

**CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH**

O.A.NOS.764 and 765 of 2005, 502, 503, 506, 507, 515, 516, 517, 518, 575, 576, 587,
588, 589, 621, 622, 676, 677 and 758 of 2006, & 13 to 17 of 2007

Dated this the day of May, 2009

CORAM:

HON'BLE SHRI JUSTICE K.THANKAPPAN, JUDICIAL MEMBER
AND
HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER

In OA 764/2005

Udayanath Mati, aged about 62 years, son of late Bhaju Mati, ex-Fire Supervisor, Village Satasola, Post Office-Manjari Road, P.S.Bhandaripokhari, Dist. Bhadra.

In OA 765/2005

Fakira Charan Mallick, aged about 60 years, son of late Kusei Mallick, At/PO-Gopinathpur, P.S.Salipur, District Cuttack, ex-Fire Supervisor, ARC, Charbatia, Choudwar, Cuttack.

In OA 502/2006

1. Sangram Keshari Das, aged about 53 years, son of Birakishore Das, Village & Post Office-Chasikhanda, Via-Anakhia, Dist.Jagatsinghpur.
2. Shri Kanhu Charan Adhikary, aged about 54 years, son of late Gorachand Adhikary, At/PO Agrahat, P.S.Choudwar, Dist.Cuttack.
3. Shri Shyam Sundar Gantayat, aged about 60 years, son of late G.C.Gantayat, Village/PO-Agrahat, P.S.Choudwar, District Cuttack.
4. Shri Chunduri Koteswar Rao, aged about 58 years, village/PO-Karumanchi, Vinukonda TQ, Dist. Guntur (Andhra Pradesh)
5. Shri Laxmidhar Mahunta, aged about 51 years, son of late Ghanashyam Mahunta, At-Angataradiha, P.O. Nakhara, Dist.Cuttack.
6. Shri Balaram Samal, aged about 53 years, son of late Krushna Chandra Samal, At-Dankari, P.O. Chhadesh, Via Rajkanika, Dist.Kendrapara.
7. Shri Bibekananda Swain, aged about 58 years, son of late Govind Chandra Swain, At/PO Radhakishorepur, Via Athagarh, Dist.Cuttack.
8. Shri Prabhanjan Mohanty, aged about 54 years, son of late Padma Charan Mohanty, At-Bombilo, P.O-Saiberi Basandara, Via Biridi Road, Dist.Jagatsinghpur.

9. Shri Birakishore Ojha, aged about 59 years, son of late Lokanath Ojha, At Mangalpur New Colony, P.O. – Agrahat, Dist.Cuttack,
All are at present working as Fire Supervisors, in the Aviation Research Centre (ARC),Charbatia, At/PO Charbatia, Dist. Cuttack 754028

In OA No. 503 of 2006

1. Shri Binod Bihari Patra, aged about 52 years, son of late Panchanan Patra, At/PO Gandhi Nagar, 3rd Extension Line, Berhampur, Dist. Ganjam.
2. Shri Biranchi Narayan Samal, aged about 55 years, son of late Subal Charan Samal, At/PO Kendrapada, P.S.Gondia, Dist. Dhenkanal.
3. Shri Bhubaneswar Mishra, aged about 56 years, son of late Purusottam Mishra, At Bhojadeipur, P.O. Sadasibpur, P.S. Sadar, Dist. Dhenkanal.
4. Shri Baikunthanath Tarasia, aged about 57 years, son of late Muli Tarasia, At/PO Barambagarh, P.S. Baramba, District Cuttack

All are at present working as Fire Supervisors in Aviation Research Centre (ARC), Charbatia, At/PO Charbatia, Dist. Cuttack 754028.

In OA 506/2006

1. Prakash Sengupta, aged about 50 years, son of late Dulal Sengupta, permanent resident of K.P.Road (Nicha Patty), P.O. Doomdooma 786151, District Tinsukia (Assam) and at present resident of Qr.No. 2RA/105, ARC, Charbatia, P.O. Charbatia, P.S. Choudwar, Dist.Cuttack (Orissa).
2. Lokanath Mohapatra, aged about 54 years, son of Sudhakar Mohapatra, permanent resident of Bambilo, P.O. Basundhara, Via Biridi Road, P.S./Dist.Jagatsinghpur (Orissa) and at present resident of Qr. No. 2RA/74, ARC, Charbatia, P.O. Charbatia, P.S.Choudwar, Dist. Cuttack (Orissa).
3. Niranjan Mallick, aged about 53 years, son of late Birabala Mallick, permanent resident of village Bambilo, P.O. Basundhara, Via Biridi Road, P.S/Dist. Jagatsinghpur (Orissa) and at present resident of Qr. No.2RA/192, ARC, Charbatia, P.O. Charbatia, P.S.Choudwar, Dist. Cuttack.

Sl.Nos.1 to 3 are at present working as Fire Supervisors in the Aviation Research Centre, Charbatia, P.O. Charbatia, Dist. Cuttack (Orissa).

In OA 507 /2006

1. P.Rajeswar Rao, aged about 57 years, son of late P.Vasudev Rao, at present resident of Qr.No.3R/29, ARC, Campus, At/PO Charbatia 754028, Dist.Cuttack (Orissa).
2. Harihar Singh, aged about 55 years, son of Maheswar Singh, permanent resident of village GDagarapada, P.S/P.O. Barchana, Via Dhanmandal, Dist.Jajpur (Orissa) and at present resident of Vill Mangalpur New Colony, P.O.Agrahat, P.S.Choudwar, Dist.Cuttack (Orissa).

