

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

MP 110/06 order page-1 to 3 INDEX 6.A/T.A No. 16.A/2006

MP closed - 19.12.06 R.A/C.P No. ....  
E.P/M.A No. ....

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16. Counter Reply.....

SECTION OFFICER (Judl.)

Subba  
26/10/17

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

## ORDERS SHEET

1. Original Application No. 164/06  
 2. Misc Petition No. /  
 3. Contempt Petition No. /  
 4. Review Application No. /

Applicant(s) Ananda Saikia & OthersRespondent(s) U.O.T.G.O.MAdvocate for the Applicant(s) B. Chakraborty, K. Bhattacharyya, D. Goswami  
for App. No. 1, 2, 3 & 7.... B. Choudhury..... G. BaishyaAdvocate for the Respondent(s) H.C.S.C. M.L. Ahmed

Notes of the Registry	Date	Order of the Tribunal
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This application is in form  
is filed/C. F. for Rs. 50/-

deposited vide I.P.C./P.D.

No. 266/2246/06

Dated 26.6.06

Gleet  
Dy. Registrar

R.P.N.C.  
29.6.06Steps not taken

R.P.  
29.6.06

30.06.2006 Present : Hon'ble Sri K.V. Sachidanandan  
Vice-Chairman.

There are eight Applicants in this application at present working as Fire Supervisor under the Aviation Research Centre, Doin Dooma. The Applicants joined in the Fire Fighting Branch as Fireman and they were promoted to the post of Leading Fireman (re-designated as Fire Supervisor in the year 1995). The 5th Pay Commission has recommended higher pay scale and as per the Assured Career Progression Scheme pay scale has been upgraded. Accordingly, the Applicant Nos. 1 to 7 are receiving Rs. 5,900/- in the scale of Rs. 5,000/- to Rs. 8,000/- and the Applicant No. 8 is receiving Rs. 4,800/- in the scale of Rs. 4,000/- to Rs. 6,000/-. While so, the impugned order dated 12.05.2006 has been passed reviewing earlier grant of ACP to the Applicants.

Heard Mr. G.K. Bhattacharyya, learned Sr. counsel for the Applicants and Mr. G. Baishya, learned Sr. C.G.S.C. for the Respondents.

Contd/-

Contd/-

30.06.2006

Considering the issue involved, I am of the view that the O.A. has to be admitted. Admit. Issue notice to the Respondents.

Notice and

order dt. 30/6/06  
sent to D/Section  
for issuing to  
resp. nos. 1 to 5  
by regd. A/D post.

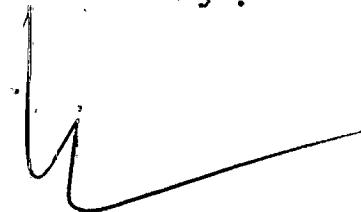
(contd)  
10/7/06. D/No=719 to 723  
DT- 17/7/06.

Notice duly served  
on resp. no- 1, 5, 4.

(contd)  
11/8/06.

Admittedly, vide order dated 08.08.2000 financial up-gradation has been granted to the Applicants, which is attempted to be withdrawn vide order dated 12.05.2006. Considering the fact that no reason is forthcoming, I am of the view that further recovery will be stayed in so far as the Applicants are concerned till the next date of hearing.

Post on 14.08.2006. In the meantime, the Respondents are at liberty to file reply statement.

  
Vice-Chairman

/mb/

25-8-06  
Notice duly served  
on R. no. 1, 4 & 5.  
No WJS filed.

10  
11

No WJS has been  
filed.

30  
1.9.06.

order dt. 4/9/06  
issuing to learned  
advocates for both  
the parties.

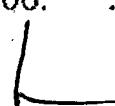
(contd)  
4/9/06.

No WJS has been  
filed.

31  
31.10.06.

28.08.2006 Present: Hon'ble Sri K.V. Sachidanandan  
Vice-Chairman.

Adjourned. Post on 04.09.2006.

  
Vice-Chairman

/mb/

04.09.2006 Present: Hon'ble Sri K.V. Sachidanandan  
Vice-Chairman.

Learned Counsel for the Respondents wanted to have four weeks time to file reply statement. Let it be done.

Post on 16.10.2006. Interim order dated 30.06.2006 will continue till the next date.

  
Vice-Chairman

/mb/

1.11.2006 post the matter on 17.11.2006  
along with the M.P.110/2006.

No W.P. has been  
filed.

*[Signature]*  
Vice-Chairman

*[Signature]*  
16.11.06.

bb

17.11.2006 Present: Hon'ble Sri K.V. Sachidanandan  
Vice-Chairman.

No W.P. has been  
filed.

Learned Counsel for the  
Respondents wanted time to file reply  
statement. Post on 19.12.2006.

*[Signature]*  
18.12.06.

/mb/

*[Signature]*  
Vice-Chairman

19.12.2006 Present: The Hon'ble Shri K.V. Sachidanandan  
Vice-Chairman.

26. 12. 06

W.P.s filed by the  
Respondents with  
annexures page No. 1 to  
32.

*[Signature]*

Mr.G.Baishya, learned Sr.C.G.S.C. has  
filed reply statement on behalf of the  
Respondents today. Copy of the same has  
been furnished to Mr.B.Choudhury, learned  
counsel for the Applicant.

Post the matter before the next available  
Division Bench to expedite the matter. In  
the meantime, Applicant is at liberty to file  
reply statement, if any.

No rejoinder has  
been filed.

*[Signature]*  
21.3.07.

*[Signature]*  
Vice-Chairman

/bb/

Counsel for the applicant has got some personal difficulty. Post the matter on 25.4.07.

Member

Vice-Chairman

lm

Replies not filed.

22  
6.5.08.

07.05.2008

None appears for the Applicants nor the Applicants is present. Mr.G.Baishya, learned Sr. Standing Counsel appearing for the Union of India is present.

Mr. D. Goswami, advocate, states that he has received instructions over telephone to represent the Applicants in this case. He undertakes to file 'Vokalatnama' for the Applicants and seeks adjournment of this case. Prayer is allowed.

Call this matter

07.05.2008

None appears for the Applicants nor

the Applicants is present. Mr.G.Baishya, learned Sr. Standing Counsel appearing for the Union of India is present.

Mr. D. Goswami, advocate, states that he has received instructions over telephone to represent the Applicants in this case. He undertakes to file 'Vokalatnama' for the Applicants and seeks adjournment of this case. Prayer is allowed.

Call this matter on 04.06.2008 for hearing.

Send copies of this order to the Applicant and to the Respondents, so that they shall come ready for hearing by 4<sup>th</sup> June, 2008.

J/M/104

(Khushiram  
Member(A))

(M.R. Mohanty)  
Vice-Chairman

lm

O.A.No. 164 of 06

07.05.2008      None appears for the Applicants nor the Applicants ~~are~~ present. Mr.G.Baishya, learned Sr. Standing Counsel appearing for the Union of India is present.

Dt. 7.5.08

Pl. send copies of this order to the application

*existing*

order dt. 7/5/08

Send to D/Section for issuing to applicant and to the respondents by post.

*CCW*  
8/5/08. D/No-  
Dt=

Mr. D. Goswami, advocate, states that he has received instructions over telephone to represent the Applicants in this case. He undertakes to file 'Vokalatnama' for the Applicants and seeks adjournment of this case. Prayer is allowed.

Call this matter on 04.06.2008 for hearing.

Send copies of this order to the Applicant and to the Respondents, so that they shall come ready for hearing by 4th June, 2008.

  
(Khushiram  
Member(A))

  
(M.R. Mohanty)  
Vice-Chairman

lm

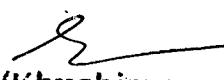
Rejoinder not  
biled.

  
3  
3.6.08.

04.06.2008      Mr. B. Goswami, Advocate, states that he has got instructions from the Applicant to prosecute the case and he undertakes to file 'Vokalatnama' on behalf of the Applicant. He seeks an adjournments for 10 days.

Mr. G. Baishya, learned Sr.Standing Counsel undertakes to file his appearance memo for the Respondents.

Call this matter on 17.06.2008 for hearing.

  
(Khushiram  
Member(A))

  
(M.R. Mohanty)  
Vice-Chairman

lm

17.06.2008

Dt. 17.6.08.

None appears for the Applicants nor the Applicants are present.

Pl. send copies of this order to the Applicants and Respondents.

17.6.08.

In order to give one more chance to the Applicants the matter stands adjourned to be taken up on 28.07.2008.

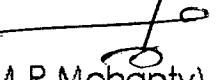
Order dt. 17/6/108  
 Send to D/Section  
 for issuing to applicant  
 and to the respondents  
 by post.

(as)  
 19/6/08. D/No-2917 to 2922  
 Dt = 23/6/08. /bb/

Send copies of this order to the Applicants and to the Respondents so that they shall come ready to participate in the hearing on the next date.

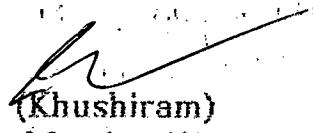
Call on 28/07/2008 for hearing.

  
 (Khushiram)  
 Member (A)

  
 (M.R. Mohanty)  
 Vice-Chairman

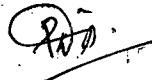
28.07.2008. Mrs Kalyani Bhattacharyya, Mr Bijan Chakraborty and Mr Debojit Goswami, learned Counsel, enters appearance with the consent of the previous Advocates for the Applicants and seeks an adjournment. The prayer is allowed.

Call this matter on 10.09.2008 for hearing.

  
 (Khushiram)  
 Member (A)

  
 (M.R. Mohanty)  
 Vice-Chairman

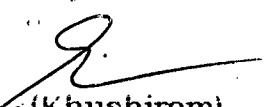
Rejoinder submitted  
 to the Applicant.  
 Copy served.

 nkmO.A. 164/2006The case is ready  
 for hearing.

10.09.2008

  
 On the prayer of  
 Mr. B. Goswami, learned counsel  
 appearing for the Applicant (made in  
 presence of Mr. G. Baishya, learned Sr.  
 Standing Counsel for the Union of India), call  
 this matter on 06.11.2008 for hearing.

lm

  
 (Khushiram)  
 Member (A)

  
 (M.R. Mohanty)  
 Vice-Chairman

O.A.164 of 06

06.11.2008

On the request of learned counsel appearing for both the parties, call this matter on 16th December, 2008 for hearing.

(S.N.Shukla)  
Member(A)

(M.R.Mohanty)  
Vice-Chairman

lm

The case is ready  
for hearing

16.12.2008 For the reasons recorded separately, this O.A. is allowed. No costs.

copy received  
Bipashwar Das  
for  
M.R. G. Dasgupta  
S.R. CSC  
30.12.2008

/bb/

Send copies of the final order to the Applicants and to the Respondents in the address given in the O.A. and free copies of this order be supplied to the learned counsel appearing for both the parties.

(S.N.Shukla)  
Member (A)

(M.R.Mohanty)  
Vice-Chairman

15.1.09  
Copy of the  
order sent to the  
Court for issue  
of fee to the  
Court as Respondent  
and along with the  
copy to the A.D.A.  
Copy to the parties  
for the parties.

20.1.09  
Second notice  
D/W No. 116 to 122  
D/P 16.1.09.

20.1.09

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. No.164 of 2006

DATE OF DECISION: 16.12.2008

Sri Ananda Saikia & 7 Others

.....Applicant/s  
Mr.B.Chakraborty

Advocate for the  
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

Mr.G.Baishya, Sr.C.G.S.C.

.....Advocate for the  
Respondents

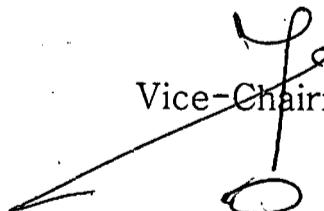
CORAM

THE HON'BLE MR.MANORANJAN MOHANTY, VICE CHAIRMAN  
THE HON'BLE MR. S.N.SHUKLA, ADMINISTRATIVE MEMBER

1. Whether Reporters of local newspapers may be allowed to see the Judgment? Yes/No
2. Whether to be referred to the Reporter or not? Yes/No
3. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No

Judgment delivered by

Vice-Chairman/Member (A)



12

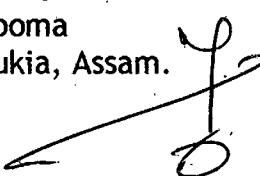
**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**

Original Application No. 164 of 2006

Date of Order: This, the 16th Day of December, 2008

THE HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN  
THE HON'BLE SHRI S.N.SHUKLA, ADMINISTRATIVE MEMBER

1. Sri Ananda Saikia  
S/o Late Mali Ram Saikia  
R/o Quarter No.22, Type-III  
New Colony, Aviation Research Centre  
Doom Dooma, P.O: Sukreting  
District: Tinsukia, Assam.
2. Sri Rajani Kanta Gogoi  
S/o Late C.K.Das  
R/o Quarter No.15, Type-III  
New Colony, Aviation Research Centre  
Doom Dooma, P.O: Sukreting  
District: Tinsukia, Assam.
3. Sri Sishu Ram Borah  
S/o Late Madhu Ram Borah  
R/o Tingrai Bages  
1 No. Assamese Village  
District: Tinsukia, Assam.
4. Sri Kalipada Das  
S/o Late S.C. Das  
R/o Rupai Siding  
Doom Dooma, P.O: Rupai Siding  
District: Tinsukia, Assam.
5. Sri Ashok Kumar Das  
S/o Late Bishnu Ram Das  
R/o Quarter No.23, Type-III  
New Colony, Aviation Research Centre  
Doom Dooma, P.O: Sukreting  
District: Tinsukia, Assam.
6. Smti Premalata Gogoi  
W/o: Late Jojneswar Gogoi  
Rupai Siding, Doom Dooma  
District: Tinsukia, Assam.
7. Sri Jiba Kanta Phukan  
S/o: Late Kaneswar Phukan  
R/o Rupai Siding  
Near Don Bosco School  
P.O: Doom Dooma  
District: Tinsukia, Assam.



8. Sri Dinesh Baishya.  
 S/o: Late Hari Baishya  
 R/o Rupbon, Daima Khia  
 Millan Nagar, P.O: Doom Dooma  
 District: Tinsukia, Assam.

All of them are working as Fire Supervisor in Aviation Research Centre (in short ARC), Doom Dooma.

..... Applicants.

By Advocates Mr.B.Chakraborty, Mr.D.Goswami & Mrs.K.Bhattacharyya

- Versus -

1. The Union of India  
 Represented by the Cabinet/Special Secretary to the Government of India  
 Department of Cabinet Affairs  
 Bikaner House, Shahjahan Road  
 New Delhi.
2. Director General of Security  
 Cabinet Secretariat  
 Block-V (East), R.K.Puram  
 New Delhi - 110 066.
3. Director  
 Aviation Research Centre  
 Cabinet Secretariat  
 Block-V (East), R.K.Puram  
 New Delhi - 110 066.
4. Deputy Director (A)  
 Air Wing, Aviation Research Centre  
 Block-V (East), R.K.Puram  
 New Delhi - 110 066.
5. Deputy Director, Administration  
 Aviation Research Centre  
 Doom Dooma  
 District: Tinsukia, Assam.

..... Respondents.

By Mr. G. Baishya, Sr. C.G.S.C.



\*\*\*\*\*

**ORDER (ORAL)**  
**16.12.2008**

**MANORANJAN MOHANTY, (V.C.)**

Heard Mr.B.Chakraborty, learned counsel appearing for the Applicants and Mr. G. Baishya, learned Sr. Standing counsel appearing for the Respondent Department and perused the materials placed on record.

2. Original Applicants were granted ACP benefits under the Assured Career Progression Scheme of 09.08.1999. Some clarifications were issued by the Govt. of India under Office Memorandum No. 35034/1/97-Estt(D)(Vol.IV) dated 18.07.2001. It is stated that basing on the said clarifications dated 18.07.2001, the ACP benefits (granted to the Applicants) were withdrawn on 12.05.2006. It is the case of the Applicants that before withdrawing the ACP benefits on 12.05.2006, the Respondent Department did not give any notice to the Original Applicants nor gave any opportunity to them (Applicants) to have their say in the matter. It is the case of the Applicants that their cases were to be governed by clarifications issued by the Office Memorandum No.354034/1/97-Estt(D) dated 10.02.2000. During pendency of this case, the Original Applicant No.6 died and her widow has been substituted (in his place) as Applicant No.6.
3. Respondents have filed written statement contesting the claim of the Applicants. In paragraph 1 of the said written statement, the Respondents have stated as under:-

"... that this department order No.ARC/AW/153/99-3068 dated 12 May 2006 was issued to rectify the inadvertent error that was made in interpretation of DOP&T guidelines with respect to ACP in the earlier order No.ARC/AW/153/99-4525 dated 08 Aug 2000 (details are elaborated in succeeding paragraphs). Nothing illegal has been done by issuing a fresh order for rectification of an inadvertent error due misinterpretation of relevant rules and this was done in consultation with DOP&T and Cab Sectt after DACS returned the ACP arrear bills of some fire service personnel. For implementation of a Govt. order existing since 1999, the department is not required to serve

notice to its personnel. Hence allegation of the applicants that such order dated 12/5/06 is issued in an illegal manner and without any notice is totally wrong and baseless hence denied."

