केन्द्रीय प्रशासनिक अधिकरण (प्रक्रिया) नियमावली के नियम 22 के अन्तर्गत निःशुल्क प्रति
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR

1/77

OA No. 192/2006, O.A.No. 193/2006, O.A.No. 194/2006
OA No.259/2006, OA No.260/2006 & OA No.288/2006

Dated this the 15th day of April, 2011

CORAM

HON'BLE MR. JUSTICE S.M.M. ALAM, JUDICIAL MEMBER
HON'BLE MR. SUDHIR KUMAR, ADMINISTRATIVE MEMBER

O.A.No.192/2006

Ram Narayan S/o Shri Mohan Lal, aged about 47 years
At present working as Tailor under Commandant,
224, Advance Base Ordinance Depot
C/o 56 APO, resident of Holly Chowk,
Near Badri Pan Merchant, Sardarpura,
Jodhpur (Rajasthan). ....Applicant

(By Advocate Mr. J.K.Mishra)

Vs.

1. Union of India through the Secretary,
Ministry of Defence, Raksha Bhawan,
New Delhi.

2. Major General, AOC, Southern Command
C/o 56 APO.

3. AOC (Records) Govt. of India,
Ministry of Defence, Securdabad.

4. Commandant, 224, Advance Base Ordinance Depot
C/o 56 A.P.O.

5. Principal Controller of Defence Accounts,
Southern Command, Pune. ..Respondents

(By Advocate Mr.M.Godara proxy counsel for Advocate Mr.Vinit Mathur)

O.A.No.193/2006

Moti Lal S/o Shri Mohan Lal,
Aged about 42 years, at present working
As Tailor under Commandant, 224, Advance Base Ordinance Depot
C/o 56 A.P.O. resident of Holy Chowk,
Near Badri Pan Merchant, Sardarpura,
Jodhpur, Rajasthan. ....Applicant

(By Advocate Mr. J.K.Mishra)

Vs.

1. Union of India through the Secretary,
Ministry of Defence, Raksha Bhawan,
New Delhi.

2. Major General, AOC, Southern Command
C/o 56 APO.

3. AOC (Records) Govt. of India,
Ministry of Defence, Securdabad.

4. Commandant, 224, Advance Base Ordinance Depot
C/o 56 A.P.O.

5. Principal Controller of Defence Accounts,
Southern Command, Pune. ..Respondents

(By Advocate Mr.M.Godara proxy counsel for Advocate Mr.Vinit Mathur)

O.A.No.194/2006

Om Prakash S/o Shri Rana Ram,
Aged about 41 years, at present working as
Tailor under Commandant, 224, Advance Base Ordinance Depot
C/o 56 A.P.O. resident of Gali No.3, Ram Mohalla,
Outside Nagori Gate,
Jodhpur (Rajasthan). ...Applicant

(By Advocate Mr. J.K.Mishra)

Vs.

1/79

1. Union of India through the Secretary,
Ministry of Defence, Raksha Bhawan,
New Delhi.

2. Major General, AOC, Southern Command
C/o 56 APO.

3. AOC (Records) Govt. of India,
Ministry of Defence, Securdabad.

4. Commandant, 224, Advance Base Ordinance Depot
C/o 56 A.P.O.

5. Principal Controller of Defence Accounts,
Southern Command, Pune. ..Respondents

(By Advocate Mr.M.Godara proxy counsel for Advocate Mr.Vinit Mathur)

OA No. 259/2006

Bal Mukund S/o Shri Bansi Lal,
Aged about 57 years, at present
Working as Tent Mendor under
Commandant 224, Advance Base Ordinance Depot
C/o 56 APO resident of Mohanpura,
Under Bridge, Jodhpur (Raj).

(By Advocate Mr.J.K.Mishra)

Vs.

