

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, Jodhpur**

Original Application Nos.42/2004

Date of decision: 26 September, 2008

Hon'ble Mr. K.V.Sachidanandan, Vice Chairman.

Hon'ble Mr. Tarsem Lal, Administrative Member.

U.R.Sharma S/o Shri Ganpat Ram aged 58 years, Senior Technical Assistant (Mech) Central Ground Board, Jodhpur R/o M. 7A Shiv Shakthi Nagar Road 3 Jodhpur

: applicant.

Rep. By Mr. Vijay Mehta ; Counsel for the applicant.

VERSUS

1. Union of India, through the Secretary Government of India, ministry of Water Resources, New Delhi.
2. Director (Administration) Central Ground Water Board, National High Way IV Faridabad, Haryana.

: Respondents.



Rep. By Mr. Arvind Samadariya : " Counsel for the respondents.

ORDER.

Per Mr. Tarsem Lal, Administrative Member.

The applicant was appointed as Field supervisor on 09.09.74, which post was redesignated as Junior Engineer. Subsequently, the applicant was selected and appointed as Senior Technical Assistant (Mech) (STA (M) for short) vide order dated 12.11.82, (Annex. A/1) along with other 31 JEs.

2. The Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training,

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introduced a scheme called Assured Career Progression Scheme (ACP Scheme for short) vide order dated 09.08.99 (Annex. A/2), under which two financial upgradations are required to be given on completion of 12 years and 24 years of service. The applicant was granted financial upgradation on completion of 24 years of service under the ACP Scheme vide order dated 22.09.99 w.e.f. 09.08.99.

3. The respondent No. 2 issued an order dated 27.06.2003 (Annex. A/3) giving benefits of ACP to the grade of Assistant Engineers. In the said order some of the persons i.e. at Sl. Nos. 4 to 13, 15 to 18 were also promoted as STA (M) along with the applicant, vide order dated 12.11.82 (A/1). The above officials although they were promoted as STA (M) but have been granted 2nd financial upgradation. In Annex. A/3 it has also been mentioned that the post of STA (M) is not a part of hierarchy fro promotion from JE to AE and it should not be counted for the purpose of ACP.

4. Subsequently an order dated 09.07.2003 (Annex. A/4) was issued amending Annex. A/3, stating that Assistant Engineers mentioned in Annex. A/3 have got only one promotion in the career as per the hierarchy existing at the time of their promotion and subsequent creation of the post of STA(M) will not therefore make any material difference in relation to their case for 2nd financial upgradation under the ACP. Therefore, the newly created post would as such need to be ignored in their cases. According to this order, the amendment

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has been issued according to the clarification issued by the DOPT dated 18.07.2001.

5. The applicant has stated that the said AEs were also promoted to the post of STA(M), along with him. Therefore it is clear that the said post was very much in existence at the time of their promotion and it was not a subsequently created one. However, it has been directed to be ignored in the case of other persons. But the said benefit was not extended to the applicant. The applicant was appointed in the year 1974 and has rendered about 30 years of service on the date of filing of this O.A. In view of the direction to ignore the post of STA(M), the applicant is entitled to 1st and 2nd financial upgradation w.e.f. 09.08.99. Thus the applicant has been deprived the benefit of 2nd Financial upgradation in the grade of AE w.e.f. 09.08.99, though he had completed more than 24 years of service as on 09.08.99. The applicant had submitted a representation on 21.07.2003 (annex. A/6). He also submitted reminders on 11.09.2003 and 31.10.2003, but he has not been furnished with any reply in this regard.

6. Aggrieved by the above the applicant has filed this O.A under sec. 19 of the Administrative Tribunals Act, 1985 and has prayed that the respondents be directed to accord benefits of 1st and 2nd ACP at par with other employees by ignoring his appointment on the post of

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STA (M), any other order as deemed fit may also be passed and costs may also be awarded to the applicant.

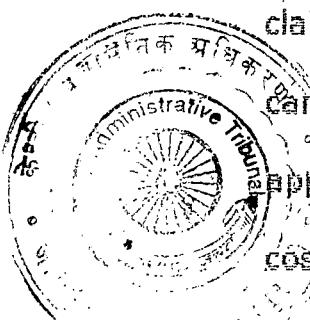
7. The respondents are contesting the O.A by filing a detailed reply, inter alia pleading that the applicant was initially appointed on the post of Field Supervisor which post was re-designated as Junior Engineer. The applicant was promoted as STA(M), w.e.f. 27.12.82 along with others, as per recruitment rules in the pay scale of Rs. 550-900(pre-revised). The post of STA(M) was introduced between the post of Junior Engineer and Assistant Engineer, which was brought defined hierarchy as a feeder post for promotion to the post of A.E as per the recruitment rules issued by the Ministry of Water Resources vide order dated 31.12.97 (Annex. R/1). The respondents have stated that before notifying the above recruitment rules for the post of AE, the post of STA (M) was not considered as hierarchy in between JE & AE. Accordingly, at the time of filling up the vacant post of AE, before notifying the above recruitment rules, all STAs as well as JEs who were eligible and came under zone of consideration for promotion were included in the DPC proceedings to the post of AE in the pay scale of Rs. 7500-12000(revised). On the recommendation of the DPC, the vacant posts of Assistant Engineers were filled up from the post of STAs and Junior Engineers on their eligibility and selection procedure.