4. Government of India has issued clarifications under Office Memorandum No.35034/1/97-Estt(D)(Vol.IV) dated 18.07.2001 (Sl. No.52) which reads as under:-

Sl.No	Point of doubt	Clarification
52.	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' i.e., the entry level and the first promotional grade are in the same scale. What shall be his entitlements under ACPS.	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 cannot 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.

Basing on the above clarifications, it is the stand of the Respondent Department, that the ACP benefits granted to the Applicants were withdrawn on 12.05.2006.

5. The stand of the Applicants is that their cases are governed by the clarification No.1 of the Office Memorandum No.35034/1/97-Estt (D) dated 10.02.2000. The said clarification No.1 is extracted herein below:-

Sl.No	Point of doubt	Clarification
1.	Two posts carrying different pay scales constituting two rungs in a hierarchy have now been placed in the same pay-scale as a result of rationalization of pay-scales. This has resulted into change in the hierarchy in as much as two posts which constituted feeder and promotion grades in the pre-merged scenario have become one grade. The position may be clarified further by way of the following illustration: prior to the implementation of the Fifth Central Pay Commission recommendation, two categories of posts were in the pay-scales of Rs.1200-1800 and Rs.1320-2040 respectively; the latter being promotion post for the former. Both the posts have now been placed in the pay-scale of Rs.4000-6000. How the benefits of the ACP Scheme is to be allowed in such cases?	Since the benefits of upgradation under ACP Scheme (ACPS) are to be allowed in the existing hierarchy, the mobility under ACPS shall be in the hierarchy existing after merger of pay-scales by ignoring the promotion. An employee who got promoted from lower pay-scale to higher pay-scale as a result of promotion before merger of pay-scales shall be entitled for upgradation under ACPS ignoring the said promotion as otherwise he would be placed in disadvantageous position vis-à-vis the fresh entrant in the merged grade.
6.	At the hearing, Mr.B.Chakraborty, learned counsel appearing for the Applicants, pointedly stated that no notice having been given to the Applicants (before withdrawal of the ACP benefits on 12.05.2006) and no opportunity having been given to the Applicants to have their say in the matter (before withdrawal of the ACP benefits on 12.05.2006), the action of the Respondents (dated 12.05.2006) is not sustainable; for there has been gross violation of principles of natural	

justice. To this, Mr.G.Baishya, learned Sr. Standing counsel appearing for the Respondent Department, drew our attention to the stand taken by the Respondents in paragraph 1 of the written statement; which has been extracted in paragraph 3 above. Essentially, the stand of the Respondents is that even if opportunity would have been given to the Applicants to have their say in the matter, there was no escape for them (Applicants) on the face of the clarification (given to the ACP Scheme) dated 18.07.2001. Law is well settled that "not able to answer is a no answer to deny natural justice". Therefore, we hold that the action of the Respondents dated 12.05.2006 (by which the Respondent Department withdrew the ACP benefits granted to the Applicants) is not sustainable; for the same was an action in gross violation of the principles of natural justice/Article 14 of the Constitution of India. Had the opportunity been given to the Applicants, it would have been found out, on facts, as to whether clarification dated 18.07.2001 on the clarification dated 10.02.2000 shall govern the fate of each of the Applicants. That having not been done, there has been a gross mis-carriage of justice in the decision making process leading to the action dated 12.05.2006 of the Respondents.

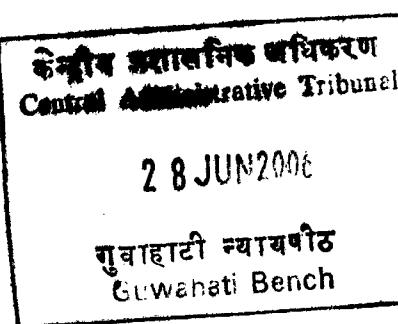
7. As a consequence, we allow this O.A. and set aside the action of the Respondent Department dated 12.05.2006 (so far it relates to the Applicants); by which ACP benefits that was granted to the Applicants were withdrawn. The Respondents will, however, have the liberty to pass a fresh order after giving due opportunity to the Applicants to put forward their case and considering the same.

There shall be no order as to costs.

(S.N.SHUKLA)  
MEMBER (A)

/bb/

*Manoranjan Mohanty*  
16/12/08  
(MANORANJAN MOHANTY)  
VICE-CHAIRMAN



**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ::  
GUWAHATI BENCH :: GUWAHATI**

O. A. NO. 164 /2006.

Sri Ananda Saikia and others

..... Applicants.

- Versus -

Union of India and others.

..... Respondents

**I N D E X**

<u>SL. NO.</u>	<u>PARTICULARS</u>	<u>PAGE NO.</u>
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8.	Annexure - V	22 - 23
9.	Annexure - VI	24 - 27

Filed by :

Bikram Choudhury -  
Advocate 29.6.06.

(1)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ::**  
**GUWAHATI BENCH :: GUWAHATI**

O. A. NO. 164 /2006.

Sri Ananda Saikia and others  
..... Applicants.

- Versus -

Union of India and others.  
..... Respondents

**L I S T   O F   D A T E S**

Applicants are at present working as Fire Supervisor under ARC, Doom Dooma.

1969 : Applicants No. 1, 2, 3, 4 and 5 joined ARC as Fireman.

1972 : Applicants No. 6 and 7 joined ARC as Fireman.

1985 : Applicants No. 8 joined ARC as Fireman.

1976 : Applicants 1 to 7 confirmed in service against substantive capacity.

1989 : Applicants No. 8 was confirmed in Service.

The promotional avenue in Fire Fighting Branch of ARC was Fireman - Fire Supervisor - Asst. Station Officer - Station Officer.

1990 : Applicants No. 4, 5, 6 and 7 alongwith others were promoted to the post of Leading Fireman(re-designated as Fire Supervisor in the year 1995).

(Para No. 4, Page 6,  
Annexure - I, Page 15).

*Contd....*

(ii)

- 2 -

1997 : Applicants No. 1, 2 and 3 were promoted to the post of Fire Supervisor.

2000 : Applicants No. 8 was promoted to the post of Fire Supervisor.

(Para No. 6, Page 6, Annexure - II, Page 16).

After the 5th Pay Commission the Pay Scale of Fire Operator and Fire Supervisor (Previously known as Leading Fireman) were made same.

(Para No. 7, Page 7, Annexure - III, Page 17).

08.08.2000 : Applicants were given financial upgradation under the ACP Scheme.

(Para No. 8, Page 8, Annexure - IV, Page 18).

After the grant of ACP Scheme the pay of the applicants were fixed. At present applicants No. 1 to 7 are receiving Rs. 5,900/- and applicant No. 8 Rs. 4,800/-.

(Para No. 9, Page 9, Annexure - V (Series), Page 22).

12.05.2006 : Applicants received the impugned order whereby the ACP benefits received by them has been revised.

(Para No. 10, Page 10, Annexure - VI, Page 24).

28

*Ananda Saikia  
Filed by the applicant  
through Bilkam Chanchay  
29.6.06, Adv.*

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ::**  
**GUWAHATI BENCH :: GUWAHATI**

(An Application under section 19 of the Administrative Tribunal Act, 1985)

O. A. NO. 164 /2006.

1. Sri Ananda Saikia

S/o - Late Mali Ram Saikia

R/o - Quarter No. 22, Type-III

New Colony, Aviation Research Centre,

Doom Dooma, P.O. - Sukreting,

District - Tinsukia, Assam.

2. Sri Rajani Kanta Gogoi,

S/o - Late C.K. Das,

R/o - Quarter No. 15, Type - III,

New Colony, Aviation Research Centre,

Doom Dooma, P.O. - Sukreting,

District - Tinsukia, Assam.

3. Sri Sishu Ram Borah,

S/o - Late Madhu Ram Borah,

R/o - Tingrai Bages,

1 No. Assamese Village,

District - Tinsukia, Assam.

4. Sri Kalipada Das,

S/o - Late S. C. Das,

R/o - Rupai Siding,

Doom Dooma, P.O. - Rupai Siding,

District - Tinsukia, Assam.

*Contd....*

5. Sri Ashok Kumar Das,  
S/o - Late Bishnu Ram Das,  
R/o - Quarter No. 23, Type - III  
New Colony, Aviation Research Centre,  
Doom Dooma, P.O. - Sukreting,  
District - Tinsukia, Assam.

As per order dated 16.12.08  
passed in M.P. No. 115/2008  
Serial No. 6 is impleaded as -  
6. Smti. Premalata Gogoi  
wife of Late Jogeswar Gogoi  
Rupai Siding, Doomdooma,  
District - Tinsukia, Assam

6. Sri Jogeswar Gogoi,  
S/o - Late Hari Bapu Gogoi,  
R/o - Quarter No. 47, Type - II,  
New Colony, Aviation Research Centre,  
Doom Dooma, P.O. - Sukreting,  
District - Tinsukia, Assam.

7. Sri Jiba Kanta Phukan,  
S/o - Late Kaneswar Phukan,  
R/o - Rupai Siding,  
Near Don Bosco School,  
P.O. - Doom Dooma,  
District - Tinsukia, Assam.

8. Sri Dinesh Baishya,  
S/o - Late Hari Baishya,  
R/o - Rupbon, Daima Khia,  
Millan Nagar, P.O. - Doom Dooma,  
District - Tinsukia, Assam.

All the applicants are working as Fire  
Supervisor in Aviation Research Centre  
(inshort ARC), Doom Dooma.

..... Applicants.

Contd....



**- Versus -**

1. Union of India,  
Represented by the Cabinet/Special  
Secretary, Department of Cabinet  
Affairs, Bikaner House,  
Shahjahan Road, New Delhi.
2. Director General of Security  
Cabinet Secretariate  
Block - V (East), R. K. Puram,  
New Delhi - 110 066.
3. Director,  
Aviation Research Centre  
Cabinet Secretariate  
Block- V (East), R. K. Puram,  
New Delhi - 110 066.
4. Deputy Director (A),  
Air Wing, Aviation Research Centre  
Block- V (East), R. K. Puram,  
New Delhi - 110 066.
5. Deputy Director  
Administration, Aviation Research Centre  
Doom Dooma,  
District - Tinsukia, Assam.

..... **Respondents.**

*Contd....*



**1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE :**

(i) Action of the authoirties (i.e Respondent No. 2) in downgrading vide order no. ARC/AW-153/99-3069 dated 12.5.06 (Annexure - VI) the pay scale/finanical upgradation given under the ACP scheme to the applicants from their respective due dates in an illegal manner and without any notice. As a result the applicants also apprehend that the authorities by such action will now also recover the amount already paid to them.

**2. JURISDICTION OF THE TRIBUNAL :**

The applicants declares that the subject matter of the orders against which he wants redressal is within the jurisdiction of this Tribunal.

**3. LIMITATION :**

The applicants further declares that the application is within the limitation prescribed under section 21 of the Administrative Tribunal Act., 1985.

**4. FACTS OF THE CASE :**

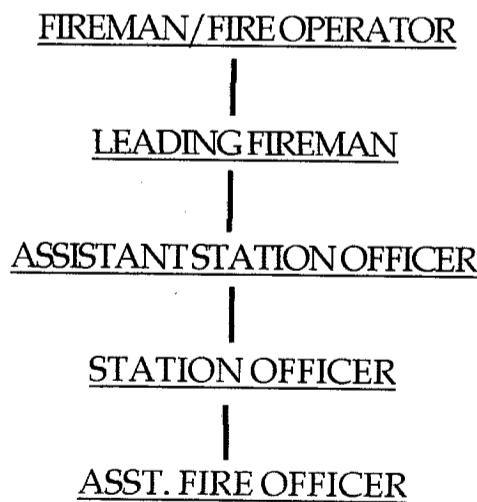
1. That the applicants before the Hon'ble Tribunal are at present working as Fire Supervisor in the Aviation Research Centre (in short ARC), Doon Dooma under the administrative control of Respondent No. 5. The applicant no. 1, 2, 3, 4 and 5 have joined A.R.C. in the year 1969 and applicant no. 6 and 7 have joined A.R.C in the year 1972. Similarly applicant no. 8 has joined A.R.C. in the year 1985. Out of the applicants, applicant no. 7 is on the verge of retirement and he is going to retire from service on 1.9.2006.

*Contd....*



The applicants states that they have a common grievance and interest in the matter and as such they are filing this single application with a view to avoid multiplicity of litigation inasmuch as the relief prayed for, if granted to one of them will be equally applicable to all others as they are all similarly situated. The applicants crave leave of this Hon'ble Tribunal to allow the applicants to file this application as provided in Rule 4 (5) (a) of the CAT (Procedure) Rules, 1987.

2. That the applicant no. 1, 2, 3, 4 and 5 who joined Fire Service Cadre of ARC in the year 1969 as Fireman were confirmed against substantive capacity in the year 1976 in the scale of Rs. 260/- - 400/-. Similarly applicant no. 6, 7 and 8 who joined in the year 1972 and 1985 as Fireman were confirmed in the year 1976 and 1989 against substantive capacity in the scale of Rs. 260/- - 400/-.
3. That the Aviation Research Centre is a Department of the Government of India, directly under the Cabinet Secretary and the applicants are in the Fire Fighting Branch. When the applicants joined service, the cadre in the Fire Fighting Branch was as follows.



*Contd....*

*Deepti*

Thus as per the above cadre position the applicants while entering into service were hopeful that they would have enough opportunities/prospect for advancement in the career chosen by them as per rules.

4. That the applicants beg to state that since the date of joining service they have been carrying out duties sincerely and to the satisfaction of all concerned and was under legitimate expectation that in recognition of their service record they would be promoted to the next higher grades as per rules, but it did not happen for a long time. It was only in the year 1990 the respondent authorities promoted applicants no. 4, 5, 6 and 7 alongwith others to the post of Leading Fire Man/M.T. Fitter Driver/Driver Havildar vide Office Order issued under memo no. VII/84/90 Vol-8-14938 dated 18.9.90 and accordingly they joined their posts.

Copy of office order is annexed herewith  
and marked as ANNEXURE - I.

5. That the applicants beg to state that after rendering about 20 years of service the applicant nos. 4, 5, 6 and 7 got their promotion whereas for the other applicants the matter continued to remain stand still. Thereafter the applicants received office memorandum no ARC/FS (D) - 1225 dated 20.12.95 whereby it was informed that the nomenclature in the rank of Leading Fireman/ M. T. Fitter Driver/Driver Havildar/M.T. Drivers of Fire Service Cadres has been changed to "Fire Supervisor" in the A.R.C. Fire Service.
6. That ultimately in the year 1997 the applicants no. 1, 2 and 3 were promoted from the post of Fire Operator to Fire Supervisor on

*Contd....*



13.10.97, 13.10.97 and 21.10.97 respectively and in which post they are continuing till date. Similarly applicant no. 8 was promoted to the post of Fire Supervisor in the year 2000.

Copy of one of such promotion is annexed herewith and marked as  
**ANNEXURE - II.**

7. That the applicants beg to state that before the 5th Pay Commission the pay scale of the various posts in the cadre were as follows:-

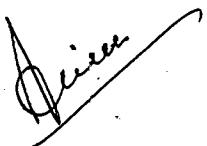
<b>Fire Operator</b>	<b>Leading Fireman</b>	<b>Asst. Station Officer</b>	<b>Station Officer</b>
Rs. 950/- Rs.1500/-	Rs. 1150/- Rs. 1150/-	Rs.1320/- Rs. 2040/-	Rs. 1400/- Rs. 2600/-

On accepting the recommendation of 5th Pay Commission by the authorities the above pay scales have been revised as follows.

<b>Fire Operator</b>	<b>Fire Supervisor</b>	<b>Asst. Station Officer</b>	<b>Station Officer</b>
Rs.3050/- Rs.4590	Rs.3050/- Rs.4590/-	Rs.4000/- Rs.6000/-	Rs.5000/- Rs.8000/-

Thus by comparing the above corresponding scales it will be apparent that after the revision the respondent authorities have made the pay scale of feeder post and promotional post in the Fire Service Cadre of A.R.C. identical which is not permissible under the law. This fact will be apparent from the office order no. 22/ SB/Pay FIX/DDM/99 dated 5.2.99 fixing the pay scale of applicant no. 1, 2 and 3 on their promotion to the post of Fire Supervisor. The applicants further states that from the above facts it shows that the promotions received by them was false/ imaginary only on paper and they are infact stagnating in the same post since the date of joining.

