

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. O.A 225/2007

R.A/C.P No. 2/2008

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SECTION OFFICER (Judl.)

Kahler
09.10.17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 225/07
2. Mise Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) Rintu Roy VS- Union of India & Ors

Advocate for the Applicants:- M. Chomda, S. Nath, Ms. L. Datta

Advocate for the Respondents: AMCGSL, Ms. M. Das

Notes of the Registry	Date	Order of the Tribunal
Application is in form is 11/07. For Rs. 50/- deposited vide 1/07/07 No. 346655391 Dated 17.8.07	28.8.07	The applicant was initially appointed as Civilian Cook and thereafter he was remustered as Model Maker w.e.f. 01.12.1995 in the pay scale of Rs. 950-1500/- On 06.11.2003 the School Authority clarified that remustering of the applicant has been transferred to the cadre of Model Maker is not a promotion. According to the applicant he should have been granted as remuster from Cook to Model Maker w.e.f. 01.12.1995 in the pay scale of Rs. 950-1500/- Vide impugned order dated 02.12.04 informed the applicant that remustering from Cook to Model Maker is prima facie appears to be irregular as because Model Maker is a promotional post from the Model Mazdoor with 5 years service and also observed that the individual could be eligible for 1 st
P. Registrar <u>P. Roy</u> 27/8/07		

Contd/-

28.8.07.

ACP benefit only after completing 12 years of service from the date of remustered i.e. on Nov,2007. The applicant has submitted representations dated 30.03.2005, 25.01.2006 before the respondents to grant the pay scale of Rs. 4000-6000/-.

But the Respondent No.3 informed the applicant that the applicant is not entitled to the benefit of ACP, in view of the fact that he has already got a financial upgradation to the post of Model Maker from 01.12.95. Being aggrieved the applicant has filed this O.A. seeking the reliefs.

I have heard Mr.M.Chanda learned counsel for the applicant and Mrs. M. Das, learned Addl.C.G.S.C. for the Respondents. Counsel for the respondents has submitted that he would like to take instructions.

In the meantime, this Court directs the respondents that further recovery if any, will be kept in abeyance till the next date.

Post the matter on 28.9.07.

Vice-Chairman

lm

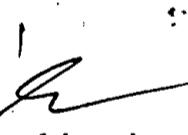
28.9.07. Mrs. U.Dutta, learned counsel for the Applicant and Mrs. Manjula Das, learned Addl. Standing Counsel for the Central Government are present. Learned Addl. Standing Counsel has not been able to obtain any instructions from the Respondents.

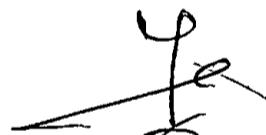
Issue notice to the Respondents, requiring them to file reply by 30.11.07.

As an ad- interim measure, no recovery should be made from the applicant until further orders.

While granting the ad- interim order, liberty is hereby granted to the Respondents to put up their objection, if any, to the interim prayer made in this Original Application/ to this ad interim order.

Send copies of this order to the respondents' (alongwith notices) and free copies of this order be also handed over to the learned counsel appearing for both the parties.


(Khushiram)
Member(A)

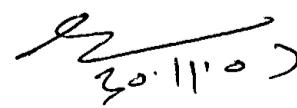

(Manoranjan Mahanty)
Vice-Chairman

lm

30.11.2007

Mr.M.Chanda, learned counsel for the Applicant is present. Mrs.M.Das, learned Addl. C.G.S.C. undertakes to file written statement today and serve a copy thereof on Mr.M.Chanda, who seeks four weeks time to file rejoinder.

Call this matter on 01.01.2008 awaiting rejoinder from the Applicant.


(Khushiram)
Member (A)

/bb/

Notice & order sent to D/Section for issuing to resp. nos 1 to 5 by regd-A/D post. D/Nos-1005 to 1009

(C) 9/10/07-15/10/07

(C) 2/11 Notice duly served on R-5, 2, 12

01.01.2008 None appears for the Respondents. It is

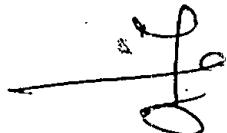
W.Ls not filed It is stated that Mrs.M.Das, learned Addl. Standing
counsel for the Union of India shall file her
appearance memo in this case on behalf of
29.11.07 the Respondents and shall file her written
statement by 04.01.2008.

W.Ls not filed

Call this matter on 04.01.2008.

29
1.31.12.07


(Khushiram)
Member (A)


(M.R.Mohanty)
Vice-Chairman

2.1.08
/bb/

W.Ls filed by
the Respondent Nos.

1 to 4, copy served.

04.01.2008 In this case written statement has

04.01.2008 In this case written statement has
already been filed. Subject to legal pleas
to be examined at the final hearing the
case is admitted and liberty is hereby
granted to the Applicant to file rejoinder
by 4th February, 2008.