3. Param Suranjan Das, aged about 53 years, son of Issac Das, permanent resident of village Mandarapara, P.O. Doulatabad, P.S. Choudwar, Dist. Cuttack and at present resident of Qr.No.2R/247, At/PO Charbatia, Dist.Cuttack (Orissa).
4. Surendra Kumar Paikray, aged about 56 years, son of late Giridhari Paikray, permanent resident of Shankarpur New Colony, P.O. Shankarpur, P.S., Choudwar, Dist. Cuttack (Orissa) and at present resident of Qr.No. 2RB/166, ARC, At/PO Charbatia, P.S. Choudwar, Dist. Cuttack (Orissa).
5. J.Tripathy, aged about 54 years, son of Prabhakar Tripathy, permanent resident of Village/PO Padampur, Dist. Ganjam, via Soroda (Orissa) and at present resident of Qr.No.2RB/74, ARC, Charbatia, P.O. Charbatia 754028, Dist. Cuttack (Orissa).
6. Surendra Prasad Choudhury, aged about 58 years, son of late Bhagirathi Choudhury, permanent resident of Vill/PO Mahakalapara, Dist. Kendrapara (Orissa) and at present resident of Qr.No.2RA/77, ARC, Charbatia, P.O. Charbatia, P.S. Choudwar, Dist. Cuttack (Orissa).
7. Bijay Kumar Das, aged about 53 years, son of Patitapaban Das, permanent resident of Simlipada, Ranigada Road, P.O/PS/Dist. Angul 759122 (Orissa) and at present resident of Qr.No.2R/21, ARC, Charbatia, P.O. Charbatia, P.S. Choudwar, Dist. Cuttack.
8. Arakhita Baral, aged about 54 years, son of late Dhusa Baral, permanent resident of village Dibyasingh Prasad, P.O. Kerang, Via/Dist. Khurda (Orissa) and at present resident of Qr.No.2RB/36, ARC, Charbatia, P.O. Charbatia, P.S. Choudwar, Dist. Cuttack (Orissa).

(Sl.No.s. 1 to 8 are working at present as FIRE SUPERVISOR in the ARC, Charbatia, P.O. Charbatia, P.S. Choudwar, Dist. Cuttack (Orissa).

In OA 515 /2006

1. Shri Balakrishna Ojha, aged about 56 years, son of late Bhramarbar Ojha, Village Damodarpur, P.O. Kandapada, P.S. Govindapur, Dist. Cuttack.
2. Shri Jonathan Behera, aged about 59 years, son of late Jishak Behera of village Parbatia, P.O. Chhagan, Via Charbatia, Dist. Cuttack.
3. Shri Daniel Bihari, aged about 59 years, son of late Sethin Bihari, Village Parbatia, P.O. Chhagaon, Via Charbatia, Dist. Cuttack.

All are at present working as Fire Operators in the Aviation Research Centre (ARC), Charbatia, At/PO Charbatia, District Cuttack 754028.

In OA 516/2006

Shri Sanatan Behera, aged about 50 years, son of late Bauri Behera, of village Kusunda, P.O. Govindapur ®, P.S. Banki, District Cuttack.

In OA 517 /2006

Shri Haresh Prasad Mohapatra, aged about 47 years, son of late Prafulla Chandra Mohapatra, At/PO Jayantara, Via Dasarathpur, Dist. Jajpur, at present working as Fire Operator in Aviation Research Centre (ARC), At/PO Charbatia, Dist. Cuttack.

In OA 518 /2006

Shri Purna Chandra Pradhan, aged about 45 years, son of Bhagyadhar Pradhan of village Ambilijhari, P.O.Mangarajpur, P.S.Choudwar, Dist. Cuttack, at present working as Fire Supervisor in the Aviation Research Centre (ARC), At/PO Charbatia, Dist. Cuttack 754028.

In OA 575 /2006

Sri Ashok Kumar Nayak, aged about 47 years, son of late Ratnakar Nayak, working as Fire Supervisor, ARC, Charbatia, Dist. Cuttack.

In OA 576 /2006

Kalu Charan Nayak, aged about 57 years, son of late Natabar Nayak, at present working as Fire Supervisor at Aviation Research Centre, Charbatia, Choudwar, Dist. Cuttack.

In OA 587 /2006

1. Surendra Kumar Paikray, aged about 56 years, son of late Giridhari Paikray, At-Gopalpur, P.O.Karanpur, P.S.Moharkalpada, Dist. Kendrapara (Orissa).
2. Binod Bihari Patro, aged about 51 years, son of late Panchanan Patro, At/PO Gandhi Nagar 3rd Extension Line, Berhampur, Dist. Ganjam (Orissa).
3. Kanhu Charan Adhikary, aged about 54 years, son of late Gorachand Adhikary, At/PO Agrahat, P.S.Choudwar, Dist. Cuttack 754070, at present resident of Kanhu Charan Adhikary, At/PO Agrahat, P.S.Choudwar, Dist. Cuttack 754070.
4. Shyam Sunder Gantayat, aged about 60 years, son of late G.C.Gantayat, At Radhadeipur, P.O. Khariany, Dist.Jajpur, at present resident of Agrahat, Dist. Cuttack.
5. Maguni Charan Behera, aged about 58 years, son of late Baikuntha Behera, At/PO Japabhanu, Via Erasama, Dist. Jagatsinghpur.
6. Laxmidhar Mahunta, aged about 51 years, son of late Ghanashyam Mahunta, At-Angataradiha, P.O.Nakhara, Via Jagatpur, Dist.Cuttack (Orissa).
7. P.Rajeswar Rao, aged about 59 years, son of late P.Vasudeva Rao, At/PO Balaji Peetha Street, P.O.Berhampur, Dist. Ganjam (Orissa).
8. Sanatan Behera, aged about 50 years, son of late Bani Behera, At/Kusunda, P.O.Gobindpur ⑧, P.S.Banlai, Dist.Cuttack, at present resident of ARC Qr.No. 2RB/137, At/PO Charbatia, Dist.Cuttack 754028