1. Union of India through the Secretary,
Ministry of Defence, Raksha Bhawan,
New Delhi.

2. Major General, AOC, Southern Command
C/o 56 APO.

3. AOC (Records) Govt. of India,
Ministry of Defence, Securdabad.

4. Commandant, 224, Advance Base Ordinance Depot
C/o 56 A.P.O.

5. Principal Controller of Defence Accounts,
Southern Command, Pune. ..Respondents
By Advocate Mr.M.Godara proxy counsel for Adv.Vinit Mathur)

OA 260/2006

Durga Ram S/o Shri Megha Ram,
Aged about 61 years, retired as
Tailor under Commandant, 224,
Advance Base Ordinance Depot
C/o 56 APO, resident of Outside
Chandpole, Jodhpur (Raj). ...Applicant

(By Advocate Mr. J.K.Mishra)

Vs.

1. Union of India through the Secretary,
Ministry of Defence, Raksha Bhawan,
New Delhi.

2. Major General, AOC, Southern Command
C/o 56 APO.

3. AOC (Records) Govt. of India,
Ministry of Defence, Securdabad.

4. Commandant, 224, Advance Base Ordinance Depot
C/o 56 A.P.O.

5. Principal Controller of Defence Accounts,
Southern Command, Pune. ..Respondents

By Advocate Mr. M.Godara proxy counsel for Adv.Vinit Mathur)

O.A.288/2006

Umrao Singh S/o Shri Govind Singhji,
Aged about 55 years, at present
Working as a Rope Worker under
Commandant, 224, Advance Base Ordinance
Depot C/o 56 APO, Ticket No.1756
Resident of Vill. and PO Banar, Dist.Jodhpur(Raj). ....Applicant

(By Advocate Mr.J.K.Mishra)

Vs.

1. Union of India through the Secretary,
Ministry of Defence, Raksha Bhawan,
New Delhi.

2. Major General, AOC, Southern Command
C/o 56 APO.

3. AOC (Records) Govt. of India,
Ministry of Defence, Securdabad.

4. Commandant, 224, Advance Base Ordinance Depot
C/o 56 A.P.O.

5. Principal Controller of Defence Accounts,
Southern Command, Pune. ..Respondents

(By Advocate Mr. M.Godara proxy counsel for Adv.Vinit Mathur)

ORDER

All the above 6 O.As are being taken up together and by a common order passed in OA 192/2006 the above mentioned OAs are being disposed of.

2. The brief facts of the case are as follows.

All the applicants are working as Tailors/Tent Mendor/Rope Worker under the respondents department. They had claimed financial up-gradation according to the Assured Career Progression Scheme (ACP Scheme for short) outlined in the Government of India, Department of Personnel & Training OM dated 9.8.99 (Annexure.A3). Earlier some of the applicants had approached this Tribunal for grant of pay scale of Rs. 950-1500 which scale was admissible to Skilled Tradesman. The said OA was numbered as OA No.216/1999 and the same was disposed of on 23.1.2002 whereby the Tribunal declared that the applicants belong to Skilled Grade and so they are entitled to pay scale of Rs. 260-400/950-1500/3050-4590 since the date of their initial appointment. The said order has been annexed as

Annexure.A2. It is stated that the order has reached finality as the Writ preferred by the respondents before the Hon'ble Rajasthan High Court at Jodhpur bearing No.DBCW Petition No.4495/2002 was dismissed vide order dated 7.2.2002 (Annexure.A13). Thereafter the respondents issued Office Order in this regard on 4.5.2004 (Annexur.A14) implementing the order of the Tribunal. Thus the above facts shows that the initial appointment of some of the applicants were in the pay scale of Rs. 260-400/950-1500/3050-4590. Further case of the applicants of all the 6 O.As is that the next promotion available to them is the post of Part.2 Cadre Chargeman and so the applicants are entitled for grant of ACP in the scale of pay available to Part.2 cadre Chargeman. As per Para No.7 of the OM dated 9.8.1999 the financial up-gradation under the ACP scheme shall be given to the next higher grade in accordance with the existing hierarchy in a cadre/category of posts without creating new posts for the purpose. The applicants have claimed that as per the statutory rules of the respondents department for promotion from the post of Tent Mendors/Tailors,Packers/Fitters framed under Article 309 of the Constitution of India namely Army Ordnance Corps (Technical Supervisory Posts)Recruitment Rules, 1980 the promotional posts from the post of Tent Mendors/Tailors/Packers/Fitters is to the post of Part.2 cadre Chargeman in the scale of Rs. 4500-7000 (now revised to Rs. 5000-8000) and so as per Para 7 of the OM dated 9.8.1999 the applicants are entitled to the revised scale of Rs. 5000-8000 as provided to Part 2 cadre Chargeman on grant of Ist financial up-gradation under the ACP Scheme and not the financial up-

