

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A No. 20/2011

Monday, this the 12th day of November, 2012.

CORAM

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER  
HON'BLE Ms. K.NOORJEHAN, ADMINISTRATIVE MEMBER

1. T.K.Abdul Rahiman, S/o Muhammed,  
Fire Driver Operator, Police Station, Agathi,  
U.T. of Lakshaweed, Residing at Thekkuniyal, Agathy.
2. A.Muthukoya, S/o P Koya,  
Fire Driver Operator, Police Station, Minicoy,  
U.T. of Lakshaweed, Residing at Minicoy.
3. K.Buzar Gamhar, S/o Abdu Rahiman.N.P.,  
Fire Driver Operator, Police Station, Agathi,  
U.T. of Lakshaweed, Residing at Agathy.
4. M.K.Zakeer Hussain, S/o P Attakoya,  
Fire Driver Operator, Police Station, Kavaratti,  
U.T. of Lakshaweed, Residing at Kavaratti.
5. A.P.Muhammed Kasim, S/o U.P.Badirudeen,  
Fire Driver Operator, Police Station, Androth,  
U.T. of Lakshaweed, Residing at Androth.
6. E.K.Shaik Koya, S/o P.C.Abu Sli Koya Thangal,  
Fire Driver Operator, Police Station, Androth,  
U.T. of Lakshaweed, Residing at Androth.
7. L.P.Sayed Buhari, S/o Sidiq,  
Fire Driver Operator, Police Station, Minicoy,  
U.T. of Lakshaweed, Residing at Minicoy.
8. A.C.Aboobacker, S/o K.P.Yousuf,  
Fire Driver Operator, Police Station, Agathi,  
U.T. of Lakshaweed, Residing at Agathy. - Applicants

(By Advocate Mr P.V.Mohanan)

1. The Administrator,  
U.T of Lakshadweep, Kavaratti.
2. The Superintendent of Police,  
U.T of Lakshadweep, Kavaratti. - Respondents

(By Advocate Mr S Radhakrishnan)

This application having been finally heard on 08.11.2012, the Tribunal on 12.11.2012 delivered the following:

ORDER

**HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER**

The applicants, 8 in numbers are all functioning as Driver Operator in the Lakshadweep Administration and their appointments are as per the Annexure A-1 Recruitment Rules. The pay attached to their post is the erstwhile Rs 950 – 1550, which underwent a revision under the subsequent pay Commission Recommendations to Rs 3050 – 4590/- The said post of Driver Operator is a stand alone post without any post either below or above. Thus, there has been no promotional avenue.

2. As per the Recruitment Rules, the other posts are Fireman/Leading Fireman (carrying pay scale less than that of Driver Operator), Sub officer (pay scale of Rs 1400 – 2300 and its corresponding revised pay) and above the same, Station Officer (pay scale 1640 – 2900). The post of Sub officer has, as its feeder grade, the post of Leading Fireman. The grievance of the applicants is that whereas a post carrying a lower pay scale has a promotional post,

*[Signature]*

whereas the post of Driver Operator has no such promotional prospects. Such a situation in respect of Staff Car Drivers earlier existed and the Government has provided for a three grade structure, vide Govt. of India OM dated 30-11-1993, as per which the lowest pay scale for staff car drivers was Rs 950 – 1500 and the next two higher grades are respectively Rs 1200 – 1800 (after completion of 9 years of service as Staff Car Driver (OG), and Rs 1320 – 2040 after 6 years of service as Driver Grade II. Such a provision would, according to the applicant, render justice in their case as well. Again, when the Government has introduced the ACP Scheme, it has kept in mind the fact that those who are stagnating in the same pay scale without any promotional prospects should be suitably compensated by way of financial upgradation. Thus, the applicants claim is for the following:-

- (i) To declare that the applicants are entitled to get Grade promotion in the pre-revised scale of pay of Rs.1400-2300 in the category of Sub Officer on completion of 12 year service as Driver Operator under ACP Scheme and are entitled to get the scale of pay and arrears of pay flows thereon; or in the alternative;
- (ii) To grant promotion as Driver Grade II in the pre-revised scale of pay of Rs.4000-6000 on completion of 9 years service and Rs.4500-7000 on completion of total 15 years of service and to get arrears of pay consequent on fixation of pay.

3. Respondents have contested the O.A. They have, however, averred that extending the benefits under the MACP Scheme is under process.

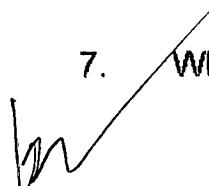
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4. Counsel for the applicant submitted that grant of ACP or MACP would be disadvantageous to the applicants as such a financial upgradation is only on the basis of the Grade pay or the standard pay scale (S-5 to S-6 and S-7) which has no significant increase. He has, therefore, submitted that the financial upgradation should be in the pay scale attached to the post of sub officer.