9. Purna Chandra Pradhan, aged about 45 years, son of late Bhagyadhar Pradhan, Village Ambiljhari, P.O.Mangarajpur, P.S.Choudwar, Via Charbatia, Dist.Cuttack (Orissa).
10. Harihar Singh,a ged about 55 years, son of Maheswar Singh, permanent resident of village Dagarpada, P.S/PO-Barchana, Via Dhanmandal, Dist.Jajpur, and at present resident of village Mangalpur New Colony,P.O.Agarhal, P.S.Choudwar, Dist.Cuttack (Orissa).
11. Biranchi Narayan Samal,aged about 56 years, son of late Subal Charan Samal, At/PO Kendupada, P.S.Gondia,Dist.Dhenkanal (Orissa).
12. Kalu Charan Nayak,a ged about 57 years, son of late Natabar Nayak, Vill Tarasahi, P.O. Risol, P.S.Balikuda, Dist.Jagatsinghpur.
13. Balaram Samal,aged about 53 years, son of late Krushna Chandra Samal, Vill Dhankari, P.O.Chhadesh, Via Rajkanika, P.S.Rajkanika, Dist.Kendrapara.
14. Arakhita Baral, aged about years, son of late Dhusa Baral, Vill Dibyasingha Prasad, P.O.Kerang, Via Khurda, Dist.Khurda (Orissa) at present address Arakhita Baral, son of late Dhusabara, AT: Qr.No.2RB-36-ARC-Charbatia, P.O.Charbatia, Via Choudwar, Dist.Cuttack (Orissa).
15. Ashok Kumar Nayak, aged about 45 years, son of late D.K.Nayak, At- Qr.No2R-170, ARC,Charbatia, P.O.Charbatia, P.S.Choudwar, Dist.Cuttack, Orissa.
16. Bira Kishore Ojha,aged about 59 years, son of late Lokanath Ojha, At Mangalpur New Colony, P.O.Agrahat, Dist.Cuttack (Orissa).
17. Birendra Kumar Das, aged about 46 years, son of late Shyam Sundar Das, At- Purighat, P.O.Telenga Bazar, Dist.Cuttack (Orissa), at present resident of 2RA-68, ARC,Charbatia, P.O.Charbatia, Dist.Cuttack (Orissa).
18. Sangram Keshari Das, aged about 53 years, son of Birakishore Das, Vill/PO Chasikhand, Via Anakhia, Dist.Jagatsinghpur.
19. Pravanjan Mohanty, aged about 54 years,s on of late P.C.Mohanty, Village Bambilo, P.O. Basendra, Dist.Jagatsinghpur.
20. Baikunthanath Tarasia, aged about 57 years, son of late Muli Tarasia, At/PO Baramsa Garh, Dist.Cuttack, at present resident of Qr.No2RA/184, P.O.Charbatia, Dist.Cuttack (Orissa).
21. Danial Bihari (Permanent), aged about years, son of late S.Bihari, At: Parbatia, P.O.Chhagan, P.S.Guridi Jhatia, Dist. Cuttack, at present resident of Qr.No.2RA/184, P.O.Charbatia, Dist.Cuttack(Orissa).
22. Haresh Prasad Mohapatra, aged about 46 years, son of late Prafulla Chandra Mohapatra, At/PO Jayantara, Via Dasarathpur, Dist.Jajpur (Orissa) at present of Qr.No.2RA/103, P.O.Charbatia, Dist.Cuttack (Orissa).
23. Purna Chandra Mallick, aged about 58 years, son of late D.C.Mallick, Vill Podapada, P.O.Tarajanga, P.S.Tirtol, Dist.Jagatsinghpur, at present resident of ARC Qr.No.2RB-50, P.O.Charbatia, Dist.Cuttack (Orissa).

24. Rama Chandra Nayak, aged about 57 years, son of Binod Bihari Nayak, at Sapanpur, P.O. Sisua, P.S. Salipur, Dist. Cuttack, at present resident of R.C. Nayak, Qr. No. 2RB-81, ARC, P.O. Charbatia, Dist. Cuttack.

25. Parama Surjan Das, aged about 53 years, son of Issac Das, Vill Mandapara, P.O. Doulatabad, P.S. Choudwar, Dist. Cuttack, at present resident ARC, Charbatia, 2QA-247, Cuttack.

26. Balakrishna Ojha, aged about years, son of Bhamarbar Ojha, Vill Damodarpur, P.O. Kantapada, P.S. Govindpur, Dist. Cuttack (Orissa).

27. Bibekananda Swain, aged about 52 years, son of late Gobinda Chandra Swain, At/PO Radhakishorepur, Dist. Cuttack (Orissa).

28. Bijaya Kumar Das, aged about years, son of Patitapaban Das, At Similipada (Ranigada Road), P.O. Angul, Dist. Angul, at present resident of ?Qr. No. 2RB/75, P.O. ARC, Charbatia, Dist. Cuttack.

