

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.NO. 192/07

Thursday this the 14th Day of February, 2008

C O R A M

**HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE DR. K.S. SUGATHAN, ADMINISTRATIVE MEMBER**

R. Krishnankutty
Senior Field Assistant
Special Bureau, Govt. of India
Saras No. 72
S.N. Nagar, Petta
Thiruvananthapuram.

..Applicant

By Advocate Mr. U. Balagangadharan

Vs.

- 1 Union of India represented by Secretary
Cabinet Secretariat,
7 Bikaner House (Annex)
Shajahan Road,
New Delhi-110 003
- 2 The Director (personnel)
Cabinet Secretariat,
7 Bikaner House (Annex)
Shajahan Rioad,
New Delhi-110 003
- 3 The Deputy Commissioner (Admn)
Special Bureau, Government of India
CGO Complex, Rajesh Bhavan
Bensant Nagar, Chennai
- 4 The Deputy Commissioner
Special Bureau, CBI Road,
Kathrikadavu, Cochin-17
- 5 The Assistant Commissioner
Special Bureau, Govt. of India
Saras No.72, SN Nagar,
Petta, Thiruvananthapuram.

.. Respondents.

By Advocate Mr. TPM Ibrahim Khan, SCGSC.

ORDER

HON'BLE DR. K.S. SUGATHAN, ADMINISTRATIVE MEMBER

The applicant is serving as Senior Field Assistant under the 5th respondent. He joined service as a Security Guard on 19.2.1973 in the pay scale of Rs. 85-110. The post of Security Guard was re-designated as Field Assistant. The applicant was promoted from the post of Field Assistant to the post of Senior Field Assistant in the year 1991. With the introduction of the Assured Career Progression Scheme (ACP scheme in short) the applicant became eligible for financial upgradation w.e.f. 9.8.1999, the date on which the scheme came into force. Accordingly, the respondents sanctioned the second financial upgradation to the applicant in the pay scale of Rs. 4000-6000 vide their order dated 14.12.1999. However, according to the applicant this sanction order has not been implemented so far. The applicant came to know that the order sanctioning the second financial upgradation has been cancelled by the respondents, but copy of the cancellation order has not been furnished to the applicant. By letter dated 16.9.2003 (Annexure A-4) the respondents have replied in response to the representation of the applicant that the matter regarding grant of ACP benefits to non-matric Field Assistant/Senior Field Assistant is under examination. Subsequently, the applicant received another letter dated 8.5.2007 conveying that he is given the benefit of the pay scale of Rs. 225-308 notionally w.e.f. 1.1.1973 but the actual benefit is admissible from the date of issue of the order. The pay scale of Rs. 225-308 was the pay scale recommended by the III CPC for Field Assistants who were Matriculates. The III CPC had introduced dual pay scale i.e. one for Field Assistant (Non Matric) another



for Field Assistant (Matric). The discrimination in pay scale between employees who are discharging the same duties was quashed by the Cuttack Bench of the Tribunal. The Appeal made by the Union of India against the decision of the Cuttack Bench was also dismissed by the Hon'ble Supreme Court and consequently the Cabinet Secretariat has advised that the employees who are not petitioners before the Cuttack Bench should also be given the same benefits. The applicant prayed for the following reliefs in the O.A.:

- (i) Direct the respondents to produce the order cancelling the grant of 2nd financial upgradation granted to the applicant as per Annexure A-3 and quash them same as highly illegal, arbitrary, and violative of natural justice.
- (ii) Direct the 1st respondent to restore the order at Annexure A-3 with effect from 9.8.1999 and disburse arrears thereof and interest at the rate of 9% till the date of payment for the benefit.
- (iii) Declare that the applicant is eligible to be granted with the 2nd financial upgradation with effect from 9.8.1999 and arrears and interest thereof.
- (iv) Such other reliefs as may be granted so the applicant considering the facts and circumstances of the case.

2 The respondents have contested the O.A. and filed a reply statement. They have stated inter alia that:



- (a) that the respondents have sanctioned the extension of the Matriculate pay scale of Rs. 225-308/- to all non-Matric Field Assistants notionally w.e.f. 1.1.1973 with the actual benefit prospectively from the date of issue of the order i.e. from

8.5.2007.

(b) Though the applicant is entitled for second financial upgradation as per the order dated 8.5.2007 he will be given the benefit only w.e.f. 8.5.2007.

(c) The relief sought in terms of second financial upgradation is already fulfilled.

(d) Payment of arrears from 9.8.1999 and the interest thereon has not yet been approved by the Government of India.

3 We have heard the learned counsel for the applicant Shri U. Balagaangadharan and the learned counsel for the respondents Mrs. Jisha for Shri TPM Ibrahim Khan, SCGSC .

4 We have also perused the documents carefully.

5 The issue for consideration in this O.A. is whether the applicant is entitled for second financial upgradation as per ACP Scheme. Admittedly, the applicant has completed more than 24 years service as on 9.8.1999 when the ACP Scheme was introduced. During the period of his service prior to 9.8.1999 he had received only one promotion i.e. from the post of Field Assistant to the post of Senior Field Assistant. As per the ACP Scheme the first financial upgradation shall be allowed after 12 years of regular service and the second financial upgradation after 24 years of regular service. As the applicant has received one promotion



he is entitled for the second financial upgradation w.e.f. 9.8.1999. The respondents' contention that by granting the non-Matric Field Assistant pay scale notionally w.e.f. the date of his joining service the requirement of ACP stands fulfilled cannot be sustained. The notional extension of matriculation pay scale to the applicant from the date of entry in the service only means that he will be deemed to have been in that pay scale from the date of entry. This does not take away his right to get ACP in accordance with the conditions of the ACP Scheme. As the applicant was in the pay scale of Rs. 3200-4900 since the year 1991 he was rightly given the ACP benefit in the pay scale of Rs. 4000-6000 w.e.f. 9.8.1999. The respondents have not cited any rule which have been violated while sanctioning the second financial upgradation on 14.12.1999. It is therefore difficult to understand why the order dated 14.12.1999 has still not been implemented by the respondents. The respondents have also not produced any document to show that the order sanctioning the second financial upgradation has been cancelled. All that is available on record is the letter written to the applicant in 2007 saying that the matter regarding ACP benefit to non-Matric Field Assistant/Senior Field Assistant is under examination. In the reply statement also the respondents have not referred to the sanction of the second financial upgradation on 14.12.1999 or given any reason why it was cancelled or kept in abeyance.


6 Considering the facts of this case, we are of the view that the applicant fulfilled all the conditions of the ACP scheme for the second financial upgradation which was rightly sanctioned by the respondent in December, 1999.

7 For the reasons stated above the O.A. is allowed. The respondents are directed to implement the order sanctioning second financial upgradation to the applicant and pay all the consequential arrears due to him within a period of three months from the date of receipt of a copy of the order. No costs.

Dated 14-2-2008.,



DR. K.S. SUGATHAN
ADMINISTRATIVE MEMBER



GEORGE PARACKEN
JUDICIAL MEMBER

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