Rs.3050-4590/-. Admittedly he is entitled to get first ACP after completion of 12 years, as he was not given any promotion. His pay was fixed after giving ACP in the scale of Rs.4000-6000/- in accordance to an intimation of the Department of Naval Armament Depot vide Annexure-8. But subsequently it was re-fixed in the scale of Rs.3200-4900/-. The applicant submits that previously his pay was rightly fixed but subsequently it has been fixed erroneously, in as much as the authority is not entitled to recovery the amount already paid to him.

2. It is manifest from Clause-10 of DOPT instructions contained in Annexure-R/2 that in such cases the matter is to be referred to the same Ministry/Department/Cadre. In the instant case, the ministry is the Department of Animal Husbandry and Dairy. So the intimation at Annexure-8 of Naval Armament Depot cannot be a reference for such pay fixation as it is not in accordance with the instructions contained in clause-10 (supra).

3. Ld.Counsel for the respondents submits that the applicant was in the scale of Rs.3050-4590/- whose next higher scale is Rs.3200-4900/- vide Annexure-R/3 and as ACP is a financial up-gradation, he is given the next scale. However, the Counsel for the applicant submits that this being an isolated post and there is no scale of Rs.3200-4900/- for the Carpenter in that office, Annexure-R/3 is not applicable to the applicant.

4. Without going to the merit of claim of the applicant as it is a disputed question as to whether it is an isolated post or a remaining isolated post as referred in Clause-10 (Annexure-R/2), we direct the concerned department to refer the case of the applicant to the concerned ministry for their decision and accordingly, the ACP would be fixed by the department. However there was no laches on the part of the applicant in fixation of the higher pay, thus the alleged excess amount shall not be recovered from the

Dr. D. K. Sahu

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applicant. If it is already recovered, the same be refunded to the applicant within three months from the date of receipt of this order. We hope that the department/ministry will do good to dispose of the question of ACP within six months from the date of communication of this order.

5. The O.A. is, accordingly, disposed of.

[Signature]
MEMBER(ADMN.)

[Signature]
MEMBER(JUDL.)

Or. In 04. 01. 08

Copies of order
prepared for
counsel for
both side.

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[Signature]
11.1.08