*Contd....*



A copy of the order dated 05.02.1999 is annexed herewith and marked as **ANNEXURE - III.**

8. That while the matter continued to remain as such, the respondents decided to introduce the Assured Career Progression Scheme (in short A.C.P.) as recommended by the 5th Central Pay Commission. Accordingly the Screening Committee in its meeting held on 3.8.2000 found applicants no. 1, 2, 3, 4, 5, 6, 7 and 8 alongwith other Fire Supervisors and Fire Operators eligible for financial upgradation on completion of 12 years/24 years of service w.e.f. 9.8.99 and vide order no. ARC/AW. 153/99-4543 dated 8.8.2000 issued by the Respondent No. 2 the financial upgradation was allowed.

(The applicants craves leave of this Hon'ble Tribunal to produce and rely upon ACP scheme at the time of hearing).

Copy of the order dated 8.8.2000 is annexed herewith and marked as **ANNEXURE - IV.**

9. That after issuance of the order dated 8.8.2000 the pay of the applicants were fixed by the respondents and at present the applicants no. 1 to 7 are receiving Rs. 5,900/- in the scale of Rs. 5,000/- Rs. 8,000/- and applicant no. 8 Rs. 4,800/- in the scale of Rs. 4,000/- Rs. 6,000/-

Copies of the orders fixing the pay after grant of ACP are annexed herewith and marked as **ANNEXURE - V (Series).**

*Contd....*



10. That as they continued to get the benefit given under the ACP scheme, they were shocked and surprised when they came over order no. ARC/AW-153/99-3069 dated 12.5.06 issued from the office of Respondent No. 2 and forwarded by Respondent No. 5 to the applicant no. 1 vide memo no. ESTT/DDM/ACP/99-6961-75 dated 30.5.06 whereby it was informed that the Screening Committee assembled on 1.5.05 has reviewed the Departmental Screening Committee meeting held on 08.08.2000 (Annexure - IV) and the list prepared for financial upgradation under ACP scheme.

The applicant further states that from the list given alongwith the order it is found that the many of the persons who were given two financial upgradation in the order dated 8.8.2000 (Annexure - IV) has now been given one financial upgradation in the scale of Rs. 4,000/- Rs. 6,000/-.

Copy of the order dated 12.05.2006 is  
annexed herewith and marked as  
**ANNEXURE - VI.**

11. That thereafter on 06.06.2000 the applicants filed separate representation/appeal before the Special Secretary, ARC Headquarter, New Delhi/through proper channel with the prayer to review the order dated 12.05.2006 (Annexure - VI), but till date they have not received any response.

12. That the applicants beg to state that after the 5th Pay Commission the pay scale of the Fire Operator and Fire Supervisor are same i.e. Rs. 3,050/- - Rs. 4,590/- and as such though the applicants were shown to have been promoted from the cadre of Fire Operator to Fire Supervisor, since there was no

Contd....

*Arivu*

difference in pay the same cannot be termed as a promotion and infact the applicants are stagnating in the same post and as such the applicants are entitled to the two benefits given under the ACP in the 12/24 years of service and the authorities committed an illegality by holding the same to be a promotion.

13. That the applicants beg to state that as they have not received any response to their representation and they apprehend that the authorities will issue order for recovery of the amount already paid from their respective due date and as such unless some orders are passed protecting their interest they will suffer irreparable loss and injury and therefore they are approaching this Hon'ble Tribunal for just relief.

**5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :**

(i) For that in order dated 08.08.2000 (Annexure -IV) the Screening Committee had given order for financial upgradation of the applicants alongwith others on being found eligible for such upgradation as per the ACP scheme and the notifications issued in this regard and as such the action of the authorities in now reviewing the same by order dated 12.05.2006 (Annexure - VI) whereby the pay scale enjoyed by the applicants and others for more than 5 years is downgraded without any reason is bad in law and liable to be quashed and set aside.

(ii) For that though the applicants were shown to have been promoted from the cadre of Fire Operator to Fire Supervisor, since there was no difference in pay the same cannot be termed as a promotion and infact the applicants are stagnating in the same post and as such the applicants are entitled to the two benefits given under the ACP in the 12/24 years of service and as such the authorities committed an illegality by holding the same to be a promotion and depriving and withdrawing the benefits already given and as such the same is bad in law and liable to be set aside.

*Contd....*



(iii) For that from the impugned order dated 12.05.2006 (Annexure -VI) it appears that the respondent authorities have reviewed the order dated 08.08.2000 (Annexure - IV) under the presumption that since applicants have got one regular promotion, they are eligible for the Second upgradation only on completion of 24 years of regular service under the ACP scheme and in such situation Department of Personnel and Training, Govt. of India by office memorandum No. 35034/1/97-Estt(D) (Vol. IV) dated 10.02.2000 has provided that ACP scheme shall have to be given in the existing hierarchy after merger of pay - scales by ignoring the promotion received before merger of pay scale and as such the action of the authorities is bad in law and liable to be quashed and set aside.

(iv) For that the Hon'ble Supreme Court in various decisions has held that if an employee is receiving the benefit of pay scale without any misrepresentation on his part the employer cannot order recovery of the payment already made and as such if any action is taken by the authorities for such recovery it will be bad in law.

(v) For that the action of the authorities in reducing the pay scale of the applicants then to what they are entitled under the ACP scheme thereby making the applicants incur consequential financial loss is violative of Article - 14 and 16 of the Constitution of India and legally vested right of the applicants as to the condition of service and as such the action is bad in law and liable to be quashed and set aside.

(vi) For that, in any view of the matter the impugned order is bad in law and liable to be quashed and set aside.

**6. DETAILS OF THE REMEDIES EXHAUSTED:**

The applicants had filed appeal dated 06.06.2006 individually before the Respondent No. 1, but till date there has been no response.

*Contd....*

*Ansia*

**7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:**

The applicants further declares that he has not previously filed any applications, writ petition or suit regarding the matter in respect of which this application has been made before any court or any other bench of the Tribunal nor any such applications, writ petition or suit is pending before any of them.

**8. PRAAYER:**

It is therefore, prayed that Your Lordships would be pleased to admit this application call for the entire records of the case ask the respondents to showcause to why the impugned order dated 12.05.2006 (Annexure - VI) shall not be quashed and set aside being not in conformity with the ACP scheme and after perusing the causes shown, if any and hearing the parties be pleased to quashed and set aside the order dated 12.05.2006 (Annexure - VI) and/or pass such other order/orders as Your Lordships may deem fit and proper.

And for this act of kindness the applicants as in duty bound shall ever pray.

**9. INTERIM ORDER :**

It is, further, prayed that pending disposal of the application, Your Lordships would be pleased to issue a direction to the respondent authorities not to order any recovery of payment already made and/or pass such other order/orders as Your Lordships may deem fit and proper.

And for this act of kindness the applicants as in duty bound shall ever pray.

*Contd....*

*Ans*

10. PARTICULARS OF THE POSTAL ORDER :

(a) I.P.O. No. 26G 32468 dated 28.6.05

(b) Post Office. : G.T.P.O.

11. LIST OF ENCLOSURES :

As stated in the Index.

*Contd....*



VERIFICATION

I, **SRI ANANDA SAIKIA**, son of Late Mali Ram Saikia, aged about 56 years, resident of Quarter No. 22, Type - III, New Colony, Aviation Research Centre, Doom Dooma, P.O. - Sukreting, in the District of Tinsukia, Assam at present serving as Fire Supervisor do hereby state that I am one of the applicants and other applicants have authorised me to swear this verification and therefore I verify that the contents of paragraphs 1, 2, 3, 11, 12 and 13 are true to my personal knowledge and those in paragraphs 4, 5, 6, 7, 8, 9 and 10 are believed to be true on legal advice and that I have not suppressed any material fact.

And I sign this verification on this 29<sup>th</sup> day of June, 2006 at Guwahati.

Date : 29.6.06

Place : Guwahati

Ananda Saikia

Signature of the applicant.

AS approved vide ARC Hdqrs., Memo. No. ARC/E-1/167/85-AN-II-709 dated 31-1-90, and DE(A) Airwing, Memo. No. ARC/E-1/367/85-AN-II dated 13 Sept 90, the under mentioned Fire Operators of ARC, Charbatia/Doom Dooma are promoted to the post of Leading Fire Man/M. T. Fitter/Driver/Driver Havildars as mentioned against each and posted at places indicated against their names. The promotion will take effect from the date of taking over charge at their respective places of posting.

Sl. No. Name

Post to which promoted Present place of posting

Place of posting on promotion

S/ Shri

✓ 1. A.K. Das	L. F.M.	Doom Dooma	Sarsawa
✓ 2. J.K. Phukan	M. T.F.D	-do-	Doom Dooma
✓ 3. J. Gogoi	Dr. Hav.	-do-	-do-
✓ 4. Sudhir Ch. Roy	M. T.F.D	-do-	Sarsawa
✓ 5. K.P. Das	Dr. Hav.	-do-	Doom Dooma
✓ 6. P.C. Mallick	L. F.M.	Charbatia	Charbatia
✓ 7. B.P. Mohanty	M. T.F.D	-do-	Delhi
✓ 8. Gateswar Swain	Dr. Hav.	-do-	Charbatia
✓ 9. S.P. Choudhury	L. F.M.	-do-	-do-
✓ 10. B.N. Samal	Dr. Hav.	-do-	-do-
✓ 11. J.N. Tripathy	L. F.M.	Doom Dooma	Doom Dooma
✓ 12. D.S. Nanda	L. F.M.	Charbatia	Charbatia
✓ 13. P.R. Rao	Dr. Hav.	-do-	-do-
✓ 14. S.K. Paikera	L. F.M.	-do-	-do-
✓ 15. H.H. Singh	L. F.M.	-do-	-do-
✓ 16. Pravanjan Mohanty	Dr. Hav.	-do-	-do-
✓ 17. P.S. Das	Dr. Hav.	-do-	-do-
✓ 18. Bijay Ku Das	L. F.M.	-do-	-do-

They will be on trial for a period of two years from the date they take over charge at their respective places. Their seniority will be as per rules on the subject.

Persons shown at sl. no. 1, 4, and 7 may be relieved immediately from the respective units/stations in order to assume charge at the new place of their posting.

In case the above mentioned Fire Operators fail to join their new post within one month from the date of issue of their promotion order, it will be presumed that they are not interested in their promotion and the promotion will automatically be treated as cancelled.

No. VII/84/90/Vol-8-

Aviation Research Centre,  
Government of India,  
P.O: CHARBATIA (PIN-754028)  
Cuttack District (Orissa).

Dated the, ...

18-9-90

(R.R. MOHANTY)  
DEPUTY DIRECTOR (ADMN)

Copy to :-(1) Director of Accounts, ARC Cab. Sectt., New Delhi.  
(2) Dy. Director (A), Airwing, ARC Hdqrs., New Delhi.  
(3) Dy. Director (A), ARC, Doom Dooma. (8 spare copies for P.F)  
(4) Asstt. Director (A), ARC, Sarsawa. (2 -ea- )  
(5) Commander ARC, Charbatia.  
(6) Accounts Officer, ARC, Charbatia (4 copies)  
(7) A. F.O (F/S), ARC, Charbatia. (8) persons concerned (8 copies)  
(8) S. F.O (S), SPO/SFO (A), Estate Cell (10) Div. IV, VI (12 copies)  
VI (O. O. File), VIII, NGO (ACR), CGEGIS.

Attested by:  
Choudhury  
Adv.

No. 103/ESTT/DDM/97-11810  
D/O the Deputy Director (Admn)  
Aviation Research Centre  
Government of India  
Post : Doon Dooma : 786 151  
Dist : Tinsukia : 8 (Assam)  
Ass

Dated this, 28/9/2010

ORDER

The Competent authority has approved the promotion of the following Fire Operators to the rank of Fire Supervisor in the scale of pay of Rs.3050-75-3950-00-4890/- from the date of this order taking charge of the post.

S/Shri

1. Prakash Sengupta
2. Dinesh Baishya
3. Jivon Gavala

( N.K. DASGupta )  
ASSISTANT DIRECTOR (ADMN)

Copy to:-

1. The Commander, Airwing, ARC, Doon Dooma. The Joining Report and Option exercised by the individual concerned may be forwarded for taking further necessary action.
2. The Accounts Officer, ARC, Doon Dooma.
3. The SFO (A), ARC, Doon Dooma.
4. Individual Concerned.
5. Personal file (3 copies).

ccw

/uma/

Attested by:  
Bhawal Ray  
Adv.

OFFICE ORDER NO. 22/SO/Pay.Fix/DDM/99 dated 05-02-99

Consequent upon promotion from the post of Fire Operator to the post of Fire Supervisor the pay of Under mentioned officials are fixed in the revised scale of Rs. 3050-75-3950-80-4590/- (Pre-revised scale of Rs. 1150-25-1500/-) under FR - 22 (I)(a)(i) as follows:-

1. Name of the officials	Date of Promotion	Date of Next Increment
S/Shri		
✓ Sishu Ram Borah	13-10-97	{F/N} 01-10-98
Santosh Ranjan Roy	13-10-97	{F/N} 01-10-99
✓ Ananda Saikia	13-10-97	{F/N} 01-10-98
R.K. Gogoi	21-10-97	{F/N} 01-10-98
Nandan Kishore Swain	21-11-97	{F/N} 01-10-98
Bhubaneswar Mishra	21-11-97	{F/N} 01-11-98
2. Scale of Lower Post	Revised - Rs. 3050-75-3950-80-4590/- Pre-revised - Rs. 950-20-1150-25-1500/-	
3. Scale of Pay of Promoted Post	: Revised Rs. 3050-75-3950-80-4590/- Pre-revised Rs. 1150-25-1500/-	
4. Last Pay Drawn	: Rs. 4,590/- (Maximum)	
5. Pay Fixed	: Rs. 4,590/- (Maximum)	

*J. K. Parida*  
( J. K. PARIDA )  
No. SO/Pay.Fix/DDM/99-10-2  
ASSISTANT DIRECTOR (ADMN)  
G/O the Deputy Director (A)  
Aviation Research Centre  
Government of India  
Post : Dhom Droma : 786 151  
Dist : Tinsukia : (Assam)

Dated the, 3/2/99.

Copy to :

1. The Accounts Officer, A.R.C. Dhom Droma. ( 2 copies )
- ✓ 2. Person concerned. ( 6 copies )
3. Personal File. ( 6 copies )
4. Office Order File.
5. Service Book Seal.

*Y. Anujan*

Attested by  
Boudhury  
Adv.

Ref. No. 9281  
121310/M  
Nc. ARC/AW.153/99 - 4543  
Aviation Research Centre  
Dte. General of Security  
(Cabinet Secretariat)  
East Block-V, R.K. Puram  
New Delhi - 110066

Dated: 7 Aug 2000

ORDER

Pursuant to the Implementation of the Assured Career Progression Scheme for the Central Government Employees as notified vide DP&T OM No. 35034/1/97-Estt(D) dated 9.8.99, the Screening Committee for Group 'C' Employees of Fire Service Cadres in its meeting held on 3.8.2000 found the following Fire Supervisors and Fire Operators eligible for financial upgradation on completion of 12 years/24 years service in the scale of pay as mentioned against each.

<u>S.No.</u>	<u>Name &amp; Designation</u>	<u>Date from which eligible</u>
	S/ Shri	
1.	B.P. Michanty, Fire Supervisor	Rs. 4000-100-6000/- & Rs. 5000-150-8000/- w.e.f. 9.8.99
2.	T.C. Das, Fire Supervisor	- do -
3.	N.C. Routray, ✓ Fire Supervisor	Rs. 4000-6000/-w.e.f. 9.8.99 Rs. 5000-8000/- wef 30.6.2000
4.	A. Baral, F/Supv.	Rs. 4000-6000/- & Rs. 5000-8000/- w.e.f. 9.8.99
5.	P.S. Das, -do-	- do -
6.	P.R. Rao, -do-	- do -
7.	S.K. Roy, -do-	- do -
8.	F.C. Mallick, -do- ✓	- do -
9.	D.S. Nanda, -do-	- do -
10.	S.K. Paikray, -do-	- do -
11.	B.K. Das, -do-	- do -
12.	P.C. Mallick, do-	- do -
13.	S.P. Choudhury, -do-	- do -
14.	R.C. Nayak, -do-	- do -
15.	G.S. Swain, -do-	Rs. 4000-6000/- & Rs. 5000-8000/- wef 9.8.99
16.	P.B. Nayak, -do- ✓	Rs. 4000-6000/- wef 9.8.99 & Rs. 5000-8000/- wef 30.6.2000
17.	M.C. Behera, -do-	Rs. 4000-6000/- & Rs. 5000-8000/- w.e.f. 9.8.99
18.	B.B. Patra, -do-	- do -

PTO

Attacted by  
Aboudiwey  
H.D.W.