29. Bhubaneswar Mishra, aged about 53 years, son of late Purusottam Mishra, at Bhogadeipur, P.O. Sadasivpur, Dist. Dhenkanal, at present resident of Qtr. No. 2RA-143, P.O. ARC, Charbatia, Dist. Cuttack.

30. Jonathen Behera, aged about 59 years, son of late Jishak Behera, at Panbatia, P.O. Chhagaon, Via Chanbalia, Dist. Cuttack.

31. Jwizath Tripathy, aged about 54 years, son of late Prabhakar Tripathy, Vill/PO Padampur, Via Badagada, Dist. Ganjam (Orissa), at present resident of Qr. No. 2RB/74, ARC Charbatia, P.O. Charbatia 754028, Dist. Cuttack (Orissa).

From SlNo. 1 to 31 are working as Fire Supervisor in the ARC, Charbatia, P.O. Charbatia, P.S. Choudwar, Dist. Cuttack, State Orissa.

In OA 588 /2006

Debi Chandra Dutta, aged about 58 years, son of late A. Dutta, permanent resident of vill Rupban, P.O. Doomdooma, District Tinsukia and at present resident of Qr. No. 2RA/117, ARC Charbatia, P.O. Charbatia 754028, District Cuttack (Orissa) and at present working as Station Officer under the ARC (Fire Fighting) Services, Charbatia, P.O. Charbatia 754028, District Cuttack (Orissa).

In OA 589/2006

Subir Kumar Roy, aged about 57 years, son of late Sailendranath Roy, permanent resident of vill Rupban, P.O. Doomdooma, District Tinsukia and at present resident of Qr. No. 2RB/150, ARC Charbatia, P.O. Charbatia 754028, District Cuttack (Orissa) and at present working as Asst. Station Officer under the ARC (Fire Fighting) Services, Charbatia, P.O. Charbatia 754028, District Cuttack (Orissa).

In OA 621 /2006

Tikam Charan Das, aged about 57 years, son of late Bhagaban Das, permanent resident of vill & P.O. Choudwar, Dist. Cuttack (Orissa) and at present working as Asst. Station

Officer, office of the ARC (Fire Fighting Service), DPL, Mayur Bihar, Phase I, New Delhi, P.O. New Delhi 91.

In OA 622 /2006

Gandharba Charan Behera, aged about 53 years, son of late Karunakar Behera, permanent resident of vill Tarasahi, P.O.Risola, Via Lataharam, Dist.Jagatsinghpur, and at present working as a Fire Supervisor, Office of the ARC (Fire Fighting Service), DPL, Mayur Bihar, Phase I, New Delhi, P.O. New Delhi 01

In OA 676 /2006

Adwait Kumar Jena, aged about 46 years, son of late Jaladhara Jena, permanent resident of vill Nistipur, P.O.Ghasiput, Via/PS Banki, District Cuttack and at present working as Fire Supervisor under the ARC (Fire Fighting) Services, Doomdooma, P.O. Doomdooma (Assam).

In OA 677 /2006

Sri Birendra Prasad Mohanty, aged about 56 years, son of late Debendra Prasad Mohanty, permanent resident of MIG 157, Housing Board Colony, Charbatia, P.O.Charbatia, P.S.Choudwar, District Cuttack and at present working as Fire Supervisor under the ARC (Fire Fighting) Services, Saraswa, P.O.Saraswa, Dist. Saharangpur (UP).

In OA 758 /2006

Sri Kumar Beura, aged about 61 years, son of late Judhistira Beura, permanent resident of village Nuapatana, P.O. Koyal Pada, P.S.Choudwar, Dist. Cuttack, at present resident of Qr.No.2ERB-129, ARC, Charbatia Campus, P.O.Charbatia, Dist.Cuttack.

In OA 13 /2007

Maguni Charan Behera, aged about 57 years, son of late Baikunthanath Behera, permanent resident of village Japabhan, Via/PO Erasama, Dist. Jagatsinghpur, at present resident of Qr. No. 2RB-13 ARC Campus, P.O.Charbatia, P.S.Charbatia, Dist.Cuttack and at present working as Fire Supervisor under the ARC (Fire Fighting) Services, Aviation Research Centre, Charbatia, P.O.Charbatia, P.S.Choudwar, Dist.Cuttack (Orissa).

In OA 14 /2007

Gateswar Swain, aged about 56 years, son of late Fagu Charan Swain, permanent resident of vill Kelu Pata Sarana, P.O. Ali Pingala, P.S/Dist.Jagatsinghpur, at present working as Fire Supervisor under the ARC (Fire Fighting) Services, Aviation Research Centre, Charabatia, P.O.Charbatia, P.S.Choudwar, Dist.Cuttack(Orissa).

In OA 15 /2007

Birendra Kumar Das, aged about 46 years, son of late Shyam Sundar Das, permanent resident of Purighat, P.O. Cuttack 753009, P.S.Purighat, City &District Cuttack and at present working as Fire Supervisor under the ARC (Fire Fighting) Services, Aviation Research Centre, Charbatia, P.O.Charbatia, P.S.Choudwar, Dist. Cuttack.

In OA 16 /2007

Pratap Chandra Swain, aged about 44 years, son of late Gajendra Swain, perant resident of village Adhapat, P.O.Dhanua, P.S.Tirtol, Dist.Jagatsinghpur and at present working as Fire Supervisor under the ARC (Fire Fighting) Services, Charbatia, P.O).Charbatia, Dist. Cuttack (Orissa).

