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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Applicaton No.36/2013

Friday this the 27th day of November 2015

C O R A M :

**HON'BLE Mr.JUSTICE N.K.BALAKRISHNAN, JUDICIAL MEMBER
HON'BLE Mrs.P.GOPINATH, ADMINISTRATIVE MEMBER**

M.J.Antony,
S/o.Joseph,
Store Keeper,
Naval Ship Repair Yard,
Naval Base, Kochi – 4.
Residing at Malankuzhi House,
Panangad P.O., Ernakulam (Dt.) - 682 506.Applicant

(By Advocate Mr.T.A.Rajan)

V e r s u s

1. Union of India represented by the Secretary,
Government of India, Ministry of Defense,
New Delhi – 110 001.
2. The Flag Officer Commanding in Chief,
Head Quarters, Southern Naval Command,
Naval Base, Kochi – 4.
3. The Admiral Superintendent,
Naval Ship Repair Yard,
Naval Base, Kochi – 4.Respondents

(By Advocate Mr.N.Anilkumar,Sr.PCGC)

This application having been heard on 2nd November 2015 this
Tribunal on 27th November 2015 delivered the following :



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ORDER

HON'BLE Mrs.P.GOPINATH, ADMINISTRATIVE MEMBER

The applicant presently working as Store Keeper in the Naval Ship Repair Yard, Kochi is aggrieved by the non revising of his scale of pay from Rs.5000-8000 to Rs.6500-10500 with effect from 1.1.2006. The scales of pay of Foreman Stores (Rs.5500-8000) and Senior Store Keeper (Rs.5000-8000) was merged to the scale of pay of Rs.6500-10500.

2. The applicant was initially appointed as Assistant Store Keeper on casual basis on 23.11.1981 in the scale of pay of Rs.260-400. After regularization in service from the date of his initial appointment, he was granted first financial upgradation benefits under the ACP Scheme with effect from 9.8.1999 in the scale of pay of Rs.4000-6000. After he was regularly promoted to the post of Store Keeper in the scale of pay of Rs.4000-6000, he was granted the second financial upgradation benefits under the ACP Scheme in the scale of Rs.5000-8000 which is the scale of pay of Senior Store Keeper. As per the Assured Career Progression Scheme, the 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. Consequent to the implementation of the 6th Central Pay Commission recommendations, the

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applicant's pay was fixed in the revised scale of pay of Rs.9300-34800 based on the pay drawn by him in the scale of pay of Rs.5000-8000 with Grade Pay Rs.4200/- with effect from 1.1.2006. On completion of 30 years service he was granted the third financial upgradation benefits under the MACP Scheme with effect from 23.11.2011 and his grade pay was increased to Rs.4600/- from the said date. It is submitted that the 1st respondent by Annexure A-3 order has merged together the pay scales of Foreman Stores (Rs.5500-9000) and Senior Store Keeper (Rs.5000-8000) and granted an upgraded pre-revised scale of pay of Rs.6500-10500 with grade pay of Rs.4200/- and redesignated the post as Foreman of Stores with effect from 1.1.2006. Consequent to Annexure A-3, the second financial upgradation granted to the applicant under the ACP Scheme has to be revised and his pay has to be refixed at Rs.6500/- in the scale of pay of Rs.6500-10500 and the corresponding pay in the revised scale of pay of Rs.9300-34800/- is Rs.12090/- with grade pay of Rs.4200/- with effect from 1.1.2006. The applicant has made Annexure A-4 representation requesting to revise/refix his pay in the scale of pay of Rs.6500-10500/9300-34800, but the same has not been considered so far. The applicant has therefore filed this application seeking relief for fixation of pay in the scale of pay of Rs.6500-10500 and based on it in the scale of pay of Rs.9300-34800 and grant consequential benefits.

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3. Respondents in their reply statement submit that based on the recommendations of 6th Central Pay Commission the Government of India have made "Civilian in Defence Services (Revised Pay) Rules, 2008" vide notification dated 9th September 2008 with retrospective effect from 1.1.2006. Ministry of Finance, Department of Expenditure had issued instructions for sequence of actions to be taken for implementation of CDS (RP) Rules, 2008. Some of the posts have either been merged or upgraded as a result of the recommendations of the 6th CPC, Government has issued guidelines for fixation of pay in the pay bands where posts have been upgraded vide Government of India, Ministry of Finance, Department of Expenditure O.M dated 13th October 2008. As per the O.M :

'where a post has been upgraded as a result of the recommendations of the 6th CPC, the fixation of pay in the applicable pay band will be done in the manner prescribed in accordance with Clause (A) (i) and (ii) of Rule 7 by multiplying the existing basic pay as on 1.1.2006 by a factor of 1.86 and rounding the resultant figure to the next multiple of ten. The grade pay corresponding to the upgraded scale as indicated in column 6 of Part B or C will be payable in addition.'