gradation as provided in the case of isolated posts. In O.A Nos. 192/06, OA 193/06 and OA 196/06 they have challenged the Office Order dated 18.8.2006 (Annexure.A1) whereby they have been granted Ist ACP in the scale of Rs. 4000-6000 and 2nd ACP in the scale of Rs. 5000-8000 (2nd ACP in the case of Ram Narayan). In the case of applicants of OA No.259/2006 and O.A.No. 288/2006 the office order dated 8.8.206 and 24.7.2006 respectively are under challenge whereby they have been granted Ist A.C.P in the pay scale of Rs. 3050-4590 and II ACP in the pay scale of Rs. 4000-6000 whereas in OA No. 260/06 the office order dated 2.9.2006 is under challenge whereby the applicant was granted IInd A.C.P. in the scale of Rs. 4000-6000. According to the reliefs claimed the applicants have claimed that all the said Office Orders be quashed and set aside and the applicants be granted benefit of Ist financial up-gradation under the ACP Scheme in the pay scale of Rs. 5000-8000 and accordingly 2nd ACP in higher pay scale be granted.

3. It is stated in the application that the claim of the applicants is based upon the decision of Chandigarh Bench of this Tribunal dated 10.10.2002 passed in the case of Roopa Singh and in some other cases.

4. On filing of the O.A notices were issued to the respondents and in compliance of the said notice, the respondents have appeared and filed their reply. In the reply it has been stated that the findings given in the case of Roopa Singh has not been accepted by the Full Bench decision of Chandigarh Bench of the Tribunal passed in the case of Jagar Singh and others and so on the basis of Roopa Singh's case the reliefs cannot be

granted to the applicants. Further contention of the respondents is that the applicants were initially appointed as Tailors in the pay scale of Rs. 210-290 but in view of the order passed in OA 216/1999 the applicants in O.A.No.192, 193 and 194 of 2006 were placed in the pay scale of Rs. 260-400 from the date of their initial appointment and thus they were placed in the pay scale of Rs. 3050-4590 with effect from 1.1.1996 which is the pay of Skilled Tradesman and since the Skilled Grade Tradesman are to be promoted to the next promotional post of Highly Skilled Grade in the pay scale of Rs. 4000-6000 as such the applicants were allowed the pay scale of Rs. 4000-6000 with effect from 9.8.1999 and onwards on grant of Ist ACP on completion of 12 years service. It is stated that as per the integrated HQ of MOD (Army) letter No.22.3.2004 which is the SOP for implementation of ACP Scheme for Skilled Civil Employees in the Corps of AOC the next promotion of Skilled Grade Tradesman is in Highly Skilled Grade and not Part 2 cadre Chargeman.

According to the reply of the respondents it has been denied that the averments of the applicant that the next promotion of Tradesman is in the cadre of Part-2 cadre Chargeman cadre and it has been categorically stated that the next promotion of Skilled Grade Tradesman is in Highly Skilled Grade and not Part-2 Cadre Chargeman whose pay scale is Rs. 4500-7000 (now revised to Rs. 5000-8000).

6. Heard Shri J.K.Mishra, advocate appearing for the applicants. Also heard Shri M.Godara, proxy counsel appearing for Vinit Mathur, advocate for the respondents.