Call this matter on 4th February,
2008

04.01.2008

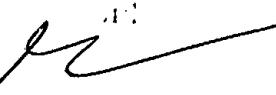
In this case written statement has already been filed. Subject to legal pleas to be examined at the final hearing, the case is admitted and liberty is hereby granted to the Applicant to file rejoinder by 4th February, 2008.

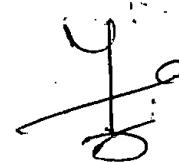
Call this matter on 4th February, 2008.

WLS bled.

3
12.2008.

Lm


(Khushiram)
Member(A)

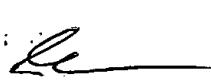

(M.R. Mohanty)
Vice-Chairman

04.02.2007

Despite opportunity, no rejoinder has yet been filed in this case. Mrs.U.Dutta, learned counsel appearing for the Applicant, seeks more time to file rejoinder.

Call this matter on 05.03.2008 awaiting rejoinder from the Applicant.

/bb/


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

Rejoinder not
filed.

3
23.4.08.

Call this matter on 24.4.2008.

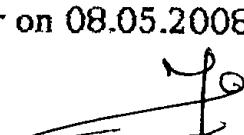

(Khushiram)
Member(A)

pg

24.04.2008

On the prayer of Mrs U. Dutta, learned Counsel appearing for the Applicant, two weeks time granted to file Rejoinder.

Call this matter on 08.05.2008.


(M. R. Mohanty)
Vice-Chairman

08.05.2008

Despite opportunities, rejoinder

has not been filed by the Applicant.

Call this matter on 20.6.2008 for

10.6.08

hearing.

Rejoinder filed
to the Applicant.
Copy not served.

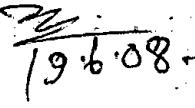
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(Khushiram)
(Member(A))

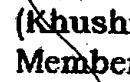

(M.R. Mohanty)
Vice-Chairman

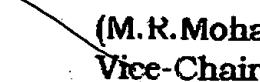

20.06.2008

Call this matter on 8th August, 2008.


The case is ready
for hearing.

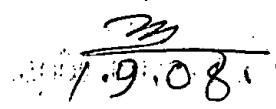
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(Khushiram)
Member(A)

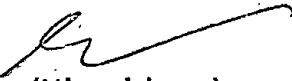

(M.R. Mohanty)
Vice-Chairman

20.06.2008

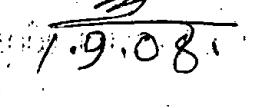
On the prayer of learned counsel
appearing for both parties, call this matter on
2nd September, 2008 for hearing.


The case is ready
for hearing.

lm

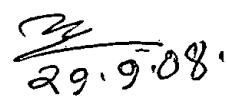

(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman


02.09.2008

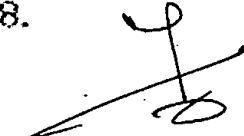
On the prayer of Mrs M. Das, learned

Counsel appearing for the Respondents
(made in presence of Mr. M. Chanda,
learned Counsel appearing for the
Applicant), hearing of this matter stands
adjourned to 30.09.2008.


The case is ready
for hearing.

nk


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

0.11.225/07-7-

30.09.2008. On the prayer of Mr. M. Chanda, learned counsel appearing for the Applicant (made in presence of Mrs. M. Das, learned Addl. Standing Counsel appearing for the Union of India), call this matter on 01.12.2008.


(S.N. Shukla)

lm


(M.R. Mohanty)
Vice-Chairman

The case is ready
for hearing.

3
28.11.08.

01.12.2008 Mr. M. Chanda, learned Counsel appearing for the Applicant, and Mrs. M. Das, learned Standing Counsel for the Union of India, are present.

Call this matter on 22.01.2009.


(M.R. Mohanty)
Vice-Chairman

nkm

22-1-09 Bench is not available.
List on 27.2.09.

The case is ready
for hearing.

3
26.2.09.

27.02.2009 Call this matter on 24.04.2009 for hearing.

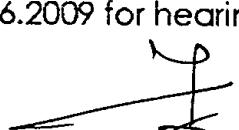

(M.R. Mohanty)
Vice-Chairman

nkm

The case is ready
for hearing.

3
24.6.09.

24.04.2009 Call this matter on 05.06.2009 for hearing.


(M.R. Mohanty)
Vice-Chairman

/bb/

OA 225/2007

-8-

05.06.2009

Call this matter on 31.07.2009 for hearing.


(M.R. Mohanty)
Vice-Chairman

/bb/

31.07.2009

Mr.M.Chanda, learned counsel for the Applicant is present. On the prayer of Mrs.M.Das, learned Addl. Standing counsel representing the Respondents, call this matter on 06.08.2009.


(M.K. Chaturvedi)
Member (A)


(M.R. Mohanty)
Vice-Chairman

/bb/

06.08.2009

Heard Mr.M.Chanda, learned counsel appearing for the Applicant and Mrs. Manjula Das, learned Addl. Standing Counsel appearing for the Respondents and perused the materials placed on record.