4. The applicant has been granted the replacement pay scale of Rs.9300-34800 with grade pay of Rs.4200/- as on 1.1.2006 and his pay was fixed by adopting the procedure as laid down in Annexure R-3. The resultant pay is Rs.9579/- and his pay was fixed at Rs.9580/- in the Pay Band -2 of Rs.9300-34800 with grade pay Rs.4200/-. It is further submitted that on completion of 30 years service, he has been granted the grade pay of Rs.4600/- applicable to Assistant Naval Store Officer Grade II under MACP Scheme.



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5. Heard the counsel for the parties and considered the written submissions made. Applicant was appointed as Assistant Store Keeper. Applicant's promotional scales for ACP are :

Store Keeper	Rs.4000-6000	-	Ist ACP
Sr. Store Keeper	Rs.5000-8000	-	IIInd ACP

6. The VI CPC merged the posts of Senior Store Keeper in scale Rs.5000-8000/- and Foreman of Stores in scale Rs.5500-9000/- and gave it an upgraded common pay scale of Rs.6500-10500/- and redesignated it as Foreman of Stores. The applicant prays that his IIInd ACP should be in upgraded scale of Rs.6500-10500/. It should be further fixed in the VI CPC revised scale of Rs.9300-34800/- which is the revised scale of Rs.6500-10500/. Respondents drew our attention to O.M dated 13.10.2008 which draws attention to Annexure R-3 VI CPC benefits regarding the fixation of pay in pay bands where posts have been upgraded as a result of recommendations of VI CPC. The clarification reiterates that fixation will be done in the manner prescribed in accordance with Note 2A below Rule 7 of CCS (Revised Pay) Rules, 2008 by multiplying the existing basic pay as on 1.1.2006 by a factor of 1.86 and rounding off the resultant figure to the next multiple of ten. The fitment table provided with O.M dated 30.8.2008 corresponding to the pre-revised pay scale shall be used for the purpose of determination of pay in pay band.



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7. In para 3 of O.M dated 13.10.2008 a practical of pay fixation example has also been cited to guide the pay fixation in case of upgraded posts in order to avoid any ambiguity.

8. The VI CPC has clearly laid down a road map for pay fixation in such cases and the need to think of innovative methods or new manner of application in view of clear instructions does not appear to be necessary in this matter. This has also been explained in Note 2A of para 7 (I) of Ministry of Defence VI CPC notification on civilians in Defence Service (Revised Pay) Rules 2008 dated 9.9.2008 which is applicable to all civilian defence personnel in the country. This 13.10.2008 O.M reiterates the Note 2A below para 7(I) VI CPC Notification of 9.9.2008 reproduced below :

“Note 2A - Where a post has been upgraded as a result of the recommendations of the Sixth CPC as indicated in Part B or Part C of the First Schedule to these Rules, the fixation of pay in the applicable pay band will be done in the manner prescribed in accordance with Clause (A) (i) and (ii) of Rule 7 by multiplying the existing basic pay as on 1.1.2006 by a factor of 1.86 and rounding the resultant figure to the next multiple of ten. The grade pay corresponding to the upgraded scale as indicated in Column 6 of Part B or C will be payable in addition. Illustration 4A in this regard is in the Explanatory Memorandum to these Rules.”

9. The pay of applicant was fixed as per VI CPC recommendations supra circulated by the Ministry of Defence to be implemented across the country to all similarly placed persons. The applicant's contention that his pay be revised and fixed in pay scale Rs.6500-10500/- and refixed in scale

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of pay Rs.9300-34800/- has not been envisaged by the VI CPC recommendations. Granting this benefit to applicant would be unfair to other similarly placed persons and beyond the ambit of the VI CPC recommendations, as the CPC has made a specific recommendations to cover the cases as cited in the O.A and a further interpretation is not necessitated. O.A is accordingly dismissed.

(Dated this the 27th day of November 2015)


P.GOPINATH
ADMINISTRATIVE MEMBER


N.K.BALAKRISHNAN
JUDICIAL MEMBER

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