S.No.	Name & Designation	Date from which eligible
19.	C.K. Rao, Fire Supv.	Rs. 4000-6000/-wef 9.8.99 and Rs. 5000-8000/- wef 26.8.99
20.	K.C. Parija, -do-	Rs. 4000-6000/-wef 9.8.99 & Rs. 5000-8000/- wef 27.8.2000
21.	B.R. Samal, -do-	Rs. 4000-6000/- & Rs. 5000-8000/- w.e.f. 9.8.99
22.	G.C. Behera, -do-	- do -
23.	U.N. Mati, -do-	Rs. 4000-6000/- w.e.f. 9.8.99 and Rs. 5000-8000/- wef 30.6.2000
24.	L.D. Mahunta, -do-	Rs. 4000-6000/- & Rs. 5000-8000 w.e.f. 9.8.99
25.	S.K. Das, -do-	Rs. 4000-6000/- wef 9.8.99 & Rs. 5000-8000/- wef 16.12.99
26.	S.S. Gantayat, -do-	Rs. 4000-6000 & Rs. 5000-8000/- w.e.f. 9.8.99
27.	K.C. Adhikari, -do-	- do -
28.	S.C. Sethi, -do-	- do -
29.	P. Mohanty, -do-	- do -
30.	G.B. Sethi, -do-	Rs. 4000-6000/- wef 9.8.99 & Rs. 5000-8000/- wef 30.6.2000
31.	J.K. Phukan, -do-	- do -
32.	J.S. Gogoi, -do-	- do -
33.	K.P. Das, -do-	Rs. 4000-6000/- & Rs. 5000-8000/- w.e.f. 9.8.99
34.	D.C. Dutta, -do-	- do -
35.	Kajal Dutta, -do-	- do -
36.	P. Raman, -do-	- do -
37.	S.C. Roy, -do-	Rs. 4000-6000/- wef 9.8.99
38.	D. Sharma, -do-	Rs. 4000-6000/- & Rs. 5000-8000/- w.e.f. 9.8.99
39.	H.H. Singh, -do-	- do -
40.	B.B. Mohapatra, -do-	- do -
41.	B.N. Swain, -do-	- do -
42.	J.N. Tripathy, -do-	- do -
43.	B.N. Samal, -do-	- do -
44.	B.K. Ojha, -do-	- do -
45.	A. K. Saikia, -do-	- do -
46.	H. K. Pawah, -do-	- do -
47.	S.P. Nirmal, -do-	- do -
48.	S. K. Walia, -do-	- do -
49.	A.K. Das, -do-	- do -

<u>S.No.</u>	<u>Name &amp; Designation</u>	<u>Date from which eligible</u>
	S/Shri	
59.	B.N. Tarasia, F/Supv.	Rs. 4000-6000 & Rs. 5000-8000 w.e.f. 9.8.99
60.	S. R. Roy, -do-	- do -
62.	R.K. Gogoi, -do-	- do -
63.	N.K. Swain, -do-	Rs. 4000-6000 wef 9.8.99 & Rs. 5000-8000/- wef 30.6.2000
64.	B.S. Mishra, -do-	Rs. 4000-6000 & Rs. 5000-8000 w.e.f. 9.8.99
65.	S. R. Borah, -do-	- do -
66.	K.C. Samal, <u>Fire Optr.</u>	Rs. 4000-6000 wef 9.8.99 and Rs. 5000-8000 wef 30.6.2000
67.	B.S. Majhi, -do- ✓	- do -
68.	S. K. Das, -do- ✓	- do -
69.	M.R. Samal, -do-	- do -
70.	B.K. Mohanty, -do- ✓	Rs. 4000-6000 & Rs. 5000-8000 w.e.f. 9.8.99
71.	J.N. Mallick, -do-	- do -
72.	G.D. Jena, -do- ✓	- do -
73.	Daniel Bihari, -do-	- do -
74.	Jonathan Behera, -do-	- do -
75.	K.C. Nayak, -do-	- do -
76.	R.N. Behera, -do-	- do -
77.	C.C. Mallick, -do- ✓	- do -
78.	B.B. Pattanaik, -do- ✓	- do -
79.	Balkrishna Ojha, -do-	- do -
80.	Niranjan Mallick, -do-	Rs. 4000-6000 wef 9.8.99 & Rs. 5000-8000 wef 28.3.2000
73.	G.S. Chauhan, F/Optr.	Rs. 4000-6000/- & Rs. 5000- 8000/- wef 9.8.99
72.	V. Singh, -do- ✓	- do -
73.	P.C. Swain, -do-	Rs. 4000-6000/- wef 9.8.99
74.	B. N. Sahoo, -do-	- do -
75.	Prakash Sengupta, -do-	- do -
76.	D. Baisirya, -do-	- do -
77.	Ram Newal, -do- ✓	- do -
78.	H.P. Mohapatra, -do-	Rs. 4000-6000 wef 22.6.2000
79.	Birendra Kr. Das, F/Supervisor	Rs. 4000-6000/- wef 9.8.99
80.	Sanatan Behera, F/Supv.	- do -
81.	A.K. Jena, -do-	- do -

<u>S. No.</u>	<u>Name &amp; Designation</u>	<u>Date from which eligible</u>
	S/ Shri	
84.	A.K. Nayak, F/Supv.	Rs. 4000-6000 wef 9.8.99
85.	L.N. Mohapatra, -do-	- do -
86.	Robin Das, -do-	- do -
85.	P.C. Pradhan, -do-	- do -

Certified that before recommending the above names Screening Committee has kept in the mind the check points mentioned in OM dated 9.8.1999 as in para-3 (3.1), (3.2) and conditions laid down in para 1,2,5,5.1, 5.2, 6,10,11, 13,14 of Annexure-I of DP&T Order, dated 9.8.99.

The financial benefit allowed under this scheme shall be final and the pay shall not be re-fixed on regular promotion to the higher grade.

On financial upgradation under the ACP Scheme the pay of the beneficiary shall be fixed under the provision of FR-22(1) a(i) & option for fixation of pay may be exercised within 1 month of the dt. of issue of the order.

The Seniors will not claim any stepping up/ante-dating of their pay with their juniors who have been allowed financial upgradation under this scheme.

Financial upgradation given above is purely personal to the employees and shall have no relevance to his seniority position.

There shall be no change in their existing designation/ status.

The Service Books of the above mentioned employees are also forwarded to the office of the DACS.

They are deemed to have given their unqualified acceptance for regular promotion on occurrence of vacancies subsequently.

In compliance with the DP&T OM No. 35034/1/97/Estt(D) dated 9.8.99 para 13 Annexure-I, the Department has opted for the ACP Scheme for Group 'C' Category of employees of Fire Service Cadres.

*S. K. MALHOTRA*  
(S. K. MALHOTRA)  
DY. DIRECTOR(A) AW

Copy to:-

1. Director of Accounts, Cab. Sectt., RK Puram, N. Delhi.
2. Dy. Director(A) ARC, Charbagh.
3. Dy. Director(A), ARC, Doon Dooma.
4. Asstt. Director(A), ARC, Sarsawa.
5. Person concerned. Shri.. A.K. *Ch. Saini, A&M (T) DD(A) ARC*
6. Office Order File.

*CBT*

In terms of Circular No.3503/14/99 (111) dated 9.8.99 sanction of up-gradation of pay scale under ACP Scheme has been issued vide ARC Hqrs Officer order No. ARC/AW.153/99-1537 dated 08.08.2000 the pay fixation in the 1<sup>st</sup> up-gradation of pay scale of Rs. 4000-100-0000 w.e.f. 9.8.99 and 2<sup>nd</sup> up-gradation of pay scale of Rs.5000-150-8000 w.e.f. 9.8.99 and 30.6.2000 as shown against the following officials and pay has been fixed under FR-22-I (a) (1) as under:-

Sl. No.	Name and Designation	Date of granting 1 <sup>st</sup> up-gradation pay scale Rs.4000-100-0000	Date of Option to fix his pay.	Pay in the existing scale as on 9.8.99 i.e. Rs.3050-75-3550-80-4590/-	Pay fixed on the date of ACP granted just higher stage of ACP scale. 4000-1000-6000	Pay on the date of adding one notional increment (Minimum to Rs.100/-) in the existing	Pay fixed on the date of adding one notional increment (Minimum to Rs.100/-) in the 1 <sup>st</sup> up-gradation pay scale under ACP Scheme. 4000-100-6000	DNB	Date of 2 <sup>nd</sup> up-gradation of pay scale under ACP Scheme.	Pay after adding one notional increment (minimum to Rs.100/-) in existing pay scale. 1 <sup>st</sup>	Pay fixed in the 2 <sup>nd</sup> up-gradation scale Rs.5000-150-8000/-	DNB
1	S/ Shri 2	3	4	5	6	7	8	9	10	11	12	13
1.	J.K. PHUNKAN, F/S	09.08.99	09.08.99	4670	-	4770	4800	01.08.2000	30.06.2000	4900	5000	16.2001
2.	J.S. GOGOI, F/S	09.08.99	09.08.99	4670	-	4770	4800	01.08.2000	30.06.2000	4900	5000	16.2001
3.	RABIN DAS, F/S	09.08.99	01.10.99	4030	4100 (9.8.99 to 30.9.99)	4100-100	4300	01.10.2000	-	-	-	-
4.	B.B. MOHAPATRA	09.08.99	09.08.99	4670	-	4770	4800	01.08.2000	09.08.99	4900	5000 Min	1.8.2000
5.	B.R. SAMAL, F/S	09.08.99	09.08.99	4590	-	4690	4700	01.08.2000	09.08.99	4800	5000 Min	1.8.2000
6.	A.K. SAIKIA, F/S	09.08.99	09.08.99	4670	-	4770	4800	01.08.2000	09.08.99	4900	5000 Min	1.8.2000
7.	A.K. DAS, F/S	09.08.99	09.08.99	4670	-	4770	4800	01.08.2000	09.08.99	4900	5000 Min	1.8.2000
8.	R.K. GOGOI, F/S	09.08.99	09.08.99	4670	-	4770	4800	01.08.2000	09.08.99	4900	5000 Min	1.8.2000
9.	B.S. MISHRA, F/S	09.08.99	09.08.99	4670	-	4770	4800	01.08.2000	09.08.99	4900	5000 Min	1.8.2000
10.	S.R. BORAH, F/S	09.08.99	09.08.99	4670	-	4770	4800	01.08.2000	09.08.99	4900	5000 Min	1.8.2000
11.	B.B. PATRA, F/S	09.08.99	09.08.99	4590	-	4690	4700	01.08.2000	09.08.99	4800	5000 Min	1.8.2000
12.	S.R. ROY, F/S	09.08.99	09.08.99	4670	-	4770	4800	01.08.2000	09.08.99	4900	5000 Min	1.8.2000

## CERTIFIED THAT:

- They have been granted financial up gradation under the ACP Scheme by the Competent Authority.
- The option has been duly exercised by the concerned individual within the stipulated date.
- Although the financial up gradation of pay scale is personal to the individual but their pay is to be fixed under FR-I(a)(1).

NO. ESTT/DDM/ACP/99- 3639-6  
0/o the DD(A), ARC, DDM

At the, 4/4/02

(D.J.P. SAMUEL)  
DEPUTY DIRECTOR(A)

## Copy to:

- The Director of Accounts, Cabinet Secretariat, R.K. Puram, New Delhi.
- Deputy Director (A), ARC, Charbati (with 15 copies). It is requested that necessary entry of pay fixation may please be made in their Service Books and a copy of the order may please be provided to the individual concerned.
- Accounts Officer, ARC, Doon Doonia.
- Service Book of the individual concerned
- Person concerned.
- Guard File.

No. ESTT/DDM/ACP/99  
 OFFICE OF THE DY. DIRECTOR (A)  
 AVIATION RESEARCH CENTRE  
 GOVERNMENT OF INDIA  
 PO: DOOM DOOMA, TINSUKIA  
 ASSAM.

Dated the,

16/03/2001

ORDER

In pursuance of ARC HQRS. Order No. ARC/AW.153/99 dt. 8-8-2000 regarding grant of benefit under ACP Scheme issued vide DoP&T OM No. 35034/1/97-Estt(D) dated 9-8-99 pay of the following Fire Operator is fixed in the recommended higher scale of pay as indicated below as per the options exercised by them:-

Pay scale of Fire Operator before up gradation      Rs.3050-75-3950-80-4590/-  
 Recommended upgraded scale.      Rs.4000-100-6000/-

SHRI L. BAISHYA

e.	Date of appointment	7-1-85	
	Pay drawn as on 9-8-99 in the scale of Rs.3050-75-3950-80-4590/- on the date of Grant of ACP	3950.00	
f.	Date from which option exercised	1-1-2000	
c.	Pay notionally fixed in the scale of subject a minimum of Rs.100/-	3950.00	3950.00
		80.00	100.00
d.	Pay after notional increase	4030.00	4050.00
e.	Pay fixed in the upgraded scale of Rs.4000-100-6000/-	4050.00	4030.00
		9-8-99	1-1-2000
		4000	3950.00
			4030.00
			81.0
f.	Pay fixed	4200.00	4031.0
g.	Date of next increment	1-1-2001	4130.00

This is in supersession of Order issued under No. ESTT/ARC/DDM/ACP/991015 dated 23-1-2001

(N.K. SHARMA)  
 ASSISTANT DIRECTOR (A)

Copy to:-

1. The Director of Accounts, Cabinet Secretariat, R.K. Puram, New Delhi.
2. The Accounts Officer, ARC, Doom Dooma.
3. The individual concerned.
4. Service Book Seat.
5. Office Order Book.

Attested by:  
 (Signature)  
 Adv.

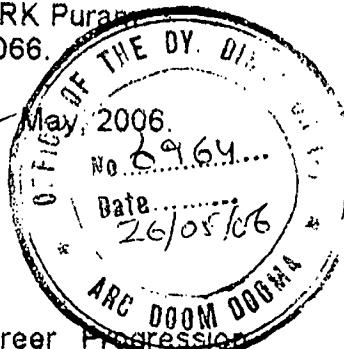
Sett. date 1st in  
month of personnel is F.  
for cadre of personnel.

1st date 1st in  
month of personnel  
for cadre of personnel.

20/5  
Signature  
S/No  
Date

No. ARC/AW-153/99- 3069  
Aviation Research Centre  
Dte. General of Security  
Cabinet Secretariate,  
Block-V(East) : RK Puram  
New Delhi- 110066.

Dated the, 12 May, 2006.



ORDER

Pursuant to the implementation of the Assured Career Progression Scheme for the Central Government Employees as notified vide Do P&T OM No. 35034.1/97-Estt(D) dated 09.8.99, the screening committee for Group 'C' Employees of Fire Service Cadres assembled on 01 May 2005 to review the Departmental Screening Committee met on 03.08.2000. The Screening Committee has found the following Fire Service cadres eligible for financial upgradation in the scale of pay as mentioned against each.

SL. No.	Name & Designation	No. of recommendation	1st financial upgradation	2nd financial upgradation
1	B.P. Mohanty, Fire Supv	One	—	4000-6000/- wef 09.8.99
2	T C. Das, Asst Stn Offr	One	—	-do-
✓ 3	N. C. Routray, Ex-Fire Supv	Two	Rs. 4000-6000 /- wef 9.8.99	Rs. 5000-8000/- wef 30.6.2000
4	A Baral, Fire Supv	One	----	Rs. 4000-6000/- wef 9/8/99
5	F S. Das, Fire Supv	One	----	-do-
6	P R. Rao, Fire Supv	One	----	do-
7	S K. Roy, Fire Supv	One	----	-do-
8	F C Mallik, Ex-Fire Supv	One	----	-do-
9	D S. Nanda, Fire Supv	One	----	Rs. 4000-6000/- w.e.f. 9.8.99
10	S. K. Paikray, Fire Supv	One	----	-do-
11	B. K. Das, Fire Supv	One	----	-do-
12	P. C. Mallick, Fire Supv	One	----	-do-
13	S. P. Choudhury, Fire Supv	One	----	-do-
14	R. C. Nayak, Fire Supv	One	----	-do-
15	G. S. Swain, Fire Supv	One	----	-do-
16	P. B. Nayak, Ex-Fire Supv	One	----	-do- w.e.f 30.6.2000
17	M. C. Behera, Fire Supv	One	----	-do- w.e.f 9.8.99
18	B. B. Patra, Fire Supv	One	----	-do-
19	C. K. Rao, Fire Supv	One	----	-do- w.e.f 26.8.99

Attested by  
Boudhney  
Adv.