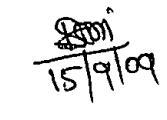
Hearing concluded. Judgment reserved.

15/09/09

/lm/

Judgment order

dt'd 10/9/2009 send
to the D/Section for
issuing to the Applicant
& Respsn. by Regd post.

D/No 11400 - 11405
Dtd 22/9/09  15/9/09
F.  P.W.


(M.R. Mohanty)
Vice-Chairman

10.09.2009 Judgment pronounced in open Court. Kept in separate sheets. Application is dismissed. No costs.


(M.K. Chaturvedi)
Member (A)


(M.R. Mohanty)
Vice-Chairman

/lm/

CENTRAL ADMINISTRATIVE REGIONAL
COMMITTEE BENCH

ORIGINAL APPLICATION NO.

225/07

1. a) Name of the Applicant: - Rintu Roy
b) Respondents: - Union of India & Ors
c) No. of Applicant(s): -

2. Is the application in the proper form: - Yes / No.

3. Whether name & description and address of the all papers been furnished in cause title: - Yes / No.

4. Has the application been duly signed and verified: - Yes / No.

5. Have the Copies duly signed: - Yes / No.

6. Have sufficient number of copies of the application been filed: - Yes / No.

7. Whether English translation of documents in the language: - Yes / No.

8. Whether all the annexure parties are impleaded: - Yes / No.

9. Is the application in time: - Yes / No.

10. Has the Vakalatnama/Memo of appearance/Authorisation is filed: - Yes / No.

11. Is the application by IPO/HQ/For Rs. 50/- 346 655391

12. Is the application is maintainable: - Yes / No.

13. Has the Impugned order original duly attested been filed: - Yes / No.

14. Has the legible copies of the annexures duly attested filed: - Yes / No.

15. Has the Index of documents been filed all available: - Yes / No.

16. Has the required number of enveloped bearing full address of the respondents been filed: - Yes / No.

17. Has the declaration as required by R. of the court: - Yes / No.

18. whether the relief sought for arises out of the Single: - Yes / No.

19. whether the relief sought for is: - Yes / No.

20. In case of condonation is it summarily: - Yes / No.

21. Whether the case can be heard by single Bench/Division Bench: -

22. Any other Point: -

23. Whether the application is ready w/ the Summons or not: -

24. Whether the application is ready w/ the Summons or not: -

SECTION OFFICER(JP/Regd)

REGISTRAR

RJ

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

O.A No. 225 of 2007

DATE OF DECISION: 10.09.2009

Shri Rintu Roy **Applicant/s.**
Mr. M. Chanda **Advocate for the
Applicant/s.**

- Versus -

U.O.I. & Ors **Respondent/s**

Mrs. Manjula Das, Addl. C.G.S.C. **Advocate for the
Respondents**

CORAM

**THE HON'BLE MR. MANORANJAN MOHANTY, VICE CHAIRMAN
THE HON'BLE MR. MADAN KUMAR CHATURVEDI, MEMBER (A)**

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 copies to be circulated to other Benches? **Yes/No**
4. Whether their Lordships wish to see the fair copy of the Judgment? **Yes/No**

Judgment delivered by

Vice-Chairman/Member (A)

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 225 of 2007.

Date of Order: This, the 10th Day of September, 2009.

THE HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN,
THE HON'BLE SHRI MADAN KUMAR CHATURVEDI, MEMBER (A).

Shri Rintu Roy
No.14117514 Model Maker
Counter Insurgency and Jungle
Welfare School
PIN: 900 466
C/O: 99 APO.

... Applicant.

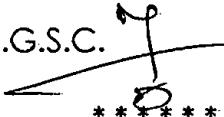
By Advocates: Mr.M.Chanda, Mr.S.Nath & Mrs.U.Dutta.

- Versus -

1. The Union of India
represented by the Secretary
to the Government of India
Ministry of Defence
South Block
New Delhi-110001.
2. The Director General of Military Training
General Staff Branch
Army Headquarters
DHQ, PO, New Delhi-110 011.
3. The Commandant
Counter Insurgency and Jungle Welfare School
PIN: 900 446
C/O: 99 APO.
4. The Controller of Defence Accounts
"Udayan Vihar", Narangi
Guwahati-781 171.
5. The Sr. Area Accounts Officer
Area Accounts Office
Bivar Road, Shillong-1.

... Respondents.

By Mrs. Manjula Das, Addl.C.G.S.C.



