

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

OA NO.263/2005

Friday this the 2nd day of March, 2007

CORAM:

***HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN
HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER***

R.Justus,
Duplicating Machine Operator-B,
Staff Code No.42210,
G.S.L.V. Project,
Vikram Sarabhai Space Centre,
Indian Space Research Organisation
Thiruvananthapuram-695 022. ... Applicant

By Advocate Mr.P.V.Mohanan

V/s.

1. Union of India
represented by
The Secretary, Department of Space,
Government of India,
Anthareeksha Bhavan,
New B.E.L. Road, Bangalore-560 094.
2. The Vikram Sarabhai Space Centre,
Represented by its Director, VSSC,
ISRO Post,
Thiruvananthapuram – 695 022. ... Respondents

By Advocate Mr.TPM Ibrahim Khan SCGSC

The application having been heard on 20.2.2007 the Tribunal delivered the following on 2..3.2007.

(ORDER)

Hon'ble Mr.George Paracken, Judicial Member

The applicant has sought a declaration that he is entitled to get first and second financial up-gradations in accordance with the ACP Scheme introduced by the Government of India pursuant to the acceptance of the recommendation of the Vth Central Pay Commission reckoning his

regular service w.e.f. 13/8/1974. He has also sought a direction to the respondents to grant him the scale of pay of Rs.4500-7000 w.e.f. 9/8/1999 and disburse the arrears of salary and other benefits attached to that scale on the ground that he had completed 12/24 years of regular service as envisaged in the Scheme. However, according to respondents (Annexure -16 Office order dated 7/3/2005), the benefits under the ACP Scheme cannot be granted to him as he has already earned two promotions in his career, first as Attendant 'B' w.e.f 13/8/1974 and the second as Duplicating Machine Operator 'B' w.e.f. 24/6/2002.

2. The brief facts necessary for adjudication of this case are as follows:-

The applicant was initially appointed as Attendant 'A' on 5/10/1972 in the scale of pay of Rs.70- 95 and w.e.f. 1/1/1973 in Vikram Sarabhai Space Centre (VSSC for short) which was an autonomous institution under the Government of India in the scale of pay of Rs.70-95 and w.e.f. 1/1/1973, he was placed in the replaced scale of Rs.200-250. Thereafter, he was promoted as Attendant 'B' w.e.f. 13/8/1974 in the scale of pay of Rs.210-270. The VSSC was converted as a Government department w.e.f. 1.4.1975. Along with most of the other employees, he had also opted to remain in the VSSC and he was absorbed in his grade as Attendant 'B' in the same pay scale of Rs.210-270 . Later on, he was selected and posted internally as Duplicating Machine Operator 'A' (DMO-A for short) w.e.f. 8/4/1983. The scale of pay of DMO-A was the same as that of the Attendant 'B'. His scale as DMO-A was revised to Rs.800-10-1010-20-1150 with effect from 1/1/1986. After 21 years of service from 13/8/1974 in the very same scale of pay of Rs.800-10-1010-20-1150 he

was granted one stagnation increment of Rs. 20/- w.e.f 1/10/95. His pay scale was again revised to Rs.2650-65-3300-70-4000 w.e.f. 1/1/1996. With the introduction of the ACP Scheme w.e.f. 9/8/1999, the respondents granted him the first financial upgradation and placed him in the scale of pay of Rs.3050-75-3950-80-4590 with effect from the same date and while he was working in the aforesaid scale, he was promoted as Duplicating Machine Operator 'B' (DMO-B in short) carrying the same scale vide Annexure A-9 office order dated 24/6/2002. Since the applicant had already been placed in the scale of Rs.3050-4590 w.e.f. 9/8/1999 under the ACP Scheme, his promotion as DMO-B in the same scale had no impact on his pay. He has, therefore, made Annexure A-11 representation to the respondents stating that inspite of his 33 years of service, he was discriminated in the matter of granting promotion while others who were similarly placed were granted the scale of pay of Rs.4500-7000. He has cited the cases of Shri S.R.Prasad, DMO-B and Shri Krishnamoorthy, DMO-B both in ISAC in Bangalore who were granted the scale of Rs.4500-7000. He has also annexed copies of the Office Order dated 16/2/2004 (Annexure A-12) granting the second financial upgradation under the ACP Scheme in the scale of pay of Rs.4000-6000 w.e.f. 9/8/1999 to the Canteen Attendants 'B' who were earlier in the scale of Rs.3200-85-4900. Similarly, vide Annexure A-13 Office order dated 16/2/2004, he cited the case where the respondents have granted second financial upgradation to the Attendants 'C' who were in the scale of pay of Rs.3200-85-4900 and placed them in the scale of pay of Rs.4000-100-6000 w.e.f. 9/8/1999.