In OA 17 /2007

Biranchi Narayan Sahoo, aged about 47 years, son of late Daitari Sahoo, permanent resident of vill Harianta, P.O.Dagarasahi, P.S.Choudwar, District Cuttack and at present working as Fire Supervisor under the ARC (Fire Fighting) Services, Charbatia, P.O.Charbatia, Dist.Cuttack(Orissa)APPLICANTS

Advocates for applicants - M/s B.S.Tripathy, M.K.Rath, & J.Pati
in OA Nos.502/06,503/2006, 515/2006
516/2006, 517/2006, 518/2006

Advocates for applicants -M/s R.B.Mohapatra, N.R.Routray & D.K.Mohanty
in OA Nos. 506/2006,
507/2006, 587/2006,
588/2006, 589/2006,
621/2006, 622/2006,
676/2006, 677/2006,
758/2006, 13/2007,
14/2007, 15/2007, 16/2007 & 17/2007

Advocates for applicants -M/s CA Rao, S.K.behera, A.K.Rath & S.Ahmed.
in OA 575/2006

Advocates for applicants - M/s M.K.Nayak, S.Muduli
in OA 576/2006

Advocates for applicants - M/s R.K.Satpathy, S.K.Kanungo, A.K.Jethi,
OA No. 764 2005 & 765/2005 C.R.Nandy, N.R.Tripathy.

Vrs.

In all the O.As.

1. Union of India, represented by the Cabinet Secretary, Government of India, Cabinet Secretariat, At Bikanir House Annexe, Sahajahan Road, New Delhi 110 011.
2. The special Secretary, Aviation Research Centre, Head Quarters, Directorate General of Security, Cabinet Secretariat, East Block V, R.K.Puram, New Delhi 110066.
3. The Director of Accounts, Cabinet Secretariat, East Block II, Level VII, R.K.Puram, New Delhi 110066.
4. The Deputy Director (Admn.), Air Wing Aviation Research Centre, East Block V, R.K.Puram Road, New Delhi 110066.
5. The Deputy Director (Admn.), Aviation Research Centre (ARC), At/PO Doomdooma (Assam).
6. The Deputy Director, Aviation Research Centre, Charbatia, Choudwar, Dist.Cuttack.
7. Ministry of Personnel, Public Grievances & Pensions, Government of India (Department of Personnel &Training), North Block, New Delhi 110001, represented by its Secretary. RESPONDENTS

Advocates for Respondents - Mr.U.B.Mohapatra, SCGSC in OA 764 & 765/2005, OA 516,517 and 518/2006, & 13 & 14 of 2007

Mr.B.Dash, ACGSC in OA 502/2006, 587/2006, 589/2006, 16/2007 & 17/2007

Mr.D.K.Behera, ACGSC in OA 503/2006.

Mr.B.K.Mohapatra, ACGSC in OA 515/2006.

Mr.S.Barik, ACGSC in OA 506/2006.

Mr.R.C.Swain, ACGSC in OA 507,576, 621,622, 676, 677, 758 of 2006

Mr.P.R.J.Dash, ACGSC in OA 588/2006 & OA 15/2007

Mr.S.K.Patra, ACGSC in OA No.575/2006

ORDER

JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

The point to be decided in all the above mentioned Original Applications having emerged from the same and similar facts and circumstances and the prayer of the applicants therein being more or less a common prayer for granting them two financial upgradations in pursuance of adoption of Assured Career Progression (in short A.C.P.) Scheme applicable to the Central Government employees of the Aviation Research Centre, Charbatia, as notified by the DoP&T O.M.No.35034/1/97- Estd.© dated 9.8.1999, all these O.As are being disposed of by this common order to be applied rationally irrespective of employees whether retired or in active service. For the purpose of deciding all the O.As, we take O.A.No.502 of 2006 as a pioneer one and facts set out therein are enumerated hereunder.

2. Applicants (nine in number) are at present working as Fire Supervisors in Aviation Research Centre (in short 'A.R.C.'), Charbatia, which is a promotional grade of Firemen. It is needless to mention that earlier Fireman was the feeder grade for promotion to the grade of Fire Supervisor and subsequently, the Fireman having been re-designated as Fire Operator, the post of Fire Operator is now the feeder grade for promotion to the grade of Fire Supervisor. It is to be noted that before introduction and adoption of 5th Central Pay Commission, the scales of pay meant for Fire Operator and

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Fire Supervisor were at Rs.950-1500/- and Rs.1150-1500/- respectively. During 1996 the Fifth Central Pay Commission recommended revision of scales of pay for the post of Fire Operator as well as the Fire Supervisor to one scale of pay, i.e., Rs.3050-4590/- which in effect merged the two scales into a singular scale of pay. It has been submitted that during the year 1997, although the applicants were promoted to the post of Fire Supervisor carrying the same scale of pay as that of Fire Operator, that promotion was a change in their designation only and not in pay. While the matter stood thus, the Govt. of India, as per notification No.35084/1/97-Estt(D) dated 9.8.1999 issued by the DoP&T, introduced the A.C.P. Scheme based on the recommendations of the 5th Central Pay Commission, which laid down granting of one and two financial upgradations to an employee if no regular promotions during the prescribed period (i.e., 12 and 24 years) had been availed of, and if an employee has already got one regular promotion, he should qualify for the second financial up-gradation only on completion of 24 years of regular service. According to the learned counsel, the applicants having been found eligible were granted 1st and 2nd financial up-gradations in the scale of Rs.4000-6000/- and Rs.5000-8000/- on completion of 12 and 24 years regular service respectively with effect from 9.8.1999. It has been submitted that after a long lapse of six years, Respondent No.4 as per order dated 12.5.2006 indicated that the applicants were eligible to one financial upgradation, i.e., the 2nd financial upgradation in the scale of Rs.4000-6000/- with effect from 9.8.1999(Annexure-A/3), which is the