ORDER
10/09/2009

MANORANJAN MOHANTY, (V.C.):-

Applicant, who served as a Civilian Cook in Counter Insurgency and Jungle Warfare School (in short 'CIJW School') of Ministry of Defence since 17.08.1988 with the pay in the scale of Rs.775-1025/-, was remustered as 'Model Maker' (with effect from 01.12.1995) in the pay scale of Rs.950-20-1150-EB-25-1500 by an order dated 04.12.1995. Later his said pay was revised upwardly (under the Pay Rules of 1997) w.e.f. 01.01.1996. By a communication dated 17.07.2003 of the CIJW School (to the AAO/Hqr./Shillong) it was proposed to grant him benefit of 1st Level of Assured Career Progression (in short 'ACP') Scheme from the scale of Rs.3050-75-3950-80-4590/- to the scale of Rs.3200-85-4900/- (i.e., from S-5 to S-6) w.e.f. 17.08.2000. His pay, however, was upgraded to the pay scale of Rs.4000-100-6000/- by an order dated 10.12.2003 after internal correspondences dated 24.7.2003 from the AAO/Hqrs./Shillong and dated 28.09.2003 and 06.11.2003 from the CIJW School. Later, by a communication dated 19.04.2004 from CIJW School, AAO/Hqrs./Shillong was requested to step up the pay of the Applicant: for some of his juniors were getting pay at a higher rate than the Applicant and the said AAO/Shillong, on examination of the matter, found that the so-called juniors were Cooks and the Applicant, not being a Cook and the post of being Cook not a feeder cadre for the post of 'Model Maker'; there were no scope to compare between the Applicant and the Cooks. He returned the papers to the School on 26.05.2004.

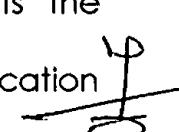
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By a later communication dated 02.12.2004 of the Directorate General of Military Training (addressed to CIJW School, in response to School's letter dated 06.11.2004) following orders were passed:-

"2. The matter has been examined at this HQs. As per SRO 140/76 (extract in respect of the post of Model Maker enclosed) applicable to the Group 'C' and 'D' posts in the Military Training Directorate, the post of Model Maker is to be filled by promotion from the Model Mazdoor with 5 years' service in the grade. However, it is seen from the available documents including the order dated 28 Nov 1995 issued by CIJWS that Shri Rintu Roy was re-mustered from Cook (unit) to Model Maker which prima facie appears to be irregular. It is also pertinent to mention that in any case the individual could be eligible for the first ACP benefit only after completing 12 years of service after re-mustering. The individual will be completing 12 years of service after re-mustering in Nov 2007 whereas he has been granted ACP wef 01 Dec 2000, which is also irregular, and not as per rules.

3. In light of the observations mentioned above you are requested to reconcile and take corrective action in the matter."

On 30.03.2005 and on 25.01.2006, the Applicant (on facing verbal order for recovery of excess payments made to him) represented to the Commandant of the School; which were duly dealt with by the authorities on 30.01.2006 and 07.02.2006. Applicant also placed further materials in support of his stand (taken in his representations) on 07.02.2006. On 20.03.2006, AAO/Shillong informed that the Applicant was not entitled to 1st ACP with effect from 17.08.2000 and a recovery order was passed on 31.05.2006. On 25.07.2007 it was intimated that Applicant was entitled to 1st ACP only on completion of 12 years from the date of his re-mustering on 01.12.1995. Being aggrieved by the above sequence of events the Applicant approached this Tribunal with the present Original Application



filed (on 27.08.2007) under Section 19 of the Administrative Tribunals Act, 1985.

2. By way of filing a written statement, the Respondents disclosed that:-

"3. The applicant, Sri Rintu Roy, was appointed as cook (Unit Group-D Category in the Counter Insurgency and Jungle Welfare School) vide order dated 17.08.1985 in the pay scale of Rs.775-12-995-EV-14-1025 in the existing vacancies and was working at Administrative Wing.

4. Thereafter, on 01.12.95 the applicant was remustered from cook (U) to Model maker (Group-C Category) in the scale of 950-1500.

5. That, as per 5th Central Pay Commission Recommendation and as implemented the pay scale of the applicant was fixed at Rs.3050-4590 with effect from 01.01.96.

6. That as per CCS (Revised Pay) Rules 1997 the pay scale of Model maker from 950-1500 was revised in the 5th Pay Commission Recommendation and the pay scale fixed at Rs.3050-4590.

Further, the pay scale of "other technicians" of department of Medical and Para-medical services was fixed as Rs.4000-6000/-.

The applicant in the instant case claiming the pay scale of Rs.4000-6000/- in fact is not applicable to him as the same is not for model maker."

3. In the written statement it has also been disclosed that:-

"7. That the applicant was granted the first ACP benefit in the pay scale of Rs.3200-4900 on completion of the mandatory survey on 01.12.2000. However, erroneously the applicant pay scale was refixed in the scale of Rs.4000-100-6000. Subsequently the documents along with the service-book of the applicant were submitted to the Area Account Office, Shillong for verification. During course of verification and exploration of

the records the Area Accountant Office, Shillong objected the same stating that there is an error of fixation of pay under ACP scheme which required review by their office. Accordingly, Arrear Accountant Office, Shillong returned the Service book vide letter dated 27.07.01.