3 We have heard the Learned Advocate Mr.P.V.Mohanan and Learned Advocate Mrs.Jisha for Mr.TPM Ibrahim Khan, SCGSC on behalf

of the Applicant and the Respondents respectively. The ACP Scheme was introduced w.e.f. 9/8/1999 for Central Government employees to overcome the problem of genuine stagnation and hardship faced by the employees due to lack of adequate promotional avenues. The said scheme provides for two financial upgradations in Group B, C and D employees on completion of 12 years and 24 years of regular service after due assessment of their suitability in order to provide financial benefits equivalent to atleast two promotions in the service period to take care of the cases where promotional avenues are remote. According to the Respondents themselves, vide Annexure A-8 Office order dated 7/12/1999, the Applicant was granted the Financial upgradation with effect from 9/8/1999 placing him in the pay scale of Rs.3050-75-3950-80-4590 and raising his pay to Rs. 4110/- from the pay scale of Rs.2650-65-3300-70-4000 which he has been drawing. Contrary to the above said order the respondents have now stated in Annexure A16 Office Order dated 7/3/2005 that the Applicant was not eligible for financial upgradation under the ACP Scheme because he has already drawn two promotions, one as Attendant-B w.e.f. 13/8/1974 in the grade of Rs.210-4-250-EB-5-270 and the second as DMO-B in the grade of Rs.3050-75-3950-80-4590 w.e.f. 24/6/2002. In the reply affidavit the respondents' stand was again different. They have stated that the Applicant's appointment as DMO-A in the scale of Rs.210-270/2650-4000 w.e.f. 8/4/1983 was treated as direct recruitment for the purpose of granting benefits under ACP Scheme and that was why he was granted the first financial upgradation from 9/8/1999 as he had completed 12 years in that scale on 9/4/1995 and the 2nd financial upgradation will be due after 12 years from 9/4/1995 i.e. 9/4/2007.

b

However, he has already retired on 31/3/2005.

4 In the above facts and circumstances of the case, the question is whether the applicant is entitled for two financial upgradations under the ACP Scheme or not? It is an admitted fact that the applicant joined service with the respondents w.e.f. 5/10/1972 as Attendant 'A' and earned his first promotion as Attendant 'B' w.e.f. 13/8/1974. We do not find any justification for the applicant to base his claim from 13/8/74 when his initial appointment was from 5/10/72 and on 13/8/74 he got his first promotion. Still the prayer of the applicant is for grant of first financial upgradation after completion of 12 years from 13/8/74 and the second financial upgradation after 24 years from the same date. The applicant completed 12 years of service from 13/8/74 on 12/8/86 and 24 years service on 13/8/98. As the regular service of the applicant commenced from 5/10/72 itself and he already got a promotion on 13/8/74, in our considered opinion, he is not entitled for the first financial upgradation reckoning the commencement of his regular service w.e.f 13/8/74 as prayed for by him. However, on completion of 24 years of regular service from 5/10/1972 on 4/10/1996, the applicant became eligible for the second financial upgradation under the ACP Scheme w.e.f 9/8/99 and for the grant of the higher scale Rs. 3050-753950-80-4590. The respondents, in fact, granted the financial upgradation to the applicant from 9/8/99 placing him in the said higher scale of Rs. 3050-75-3950-80-4590 but on a different ground. According to them the selection and posting of the applicant as DMO-A w.e.f. 8/4/1983 was as a direct recruitment and that was the reason, the applicant became eligible for the first financial upgradation with effect from 9/8/99. In any case the applicant was entitled for only one

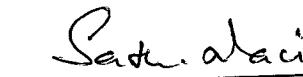
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financial upgradation and he got it from the due date. He also got his next promotion as DMO-B from 24/6/2002. We also do not find any merit in the comparison made by the applicant with his case and the cases of Shri S.R.Prasad,DMO-B, Shri Krishnamoorthy,DMO-B of ISAC and Canteen 'B' staff. Their cases are different as they were already in the scale of Rs.3200-85-4900 and the next promotional scale for them was Rs. 4000-100-6000 whereas in the case of the applicant he was in the scale of Rs.2650-65-3300-70-4000 and the next promotional scale for him is Rs. 3050-70-3950-80-4590.

5 The OA is accordingly dismissed. There shall be no order as to costs.

Dated the 2nd day of March, 2007


GEORGE PARACKEN
JUDICIAL MEMBER


SATHI NAIR
VICE CHAIRMAN

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