20	K.C Parija, Ex-Fire Supv	One	—	-do- w.e.f 27.8.2000
21	B.R. Samal, Fire Supv	One	—	-do- w.e.f 9.8.99
22	G.C. Behera, Fire Supv	One	—	-do-
23	U.N. Mati, Ex-Fire Supv	One	—	-do- w.e.f 30.6.2000
24	L.D. Mahunta, Fire Supv	One	—	-do- w.e.f 9.8.99
25	S.K. Das, Fire Supv	One	—	Rs. 4000-6000/- w.e.f 16.12.99
26	S.U. Gantayat, Fire Supv	One	—	-do- w.e.f 9.8.99
27	K.D. Adhikari, Fire Supv	One	—	-do-
28	S.C. Sethi, Ex-Fire Supv	One	—	-do-
29	P. Mohanty, Fire Supv	One	—	-do-
30	G.B. Sethi, Ex-Fire Supv	One	—	W.e.f 30.6.2000 -do-
31	J. C. Phukan, Fire Supv	One	—	w.e.f 30.6.2000 -do-
32	J. S. Gogoi, Fire Supv	One	—	w.e.f 30.6.2000 -do-
33	K.P. Das, Fire Supv	One	—	w. e. f 9. 8. 99 -do-
34	D.C Dutta, Stn Offr	One	—	-do-
35	K Dutta, Asst. Stn Offr	One	—	-do-
36	P. Raman, Ex- Stn Offr	One	—	-do-
37	S.C. Roy, Fire Supv	One	—	-do-
38	D. Sharma, Stn Offr	One	—	-do-
39	H.H. Singh, Fire Supv	One	—	-do-
40	B.B. Mohapatra, Fire Supv	One	—	-do-
41	Z.N. Swain, Ex-Fire Supv	One	—	-do-
42	J. N. Tripathy, Fire Supv	One	—	-do-
43	Z. N. Samal, Fire Supv	One	—	-do-
44	B.K. Ojha, Fire Supv	One	—	-do-
45	A.K Saikia, Fire Supv	One ✓	—	-do-
46	H.K. Pawa, Fire Supv	One	—	-do-
47	S.P. Nirmal, Fire Supv	One	—	-do-
48	S.K. Walia, Fire Supv	One	—	-do-
49	A.K. Das, Fire Supv	One	—	-do-
50	B.N. Tarasia, Fire Supv	One	—	-do-
51	S.R. Roy, Fire Supv	One	—	-do-
52	R.K. Gogoi, Fire Supv	One	—	-do-
53	N.K. Swain, Fire Supv	One	—	w.e.f 30.6.2000 -do-
54	B. S. Mishra, Fire Supv	One	—	w.e.f 9.8.99 -do-
55	S. R. Borah, Fire Supv	One	—	-do-
56	K.C Samal, Ex-Fire Optr	Two	Rs- 3050-4590/- (wef 09.8.99)	-do- w.e.f 30.6.2000
57	B.S. Majhi, Ex-Fire Optr	Two	— -do-	w.e.f 30.6.2000

58	S.K. Das, Ex-Fire Optr	Two	-do-	-do-
59	M.R. Samal, Fire Supv	Two	-do-	w.e.f 30.6.2000
60	B.K. Mohanty, Ex-Fire Supv	Two	-do-	-do-
61	J.N. Mallick, Fire Optr	Two	-do-	w.e.f 30.6.2000
62	G.D. Jena, Fire Supv	Two	-do-	Rs. 4000-6000/-
63	Daniel Behari, Fire Optr	Two	-do-	w.e.f. 9. 8.99
64	Jonathan Behera, Fire Optr	Two	-do-	-do-
65	K.C. Nayak, Fire Supv	Two	-do-	-do-
66	R.N. Behera, Fire Optr	Two	-do-	-do-
67	C.C. Mallick, Ex-Fire Supv	Two	-do-	-do-
68	B.B. Pattnaik, Fire Supv	Two	-do-	-do-
69	Balkrishna Ojha, Fire Supv	Two	-do-	-do-
70	Niranjan Mallick, Fire Supv	Two	-do-	w.e.f 28.3.2000
71	G.S. Chauhan, Fire Supv	Two	-do-	w. e. f. 9.8.99
72	V. Singh, Fire Supv	Two	-do-	-do-
73	Ram Nawal, Ex-Fire Supv	Two	-do-	Rs 4000-6000/-
74	P.C. Swain, Fire Supv	One	-do-	w.e.f 7.12.2000
75	B.N. Sahoo, Fire Optr	One	-do-	N/A
76	P. Sengupta, Fire Supv	One	-do-	N/A
77	D. Baishya, Fire Optr	One	-do-	N/A
78	H. P. Mohapatra, Fire Optr	One	-do-	N/A
			Rs- 3050-4590/- ✓	(w.e.f 22.6.2000)
79	B.K. Das, Fire Supv	N/A	N/A	N/A
80	Sanata Behera, Fire Supv	N/A	N/A	N/A
81	A.K.Jena, Fire Supv	N/A	N/A	N/A
82	A.K. Nayak, Fire Supv	One	—	Rs. 4000-6000/-
83	L. N. Mohapatra, Fire Supv	One	—	w.e.f 26.4.2002
84	Robin Das, Fire Supv	N/A	N/A	Rs. 4000-6000/-
85	P.C. Pradhan, Fire Supv	N/A	N/A	w.e.f 22.2.2001

Certified that before recommending the above names Screening Committee has kept in the mind the check points mentioned in OM dated 09.8.1999 in para-3 (3.1), (3.2) and conditions laid down in para 1,2,5, 5.1., 5.2, 6,10,11, 13, 14 of Annexure-I or D O P&T order dated 09.8.99.

The Financial benefit allowed under this scheme shall be final and the pay shall not be re-fixed on regular promotion to the higher grade.

The financial upgradation under the ACP Scheme the pay of the beneficiary shall be fixed under the provision of FR-22(1) a (1) & option for fixation of pay may be exercised within 1 month of the date of issue of the order.

The seniors will not claim any stepping up/ante-dating of their pay with the juniors who have been allowed financial upgradation under this scheme.

Financial upgradation given above is purely personal to the employees and shall have no relevance to his seniority position.

There shall be no change in their existing designation/status.

The Service Books of the above mentioned employees are also forwarded to the office of the DACS.

They are deemed to have given their unqualified acceptance for regular promotion on occurrence of vacancies subsequently.

In compliance with the Do P&T OM No. 35034/1/97/Estt(D) dated 09.8.99 para 13 Annexure-I, the Department has opted for the ACP for Group 'C' category of employees of Fire Service Cadres.

This issues in suppression to O.O. No. ARC/AW.153/99-4493 to 4583 dated 08 Aug 2000.

  
(TK Rath)  
Air Cmde  
Dy. Director (A) A/W

Copy to :

1. Director of Accounts, Cab. Sectt., RK Puram, New Delhi
2. Dy. Director(A) ARC, Charbagh
3. Dy. Director(A) ARC, Doom Dooma.
4. Asstt. Director(A) ARC, Sas Sawa
5. AD(A), ARC Palam
6. AD(A), DPL
7. Office Order file

You are requested to hand over a copy of order to all effected incumbent at your base.

No. ESTT / DDM / ACP / 99 - 6961-75

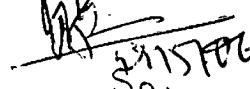
Dated 30/05/06

Copy to :- A. K. Saikia,

F/Sup.

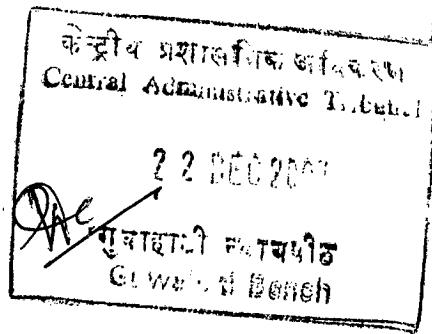
(Th) So F/S DDM

? For information

  
30/05/06  
So.

No. ARC/Fs(D)-174 (4)

Date: 30.5.06



5  
File by  
the respondents  
monisha  
Guwahati  
SAC  
13.12.06

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI  
BENCH, GUWAHATI

D.A. No. 164 of 2006

Sri. A. Saikia & Ors

.....applicants.

-vs-

Union of India & Ors

.....Respondents.

The written statement on behalf of the  
Respondents abovenamed:

WRITTEN STATEMENT OF THE RESPONDENTS

MOST RESPECTFULLY SHEWETH:

1. That with regards to the statement made in para-  
graph 1 of the instant application the respondents beg  
to state that this department order No. ARC/AW/153/99-  
3068 dated 12 May 2006 was issued to rectify the inad-  
vertent error that was made in interpretation of DOP & T  
guidelines with respect to ACP in the earlier order No.  
ARC/AW/153/99-4525 dated 08 Aug 2000 (details are elabo-  
rated in succeeding paragraphs). Nothing illegal has

D.B. (A)  
Ranjeet Singh Deo  
Visiting Researcher  
19.12.06

Contd....P/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUAMATI

## RENOCH, GIMAHATA

8902\_19\_Feb\_01\_A.Q

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and is subject to control.

sent to Florida no threatened native marine life

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been done by issuing a fresh order for rectification of an inadvertent error due misinterpretation of relevant rules and this was done in consultation with DOP & T and Cab Sectt after DACS returned the ACP arrear bills of some fire service personnel. For implementation of a Govt order existing since 1999, the department is not required to serve notice to its personnel. Hence allegation of the applicants that the order dated 12/5/06 is issued in an illegal manner and without any notice is totally wrong and baseless hence denied.

2. That with regards to the statement made in paragraph 2 and 3 of instant application the respondents have no comments.
3. That with regards to the statement made in paragraph 4.1 of the instant application the respondents have no comment.
4. That with regards to the statement made in paragraph 4.2 of the instant application the answering respondents beg to state that these are matter of record and anything contrary to the record the same are denied by the respondents.
5. That with regards to the statement made in paragraph 4.3 of instant application the respondents have no comment.

D.B. (A) 6. That with regards to the statement made in paragraph 4.4 of the instant application the respondents beg

पुष्ट रूप  
Aviation Research Centre  
Date: 20/06/2006

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to state that the submission of the fact that the applicants were performing their duties smoothly to the utmost satisfaction has got no relevance with this case as can be understood from the succeeding paragraphs. Hence submission of such facts only divert the attention from the main issue. Applicant No. 4,5,6, & 7 were promoted to the post of LFM/MT Fitter Diver/Diver Havilder in the year 1990. These posts were subsequently re-designed as Fire Supervisor in the year 1995. Moreover, promotion from Fire Optr to F/Supv (i.e Fireman to Leading Firemen) is made on the basis of seniority cum fitness, subject to availability of vacancy.

7. That with regards to the statement made in paragraph 4.5 of the instant application the respondents beg to state that the applicants No. 4,5,6, & 7 were promoted as per their seniority in the grade of F/Optr. on fulfilling all the eligibility criteria laid down in the R.R. Rest of the applicants will also be considered for promotion as per their seniority subject to fulfillment of eligibility criteria and availability of vacancy. Re-designation of post of LFM to F/Supv has got nothing to do with promotion or grant of ACP.

8. That with regards to the statement made in paragraph 4.6 of the instant application the respondents have no comment.



9. That with regards to the statement made in paragraph 4.7 of the instant application the respondents beg to state that those are misleading and incorrect and the

D.D. (A) ~~Aviation Research Centre~~ Aviation Research Centre state that those are misleading and incorrect and the

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respondents deny the same. The respondent begs to state that the prior to 5th pay commission pay scale of Fire Operator was 950-1500/- and pay scale of Fire Supervisor was 1150-1500/-. During fifth pay commission, certain pay scales were clubbed together & both Fire Supervisor and Fire operators were prescribed with one pay scale i.e. Rs. 3050-4590/-. It can be seen that applicant No. 4,5,6, & 7 were promoted in the year 1997 vide promotion order No.101/97 and applicant No.8 was promoted during the year 2000. Applicant No. 4,5,6 & 7 were given promotion to the post of Fire Supervisor in the pre fifth pay commission pay scale which were more than the pay scale of Fire Operator before fifth pay commission. The applicants were, granted promotion from the post of fire operator which carries a pay scale of 950-1500/- to the post of Fire Supervisor of pay scale 1150-1500/-. Hence allegation of the applicants No.4,5,6 & 7 that the said promotion is nothing but only change in their designation is wrong, vague and hence denied. Moreover the post of Fire Supv. carries higher duties and responsibilities than that of Fire Optr. Hence the promotion involves not only change in designation but also change in duties and responsibilities. However, the case for up gradation of pay scale was taken up vide U.O. dated 30/5/2005 and was turned down by MOF as intimated by Cab Sectt vide their U.O. dated 18/1/2006.

  
 B.D. (Adams)  
 राजस्व विभाग द्वारा  
 वित्तीय वर्ष 2005-06  
 १८/१/२००६

A copy of the promotion order No.101/97 is annexed herewith and marked as ANNEXURE-1.

A copy of the information to be provided in order to permit the use of the annexes is annexed hereto.

### Augmented types

10. That with regards to the statement made in paragraph 4.8 of the instant application the respondents beg to state that the ACP was introduced w.e.f. 9/8/99 vide DOP & T notification No.35034/1/97-Estt (D) dated 9/8/99. As per this memorandum and clarification No.1 issued vide DOP&T memo No.34034/1/97-Estt(D)9 Vol.IV dated 10/2/2001 after considering the fact that post of fire operator and fire supervisor carries same pay scale after fifth pay commission, the screening committee in year 2000 recommended two financial up gradation to fire service personnel i.e. from pay scale of 3050-4590 first financial up gradation to pay scale 4000-6000 and second financial up gradation to pay scale 5000-8000 ignoring the promotion from fire operator to fire supervisor. On the basis of this recommendations office order dated 08 August, 2000 was issued and pay of fire service personnel has been fixed by respective bases. But DACS objected to this financial up gradation and returned the ACP arrear bills in respect of some fire service personnel. DACS intimated that the fire operators have already been given one regular promotion from fire operator to fire supv, therefore, they are eligible for only one financial up gradation. Further DACS advised us to re-examine the case as per conditions of clarification No.52 of DOP&T OM dated 18/7/2001. Clarification No.52 says to grant ACP under provisions of FR-22(1)(a)(1) with minimum financial benefit of Rs.100/- As most of fire operators were on the maximum of their pay scale i.e. 4590/- a clarification was sought from DOP & T vide our U.O. dated 9/9/04 as to how to implement ACP in the light of clarification No.52 DOP & T vide their note dated

DD: (A)   
जातीय संग्रहालय भवन  
Information Research

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26/10/2004 advised to consider the pay scale of 3200-4900 for fire supervisors. Accordingly, a case was taken up vide our U.O. No. ARC/AW/153/99-972 dated 30/5/2005 to introduce a in between pay scale (3250 - 4900 - typographical error of 3250/- was amended as 3200/- subsequently) for the supervisors. MOF did not agree to the proposal as intimated by Cab Sectt. vide their U.O. note dated 18 Jan 2006. Cab Sectt also vide their U.O. No. 4/23/2003-DD II-72 dated 18/1/2006, intimated views of DOP&T. DOP&T was of the opinion to rectify the case in light of clarification No. 52. Accordingly, a review DPC was conducted in 2006 to review the recommendations of DPC of year 2000. As per recommendations of the DPC of year 2006 a fresh order was issued on 12/5/2006. As per this order, fire operators who have completed 12 years regular service without any promotion are to be granted one financial up gradation to the pay scale 3050-4590 and those have completed 24 years service without any promotion are to be granted two financial upgradation to the pay scale 3050-4590 and second to pay scale 4000-6000. But those who have been granted one promotion from the post of fire operator to fire supervisor, will be granted only one financial upgradation to the pay scale 4000-6000.



D.D. (Add)  
Information Research

The Copies of DACS U.O. dated 11/December, 2001, Clarification No. 52 of DOP&T O.M. dated 18/7/2001, U.O. dated 9/9/2004, U.O. Note dated 5/11/2004, U.O. No. ARC/AW/153/99-972 dated 3/5/2005, U.O. Note dated

18/1/2006 are annexed herewith and marked as ANNEXURE - 2, 3, 4, 5, 6 & 7 respectively.

11. That with regards to the statement made in paragraph 4.9 of the instant application as already discussed in preceding para ACP pay in respect of S/Shri. J.K. Phukan, J.S.Gogoi, A.Saikia, A.K.Das, R.K.Gogoi, S.R.Bora and Kalipada Das was fixed ~~at~~ Rs.5000/- but was not admitted by DACS. ACP pay in respect of Shri. D.Baishya was fixed at Rs.4200/- in the scale of pay Rs.4000-6000/- and admitted by DACS.