8. Thereafter the service book was again re-submitted to Area Accountant Office, Shillong for pay fixation in the pay scale Rs.3200-4900 as first ACP. Accordingly, Area Accountant Office, Shillong fixed the pay.

9. That the rank of Model maker is not identical to the rank of Pattern Maker (HS-Grade-II).

10. That the Model Maker does not fall within the purview of the "other technicians". Hence the pay scale of Rs.4000-6000/- is not applicable to him. He even does not fulfill the requisite criteria as prescribed in the Recruitment Rule."

4. In the written statement, it has, further, been disclosed that:-

"11. That as per the clarification dated 02.12.04 of the Director General of Military Training Army Headquarter (Respondent No.2) the post of Model maker is a promotional post and the said post is to be filled by promotion from the Model Mazdoor with 5 years service. Accordingly the applicant is entitled to get the benefit of 1st Financial Upgradation only in November 2007 counting the period from 28.11.95 as and when the applicant was re-mustered to Model maker. Thus, the 1st ACP granted to the applicant on 01.12.2000 is irregular and not as per rules."

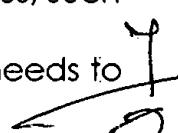
5. By way of filing a Rejoinder (to the written statement of the Respondents) the Applicant has supported his own case.

6. It is not in dispute that the Applicant made a fresh entry to the post of 'Model Maker' w.e.f. 01.12.1995 (although it is stated that the said entry was not in accordance with Recruitment Rules) with a distinct pay scale (higher than the pay scale of the post previously held by him) and he



completed 12 years of service only on 01.12.2007 to enjoy the 1st ACP benefits. Mr.M.Chanda, learned counsel for the Applicant has, however, pointed out that after introduction of new pay scales from 01.01.1996, the pay of 'Cook' and 'Model Maker' became equal and, as such, the Applicant did not enjoy much in comparison to his previous post. But the Applicant certainly enjoyed the higher pay scale (than his previous post of 'Cook') till the Revised Pay Rules that came in 1997. Since he made a re-entry/re-mustered to service as a 'Model Maker' w.e.f. 01.12.1995, under the then ACP Scheme, he is/was only entitled to get 1st ACP benefits (in next higher scale) from 01.12.2007. As it appears, the said 1st ACP benefits were granted to him wrongly w.e.f. 17.08.2000. Applicant was enjoying a higher pay scale w.e.f. 01.12.1995 and therefore he was not entitled to 1st ACP benefit w.e.f. 17.08.2000; because he was in a different post (of Cook) carrying a different/lower pay scale before 01.12.1995. Thus the decision to rectify the mistake/wrong grant of 1st ACP from 17.08.2000 was a correct step taken by the Respondents. As a consequence, the decision to recover the excess amount paid to the Applicant was also just.

7. - ACP Scheme (under which 1st benefit was given to the Applicant) was a statutory one (under Article 73 of the Constitution of India) and that was deviated by granting 1st ACP benefit (to the Applicant) w.e.f. 17.08.2000. Now, it is argued on behalf of the Applicant that the Respondents should be estopped to recover the excess money paid. There cannot be any estoppel against statute. Statute desires to pay 1st ACP on completion of 12 years of service in a particular post/pay scale. But 1st ACP was granted to the Applicant dehors the said statutory provision. Thus, such excess payment (which was made dehors the statutory provision) needs to

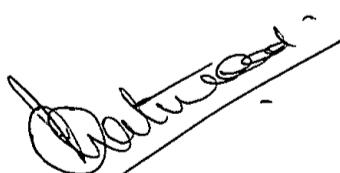


be recovered and no estoppel can be pleaded against it. Thus, we hold that the order of recovery was just and proper.

8. Now that the Applicant is entitled to 1st ACP benefit from 01.12.2007, we direct the Respondents to consider to grant him the said 1st ACP benefits with effect from said date (if the same has not yet been done) and recover/adjust the excess amount already paid to him wrongly (as 1st ACP, from 17.08.2000) from the ACP benefits to be granted from 01.12.2007.

9. This case is accordingly dismissed. With dismissal of this case, the interim restraint orders issued on 28.08.2007 and 28.09.2007 also stand vacated. No costs.

10. At the close of hearing, Mr.M.Chanda, learned counsel for the Applicant, pointed out that during the pendency of this case, the new pay Rules have been introduced w.e.f. 01.01.2006 and that ACP Scheme has also been revised to grant ACP benefits at the end of 10th, 20th and 30th year of services and that the Applicant may be entitled to get 1st ACP benefits w.e.f. 01.12.2005 instead of 01.12.2007. Without examining the matter, we grant liberty to the Applicant to represent his case, as aforesaid, to get 1st ACP benefit from an earlier date.