7. As per the pleadings of both the parties, the controversy between the parties revolves around the question as to whether the next promotion of Tradesman/Skilled Tradesman is in the cadre of Part-2 Cadre Chargeman or is in the cadre of Highly Skilled Tradesman. We are of the view that the reply of this question will decide the controversy as to in what scale of pay the applicants are entitled to be placed on giving them the benefit of ACP Scheme.

8. The contention of the applicants is that although the applicants of O.A.Nos. 192,193 and 194 of 2006 were initially appointed in the pay scale of Semi-Skilled Tradesman but by virtue of order passed in OA No.216/1999 on 23.1.2002 by a Bench of this Tribunal (Annexure.A2) they were placed in the Skilled Grade and were granted pay scale of Rs.. 260-400/950-1500/3050-4590 from the date of their initial appointment. The order was confirmed by Hon'ble Rajasthan High Court, Jodhpur vide order dated 7.2.2002 passed in DBCW Petition No.4495/2002 (Annexure A13). Thus the order of the Tribunal attained finality and it has been settled that the applicants of the abovementioned O.A are Skilled Tradesman and not Semi-Skilled. According to their pleadings, the next promotional post of Skilled Tradesmen is Part-2 cadre Chargeman in the revised scale of Rs. 5000-8000. As per statutory rules called Army Ordnance Corps (Technical Supervisory Posts) Recruitment Rules, 1980 the applicants are entitled for

pay scale of Rs. 5000-8000 on grant of benefit under Ist ACP. The learned advocate of the respondents in support of his pleadings has referred to para-7 of the OM dated 9.8.1999 (Annexure.A3) which contains conditions for grant of benefits under the ACP Scheme. Para 7 of the said OM is being reproduced below for better understanding of the points involved in the case.

> "Financial upgradation under the Scheme shall be given to the next higher grade in accordance with the existing hierarchy in a cadre/category of posts without creating new posts for the purpose. However, in case of isolated posts, in the absence of defined hierarchical grades, financial upgradation shall be given by the Ministries/Departments concerned in the immediately next higher (**standard/common**) pay scales as indicated in Annexure-II which is in keeping with Part-A of the First Schedule annexed to the Notification dated September 30,1997 posts in the pay scale S-4, as indicated in Annexure-II, will be eligible for the proposed two financial upgradations only to the pay scales S5-and S-6. Financial upgradation on a dynamic basis (ie., without having to create posts in the relevant scales of pay) has been recommended by the Fifth Central Pay Commission only for the incumbents of isolated posts which have no avenues of promotion at all. Since financial upgradations under the Scheme shall be personal to the incumbent of the isolated post, the same shall be filled at its original level (pay-scale) when vacated. Posts which are part of a well defined cadre shall not qualify for the ACP Scheme on 'dynamic' basis. The ACP benefits in their case shall be granted conforming to the existing hierarchical structure only."

9. We have no doubt that as per Para-7 of OM dated 9.8.1999 (Annexure.A3) financial up-gradation under the ACP Scheme shall be given to the next higher grade in accordance with the existing hierarchy in a cadre/category of posts without creating new posts for the purpose but in the case of isolated posts in the absence of defined hierarchy with grade financial upgradation shall be given by the Ministries/Departments in the immediate next higher (standard/common) pay scales as indicated in

Annexure.A.11. We have also no doubt that the post of applicants (Tradesman) have got hierarchy in a cadre/category and as per the existing hierarchy vide Annexure.A4 the Tradesman of Group 'B' with not less than eight years of total service and who have passed trade test are entitled for promotion to Part-2 cadre Chargeman. So the posts of the applicants is not an isolated post. Rather it has got promotional hierarchy in a cadre. Before we give our finding on this point, we would like to point out some facts which are relevant in these cases.