12. That with regards to the statement made in paragraph 4.10 of the instant application the respondents beg to state that the screening committee assembled on 1/5/2006 (not on 1/5/05 as submitted by the applicants) has reviewed the minutes of departmental screening committee which met on 3/8/2000 for reasons as mentioned in detail at para 4.8. The order issued on the basis of recommendations of screening committee of 1/5/06 is correct and is in order.

13. That with regards to the statement made in paragraph 4.11 of the instant application the respondents beg to state that factually incorrect as regards to dates mentioned. Applicants cannot represent in year 2000 to review a order that was yet to be issued then (it was issued in the year 2006). Hence, allegation of the applicants that on 6/6/2000 they have filed separate representation/appeal with a prayer to review the order dated 12/5/2006 is totally incorrect and hence denied.

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[83]

14. That with regards to the statement made in paragraph 4.12 of the instant application the respondents beg to reiterates the comments made in the paragraph 9 of the instant reply. Further, as per DACS (supported by DOP&T), promotion to Fire Supervisor cannot be ignored and ACP to be granted in the lights of clarification No. 52. As per which the applicants were rightly granted one financial upgradation vide order dated 12/5/2006. Claim of the applicants that they are entitled for two benefits under ACP is in contravention of DOP&T rules and hence respondent denied that the applicant are entitle for the said relief.

15. That with regards to the statement made in paragraph 4.13 of the instant application the respondents beg to state that pay of the applicants was fixed at higher scale on the basis of old order dated 8/8/2000. As the said order has been superseded by another order of year 2006 due to reason mentioned in preceding paragraphs, the amount paid on the basis of old order dated 8/8/2000 becomes illegitimate and need to be refunded.

16. That with regards to the statement made in paragraph 5(i) of the instant application the respondents beg to state that reasons for issuing order dated 12/5/2006 by superseding the old order dated 8/8/2000 has already mentioned in preceding paragraphs. Claim of the applicants to quash the order dated 12/5/2006 is based on personal benefit and not on any laid down rules/regulations and therefore should not be admitted.

17. That with regards to the statement made in paragraph 5(ii) of the instant application the respondents beg to state that the all applicants except No. 1,2,3 & 8 were promoted in pre fifth pay commission scale and promotion to the post of fire supervisor not only brings financial benefits (in pre-fifth pay commission scale) but also involves higher duties and responsibilities of a supervisory post. Hence, claim of applicants that it can not be termed as a promotion is vague, baseless and hence denied. As they were granted one promotion, they are not eligible for two financial upgradations under ACP Scheme. The order issued in May, 2006 has catered this provision and correctly granted one financial upgradations and no violation of law or rules whatsoever has been taken place by issuing a correct order. Hence, claim of the applicants to set aside this correct order should not be admitted.

18. That with regards to the statement made in paragraph 5(iii) of the instant application the respondents beg to state that in a situation where both feeder and promotional post carries a same pay scale, as per advise of DACS and DOP&T, clarification No. 52 was to be followed. Clarification No. 52 (copy already attached as

**BB: (Adm)** Annexure-3) says that if for certain reason, it is **अविवाक अवधि** inescapable to retain both feeder and promotional grade 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

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for the reason that under the ACPS, has to be allowed as per the 'existing hierarchy'. Financial up-gradation cannot 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 of Rs.100/-). Accordingly, the fresh order was issued in May, 2006 which is correct and in accordance with the existing rule. Hence, claim of applicants to quash and set aside a correct order is based only on personal benefit not based on any laid down rules/regulations and therefore should not be admitted.

19. That with regards to the statement made in paragraph 5(iv) of the instant application the respondents beg to state that copy of Supreme Court order is not attached for further study. Hence detailed comment cannot be furnished. As such in order dated 30/6/2006 (attached to the O.A.), the Hon'ble CAT Guwahati has issued stay order on the recovery in respect of applicants till next date of hearing. And therefore recovery has not been affected till date.

20. That with regards to the statement made in paragraph 5(v) of the instant application the respondents beg to state that as already discussed in the preceding paragraphs, that the benefit of enhanced pay already paid to the applicants was based on a order dated 8/8/2000 which was held wrong at subsequent stage by DACS and DOP&T. Hence, such payments stands illegiti-

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[113]

mate at this point of time and needs to be refunded. Claiming a illegitimate payment as a right under shadow or Article 14 and 16 of the Constitution of India is totally wrong and hence denied.

21. That with regards to the statement made in paragraph 5(vi) of the instant application the respondents beg to state that the order dated 12/5/2006 is correct and issued after clarification was received from Cab Sectt ad DOP&T on the matter. Claim of applicants to make the correct order as bad in law is wrong and hence denied. The respondents further begs to state that the grounds set forth in the instant application are not tenable in law, as well as, on facts and are not good grounds and are liable to be dismissed.

22. That with regards to the statement made in paragraph 6 of the instant application the respondents beg to state that the representations from the applicants dated 6/6/2006 was received and was examined in depth at HQ level. The applicants were requesting to review the order dated 12/5/2006 which was issued as per clarification of DOP&T. In response, DD(A) DDM was informed vide message No. 4358-89 dated 14/7/2006 to apprise the concerned officials that the review DPC meeting was conducted as per clarification furnished by DOP&T and hence, was in order. Hence, claim of the applicants that no response has been given to their representation is totally wrong and hence denied.

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A copy of the Message No. 4358-89  
dated 14/7/2006 is annexed herewith  
and marked as ANNEXURE-8.

23. That with regards to the statement made in para-  
graph 7 of the instant application the respondents have  
no comment.

24. That with regards to the statement made in para-  
graph 8 of the instant application the respondents beg  
to state that as discussed in para 10, the order dated  
8/8/2000 was held wrong by DACS and the respondents were  
directed the grant ACP in the lights of clarification  
No. 52. After seeking clarification from DOP & T, the  
new order dated 12/5/2006 was issued. Claim of the  
applicant to make it bad and quash and set aside is  
based on personal benefit and not based on any laid down  
rules/regulations and therefore should not be admitted  
and is liable to be dismissed.

25. That with regards to the statement made in para-  
graph 9 of the instant application the respondent beg to  
state that the claim of the applicant is illegal and ill  
founded the applicant is not entitled to get any interim  
relief.

  
D.P. (AC)

Aviation Research

26. That the respondents submit that the application  
has no merit and as such the same is to be dismissed.

[13]

VERIFICATION

I, ..RAJIV..KUMAR..SARIN.....

being authorised to hereby verify and declare that the statement made in this reply of ....., petition in para ..1 to 8, 11-21+23 to 26.....are true in my knowledge, these made in para ..9, 10 and 22..... being matter of records are true to my information and believe and I have not suppressed any material fact.

And I sign this verification on this ..20<sup>th</sup>..... day of ..November....., 2006.



.....

DEPONENT

D.D. (Adm  
Aviation Research Center  
Aviation Research Center  
24/06  
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S.C. Fire  
Service  
Order

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Annexure-1

ANNEXURE A/1

OFFICE ORDER NO. 101/97

With the approval of competent authority, the following Fire Service personnel are promoted to the post and pay scale as mentioned against each w.e.f. the date they assumed the charge of the post at the new place of their posting indicated in the order.

Sl.No. Name & post held

Promoted to the post and pay scale

Present place of posting

Place of posting on promotion

1. S/Shri L.D.Mohapatra, ASO	Stn. Officer (Rs.1600-50-2300-EB-60-2660)	Charbatia	Charbatia
2. K.Gopinathan, F/Supv.	ASO (1200-30-1440-EB-30-1800)	-do-	-do-
3. P.B.Nayak, F/Optr.	Fire Supervisor (Rs.1150-25-1500)	-do-	-do-
4. K.C.Parija, -do-	-do-	-do-	-do-
5. G.B.Sethi, -do-	-do-	-do-	-do-
6. N.K.Swain, -do-	-do-	-do-	-do-
7. U.N.Mati, -do-	-do-	-do-	DDM
8. S.R.Roy, -do-	-do-	-do-	CST
9. Shisuram Borah, -do-	-do-	-do-	DDM
10. Anand Saikia, -do-	-do-	-do-	DDM
11. R.K.Gogoi, -do-	-do-	-do-	-do-
12. J.N.Malllick, -do-	-do-	-do-	-do-
13. F/C/Malllick, -do-	-do-	-do-	DDM
14. B.N.Samal, -do-	-do-	-do-	DDM
15. M.C.Bhhera, -do-	-do-	-do-	CST
16. B.B.Mohapatra, -do-	-do-	-do-	CST
17. B.N.Swain, -do-	-do-	-do-	CST
18. S.S.Gantayat, -do-	-do-	-do-	CST
19. B.N.Tarasia, -do-	-do-	-do-	CST
20. S.S.Mishra, -do-	-do-	-do-	CST
21. P.Mohanty, -do-	-do-	-do-	SWA
22. G.C.Bhhera, -do-	-do-	-do-	DDM
23. S.C.Sethy, -do-	-do-	-do-	CST

afforded  
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24. H.K.Pahwa, F/Optr.	Fire/Supv. (Rs.1150-25-1500)	SWA	SWA
25. S.K.Walia, -do-	-do-	SWA	SWA
26. A.C.Sutradher, -do-	-do-	DDM	DDM
27. S.P.Nirmal, -do-	-do-	SWA	SWA
28. Birakishore Ojha, -do-	-do-	CBT	CBT
29. C.K.Rao, -do-	-do-	CBT	CBT
30. Balaram Samal, -do-	-do-	CBT	CBT
31. K.C.Adhikari, -do-	-do-	CBT	CBT
32. L.D.Mahunta, -do-	-do-	CBT	CBT
33. B.B.Patra, -do-	-do-	CBT	CBT
34. Sangram Keshari Das, -do-	-do-	CBT	CBT
35. B.P.Singh, -do-	-do-	SWA	SWA
36. A.K.Nayak, -do-	-do-	CBT	SWA
37. Sanatan Behera, -do-	-do-	CBT	CBT
38. A.K.Jena, -do-	-do-	CBT	CBT
39. P.C.Pradhan, -do-	-do-	CBT	CBT
40. Birendra Kr.Das, -do-	-do-	CBT	DDM
41. Pramod Saikia, -do-	-do-	CBT	CBT
42. Robin Das, -do-	-do-	DDM	DDM
	-do-	MNL	MNL

( G.C. TRIPATHI )  
DEPUTY DIRECTOR (A) AW

No. ARC/AW/702/94-387/  
Aviation Research Centre  
Dte. General of Security  
(Cabinet Secretariat)  
East Block-V, R.K.Puram,  
New Delhi-110066

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गृहिनी सचिवालय

CABINET SECRETARIAT

पार्श्वालय लेखा निदेशक

OFFICE OF THE DIRECTOR OF ACCOUNTS

गृहिनी सचिवालय

CABINET SECRETARIAT

पूर्वी छड़ा, सतह-7

East Block No. IX, Level-7

रामा कृष्णा पुरम

R. K. Puram

1 DEC 2001

दिल्ली-६६  
New Delhi-66 the

(ए.पी. अधिकारी)

एवं अधिकारी के लिए

Aviation Research Centre

पूर्वी छड़ा

Delhi-66

No : 11GEB-I/ARC DDM/ACP/2001-02/1081

To

The Accounts Officer,  
Aviation Research Centre,  
Doom Dooma - 786 151.  
Dist. Tinsukia Assam.

Sub: Return ACP Arrears Bill No. 897 with 6 Service Books.

Sir,

Reference is made to your office letter No. V/Accounts/ DDM/1625 dated 12.11.01 forwarding therewith above said bill and six service books. The same are returned herewith unadmitted with the remarks that they have already given a one regular promotion from Fire operator to Fire Supervisor, therefore they are eligible for only one financial upgradation under ACP on completion of 24 years on 9.8.99. Moreover after the revision of the scales both viz Fire operator & Fire Supervisor are carrying the same scales. In these cases FR 22a (i) is not to be applied in this connection. Please re-examine these cases in light of clarification given against point of doubt No. 52 of Deptt. of P&T Min. of Personnel, Pub. Griev. & Pension F.No. 35034/1/97-Estt(D), (Vol.IV) dt. 16 July 2001.

Yours faithfully,

(KARTAR KAUR )

SR. ASST. DIRECTOR OF ACCOUNTS  
No. Accounts/Pay&All/ 17834  
ARC, Doom Dooma.

Dated the,

22/11/01

Copy forwarded along with 6(six) Service Books in respect of six F/Supr. with request to comply the observation made by DICS and return this 6/Books with the compliance report to this office for re-submission the bill to DICS for payment action.

✓ To, Section Officer, ARC, Doom Dooma.

Accounts Officer

attached  
6/Books

47

(60)

22

10

Point of doubt	Clarification
Whether temporary service in respect of a person who was declared surplus and redeployed through the Surplus Cell will be counted with the subsequent regular service in the new Organisation for purposes of the ACPS Scheme. What will be the position in respect of those temporary employees who at the time of retrenchment did not possess the required service to be taken on the rolls of Surplus cell and were terminated but were offered fresh appointment in a new organisation through the efforts of the parent Ministry/Department.	If the redeployment through the Surplus Cell is in the same/lower scale, such temporary service (and not an ad-hoc service) rendered prior to retrenchment may count towards regular service for purposes of ACPS in the new organisation. If the redeployment is in a higher grade, regular service will count only from the date of appointment in the new Organisation. However, this will not cover cases of those temporary employees who had put in less than the required length of service for being taken on the strength of the Surplus Cell and whose temporary service was terminated but were given preference in fresh appointment in the Government in terms of DoP&T O.M. dated 27.3.1976/29.6.78 read with DoP&T O.M. dated 22.1.1993. In their case, the past temporary service before retrenchment shall not count towards residency period for grant of ACPS.
Whether work charged staff is eligible to be covered under the ACPS?	If, in the matter of service conditions, work charged staff is comparable with the staff of regular establishment, there is no objection in extending the ACPS Scheme to the work charged staff.
Following the recommendations of the Pay Commission, feeder and promotional posts have been placed in the same scale. Consequently, hierarchy of a post comprising of Grades 'A', 'A' and 'C' i.e. the entry level and the first promotional grade are in the same scale. What shall be his entitlements under ACPS.	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 ACPS Scheme (vide DoP&T O.M. dated 10.2.2000), pay in such cases shall be fixed under the provisions of FR 22 (i)(Y)(a) (i) subject to a minimum benefit of Rs.100.

~ 18 ~

AVIATION RESEARCH CENTRE  
DIRECTORATE GENERAL OF SECURITY  
(CABINET SECRETARIAT)

Airwing of ARC has a separate cadre for the Fire Service personnel. This cadre ascends from Fire Operator and ends at Fire Officer (Breakdown is at annexure V). After the Vth Pay Commission, though the posts of Fire Operators and Fire Supervisors were placed in the same pay-scale i.e. 3050-4590/-, these were not merged.

2. After the promulgation of ACP Scheme for Central Govt. Employees, vide DoPT O.M. No. 35034/1/97-Estt.(D) dated 9.8.99 to implement the benefit of the scheme for Fire Service personnel, a Screening Committee was formed which held a meeting on 3.8.2000 and those F/Optrs. and F/Supvs who were found eligible on completion of 12/24 years of service were cleared for financial upgradations.

3. On the basis of OM No. 35034/1/97-Estt.(D)/(Vol.-IV) dated 10.2.2000 of DP&T, the F/Optrs. and F/Supvs. who were in the identical scale of Rs. 3050-4590/- were fixed in the next hierarchical scale of Rs. 4,000-6,000/- for the first upgradation and Rs. 5,000-8,000/- for the second upgradation.

4. For admittance, the case of these personnel was sent to DACS. However, DACS raised certain queries prior to admittance of fixation of pay. Relying on latest interpretation on identical scales for implementation of ACP, DoPT's Doubt No. 52 of OM dated 18.7.2001, DACS raised objections on the following grounds :-

a) 13 Fire Supervisors covered under ARC Order dated 8<sup>th</sup> Aug 2000, who were initially appointed as Fireman and got promoted as LFM (Leading Fire Man, later on re-designated as F/Supv.) after 24 years of service were entitled only for one more upgradation i.e. the second ACP. This means that they were to be fixed in the scale of Rs. 4000-6000/- and not in the next scale of Rs. 5,000-8,000/- (Their reasoning might be on the ground that though pay scales are merged together into one but posts of Fire Operator and Fire Supervisor are still separate identities).

attested  
GB

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b) In case of Fire Optrs., presumably again relying on Doubt No.52 of OM dated 18.7.2001 of DOPT, it seems that DACS is of the view that the Fire Optrs. covered under ARC Order dated 8th Aug 2000, while implementing 1st ACP should be fixed in the same scale i.e. Rs. 3050-4590/- by giving a minimum benefit of Rs. 100/- under the provision of FR-22(1)(a)(1) and for second upgradation obviously in the next hierarchical scale of Rs. 4000-6000/-.