(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER


(MANORANJAN MOHANTY)
VICE CHAIRMAN

27 AUG 2007

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O. A. No. 225 /2007

Shri Rintu Roy

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

04.12.1995- Applicant was initially appointed as Civilian Cook Gr. 'D' in the Counter Insurgency and Jungle Welfare School (for short CIJW School), Ministry of Defence on 17.08.1988 in the scale of pay of Rs. 775-1025/- . Thereafter he was remustered as Model Maker w.e.f. 01.12.1995 in the pay scale of Rs. 950-1500. (Annexure- 1)

10.12.2003- Respondents granted benefit of 1st ACP to the applicant, placing him in the scale of pay of Rs. 4000-6000/- which seems to be not in order as because the applicant has completed 12 years of service on 17.08.2000. (Annexure- 2)

17.07.2003- OC, Admin. Wing of CI&JW School in his letter to the Area Accounts Officer, Shillong stated that the applicant as per the revised scale is entitled to the scale of Rs. 4000-6000/- instead of Rs. 3200-4900/- in terms of SRO 17 and also declared that the applicant fulfills all the requisite qualifications. (Annexure- 3)

28.09.2003- School authority requested Area Accounts Officer to re-fix the pay of the applicant in the scale of Rs. 4000-100-6000/- on account of 1st ACP w.e.f. 17.08.2000. (Annexure- 4)

06.11.2003- School authority clarified to the Area Accounts Officer, Shillong that remustered of the applicant to the cadre of Model Maker is not a promotion but the said appointment should be treated as 'transfer'. (Annexure- 5)

02.12.2003- Area Accounts officer intimated that pay of the applicant has been fixed in the scale of Rs. 4,000-6,000/- on 20.05.03 although the effective date of financial upgradation under ACP Scheme has been shown as 17.08.2000 but the benefit is given from 20.05.03 for the reason best known to the authority. (Annexure - 6 Series).

19.04.2004- School authority intimated the Area Accounts Office, that the applicant is getting lesser amount of pay than his junior; therefore necessary verification may be made for re-fixation of pay. (Annexure- 7)

26.05.2004- Area Accounts Officer informed that pay fixation of the applicant may be proposed under ACP Scheme w.e.f. due date in the scale of

next promotional post and the record returned by the Accounts Office without any action. (Annexure- 8)

02.12.2004- Army HQ, New Delhi vide impugned letter dated 02.12.04 informed that remustering from Cook to Model Maker is prima facie appears to be irregular as because Model Maker is a promotional post from the Model Mazdoor with 5 years service and also observed that the individual could be eligible for 1st ACP benefit only after completing 12 years of service from the date of remustering i.e. on Nov' 2007. (Annexure- 9)

30.03.2005, 25.01.2006- Applicant through his representation requested the Commandant of CIJW School that he is entitled to be placed in the scale of Rs. 4,000-6,000/- in terms of recommendation of 5th CPC as well as in terms of clarification given by the authority, but to no result. (Annexure- 10 and 11 Series)

07.02.2006- Applicant submitted another representation with the same prayer, said representation was duly forwarded to the respondent No. 3 vide letter dated 07.02.06. (Annexure- 12 Series)

17.10.2003- Area Accounts Officer, Shillong informed the respondent No. 3 that the applicant is not entitled to the benefit of 1st ACP in view of the fact that he has already got a financial upgradation to the post of Model Maker from 01.12.95. (Annexure- 13)

26.03.2004- Area Accounts Officer requested respondent No. 3 for submission of documents and service book, in respect of applicant for review of his pay fixation. (Annexure- 14)

20.03.2006- Area Accounts Office, Shillong vide impugned letter dated 20.03.06 informed the respondent No. 3 that the applicant is not entitled to 1st ACP as on 17.08.2000 as per relevant order of the scheme and also stated that the applicant is entitled to 1st ACP on completion of 24 years of regular service. (Annexure- 15)

31.05.2006- Respondent No. 3 vide impugned letter dated 31.05.06 informed the applicant that recovery of pay and allowance on account of grant of ACP w.e.f. 17.08.2000 till date will be affected. (Annexure- 16)

25.07.2007- Respondent No. 5 vide impugned letter dated 25.07.07 stated that the applicant shall be eligible for 1st ACP only after completion of 12 years from the date of his remustering and over payment directed to be recovered immediately from the applicant. (Annexure- 17)

Hence this Original Application.

P R A Y E R S

Rintu

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned letter No. 74175/Cir/VCPC/GS/MT-7 dated 02.12.2004 (Annexure- 9) letter bearing No. Pay/Tech Co-ord 19 (B) ACP Army dated 20.03.2006 (Annexure- 15), letter bearing letter No. 6013/ACP/Adm dated 31.05.2006 (Annexure- 16) and letter bearing No. Pay/Tech/Coord/49 (B)/ACP dated 25.07.2007 (Annexure- 17) so far the applicant is concerned.
2. That the Hon'ble Tribunal be pleased to declare that remustered of the applicant from Cook to Model Maker w.e.f. 01.12.1995 in the pay scale of Rs. 950-1500/- is an appointment on 'transfer'.
3. That the Hon'ble Tribunal be pleased to direct the respondents to grant revised higher pay scale of Rs. 4000-6000/- w.e.f. 01.01.1996 to the applicant and also be pleased to declare that the respondents are not entitled to make any recovery from the applicant in terms of the impugned order dated 25.07.2007.
4. Costs of the application.
5. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

1. That the Hon'ble Tribunal be pleased to stay operation of the impugned letter bearing letter No. 6013/ACP/Adm dated 31.05.2006 (Annexure- 16) and letter bearing No. Pay/Tech/Coord/49 (B)/ACP dated 25.07.2007 (Annexure- 17) till disposal of the Original Application.
2. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.