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order impugned in this O.A. The applicants have, therefore, prayed for the following relief:

- (i) To pass appropriate orders quashing the order dated 12.5.2006 in Annexure-A/3 in respect of the applicants;
- (ii) To pass appropriate orders directing the Respondents to grant two financial up gradations as per Annexure-A/2; and
- (iii) To pass such further order/orders as are deemed just and proper in the facts and circumstances of the case and allow this O.A. with costs.

3. Resisting the above contentions and relying on the counter filed, Shri Bimbisar Das, learned Addl. Standing Counsel contended that as per the pay structure followed in the Department and as per the Recruitment Rules, the posts of Fire Operator, Fire Assistants and Fire Supervisors are separate and distinct posts with the prescription of separate pay scales. The learned counsel further submitted that prior to 1996 on the recommendations and on the basis of the orders issued by the Department of Personnel & Trg., Govt. of India and as the pay scale of Fire Operators and Fire Supervisors were different, the Fire Operators were given promotion in the pre-revised scale of pay to the grade of Fire Supervisor having their pay fixed in the higher scale, i.e., Rs.1150-1500/- under FR-22(I)(a)(1) and therefore, as per A.C.P. Scheme, having availed one promotion, the applicants are only entitled to 2nd A.C.P. which they have rightly been granted as per Annexure-A/3 dated 12.5.2006. According to the learned counsel for the Respondents, those employees who have completed 12 years and have received

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received the benefit of minimum Rs.100/- while fixing their pay under FR-22(I)(a)(1) in the higher scale, are not entitled for 1st financial upgradation. Hence, it has been submitted by the learned counsel for the Respondents that the action taken by the Department to review the order dated 8.8.2000 is justifiable and recovery, if any, ordered, from the employees who have received two financial upgradations on the purported implementation of ACP Scheme is justifiable in law. The learned counsel, however, submitted that in view of merger of two pay scales into one in respect of both the Fire Supervisor and Fire Operator, the matter was taken up with the Finance Ministry for raising the pay scale of Fire Supervisor to Rs.3200-4900/. However, the Finance Ministry did not agree to the proposal. The counsel further submitted that if any anomaly occurred with regard to the implementation of 5th CPC report, it is a matter to be taken up by the Department with the Government. The learned counsel submitted that all the O.As being devoid of merit are liable to be dismissed.

4. This matter came up on 26.6.2006 for admission, when the following order was passed by the Tribunal.

“The applicants have approached this Tribunal without exhausting any Departmental remedy. It is open to them to approach the Departmental authorities for remedial measures. The ld. Counsel for the applicants submits that he is going to approach departmental authorities for remedial measures. That being the position, the case is not disposed of at this stage. The matter is referred to 24.07.2006; on which date the final disposal order will be passed”.

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However, as per order dated 7.8.2006, this Tribunal issued stay order against the proposed move of recovery of the amount already paid in the matter of ACP, which is still in force.

5. Shri B.S.Tripathy, appearing on behalf of the applicants, contended that as per the pay structure followed in the Department prior to 1996, an employee having completed 12 years and 24 years regular service in the a grade is entitled for two financial upgradations under the ACP Scheme introduced by the Government of India. As per Annexure-A/2, the names of the employees who were entitled to two financial upgradations have been allowed on the recommendations of the Screening Committee for Group C employees of the Fire Service cadres as per its meeting held on 3.8.2000 and the names of the employees who were entitled to the said benefit have been mentioned in Annexure-A/2 orders. Shri Tripathy submitted that in compliance with the O.M. of Department of Personnel & Trg. No.35034/1/96-97/Estt(D) dated 9.8.99 the required options having been received from the employees of the Fire Service cadres, Annexure-A/2 had been issued. It is the common case of the applicants that prior to commencement of the recommendations of the 5th CPC, the pay structure of both Fire Operator and Fire Supervisor were Rs.950-1500/- and Rs.1150-1500/- respectively. However, on the commencement or on the implementation of the recommendation of the 5th CPC, the pay of both the Fire Operator and Fire Supervisor merged into a single pay scale, viz., Rs.3050-4590/- and the pay scale of both Fire Operator and Fire Supervisor having been revised to

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Rs.3050-4590/-, they were granted two financial upgradations at Rs.4000-6000 and Rs.5000-8000 respectively, as per Annexure-A/2 order dated 8.8.2000, which was issued in right direction.