5. Counsel for the respondents submitted that the post of Driver Operator being an isolated post, the question of grant of pay scale of Rs 1400 – 2300 (erstwhile) to the applicants does not arise.

6. Arguments were heard and documents perused. At the very outset, it is made clear that since the post of Driver Operator is an isolated post, under financial upgradation, the applicants cannot claim the pay scale fixed for Sub Officer. That incumbents to the post of Leading Fireman which is lower to that of Driver Operator, to be considered for promotion to the grade of Sub Officer is as per rules and there is a direct link between the posts of Leading Fireman and the sub officer. The applicants who belong to the Driver Category cannot be permitted to seek parity with that of Leading Fireman to claim either promotion to the post of Sub Officer or claim first financial upgradation to the scale of Rs 1400 – 2300 (pre-revised).

7. Where a post is one of isolated post, para 7 to Annexure I



(conditions for grant of benefits under the ACP Scheme) to order dated 09-08-1999 provides as under:-

*"7. 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 of the Ministry of Finance (Department of Expenditure). For instance, incumbents of isolated 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 S-5 and S-6. Financial upgradation on a dynamic basis (i.e. 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."*

8. What is isolated post has been clarified as under:-

*"Isolated post is a stand alone post, having neither feeder grade nor promotional grade. As such, a post having no promotional grade but having a feeder grade and vice versa shall not be treated as isolated post for the purpose of ACPS."*

9. As the pay scale of the Driver Operator is S-5 (3050 – 4590), then, S-6 (3200 – 4900) and S-7 (4000 – 6000) alone would be the pay scale available for the first and second financial upgradation.

In the revised pay scale (w.e.f. 01-01-2006) these would have the

same pay scale of Rs 5,200 – 20,200 plus grade pay of Rs 2,000 for first financial upgradation and Rs.2400 for the second one. Of course, the prescribed minimum increase would be assured. Since the respondents have stated that the proposal for grant of MACP is under consideration, the applicants would have to be satisfied only with the benefit of the said ACP/MACP. The claim of the applicant for grant of higher pay scale of Rs 1,400 – 2300 (pre revised) is impermissible.

10. At the time of hearing, the Tribunal had the view whether the grade pattern adopted in the case of Staff Car Drivers could be adopted in the case of the applicants as well. However, since there are only 8 posts, proportionate distribution in the three grades would not benefit save two or three of them. And, since the grade pattern is again a kind of financial upgradation, simultaneously, the benefit of financial upgradation under the ACP/MACP scheme would not be available. If the post of Driver Operator had one post below, then again, it could have been possible to adopt the grade structure for financial upgradation as per the clarification issued vide clause No. 32 of OM No. 35034/1/97-Estt (D) (Vol IV) dated 10-02-2000 which reads as under:-

*"Such a cadre/hierarchy shall not fall in the isolated category as defined at Sl.No.31 above. Hence, the standard/common pay scales mentioned in Annexure-II of the Office Memorandum dated 9.8.1999 shall not be applicable in such cases. Action in such cases may, therefore, be taken as per following clarifications:-*

*(i) If such cadre hierarchy exists in the Ministry/Department concerned, the second upgradation may be allowed in keeping with the pay*



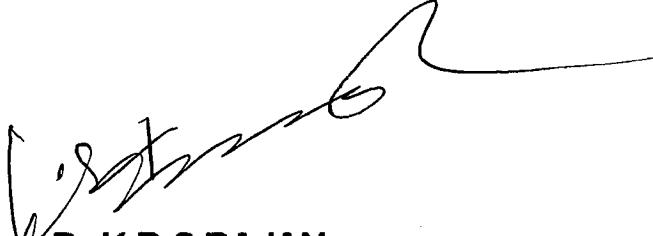
scale of an analogous grade of a cadre/post in the same Ministry/Department. However, if no such grade exists in the Ministry/Department concerned, comparison may be made with an analogous grade available in other Ministries/Departments.

(ii) In the case of attached/sub-ordinate offices, the second upgradation under ACPS may be given in keeping with the pay scale of an analogous grade of a cadre/post of the concerned office. However, if no such cadre/post exists in the concerned office, comparison may be made with an analogous grade available in other attached/subordinate offices of the Ministry/Department concerned."

11. Thus, there is no option but to reject the claim of the applicants for grant of pay scale at par with that of Sub Officer under either promotional avenue or financial upgradation. However, since the respondents themselves have stated that the case of the applicants for grant of ACP/MACP is under consideration, they are directed to accord priority to the same and afford the financial upgradation at the earliest. Since the applicants are slogging in the very same pay scale, decision be arrived at within a period of four months and the same implemented. **OA is disposed of** on the above terms.

12. No costs.

  
K.NOORJEHAN  
ADMINISTRATIVE MEMBER

  
Dr K.B.S.RAJAN  
JUDICIAL MEMBER