Rintu Ray

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

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O.A. No. 225 /2007

Shri Rintu Roy : Applicant.

-Versus-

Union of India & Ors. : Respondents.

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Filed By:

Date:-

Advocate

Rintu Roy

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O.A. No. 225 /2007

BETWEEN:

Shri Rintu Roy,
No. 14117514 Model Maker,
Counter Insurgency and Jungle Welfare School,
Pin: 900446, C/O- 99 APO.

Applicant

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India, Ministry of Defence,
South Block, New Delhi- 110001.
2. The Director General of Military Training,
General Staff Branch,
Army Headquarters,
DHQ PO, New Delhi-110011.
3. The Commandant,
Counter Insurgency and Jungle Welfare School,
Pin: 900446, C/O- 99 APO.
4. The Controller of Defence Accounts
"Udayan Vihar", Narangi,
Guwahati- 781171.
5. The Sr. Area Accounts Officer,
Area Accounts Office
Bivar Road, Shillong- 1.

..... Respondents.

DETAILS OF THE APPLICATION

1. Particulars of the order (s) against which this application is made:
This application is made against the impugned letter No. 74175/Cir/VCPC/GS/MT-7 dated 02.12.2004 (Annexure- 9) letter bearing No. Pay/Tech Co-ord 19 (B) Acp Army dated 20.03.2006 (Annexure- 15), letter bearing letter No. 6013/ACP/Adm dated 31.05.2006 (Annexure- 16) and letter bearing No. Pay/Tech/Coord/49 (B)/ACP dated 25.07.2007 (Annexure- 17) and praying for a direction upon the respondents to grant

Filed by: _____
Applicant- _____
Through: _____
S. No. 27/08/07
Advocate

Rintu Roy

revised higher pay scale of Rs. 4000-6000/- w.e.f. 01.01.1996/17.08.2000 and also be pleased to declare that the respondents are not entitled to make any recovery in terms of the impugned order dated 25.07.2007.

2. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation:

The applicant further declares that this application is filed within the limitation prescribed under Section- 21 of the Administrative Tribunals Act' 1985.

4. Facts of the case:

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That your applicant was initially appointed as Civilian Cook Gr. 'D' in the Counter Insurgency and Jungle Welfare School (for short CIJW School), Govt. of India, Ministry of Defence on 17.08.1988 in the scale of pay of Rs. 775-1025/- . Thereafter he was remustered as Model Maker w.e.f. 01.12.1995 in the pay scale of Rs. 950-1500/- vide Part II order No. 6017/1/16/Civ (III) dated 22.11.1995, read with Part II order No. 6017/1/17/Civ (III) dated 04.12.1995.

Copy of the order dated 22.11.95 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 1.

4.3 That it is stated that as per 5th Central Pay Commission recommendation, which was implemented w.e.f. 01.01.1996 both the category of post, namely; 'Cook' and 'Model Maker' placed in the same rank and status and pay scale of Rs. 3050-4590/- in the category of Gr. 'C'.

4.4 That it is stated that in terms of 5th Central Pay Commission's recommendation the pay scale of both category i.e. Cook and Model Maker



brought under the same pay scale of Rs. 3050-4590/- w.e.f. 01.01.1996. It is relevant to mention here that even if the applicant was allowed to continue as Cook in that event also the applicant would have been entitled to the same pay scale of Rs. 3050-4590/-.

4.5 That it is stated that at the time of remustered from Civilian Cook (U) to Model Maker on 01.12.1995 the pay of the applicant was fixed correctly as Rs. 950-1150-EB-25-1500 but on introduction of CCS (Revised Pay) Rules 1997 from 01.12.1996 the pay of the applicant ought to have been fixed in the scale of Rs. 4000-100-6,000 instead of Rs. 3050-75-3950-80-4590 in view of the clarification given by the Govt. of India. The revised scale of pay mentioned in column 4 of the part of notification for the posts mentioned in column 2 have been approved by the Government, the relevant portion is as follows:

"XXII OTHER TECHNICIANS

(a) Posts requiring Matriculation with 4000-100-6000 52.111
some experience as minimum qualification for direct recruitment.

As per Recruitment rule of Model Maker following qualification are needed:

(a) Matriculation and it's equivalent
(b) Diploma GDRS or 2 years experience in the trade.