10. As per the pleadings of the applicants their case is that their claims are covered under the two decisions given by the Chandigarh Bench of this Tribunal in the case of Rupa Singh and others Vs. Union of India and others, OA No.1286/JKI/2001 and in the case of Murtiza Ali and another vs. Union of India and others in OA No. 744/HR/2004 (Annexure.A8 and A9 respectively) in which it has been categorically held that in the case of Tradesman the next higher rank in their hierarchy is by way of promotion to the rank of Chargeman (Group 'B') and so as per Para 7 of the ACP Scheme referred above the applicants are entitled to financial upgradation in the scale of next higher rank in their hierarchy to the post of Chargeman Group 'B' and were entitled to be granted the scale of pay of Rs. 4500-7000 (now revised to Rs. 5000-8000). However, subsequently OA. 931-JK/2004 – Jagar Singh and others Vs. Union of India and others was filed before the Chandigarh Bench of this Tribunal and in the case of Jagar Singh the view taken in the case of Rupa Singh and others was held to be not a correct decision and the matter was referred to a Larger Bench. The Larger Bench

vide order dated 2.1.2007 held that after enforcement of Army Ordinance Chargeman Grade.II (Group 'C') Recruitment Rules 2005 notified on 19.1.2006, the view expressed in the present case cannot be accepted as correct law. It appears that during the course of hearing of these OAs on a previous occasion a Division Bench of this Tribunal comprising Hon'ble Mr. N.D.Raghavan, Vice Chairman and Hon'ble Mr. Shanker Prasad, Member (A) considered the conflicting view taken by the Chandigarh Bench in the case of Rupa Singh and in the case of Jagar Singh and vide order dated 6.3.2009 the said Bench formulated the following questions and referred the matter to a Larger Bench for decision. The questions referred by the Bench are as follows:

(a) Whether the executive orders issued in the name of the President modify the Recruitment Rules framed under proviso to Article 309 of the Constitution of India?

(b) If the answer to the above question is in the negative, then, is not the Recruitment Rules of 1980 to be given effect to notwithstanding the massive changes in the intervening period.

(c) Are these questions required to be considered and if yes, were these questions before the Bench in Rupa Singh's case and Jagar Singh's case? Were these considered by them?

(d) What is the true construction of the Scheme

(e) Can other Departments frame their own Schemes for time-bound promotion in terms of conditions (13)? Whether these Schemes

have to necessarily conform to this Scheme or a modified Scheme can be framed with the approval of competent authority?

The Larger Bench of which one of us (Justice S.M.M.Alam) was one of the members gave answer to the query raised by the Division Bench which are as follows:

"(a) (b) and (c) Recruitment Rules issued in the year 1980 under Article 309 of the Constitution assumes primacy over the executive instructions issued subsequent to the notification of the Recruitment Rules.

(d) The ACP Scheme was introduced to deal with the issue of demoralization of employees arising out of prolonged stagnation in the same grade. There is adequate clarity in the terms and conditions incorporated in the ACP Scheme. The conditions to be fulfilled before granting financial up-gradations are also unambiguous. What constitutes the next higher grade in the existing hierarchy has to be determined with reference to the Recruitment Rules as applicable to the relevant grade/post, as well as the executive instructions which are supplementary to the said Recruitment Rules. In the absence of any relevant Recruitment Rules, reference can be placed on executive instructions to decide the matter.

(e) The individual Ministries/Departments cannot modify the ACP Scheme. They have to adopt it in totality."

Thus the decision given by the Full Bench fully establishes that the Recruitment Rules issued in the year 1980 under Article 309 of the Constitution and not the executive instructions issued subsequent to the

notification of the Recruitment Rules shall govern the grant of the benefit under ACP Scheme as per the existing hierarchy in the grade or cadre with reference to the Recruitment Rules of 1980.

