

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.482 / 2005

Tuesday, this the 25th day of October, 2005.

CORAM:

HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER
HON'BLE MR.N.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

P.D. George
Fire Engine Driver (Grade II) (Retired)
Naval Armament Depot, Aluva
Residing at : Pulikathara House, Gothuruth PO
Muthakunnam Via, Cochin – 683 523 : Applicant

(By Advocate Mr.Shafik M.A.)

Versus

1. Union of India represented by Secretary
to the Government of India,
Ministry of Defense, New Delhi.
2. The Flag Officer Commanding In Chief
Southern Naval Command, Naval Base, Cochin
3. The General Manager
Naval Armament Depot : Respondents

(By Advocate Mr.Sunil Jose, ACGSC)

The application having been heard on 25.10.2005, the Tribunal on the same day delivered the following:

ORDER (Oral)

HON'BLE MR. K.V.SACHIDANANDAN, JUDICIAL MEMBER

The applicant joined as Fire Engine Driver on 15.01.1987 under the respondents. The respondents have regularised the applicant with effect from 15.01.1987. Government of India introduced the ACP Scheme on 09.08.1999. For the purpose of ACP, the respondents treated him as eligible from the date of absorption with effect from 03.08.1996, ignoring the regularisation of his service as Casual Labourer. The claim of the applicant is that he should have been granted ACP from the date of his initial date of joining. Aggrieved by the inaction on the part of the respondents, he has filed the OA seeking the following reliefs:-

- i. To call for the records relating to Annexures A-1 to A-3 and to quash A-1
- ii. To declare that the applicant is entitled to the benefit of ACP Scheme of the Government of India on the basis of the date of initial entry which is already regularised and to direct to the respondents to immediately fix the pay of the applicant accordingly and to disburse the arrears of upgraded salary with 18 % penal interest and to re-fix the pension accordingly.

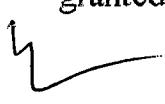
2. The respondents have filed a detailed reply statement contending that the benefit of Court orders in various O.As regarding the matter of regularisation of casual service of the applicants therein has not been extended to other similarly situated employees. The applicant was absorbed as Fireman Grade II ~~only~~ on 03.08.1996 and would be eligible for the First Financial Upgradation under ACP Scheme only on 03.08.2008 i.e on completion of 12 years of regular service from 1996. The applicant has retired on 31.12.2004.

3. Shri Shafik M.A , learned counsel appeared for the applicant and Shri Sunil Jose, ACGSC appeared for the respondents.

4. The learned counsel for applicant submitted that similarly placed persons had already been granted the benefit of ACP Scheme. He has also brought to our notice Annexure A-2 judgment wherein three employees similarly placed have already been granted the benefits and that order of the Tribunal has already been implemented.

5. The learned counsel for respondents on the other hand argued that for grant of ACP under ACP Scheme date of grade seniority which is treated for regular promotion is reckoned..

6. ^{heard} We have ~~the~~ the learned counsel on both sides. The crux point to be decided is whether the ACP is to be granted from 15.01.1987 or from the grade II seniority , ie. On 03.08.1996 which is treated for regular promotion. The ACP Scheme has been implemented by the Government vide O.M dated 09.08.1999 with a broad prospective that completion of 12 / 24 years of service to be reckoned for granting the ACP benefit. This Court had occasion to consider the same issue in various other O.As wherein identically placed employees were granted the benefit of ACP. Para 2 of Annexure A-2 order dated 09.03.2004 in



O.A.167/2004 is quoted as under:

“ When the application came up for hearing , the learned counsel for the respondents stated that in view of the several judgment of the Tribunal on identical matters, the respondents would not wish to contest the claim of the applicants for financial upgradation under ACP Scheme with effect from the date of initial appointment of the applicants, which has been subsequently covered. However, the counsel stated that while the claim of the applicants for financial upgradation may be allowed, the respondents may not be directed to pay interest on the arrears and they may be given six months' time to make available to them the arrears of pay and allowances. This request on behalf of the respondents appears to be reasonable and is not opposed by the learned counsel of the applicant.

7. The respondents have no case that the present applicant is standing on a different footing. The learned counsel for applicant also submitted that the applicant in OA 167/04 is identically placed person and he got the benefit. Considering the said submission and also the fact that ACP is to be granted from, the date of regularisation i.e on 15.01.1987, we are of the considered view that the applicant is entitled to get the benefit.
8. In the conspectus of facts and circumstances, we quash Annexure A-1 order and declare that the applicant is entitled to the benefit of the ACP Scheme reckoning their service from the date of initial appointment i.e on 15.01.1987 condoning the artificial breaks and directing the respondents to consider and make available the arrears of pay and allowances resulting therefrom within a period of four months from the date of receipt of a copy of this order. The applicant will not be entitled for any interest on that arrears.
9. The Original application is disposed of as above. No order as to costs.

Dated, the 25th October, 2005.



N.RAMAKRISHNAN
ADMINISTRATIVE MEMBER



K.V.SACHIDANANDAN
JUDICIAL MEMBER