

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.7/10

Tuesday this the 24th day of May 2011

C O R A M :

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER
HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER

P.V.Jacob,
Residing at Poovanal Bethesheda,
Puthuppally South, Kayamkulam,
Alappuzha District.

...Applicant

(By Advocate Mr.R.Rajasekharan Pillai)

V e r s u s

1. The Union of India represented by the Secretary,
Ministry of Personnel, Public Grievances & Pensions,
Department of Personnel & Training,
New Delhi – 110 011.
2. The Engineer in Chief, Engineers Branch,
Army Headquarters, New Delhi.
3. The Chief Engineer HQ, Eastern Command,
Fort William, Kolkotta – 21.
4. The Garrison Engineer, New Cantt.
Gangtok, PO Tadong, Sikkim – 737 102.
5. The Director of Management and Service,
Siliguri Zone, Sevoke Road,
PO Salgara – 734 008.

...Respondents

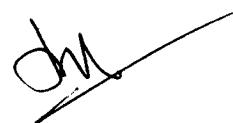
(By Advocate Mr.Sunil Jacob Jose,SCGSC)

This application having been heard on 24th May 2011 this Tribunal on the same day delivered the following :-

ORDER

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

The applicant retired from service in July, 2007. At the time of his retirement his basic pay was in the scale of pay of Rs.4000-6000. According to the applicant, he was denied the 2nd ACP under the ACPS



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(Assured Career Progression Scheme). It is contended that the applicant should have been given the 2nd ACPS in the scale of Rs.5000-8000 retrospectively. The applicant joined the service as a Hammerman (SS) in the scale of Rs.75-1-85-EB-2-95 revised subsequently as Rs.210-290 as per the 4th Pay Revision. He was later promoted as Blacksmith with effect from 5.5.1979 in the same revised scale of Rs.210-290. According to him, normally when an employee is promoted he should be given the next higher scale applicable irrespective of the implementation of the 4th Pay Commission recommendation. He has been promoted as Blacksmith in the same scale which according to him is not in accordance with the law. The next Pay Revision was introduced and he was promoted to the post of Welder in the identical scale without conferring any financial benefit to him but it is admitted that he was given the 1st ACPS on completion of 12 years in service in the scale of Rs.4000-100-6000. According to him, he is entitled to two upgradation during the entire service as he has not gained any improvement in his pay and he continued as if he had not been promoted to the next higher grades. He places reliance on clarification issued as against doubt No.52 in Annexure A-1 in support of his contention.

2. The respondents would contend that the applicant was promoted to the grade of Blacksmith in the scale of pay of Rs.210-290 subsequently revised to scale of pay of Rs.260-400. The scale of pay of Blacksmith was Rs.210-290 at the time of his promotion and as a result of the revision in the scale of pay he has been benefited financially. According to the respondents, the applicant is not entitled for grant of 1st ACPS under the ACP Scheme. But he was entitled for the 2nd ACPS on completion of 24



years of service in the scale of pay of Rs.4000-6000 with effect from August, 1999. Since he was actually promoted as Blacksmith within the period of 12 years, he is not entitled for the 1st ACPS. All that he is entitled to is for the 2nd financial upgradation which has been granted. In the light of the above factual situation it is contended that the applicant is not entitled for any relief.

3. Annexure A-1 based on which the relief in the O.A is sought for more particularly the clarification issued as against Point No.52. For the purpose of easy reference we may extract the doubt expressed as against Point No.52 as also the clarification issued as follows :-

52. *Point of doubt :- 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' ie. the entry level and the first promotional grade are in the same scale. What shall be his entitlements under ACPS.*

Clarification :- 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 action 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 can not be allowed in a scale higher than the next promotional grade. However, as specified in condition No.9 of the 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) (I) subject to a minimum benefit of Rs.100.

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4. From the above clarification it does not appear that merely because a person is promoted to the higher post which carries the same scale of pay, is entitled for 1st financial upgradation ignoring the promotion. The clarification as we could understand only means that if there is a merger of the two posts, then the financial upgradation may be extended. In this case, admittedly, both the posts in the feeder category as well as in the promotion category continues. The financial upgradation is given to an employee when he is stagnated without any actual promotion for a prescribed period and he is extended the scale of pay attached to the higher post. In this case, admittedly, the promotion post carries the same scale of pay and when he has actually promoted to the post of Blacksmith he is not entitled for any financial benefits other than to pay him in the scale of pay attached to the promotion post. The respondents having granted him the 2nd financial upgradation we do not think the applicant is entitled for any further benefits. The O.A is devoid of merits and the same is dismissed accordingly. No costs.

(Dated this the 24th day of May 2011)


K.NOORJEHAN
ADMINISTRATIVE MEMBER


JUSTICE P.R.RAMAN
JUDICIAL MEMBER

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