8. The applicant is still holding the post of STA(M), which is now a hierarchy between JE & AE and also feeder post for promotion as AE in

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the scale of pay of Rs.7500-12000(Revised). Since the applicant had completed more than 24 years of qualifying service as on 09.08.99, consequent upon the introduction of ACP w.e.f. 09.08.99, the applicant has been granted second financial upgradation under ACP w.e.f. 09.08.99 vide order dated 22.09.99 (R.2) in the scale of pay of Rs. 7500-12000. According to the respondents since the applicant had been granted one promotion on the post of STA(M), it was treated as one upgradation.



9. The applicant is claiming 2nd ACP in the scale of pay of Rs. 8000-13000, whereas the respondents have allowed the 2nd ACP in the scale of pay of Rs. 7500-12000. The respondents have explained that the claim of the applicant for 2nd ACP in the pay scale of Rs. 8000-13000 cannot be acceded to. The respondents have prayed that the instant application is devoid of any merit and the same may be dismissed with costs.

10. We have heard Mr. Vijay Mehta, learned counsel for the applicant and Mr. Arvind Samadariya counsel for the respondents. They have generally reiterated their arguments already given in their respective pleadings. They have made us to traverse through various documents placed on record.

11. The learned counsel for the applicant emphatically pleaded that the promotion to STA (M) has been ignored in the case of other employees, who were promoted as STA(M) along with the applicant.

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But the said benefit was not extended to him. The other persons were given 2nd financial upgradation under ACP to the grade AE. He explained that orders have been issued in this regard on 27.02.2003 (A/3). Subsequent to this a corrigendum was issued on 09.07.2003, wherein it has been stated that promotion to STA(M) has to be ignored in the case of other employees. The learned counsel for the applicant contended that the applicant has been discriminated. Therefore, he prayed that the O.A may be allowed.

12. The learned counsel for the respondents submitted that since the applicant has got one promotion as STA(M) as per rules in the year 1982, the same cannot be ignored and therefore, he had been rightly given 2nd Financial Upgradation w.e.f. from 09.08.99 since he had completed more than 24 years of service on that date. The learned counsel also stated that the applicant has since retired and no junior to him has been given the said financial upgradation and all those were given the scale of pay of Rs. 8000-13000 were his seniors, the applicant is not entitled to get any relief from this Tribunal.

13. We have considered this case carefully and perused documents placed on record. The applicant was appointed as Field Supervisor in the year 1974 and was promoted as STA(M) on 27.12.82. He was given 2nd Financial Upgradation w.e.f. 09.08.99 vide order dated 09.08.99 issued by The Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and

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Training, New Delhi. It has been seen that in the office order No. 543/2003 dated 27.06.2003,(A/3) the following provision has been stipulated:

" Since the post of STA(M) in the pay scale of Rs. 6500-200-10500/- is not a part of hierarchy for promotion from JE to AE it should not be counted as a promotion for the purpose of ACPs. In such case the pay scale, which is not a part of hierarchy, may be treated to have been withdrawn. However, fall in the pay resulting out of this shall be protected by granting personal pay in the aforesaid direct entry in grade to be adjusted against future increment.

14. It has further been seen that in modification to the above orders a corrigendum was issued on 09.07.2003 (A/4) and the relevant portion reads as under:

" Since the Assistant Engineers mentioned in the office order No. 543 of 2003 has got only one promotion in their career as per the hierarchy existing at the time of their promotion. The subsequent creation of the post of STA(M) will not, therefore, make any material difference in the situation in relation to the case of these Assistant Engineers for the purpose of grant of 2nd financial upgradation under ACPs. The newly created post would as such need to be ignored in their cases."

15. Thus it is clear from the above orders that the promotion to STA(M) has to be ignored and the applicant is to be given second financial upgradation as has been given to others on completion of 12 years and 24 years, under ACP Scheme.

16. In view of the above discussion, the respondents are directed to ignore the promotion of the applicant to the post of STA(M) as has been ignored in the case of other employees and the applicant may be given 1st and 2nd financial upgradation as admissible under the ACP scheme. He may be granted the upgraded pay on the basis of ACP Scheme on notional basis. However, his pension may be revised accordingly. The arrears of pension and other retrial benefits be

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calculated consequent to re-fixation of pay on notional basis under the ACP scheme. This exercise may be completed within a period of three months from the date of receipt of a copy of this order.

17. The O.A is allowed in the above terms.

18. No order as to costs.

 Tarsem Lal

[Tarsem Lal]
Administrative Member.

jsv.


[K.V. Sachidanandan]
Vice Chairman.



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M. Leht
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Received By
Anindya Sengupta
for J.R. Bhattacharya
3-10-08

Part II and III destroyed
in my presence on 15/11/2014
under the supervision of
Section officer () as per
order dated 19/11/2014

Section officer (Record)