11. The contention of the learned advocate of the applicants is that as per the Recruitment Rules of 1980 (Annexure.A4) the next promotional post of Tradesman is of Part-2 Cadre Chargeman and according to the submission the revised pay scale of Part-2 Cadre Chargeman is Rs. 5000-8000 and so the benefits under the Ist ACP should be granted to the applicants in the scale of Rs. 5000-8000 instead of Rs. 4000-6000. On the other hand the contention of the learned advocate of the respondents is that there is classification in the cadre of Tradesman and as per the said classification the cadre of Tradesman is classified as Semi-Skilled, Skilled, Highly Skilled-I and Highly Skilled-II and as per the classification the applicants are entitled to financial up-gradation under the ACP Scheme in the scale of pay which is available to Highly Skilled Tradesman. He has submitted that the revised pay scale of Highly Skilled Tradesman is Rs. 4000-6000 and as such the benefit of Ist ACP was granted to the applicants on Highly Skilled Tradesman. We are of the view that the submission of the learned advocate of the respondents is correct and in conformity with the Recruitment Rules, 1980 (Annexure.A4) which itself says that only Group 'B' Tradesman can be promoted to the post of Part-2 Cadre Chargeman. The implied meaning of this is that the Tradesman who are inferior to Group 'B' cannot be promoted to the post of Part-2 Cadre Chargeman. This fact is further supported by the action of the applicants themselves as the pleadings

of the applicants show that previously they were appointed in Semi Skilled Grade having lower pay scale Rs. 210-290/800-1150 but they preferred OA. 216/1999 praying therein to place them in Skilled Grade having pay scale of Rs. 260-400/950-1500. The said OA was allowed vide order dated 23.1.2002 and the applicants were placed in Skilled Grade having pay scale Rs. 260-400/950-1500. This goes to show that the applicants themselves have accepted the classification of Semi Skilled, Skilled, Highly Skilled-I and Highly Skilled-II. The order passed in OA 216/99 is Annexure.A2 in OA. 192/2006. A perusal of the order shows that the said order dated 23.1.2002 is based upon a decision of the Principal Bench dated 6.9.2000 passed in OA 1326/99. It further transpires that the order of the Principal Bench was based on the judgment passed in OA.158/94 by the Guwahati Bench on 19.10.95 in the case of Nripendra Mohan Paul and others Vs. Union of India and others. The above facts establishes that this classification of cadre in Tradesman category was in existence before the date of implementation of the ACP Scheme. So it is wrong to say that this classification came into existence after the enforcement of Army Ordnance (Chargeman Gr.II (Group C) Recruitment Rules, 2005 notified on 19.1.2006. Thus we are satisfied that classification of Tradesman was in existence since the date of coming into force of Recruitment Rules of 1980 (Annexure.A4) as it has been clearly mentioned that only Group 'B' Tradesman can be promoted to the post of Part-2 Cadre Chargeman.

12. We have perused the pleadings of the applicants but there is nothing in the pleadings that they belong to Group 'B' Tradesman.

However, the scale of pay provided to them after the decision of this Tribunal in OA 216/99 is Rs. 260-400/950-1500 which is pay scale of Skilled Tradesman. According to the report of IVth Central Pay Commission the next promotional scale of an employee who were in the scale of pay of Rs. 260-400 has been fixed as Rs. 380-560. Recommendation of the IVth Pay Commission Report in this regard is incorporated below:

> "8.34: The scale of Rs. 380-560 is applicable to posts of higher level of highly skilled workshop/artisan staff appointed mostly by promotion from the lower level of highly skilled staff in the scale of Rs. 330-480 or from the scale of Rs. 260-400. The posts of inspector telephone, auto exchange assistant and transmission assistant in telecommunications department, supervisor (technical) and discharge mechanic in the Defence Ministry, scientific post like senior observer (Met),junior scientific assistant grade II in Defence(DGI) and senior technician in all India Radio are also in this scale. Appointment to posts in these categories are partly by promotion from the scale of Rs. 260-350, Rs. 260-400 and Rs. 260-480 and partly by direct recruitment of those with a degree or diploma. The scale of Rs. 380-530 is available for a few posts mostly in telecommunications department for categories like transmission assistant, assistant telegraph master, cable splicer and cable jointer and appointment to these posts is made by promotion, mostly from the scales of Rs. 260-400, Rs. 260-480 and Rs. 330-480. There is a broad comparability in the duties and responsibilities as also the method of appointment for the categories covered by the two scales, viz. Rs. 380-530 and Rs. 380-560. We, therefore, recommend the scale of Rs. 1320-30-1560-EB-40-2040 for posts in the scale of Rs. 380-530 and Rs. 380-560.
>
> *(Fourth Central Pay Commission Report – Part I – June 1986 –page 102)*