6. We have considered the rival submissions and given our anxious consideration.
7. It is worthwhile to mention that A.R.C. (Fire Fighting) Services Recruitment Rules, 1995(hereinafter after referred to as Rules, 1995) would show that various posts in cadres exist and the method of appointment and promotion of such employees including Group B, C & D are governed by the above rules. Some of the applicants are now working as Fire Supervisors and others as Fire Operators and Fire Assistants. The post of Fire Supervisor was on the pay scale of Rs.1150-1500/- whereas that of the Fire Operators was on the pay scale of Rs.950-1500/- till 1996, i.e., before the commencement of 5th Central Pay Commission and these pay scales were merged on the commencement of the 5th CPC recommendations constituting a single scale of pay, i.e., Rs.3050-4590/-, although the post of Fire Supervisor is a promotional post of Fire Operator as per the Recruitment Rules. Further, it is stated in the rules that the post of Fire Supervisor can be filled up by promotion, failing which by deputation/transfer, failing which by re-deployment, and failing which by direct recruitment. For promotion to the post of Fire Supervisor from the feeder category, the eligibility condition is: Fire Operator with five years service in the grade possessing current driving license on heavy vehicles with elementary knowledge of automobile repair and having qualified in a refresher course. At the same time, as per the Rule, a post of Fire Operator has to be

filled up by direct recruitment, failing which by deputation/transfer, and failing which by re-employment of Fireman or Fire Operator of equivalent rank in office of the Central/State Government (age limit is 56 years maximum) with the physical standard as prescribed therein along with educational qualification of high school certificate examination including heavy motor vehicle driving license. With the above position of rules, while the applicants were working in the scale of Rs.950-1500/-, in pursuance of the implementation of A.C.P.Scheme with effect from 9.8.1999, as per the recommendation of the duly constituted Screening Committee, the applicants were allowed two financial upgradations in the scale of Rs.4000-6000 and Rs.5000-8000 on completion of 12 and 24 years service respectively, as Fire Supervisors and Fire Operators with effect from the date indicated against each, vide as per Annexure-A/2 dated 8.8.2000. However, by an order dated 12.5.2006 Annexure-A/3), a Screening Committee for Group C employees of Fire Service reviewed the proceedings of the Departmental Screening Committee met on 8.3.2000 and ultimately, the 2nd upgradation given to the employees who were on the pay scale of Rs.950-1500/- has been dropped and the amount paid in excess on account of first financial upgradations has been sought to be recovered on the ground that during 1997 some of the Fire Operators were promoted to the grade of Fire Supervisors in the scale of Rs.1150-1500/- and their pay was fixed as per Rule FR-22(I)(a)(1). It is also to be noted that on the implementation of the 5th CPC recommendations as the pay scale of both feeder grade and promotional grade, i.e., Fire Operator and Fire Supervisor had been merged into a single pay scale,

the Department had taken up the matter with the Government, viz., the Ministry of Finance, by recommending higher pay scale of Rs.3200-4900/- for the post of Fire Supervisor. However, this recommendation having not been accepted by the Finance Ministry and on the basis of the recommendation of the 5th CPC, the Department found that the employees who had already been promoted to the scale of Rs.1150-1500/- were not entitled for the 1st financial upgradation and in effect they issued Annexure-A/3 dated 12.5.2006 which is impugned herein.

8. The question to be decided in these O.As is whether the employees having been promoted from scale of Rs.950-1500/- to Rs.1150-1500/- are entitled to 1st financial upgradation or not. In other words, whether an additional amount of Rs.100/- while fixing pay in the higher scale of Rs.1150-1500/- can be considered as an upgradation and if it is considered as an upgradation whether they are entitled to 1st financial upgradation as per the ACP Scheme or not. Further, the legal question arises in these O.As is whether the applicants who have already retired from service are entitled to have their pension revised on the basis of the two financial upgradations already received by them and/or whether the amount received in excess is recoverable or not, as the Department allowed the applicants to have two benefits under the ACP Scheme as per order dated 8.8.2000(Annexure-A/2).

9. Admittedly, as per the Recruitment Rules various posts in the Department including that of Assistant Fire Officer, Fire Operator and Fire Supervisor have been treated separately and all these posts have got different pay scales with different modes

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of recruitments. As per the Recruitment Rules, the post of Fire Operator can be filled up either by promotion or on deputation or by Direct Recruitment on the basis of the qualifications, both educational and physical, as prescribed under the Rules. As per Rules, the incumbents equal in rank of Fire Operators in Central Government/ State Government up to maximum age of 56 belong to the feeder category and in the case of Fire Supervisor, the Fire Operators with five years experience in the grade possessing driving license automobile repair and having qualified in a refresher course is considered as the feeder category. Even though these posts are coming under Group C classification, their pay scales were also different and these we have already considered and the Department prior to implementation of the recommendations of the 5th CPC had given a financial upgradation to the post of Fire Operators by giving an addition of Rs.100/- so as to fix their pay under FR 22(I)(a)(1). Hence, those who had completed 12 years and got stagnation in that post have to get a financial upgradation. If so, whatever stated in the order dated 8.8.2000 that the pay of those who have got such financial upgradation of Rs.100/- is fixed under F.R.-22(I)(a)(1) concluding that they have got a financial upgradation. If so, before the introduction or implementation of the ACP scheme, such employees who have got such a promotion rather financial upgradation are not entitled for both the financial upgradations on the ground that they have already received one promotion. In the above circumstances, it is to be held that the employees who have already received promotion cannot claim both the financial upgradations on the basis of the order dated 8.8.2000. In this context, it is pertinent to

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quote hereunder the point of doubt and clarification thereof against Sl.No. 52 as stipulated in O.M. No. 35034/1/97-Estt.D (Vol.IV) dated 10.2.2000:

<u>Sl.No.52</u>	<u>Point of Doubt</u>	<u>Clarification</u>
	<p>Following the recommendations of the Pay Commission, Feeder and promotional posts have been placed in the same scale. Consequently, hierarchy of a post comprises of Grades 'A', 'A' and 'C', i.e., the entry level and the first promotional grade are in the same scale. What shall be his entitlements under ACPS?</p>	<p>Normally, it is incorrect to have a feeder grade and a promotional grade in the same scale of pay. In such cases, appropriate course of is to review the cadre structure. If as a restructuring, feeder and promotional posts are merged to constitute one single level in the hierarchy, then in such a case, next financial upgradation will be in the next hierarchical grade above the merged levels and if any promotion has been allowed in the past in grades which stand merged, it will have to be ignored as already clarified in reply to point of Doubt No.1 of O.M., dated 10-2-2000. However, if for certain reasons, it is inescapable to retain both feeder and promotional grades as two distinct levels in the hierarchy though in the same scale of pay, thereby making a provision for allowing promotion to a higher post in the same grade, it is inevitable that benefit of financial upgradation under ACPS has also to be allowed in the same scale. This is for the reason that under the ACPS, financial upgradation has to be allowed as per the 'existing hierarchy'. Financial upgradation cannot be allowed in a scale higher than the next promotional grade. However, as specified in Condition No.9 of the</p>

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ACP Scheme (vide DoP&T, O.M., dated 10-2-2000), pay in such cases shall be fixed under the provisions of FR 22(I)(a)(1) subject to a minimum benefit of Rs.100."

The above clarification on the point of doubt clearly indicates that even in a restructuring case, the feeder and promotional posts having merged to constitute a single level in the hierarchy, the next financial upgradation would be given in the next hierarchical cadre above the merged levels and if any promotion has been allowed in the past in grades which stand merged, it will have to be ignored as already clarified in reply to point of doubt No.1 of O.M. dated 10.2.2000. It means that in case of merger of two scales into one scale, it is necessary that the review of cadre on hierarchical basis should be taken up and this is altogether the function of the Department to have the cadres reviewed. The clarification further indicates that in the present scenario, keeping in view the existing hierarchy the pay shall be fixed under the provisions of FR 22(I)(a)(1) subject to a minimum benefit of Rs.100/- as stipulated in condition No. 9 of ACP Scheme(vide DoP&T, O.M., dated 10.2.2000. Hence, this Tribunal is of the view that the action by the Department as per the order dated 12.5.2006 is justifiable and the Department have got a right to review the entire matter afresh and re-fix the pay available to each of the applicants, having regard to the fact that they have already got promotion as Fire Supervisor.

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10. The learned counsel Shri B.S.Tripathy brought to the notice of this Tribunal the order of the C.A.T., Guwahati Bench in O.A., wherein the Guwahati Bench has set aside the action proposed to be initiated. That order of the Guwahati Bench was on the ground of the violation of the principles of natural justice. However, the order impugned does not suffer from violation of the principles of natural justice as the Department thereby has taken the step to review an irregular or illegal order passed by itself. The principles of natural justice cannot be extended to that parties who had got the benefits by virtue of the order dated 8.8.2000 issued by the Department on the purported implementation of the DoP&T O.M. No.35034/1/97-Estt(D) dated 9.8.99 and subsequently, on receipt of clarification from DoP&T the same Department reviewed the benefits erroneously granted to its employees without having regard to the promotion which they had been granted from Fire Operator to Fire Supervisor from scale of Rs.950-1500 to 1150-1500/- and in that event their pay was fixed under the provisions of FR 22(I)(a)(1) subject to a minimum benefit of Rs.100/-. If so, the action proposed by the Respondents-Department by the order dated 12.5.2006 is justifiable and we see no ground to interfere with that action. However, on the principles laid by the Apex Court that once a financial benefit has been granted by the Department, it is not proper to order recovery of such amount after lapse of time as by that recovery, if any, intended or proposed from the employees concerned would be put to heavy financial burden, we are of the view that recovery of amount in excess, if any, already received by any of the applicants on the basis of the order dated 8.8.2000 should not be

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effected, but the other benefits can be fixed and/or determined only on the basis of the observations contained in this order.

12. The further question to be considered is whether the retired employees are not entitled to revision of their pay and other pensionary benefits on the basis of the order dated 8.8.2000 or not. This point can be looked into by the Department on the basis of the findings entered by this Tribunal. If any retired applicant is entitled to any calculation or any adjustment of his pensionary benefits, it shall be so fixed within a reasonable time, at any rate, within three months of the receipt of this order. On the question of merger of pay scale of both Fire Operators and Fire Supervisors, we find that once the Department had taken up the matter with the Finance Department recommending revision of pay of Fire Supervisors to Rs.3200-4950/-, but the said proposal has been turned down. Having regard to the totality of the facts and circumstances of the case, the point of Doubt No.52 and clarification thereof (ibid) cannot be brushed aside. Therefore, in the fitness of things, we would observe that though the action of the Respondents appears to be in consonance with the clarification against Doubt No.52 of the O.M., dated 10.2.2000, yet the Respondents have not produced any record or made any averment that it was inescapable to retain both feeder and promotional grades as two distinct levels in the hierarchy in the same scale of pay, thereby making a provision for allowing promotion to a higher post in the same pay scale. In this view of the matter, we direct the Respondent-Department to review the cadre structure of both Fire Operator and Fire Supervisor and complete the process

within a period of 90 (ninety) days from today and that the applicants shall be governed by the outcome of such review. In the event of failure to review the said cadre structure and to complete the same within the period stipulated above, the liability shall be fixed on the erring officers in that behalf.

12. With the above observations and direction, all the Original Applications are disposed of leaving the parties to bear their respective costs.

(C.R.MOHAPATRA)
ADMINISTRATIVE MEMBER

(K.THANKAPPAN)
JUDICIAL MEMBER