5. In Aug 2000, when Screening Committee held the meeting, approx. 23 F/Optrs. were covered for first/second financial upgradation. Most of these F/Optrs were on the maximum of their pay scale i.e. 4590/- and hence, it is not possible to apply the formula of minimum Rs.100/- in the same scale. This means implementation of ACP on the basis of DOPT Doubt No. 52 OM dated 18.7.2001 is not possible, whether it be the first upgradation or the second upgradation, in case of these Fire Optrs. In addition to these 23 F/Optrs., presently, another group of 17 F/Optrs. have also become eligible for first/second financial upgradation and Deptt. is facing similar problems in these cases with regard to the implementation of ACP.

6. In the light of the foregoing, it is requested that clarification may kindly be sought from DOPT on as to how to implement first/second ACP in case of these F/Optrs. Also to confirm whether after merging of two scales of F/Optrs. and F Supvs. into identical of Rs. 3050-4590/-, after the Vth Pay Commission, whether the promotion of F/Supv. from the feeder grade of Fire Optr. should be ignored while implementing ACP upgradation or not.

  
S/ (GP.CAPT.T.K. RATH)  
S/ DY.DIRECTOR (A)AW

Encls.: 1. Annex-I - DOPT OM No. 35034/1/97/Estt.(D)(Vol.4) dated 10.2.2001.  
2. Annex. II- DOPT OM dated 18.7.2001  
3. Annex III & IV - Query/objection raised by DACS.  
4. Annexure-V Breakdown of the pay scales.

Cab. Secy., Director (E), Bikram House Annex, N.Delhi  
ARC Dte. UD No. ARC/AW-153/99- Dated: 27 Sep 2004  


20-75

Annexure

Annexure A (Contd)

Reference: OJ (R) for the year from 19/03/2020 to 27/03/2020 (Vol. IV) dated 19/03/2020

**Point of doubt:**  
Jobs posts carrying different pay scales constituting two runs in a hierarchy have been placed in the same pay-scale as a result of rationalisation of pay-scales. This has resulted into change in the hierarchy in as much as two posts which constituted feeder and promotion grades in the pre-merged scenario have become one grade. The position may be clarified further by way of the following illustration: prior to the implementation of the 7th Central Pay Commission recommendation, two categories of posts were in the pay-scales of Rs. 1700-1800 and Rs. 1720-2030 respectively, the latter being promotion post to the former. Both the posts have now been placed in the pay-scale of Rs. 1600-1800. How the benefit of the AGP Scheme will be affected in this regard?

**Clarification**

Since the benefits of upgradation under AGP Scheme (AGPS) are to be allowed in the existing hierarchy, the mobility under AGPS shall be in the hierarchy existing after merger of pay-scales by ignoring the promotion. An employee who gets promoted from lower pay-scale to higher pay-scale as a result of promotion before merger of pay-scales shall be entitled for upgradation under AGPS ignoring the said promotion as otherwise he would be placed in a disadvantageous position vis-à-vis the fresh entrant in the merged grade.

## Point of doubt

## Clarification

Whether temporary service in respect of a person who was held in surplus and re-employed through the Surplus Cell will be counted with the subsequent temporary service in the new Organisation for purposes of the ACPS Scheme. What will be the position in respect of those temporary employees who at the time of retrenchment did not possess the required service to be taken on the rolls of Surplus cell, and were terminated but were offered fresh appointment in the new organisation through the efforts of the parent Ministry/Department.	If the redeployment through the Surplus Cell is in the same/lower scale, such temporary service (and not an ad-hoc service) is rendered prior to retrenchment may count towards regular service for purposes of ACPS in the new organisation. If the redeployment is in a higher grade, regular service will count only from the date of appointment in the new Organisation. However, this will not cover cases of those temporary employees who had put in less than the required length of service for being taken on the strength of the Surplus Cell and whose temporary service was terminated but were given preference in fresh appointment in the Government in terms of D.O.P&T O.M. dated 27.3.1976/29.6.78 read with D.O.P&T O.M. dated 22.1.1993. In their case, the "past temporary service" before retrenchment shall not count towards regular service for grant of ACPS.
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## Whether work charged staff is eligible to be covered under the ACPS?

If, in the matter of service conditions, work charged staff is comparable with the staff of regular establishment, there is no objection in extending the ACPS Scheme to the work charged staff.

Following the recommendations of the Pay Commission, feeder and promotional posts have been placed in the same scale. Consequently, hierarchy of a post comprising of Grade 'A', 'A' and 'C' i.e. the entry level and the first promotional grade are in the same scale. What shall be his entitlements under ACPS.

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 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 ACPS Scheme (vide D.O.P&T O.M. dated 10.2.2000), pay in such cases shall be fixed under the provisions of FR 22 (1) (i) (b) subject to a maximum of Rs 100/-.

4-

Annealure

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DPT

Secty. E&amp;H

Rep proceeding not

We may request Com. Secy  
to examine the matter on the basis of  
Classification to find if done in  
accordance with 7, 2 and 3 of the Act

Director of Accounts is valid

10

21/9/2003

V.J.Y.R.

A.D.B  
ALOK SAXENA  
Director (E-1)

- Com. Secy. B.K. K. from Annex

D.P.T. 11-11-2003/2003-03-01 4/9/03

गोपनीय राज्य सभा बिल्डिंग  
CABINET SECRETARIAT  
गोपनीय सभा बिल्डिंग  
OFFICE OF THE DIRECTOR OF ACCOUNTS

ପରିପ୍ରକାଶ ପରିପ୍ରକାଶ

CAIRNS SECRETARIAT

OFFICE OF THE DIRECTOR OF ACCOUNTS

નિર્માણ રચનાશાસ્ત્ર

CABINET SECRETARIAT

નવીન કાન્દુ-૧, પાઠ્ય-૧

East Block No. IX, Layer

रामा कृष्णा शुद्धि

R. K. PURAM

No. 1002-1/13/2002-03/12/1-52

नई दिल्ली-६६  
New Delhi-66 the

18

The Deputy Director (Adm.)  
B.I.C., Dehra Dun.

Guidelines for the use of new financial sector ACP Scheme (FINE SUPERVISOR)

158

I am to refer to your letter No. AIC/1004/ACP/99/13099 dated 15/11/2002 forwarded herewith 13 Service Books of Fire Officers for adjustment of fixation of pay in ACP Scheme. The Service Books of under mentioned officials are returned herewith without adjusting their pay fixation due to the following reason:-

It is proposed that the implementation of the proposed Driver/Driver and Driver/Supervisor does not involve any change in the pay scales. So, instead of amending the Bill with regard to these persons concerned (those who have already entered the service), it does not amend.

c. The Five Officers who are promoted to the post of LIA/WFO/Driver/Hawildar will get lengthening of pay in this case the next scale of pay is same as that of the Five Officers whereas those availed financial exequitation under AGO scheme their pay will be AGO in the next higher cadre. This results in rapidly which needs elucidation.

2. - In view of above it is requested that the matter may please be rechecked and in case of any doubt, classification may be sought from DDCS stating full facts of the circumstances in L/C/1957/100, redesignation of Posts of Fire Supervisors.

### Young & Goddard

Jack Whipple: A Painting Book

2000, 100

Be a member of  
the Astronomical Society  
of the University of  
Michigan.

## (GANTAK KAUR)

मंत्रिमंडल सचिवालय  
CABINET SECRETARIAT  
मंत्रिमंडल सचिवालय  
OFFICE OF THE DIRECTOR OF ACCOUNTS

100, India Gate,  
New Delhi-110011  
Government of India  
Aviation Research Centre  
Deonar, Mumbai  
M. S. Deonar

मंत्रिमंडल सचिवालय  
CABINET SECRETARIAT  
पुस्तकालय, दिल्ली  
East Block No. D, Level 2

राम लूण्य पुस्तकालय

R. K. Dutt

31 DEC 2001, दिल्ली

New Delhi-110011

Re: D/REG-T/ARC/DM/ACP/2001-02/1081

To

The Accounts Officer,  
Aviation Research Centre,  
Perry Town - 786 181,  
Distt. Mumbai, Mumbai.

Subject: Return ACC Arrest Bill No. 897 with 6 Service Books.

etc.

Reference is made to your office letter No. M/Access/ DM/19/2001 dated 17.11.01 forwarding therewith above said bill and six service books. The same are returned herewith unadmitted with the remark that they may have already given a one regular promotion from Five Supervisor to Five Supervisor, therefore they are eligible for only one financial upgradation under ACP on completion of 24 years on 9.8.99. Moreover after the revision of pay scales both "Supervisor" and "Five Supervisor" are carrying the same scales. In such cases Rule 22a (1) is not to be applied in this connection, please re-examine these cases in light of clarification given on point of doubt No. 52 of Deptt. of P&T Min. of Personnel, Pub. Order No. P.R.O. 35034/1/97-Elect(D), (Vol IV) dt. 16 July 2001.

Yours faithfully,

Enclosed as above.

Yours faithfully,

(KARTAR KAUR )  
SENIOR DIRECTOR OF ACCOUNTS  
No. Acc'ts/Pay & All/ 17834  
ARC, Deonar, Mumbai.

Dated the,

27/12/01

Copy forwarded along with 6 (six) Service Books in respect of the above. With request to comply the observation made by D/Officer and return the same with the compliance report to this office for consideration the bill to DACS for payment action.

Accounts Officer

Aviation Research Centre, Mumbai.

TABLE SHOWING FIRE SERVICE ESTABLISHMENT  
PRESENT PAY SCALE.

1.	Fire Operator (earlier Fireman)	-	3,050-4,590/-
2.	Fire Supervisor	-	3,050-4,590/-
3.	Asstt. Station Officer	-	4,000-6,000/-
4.	Station Officer	-	5,000-8,000/-
5.	Asstt. Fire Officer	-	6,500-10,500/-
6.	Fire Officer	-	10,000-15,200

- 25 -

17-20

Annexure 5

6083

6/11/04

(46)

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Cabinet Secretariat  
Bikaner House (Annexe)  
\*\*\*\*\*

Subject: Grant of financial upgradation under ACP Scheme to Fire Service personnel in ARC.

ARC may please refer to their UO No. ARC/AW.153/99-7415 dated 09.2004 on the above subject.

The case was referred to the DoP&T and a copy of their note is forwarded herewith for further necessary action.

*Palghar*  
(C DAULAGUPHU)  
UNDER SECRETARY

RC: (Gp Capt TK Rath, Deputy Director (AW)

Cabinet Secrt: UO No. 6/23/2003-DO-II - 1483

dated 20 NOV 2004

DG (Security)

Date: 05/11/04

(L03/X)

05/11

-AD (R)

SD (W)

B/P forward account

Wing in charge?

AM  
11/11/04

attested  
GCB

A)

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Reference preceding note.

This is a case where due to merger of pay scales, on the recommendations of the Pay Commission, the feeder and promotional grades of Fire Operator and Fire Supervisor got placed in the same scale of Rs. 3050-4590. However, both have been retained as feeder and promotional grades. In terms of clarification no. 1323 of O.M. dated 18.7.2001, the Fire Operator will be entitled to pay fixation in the grade of Fire Supervisor if he is in same scale but with benefit of FR 221 (i) (a) subject to a minimum benefit of Rs. 100. However, it has been stated that most of the Fire Operators have reached maximum of scale and will not be able to avail the benefit of Rs. 100.

It is seen that the next promotional grade is in the scale of Rs. 4000-6000. The scale of Rs. 3200-4900 has not been utilized. We may perhaps ascertain whether it is possible to extend the scale of Rs. 3200-4900 to Fire Supervisor and whether this issue was taken up with the Ministry of Finance.

(Vijay Kumar)  
Under Secretary  
October 26, 2004

Director (E.I)

VII/2

26  
ALOK SAXENA  
Director (E.I)

Cab. 2611 (Ritika, Vinodhna)

g. P.T. (U.O. H. 4876) 2611, Dated 27/10/04

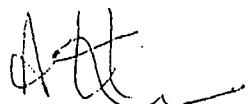
AVIATION RESEARCH CENTRE  
DIRECTORATE GENERAL OF SECURITY  
CABINET SECRETARIAT

Subject:- Upgradation of pay scale of Fire Supervisor  
in the ARC Fire Service Cadre.

With reference to your UO No. A.49011/2/2005-BA-I  
dated 16 Feb., 2005 on the subject mentioned above.

2. A self contained note with full functional justification for upgradation of pay scale of Fire Supervisor, with the approval of DG(S) is forwarded to Cabinet Sectt. in order to process the case.

3. Since considerable time has elapsed, it is requested that the case may be processed with the concerned authorities at the earliest.

  
C/L ( A.K. Garg )  
Asstt. Director (B)

Encls:a/a.

Cabinet Secretariat (Shri Jagdish Chander, Under Secy (R))  
ARC UO No. ARC/AW-153/99-972 Dtd. 30 May 2005  
A.P.G.

FAX No. 0671-2494364  
Attn. Air Cmdr T.K. Rath  
DD(A) AW

attached  
Bairly  
S. (Garg)

BRIEF FOR UPGRADATION OF PAY SCALE OF  
FIRE SUPERVISOR IN ARC FIRE SERVICE CADRE

PROPOSAL:

1. It is proposed to introduce separate pay scale of Rs.3250-4900/- for Fire Supervisors in ARC Fire Service Cadre as recommended by DoP&T.

SITUATION:

2. ARC Airwing has a sanctioned established of 198 posts in cadre of Fire Services. The breakdown of these posts in respect of Fire Service Personnel is as under:-

<u>S/No.</u>	<u>Post</u>	<u>No.of posts</u>	<u>Scale prior to V Pay Commission</u>	<u>Scale after V Pay Commission</u>
1.	Fire Officer	01	Rs.3000-5000/-	Rs.10000-15200/-
2.	Asst. Fire Officer	02	Rs.2000-3200/-	Rs. 6500-10500/-
3.	Station Officer	04	Rs.1400-2600/-	Rs. 5000-8000/-
4.	Asst. Station Officer	04	Rs.1200-2040/-	Rs. 4000-6000/-
5.	Fire Supervisor	71	Rs.1150-1500/-	Rs. 3050-4590/-
6.	Fire Operator	115	Rs. 950-1500/-	Rs. 3050-4590/-

3. Prior to Vth Pay Commission, Fire Operators & Fire Supervisors were in separate scales of pay. Unfortunately, in order to reduce total number of scales, the pay scales of Fire Operators and Fire Supervisors were merged after implementation of Vth Pay Commission Recommendations. This was incorrect as Fire Supervisors are to supervise Fire Operators.

4. ACP Scheme was introduced w.e.f. 09 Aug 99 in respect of all Central Govt. Employees which authorized grant of two financial up gradations on completion of total 12 years and 24 years of service respectively. Accordingly, a DPC was held in respect of 85 Fire Service Personnel in 2000 as they had completed 12/24 years of service and had become entitled to 1<sup>st</sup> & 2<sup>nd</sup> ACP. None of the 85 cases were admitted by DACS on grounds that there was an anomaly. Meantime, as on date total of 110 i.e. 49 Fire Operators, 58 Fire Supervisors and 03 Asst. Station Officers have completed 12/24 years of service and are entitled to ACP up gradation.

PROBLEM:

5. DACS interprets that though in whole service career an official can get two ACP up gradations or one promotion and one ACP up gradation it is not applicable in case of Fire Operators & Fire Supervisors as they are in the same scale.

6. In this case, Fire Operators are feeder grade and Fire Supervisors are promotional grade. But both are clubbed in same pay scale (DoP&T has opined that department is to carryout review of cadre and revise/upgrade the pay scale of upper posts i.e. Fire Supervisors.) i.e. Rs.3250-4900/- (Encl.53)

7. DoP&T has also opined that where both feeder & promotion grade like Fire Operators & Fire Supervisors need to be retained, then pay of Fire Supervisors under FR-22(1)(a)(i) be granted minimum of Rs.100/- increase. Unfortunately, all Fire Operators & Fire Supervisors have already reached top of present pay scale and are already in receipt of STAGNATION increment (Page-12 in para-3 of Swamy's Hand Book 2004).

8. If only Fire Supervisors are now granted next hierarchical pay scale under ACP, they would get scale of Rs.4000-6000/- i.e. of Assistant Station Officers scale. But, Fire Operators would continue to stagnate.

#### ARC REQUIREMENT

9. For smooth functioning, it is an organizational requirement to retain the separate cadre posts of Fire Operators & Fire Supervisors. Therefore basically they should have separate pay scales for Fire Operators (Feeder Grade) and Fire Supervisors (Promotional Grade). This view is supported by DoP&T vide (Encl.53).