This scale of Rs. 380-560 has been shown in the Recruitment Rules of 1980 with respect of Part-2 Cadre Chargeman. Thus from the scale given to the applicants who were in the Skilled Tradesman cadre in the scale of Rs. 260-400 establishes beyond doubt that they were placed in Group 'B' Tradesman

and therefore, we have no doubt that they are entitled to the promotional scale of pay which is available to Part-2 Cadre Chargeman. As per Recruitment Rules of 1980 the Post of Part-2 Cadre Chargeman carries scale of Rs. 380-560 and now revised as per the Vth Central Pay Commission to Rs. 4000-6000. Therefore, the applicants who were placed in the pay scale of Rs. 260-400/950-1500/3050-4590 will be entitled to the promotional scale of Rs. 380-460/1320-2040/4000-6000 and this will be the financial up-gradation on grant of Ist ACP to the applicants and thereafter II nd ACP in the scale (revised) of Rs. 5000 8000. At this stage we would like to point out that in Rupa Sigh's case it has been incorrectly held that the post of Chargeman (Group 'E') (Part 2 Cadre Chargeman) carries pay scale of Rs. 4500-7000 (now revised to Rs. 5000-8000). Rather the fact is that the post of Part 2 Cadre Chargeman carries the scale of Rs. 380-560/1320-2040/4000-6000 and the scale of Rs. 4500-7000 (now revised Rs. 5000-8000) is available to Part-II Cadre Senior Chargeman which is promotional post from Chargeman having not less than five years regular service in that grade. Respective chart indicating the pay scale of Part-2 Cadre Chargeman and the pay scale of Part-II Cadre Senior Chargeman as indicated in the Recruitment Rules, 1980 is given below:

Name of post	*Scale of Pay*	*In case of Rectt. By Promotion/ Deputation/transfer grade from which promotion to be made.*
(1)	*(3)*	*(11)*
Part-2 Cadre Chargeman	*Rs. 380-12-500-EB-*	*Promotion: Group 'B' Tradesman with not less than 8 Years of total service and who Has passed trade test.*

Part-II Cadre		
Senior Chargeman	*Rs.425-15-500-EB -15-700*	*Promotion: Chargeman with Not less than 5 years regular Service in the grade.*

Thus the above chart which has been copied from the Recruitment Rules of the year 1980 clearly establishes that on promotion to the post of Part-2 Cadre Chargeman the applicants will be entitled to the pay scale of Rs. 380-560/1320-2040/4000-6000 and not the pay scale of Rs. 425-700/1400-2300/4500-7000 (now revised to Rs. 5000-8000) which is made for Part-II Cadre Senior Chargeman which post is promotional post of Part 2 Cadre Chargeman with five years regular service in the grade.

13. In this view of the matter, we are of the view that so far as the applicants in OAs. 192/2006, 193/2006 and 194/2006 are concerned they have been rightly given the benefit of financial up-gradation on grant of Ist ACP in the scale of Rs. 4000-6000 and that they will be entitled for the benefit under the 2nd financial up-gradation in the scale of Rs. 5000-8000 under the ACP Scheme. The impugned order (Annexure.A1) establishes beyond doubt that the applicants were granted Ist financial up-gradation in the scale of Rs. 4000-6000 and 2nd ACP in the scale Rs. 5000-8000 which is correct and in conformity with the Recruitment Rules of 1980 as well as the ACP Scheme. Accordingly it is held that so far as O.As.192/2006, 193/2006 and 194/2006 are concerned no interference is required.

<u>OAs. 259/2006 & 288/2006</u>.