#### SOLUTION:

10. Feasible solution recommendation is to restructure pay scale for Fire Operators as Rs.3050-4590/- and for Fire Supervisors as Rs.3250-4900/- There is sufficient space between the existing scales to create this. The recommended scales are as under:-

<u>Post</u>	<u>Present scale</u>	<u>Recommendation</u>
Fire Officer	Rs 10000-15200/-	Rs.10000-15200/-
Asst. Fire Officer	Rs.6500-10500/-	Rs.6500-10500/-
Station Officer	Rs 5000-8000/-	Rs.5000-8000/-
Asst. Station Officer	Rs.4000-6000/-	Rs.4000-6000/-
Fire Supervisor	Rs.3050-4590/-]	Rs.3250-4900/- (NEW SCALE FOR WHICH TO BE INTRODUCED)
Fire Operator	Rs.3050-4590/-]	Rs.3050-4590/-

#### FINANCIAL EFFECTS:

11. Since most of the Fire Operators in the pay scale of Rs.3050-4590/-, waiting for ACP have already crossed the minimum of the next proposed hierarchical scale i.e. Rs.3250/- and basic pay of majority of Fire Supervisors has gone beyond Rs.3250/-, start of proposed scale, no additional financial burden would be incurred by GoI. In case, the proposal is approved, the date of its implementation should be 01 Jan 96. The introduction of scale for Fire Supervisors will not affect that of higher scale of Assistant Station Officer or lower scale of Fire Operators.

#### BENEFITS:

12. Distinct category of posts i.e. Fire Supervisors & Fire Operators with separate scales of pay will generate full satisfaction. Subsequently, ACP as per 99 directives will be implemented benefiting both categories i.e. Fire Operators would get ACP to scale of Rs.3250-4900/- as Asst. Fire Officer scale of Rs.4000-6000/- and Fire Supervisors would get ACP to scale of Rs.4000-6000/- and Station Officer scale of Rs.5000-8000/-.

#### RECOMMENDATIONS:

13. It is recommended additional scale of pay for the post of FIRE SUPERVISORS be introduced w.e.f. 01 Jan 96. If approved, proposal will be moved to Cab. Sectt. for approaching MoF for introduction of separate scale for Fire Supervisors.

Cabinet Secretariat  
Bikaner House Annexe

Subject:-Upgradation of Pay Scale of Fire Supervisor in the ARC  
Fire Service Cadre.

Reference ARC's UO No.ARC/AW-153/99 dated 04.07.2005 on the  
subject mentioned above.

2. In this connection, it may be informed that the subject proposal of  
ARC was taken up with Ministry of Finance and their observations recorded  
on page-8/N of this Secretariat's File No.A.49011/02/2005.EA-I is enclosed  
herewith for information and necessary action at your end.

Encl :- As stated above.

*✓*  
(Jagdish Chander)  
Under Secretary(SR)

*32 DEO(B) DW*  
*2-1-06*  
Deputy Director (A), Airwing, ARC

Cab. Sectt. UONo. A.49011/02/2005. DO-I - 174

*dated:-*

*10 JAN 2006*

OMR for kind perusal

is put up for the perusal of SS.

is put up for the perusal of SS.

is put up for the perusal of SS.

for

SDM

is put up for the perusal of SS.

SDM

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Handed over

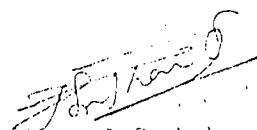
PR | CR  
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55 | 59  
61 |

Ministry of Finance  
Department of Expenditure  
Implementation Cell

Reference notes of Cabinet Secretariat's note at page no.7/ante  
on File No.A.49011/2/2005-EA-I.

2. The proposal of the Cabinet Secretariat regarding upward revision of the pay scale of the post of Fire Supervisor from Rs.3050-4590/- to Rs.3200-4900/-, has been re-examined. It has, however, not been found feasible to agree to the proposal.

4. OSD(K) has seen.

  
(J. Suthakar)  
Under Secretary(IC)  
4/1/2006

Cabinet Secretariat, Bikaner House Annex, Shahjhan Road, New Delhi  
Min. of Finance (Exp.) U.O.No.6/116/99-IC dt. 4/1/2006

No. No. 299..... Dir (R)  
Date..... 12/1/06

Dir (R)

16/1/06

U. P.  
12/1/06

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V3/1/06

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OUT GOING MSG

SECRET/MOST IMMEDIATE

TO CBT AD(A)  
DDM AD(A)  
GWA AD(A)  
PBM AD(A) (BY HAND)  
FM DDC AD(B)

NO ARCAW-153/99 VOL-IV ~~4388-89~~ DATED 14 JUL 2006 (.)

GRANT OF FINANCIAL UPGRADATION UNDER ACP SCHEME FOR FIRE SERVICE CADRE. (.) THIS HQ IS IN RECEIPT OF APPLICATIONS FROM THE EFFECTED OFFICIALS FOR SUPPRESSION/CANCELLATION OF ACP ORDER DATED 12 MAY 2006 (.) REVIEW DPC WAS CONDUCTED AS PER THE CLARIFICATION FURNISHED BY DO P&T (.) ACCORDINGLY REVISED ACP ORDER DATED 12 MAY 2006 WAS ISSUED (.) THE SAME IS IN ORDER (.) REQ APPRISE ALL THE OFFICIALS (.) THIS ISSUES WITH THE APPROVAL OF DDC AD(B) (.) DDM (.)

*At*  
AD(B)

*affixed ad*  
COMMING

01 SEP 2008 ४८

गुवाहाटी न्यायालय  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH AT GUWAHATI

Original Application No. 164 of 2006

Sri Ananda Saikia and others

.....Applicants

-Vs-

Union of India and others

.....Respondents

**REJOINDER OF THE APPLICANTS AGAINST THE WRITTEN  
STATEMENT OF THE RESPONDENTS**

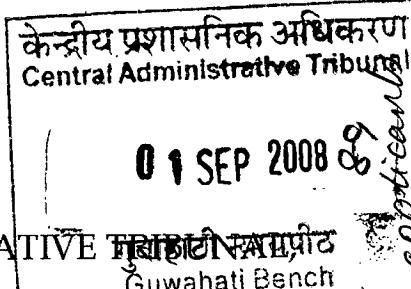
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2	Verification	8

Filed by

Devojit Goswami  
1-9-2008  
(Devojit Goswami)  
Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI



Ananda Saikia Gowani, Advocate  
Filed by the applicants  
through  
Ananda Saikia Gowani, Advocate  
1-9-2008

ORIGINAL APPLICATION No.

164/2006

Sri Ananda Saikia and others

.....Applicants

-Vs-

Union of India and others

.....Respondents

IN THE MATTER OF :

A rejoinder on behalf of applicants  
against the written statement filed by  
the respondents.

**REJOINDER OF THE APPLICANTS**

**MOST RESPECTFULLY SHEWETH :**

1. That the Respondents, in the above mentioned Original application have filed a written statement to the Original Application filed by the applicants and a copy of the same has been furnished to the applicants through their counsel. The answering applicants have understood the contents of the written statement
2. That the statements made in paragraph 1 of the written statement are not sustainable in law. The applicants state that since 8.8.2000 they were allowed two upgradations in the pay scale under the ACP Scheme. The upgradations were given in accordance with law and as of their vested rights under the Scheme. It was therefore incumbent upon the authorities to have heard the applicants before such benefit was taken away by the impugned order. The applicants had been enjoying the

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benefit of the pay scale for long six years which was bestowed upon them on the tenets of the ACP Scheme and the conscious decision of the authorities on their entitlements of two pay upgradations. Denial of an opportunity of being heard before drastically taking a decision prejudicing the applicants of depriving them of their pay scales, was arbitrary and violative of the principles of natural justice and as such the action of the authorities is liable to be set aside and quashed.

- 3: That the applicants deny the statements made in paragraphs 2, 3, 4, 5, 6, 7 and 8 of the written statement and reiterate and reaffirm the statements made in the Original Application.
4. That the statements made in paragraph 9 of the written statement are denied and the applicants state that the statements made in paragraph 4.7 of the Original application are correct and reiterate the same. The applicants state that it is not correct that the applicants No. 4, 5, 6 and 7 were promoted in the year 1997. Infact, the applicants No. 4, 5, 6 and 7 were promoted to the post of Leading Fireman (now Fire Supervisor) with effect from 18.6.1990. The applicants No. 1, 2, 3 and applicant No. 8 were given promotion to the post of Fire Supervisor in October, 1997 and 2000 respectively. The pay scale of Fire Operator and Fire Supervisor were merged with effect from October, 1997 in the scale of pay of Rs. 3050/- - 4590/- pursuant to the 5<sup>th</sup> Pay commission which came into effect from 1.1.1996. Therefore so far the promotion of the applicants No. 1, 2, 3 and 8 are concerned there had been no pay upgradation with their promotion to the post of Fire Supervisor and the applicants contend that the said promotions do not come within the purview of the ACP Scheme. The applicants state that the

Anamika Saikia

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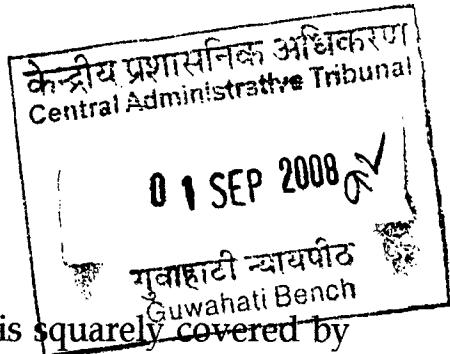
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Guwahati Bench

ACP Scheme was adopted to give relief in the form of pay upgradation to the next promotional post to mitigate the grievance of the incumbents who suffered long stagnation in the same post without any substantive promotion. Therefore, the promotion of the applicants particularly the applicants No. 1, 2, 3 and 8 to the post of Fire Supervisor without any financial benefit could not be counted as a promotion under the scheme. So far the promotion of the applicants No. 4, 5, 6 and 7 are concerned which was given effect on 18.6.1990, the same is also liable to be ignored for giving benefit under the ACP Scheme in view of the office memorandum No. 35034/1/97-Estt (D) (Vol. IV) dated 10.2.2000 vide doubts/clarification at Serial No. 1 of the said memorandum, which is laid down in detail herein below-

**Reference:-Office Memorandum No.35034/1/97-Estt(D)(Vol.IV) dated  
10.2.2000]**

Sl.No.	Point of doubt	Clarification
1.	<p>Two posts carrying different pay scales constituting two rungs in a hierarchy have now been placed in the same pay-scale as a result of rationalisation of pay-scales. This has resulted into change in the hierarchy in as much as two posts which constituted feeder and promotion grades in the pre-merged scenario have become one grade. The position may be clarified further by way of the following illustration: prior to the implementation of the Fifth Central Pay Commission recommendation, two categories of posts were in the pay-scales of Rs.1200-1800 and Rs.1320-2040 respectively; the latter being promotion post for the former. Both the posts have now been placed in the pay-scale of Rs.4000-6000. How the benefits of the ACP Scheme is to be allowed in such cases?</p>	<p>Since the benefits of upgradation under ACP Scheme (ACPS) are to be allowed in the existing hierarchy, the mobility under ACPS shall be in the hierarchy existing after merger of pay-scales by ignoring the promotion. An employee who got promoted from lower pay-scale to higher pay-scale as a result of promotion before merger of pay-scales shall be entitled for upgradation under ACPS ignoring the said promotion as otherwise he would be placed in a disadvantageous position vis-à-vis the fresh entrant in the merged grade.</p>

Anamika Saikia



The applicants state that their case is squarely covered by the above clarification on ACP Scheme and therefore the decision of the authorities to consider their appointment to the post of Fire Supervisor in the same scale of pay as a promotion to nullify one pay upgradation under the ACP Scheme could not be legally justifiable and is liable to be set aside.

5. That the applicants deny the statements made in paragraph 10 of the written statement and state that considering the nature of issue, the doubts/clarification at Serial no. 1 of the Office Memorandum dated 10.2.2000, is applicable in the case of the applicants and the doubts/clarification at serial No. 52 of the Office Memorandum No. 35034/1/97-Estt(D)(Vol.IV) dated 18.7.2001 is not applicable to answer the issue involved in the present Original Application. The applicants state that the authorities while passing the impugned order has failed to understand the contour of the the doubts/clarification No. 52. The doubts/clarification at serial No. 52 is quoted below-

Reference: Office Memorandum No. 35034/1/97-Estt(D)(Vol.IV) dated

18.7.2001

Sl.No.	Point of doubt	Clarification
52.	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' i.e. the entry level and the first promotional grade are in the same scale. What shall be his entitlements under ACPS.	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

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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 cannot 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.

The imports and highlights of the doubts/clarification No. 52 may be summarized as follows-

- i) Normally, it is not correct to place a feeder grade and a promotional grade in the same scale of pay. In such cases it is required to review the cadre structure by taking appropriate course of action.
- ii) If due to restructuring, the pay scale of both the feeder and the promotional grade merges into one, the financial upgradation is to be given in the next higher grade above the merged level and the promotions given before merger is to be ignored, as laid down in the doubts/clarification No. 1 of the Office Memorandum dated 10.2.2000.
- iii) If however, it is inescapable that both the feeder and promotional grades are to be retained at two distinct levels in the hierarchy after the merger in the pay scales then it would be inevitable that the benefit of financial upgradation under the AXP Scheme is to be allowed in the same scale and resorting to the doubts/clarification at serial No. 9 of the Office Memorandum dated 10.2.2000, the pay has to be fixed under F.R 22 1 (a) (i) subject to the minimum benefit of Rs. 100/-.
6. That the applicants state that it is made clear in the doubts/clarification No. 52 that in case of merger of pay

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scales of the feeder and promotional post, appropriate recourse to be taken is for reviewing the cadre structure and for giving benefit under the ACP Scheme, recourse to be taken as per the doubt/clarification No. 1 of Office memorandum dated 10.2.2000. The authorities while issuing the impugned order have failed to consider the clear mandate of the first part of the doubts/clarification No. 52. It is incumbent upon the authorities to show from record as to why the first part of the clarification No. 52 could not be implemented in the case of the applicants and the reasons therefor. Turning down the mandate of the first part of the clarification No. 52 without assigning any reason brings lack of transparency which maligns the impugned action of the Government and the order under challenge is arbitrary and malicious in law.

7. That the doubts/clarification No. 52 also lays down that if the authorities retain both the feeder and the promotional grades with the same pay scale, at two distinct levels in the hierarchy, it must be for reasons inescapable and that the first part of the mandate could not be given effect. The applicants state that using the word "inescapable" mandates that the authorities should make all efforts to give effect to the first part of the mandate of the doubts/clarification No. 52 and only in failing in such effort, the resort to the course mandated in the second part of the clarification is to be taken. It was therefore necessary for the authorities to divulge the reasons as to why review of cadre structure was not possible and/or as to why the doubt/clarification No. 1 of the Office Memorandum dated 10.2.2000 could not be resorted to. The applicants state that the decision to turn down the benefits of ACP Scheme by the impugned order is not supported by any

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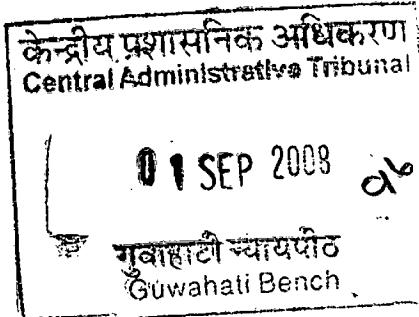
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reason and the decision was taken in this regard whimsically and capriciously and if the record of the proceedings is produced, the above position would be clear.

8. That the statements made in the paragraphs 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 of the written statement are denied by the applicants and the applicants reiterate and reaffirm the statements made in the Original Application and this rejoinder to the effect that the impugned action of the authorities in depriving the applicants of their pay upgradation was illegal and arbitrary.

Ananda Saikia



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VERIFICATION

I, Sri Ananda Saikia, son of Late Mali Ram Saikia, aged about 58 years, residing at Quarter No. 22 (Type-III), Newe Colony, Aviation Research Centre, Doomdooma, P.O.- Sukreting in the district of Tinsukia, Assam, do, hereby state that I am one of the applicants in the present Original Application and I am well conversed with the facts of the case and the other applicants have duly authorized me to sign this verification on their behalf also and I verify that the statements made in paragraphs Nos 1, 2, 3, 4, 5, 6 7 and 8 are true to my personal knowledge and the statements made in paragraphs Nos.....and .....are believed to be true on legal advice and that I have not suppressed any material facts.

And I sign this verification on this 28<sup>th</sup> day of July, 2008 at  
Guwahati

Date:- 29/8/08

Place:- Doomdooma

Ananda Saikia

SIGNATURE