As per the case of the applicants pleaded in the O.As their case is that they were initially appointed as Tent Mender in the pay scale of Rs. 210-290/800-1150 which is the pay scale of Semi Skilled Tradesman. There is nothing in

their pleadings that by virtue of Court's order they were placed in the pay scale of Rs. 260-400/950-1500 from the date of their initial appointment. As such the case of the applicants in the above two OAs stands on different footings from the case of the applicants in OA 192/2006, 193/2006 & 194/2006. While making discussions in respect of the categorization of Tradesman in the above paras we have found that only Tradesman from Group 'B' category were entitled for promotions to the post of Part-2 Cadre Chargeman. The scale of Part-2 Cadre Chargeman has been shown as Rs. 380-560 which is the promotional scale from the scale of Rs. 260-400. Since the applicants were never placed in the pay scale of Rs. 260-400/950-1500 meaning thereby that they remained as Semi Skilled Tradesman and could not occupy the cadre of Group 'B' Tradesman as such the applicants could not be granted the pay scale of Part-2 Cadre Chargeman on promotion unless they are promoted to the Skilled Tradesman grade in the pay scale of Rs. 260-400/950-1500. Since the applicants remained in the pay scale of Rs. 210-290/850-1150 and as per the 5th Central Pay Commission Report this scale was fixed in corresponding scale of Rs. 2650-4400 as such on grant of benefit of Ist ACP they will be entitled to financial up-gradation in the scale of Rs. 3050-4590 and thereafter 2nd financial up-gradation will be given in the scale of Rs. 4000-6000. On perusal of Annexure.A1 of both OAs we find that there is no infirmity in the order of the respondents in respect of the implementation of to grant benefits of Ist ACP and 2nd ACP in respect of these applicants and so we do not find any ground for interference in the order Annexure.A1.

As regards OA 260/06 it appears that the applicant Durga Ram was initially appointed as Mazdoor with effect from 19.10.1974 in the pay scale of Rs. 195-232. From the pleadings of the parties it appears that the applicant got one promotion and with effect from 10.3.75 he was promoted as Tailor in the pay scale of Rs. 210-290 and revised in the scale of Rs. 260-400/950-1500 as per the order of the Tribunal in OA 216/99. The corresponding scale of Rs. 260-400/950-1500 was Rs. 3050-4590/4000-6000 as per the 5th Central Pay Commission. As we have found above that this scale of pay ie., Rs. 260-400/950-1500 is the initial pay scale of Group 'B' Tradesman and since the applicant has been placed in that scale by virtue of the order of the court as such the applicant will be entitled to the promotional post of Part-2 Cadre Chargeman in the scale of Rs. 380-560/1320-2040 corresponding to Rs. 4000-6000. But since the applicant has already got one promotion from Mazdoor to Tailor in the pay scale of Rs. 210-290 from the pay scale of Rs. 195-232 as such he will not be entitled for grant of Ist ACP and he will be entitled for the grant of 2nd ACP in the scale of Rs. 4000-6000 and not Rs. 5000-8000. From perusal of Annexure.A1 and other relevant documents we find that the applicant was correctly granted financial up-gradation in the pay scale of Rs. 4000-6000 by way of grant of 2nd ACP and so we do not find any infirmity in the order under challenge. Thus we do not find any reason for interference in the order of the respondents with regard to grant of 2nd ACP benefits to the applicant.

-21-

14. In the result, we do not find any merit in all the above mentioned OAs and as such all the above mentioned O.As are ordered to be dismissed. In the circumstances of the case, there will be no order as to costs.

Dated this the 15th day of April, 2011

Sd/-

SUDHIR KUMAR
ADMINISTRATIVE MEMBER

Sd/-

JUSTICE S.M.M. ALAM
JUDICIAL MEMBER

COMPARED & CHECKED

CERTIFIED TRUE COPY
Dated 19-4-11

Central Administrative Tribunal
Jodhpur Bench, Jodhpur.