Since the applicant fulfilled recruitment qualification for the post of Model Maker, which falls under the purview of "Other Technician", the applicant ought to have been placed in the pay scale of Rs. 4000-100-6,000/- instead of Rs. 3050-4590/. It is categorically submitted that the applicant has been allotted a wrong pay scale by the respondents Union of India w.e.f. 01.01.1996 and as such the applicant is incurring huge financial loss each and every month and the loss is a recurring loss which is also going to adversely effect the pensionary benefit of the applicant.

It is further submitted that the applicant is legally entitled to be placed in the scale of pay of Rs. 4,000-6,000/- in terms of the CCS (RP) Rules 1997 but in spite of repeated representation the respondents did not

Rimta Ray

take any steps for allotment of appropriate scale of pay and re-fixation of his salary w.e.f 01.01.1996.

It is categorically submitted that the post of Model Maker falls within the purview of "Other Technician"; as such the applicant is legally entitled to revised higher scale of Rs. 4,000-6,000/- in terms of CCS (RP) Rules 1997 with all consequential benefit w.e.f. 01.01.1996. But the respondents authority deliberately did not extend the said benefit to the applicant and thereby the applicant is meted out with hostile discrimination in the matter of allotment of appropriate scale in the cadre of Model Maker.

- 4.6 That it is stated that the appointment of the applicant to the cadre of Model Maker cannot be termed as promotion since the scale of pay for both the category of post i.e. Civilian Cook (U) and the post of Model Maker carries same scale of pay following the recommendation of the 5th Central Pay Commission.
- 4.7 That it is stated that the applicant was initially given 1st ACP benefit w.e.f. 17.08.2000 in the scale of Rs. 3200- 4900/-, thereafter the respondents on further reconsideration of the matter granted benefit of 1st ACP placing the applicant in the higher scale of pay of Rs. 4000-6000/- vide order dated 10.12.2003 w.e.f. 20.05.2003. However, placing of the applicant in the scale of Rs. 4,000-6,000/- w.e.f. 20.05.2003, which also seems to be not in order, as because the applicant had completed 12 years of service on 17.08.2000, as such he has attained eligibility and entitled to the benefit in the scale of pay of Rs. 4000-100-6,000/- w.e.f. 17.08.2000, as a result benefit of 1st ACP have been delayed and deferred for about 3 years from the date of attaining eligibility in placing the applicant in the scale of Rs. 4000-6,000/-, which is not sustainable in the eye of law. More so in view of the fact that Govt. memorandum dated 09.08.1999 specifically laid down that if an employee did not get any promotional benefit within a period of 12 years from the initial date of appointment in the Govt. service in that event such Govt. employee will be entitled to the benefit of 1st ACP in the scale of Rs. 4000-6000/- from the day when he completes 12 years of service or from the date when O.M dated 09.08.1999 is given effect to. As a result of delay in



granting the benefit of ACP, the applicant has suffered huge financial loss and the said loss is recurring in nature and the respondents Authority has no jurisdiction to defer the due date in granting benefit of Rs. 4,000-6,000/-.

Copy of the order dated 10.12.03 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 2.

4.8 That it is stated that while the applicant was enjoying the benefit of 1st ACP granted vide Part II order bearing letter No. 6017/1/24/Civ (ii & iii) dated 10.12.2003 w.e.f. 20.05.2003, the respondents particularly the D.G of Military Training, General Staff Branch, Army Headquarter, New Delhi in reply to a letter bearing No. 6013/ACP/ADM dated 06.11.2004 of the lower formation has given a clarification in the matter of re-fixation of ACP benefit to the applicant, it is informed by way of clarification vide impugned letter No. 74175/Cir/VCPC/GS/MT-7 dated 02.12.2004 wherein it has been stated that the post of Model Maker is a promotional post from the cadre of Model Moozdoor with 5 years service in the grade and as such it has been decided that the order of remustered from 'Cook' to 'Model Maker' *prima facie* appears to be irregular. However, it has been stated in the said letter that only after completion of 12 years of service after remustered, the individual could be eligible for benefit of 1st ACP i.e. w.e.f. 01.12.2007. It is pertinent to mention here that with regard to the fixation of pay, as well as for grant of ACP, the Officer Commanding, Administrative wing of CI&JW School wrote a letter addressed to Area Accounts Officer, Shillong bearing letter No. 6013/ACP/Adm dated 17.07.2003 wherein it has been stated that the applicant has been granted ACP to the next higher scale of pay i.e. Rs. 3200-4900/- w.e.f. 17.08.2000. However, it is further stated that as per the revised scale the applicant is entitled to the scale of Rs. 4000-6000/- instead of Rs. 3200-4900/- in terms of SRO 17 and also declared that the applicant fulfills all the requisite qualifications.

Copy of the letter dated 17.07.03 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 3.

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4.9 That vide letter bearing No. 6013/ACP/Adm dated 28.09.2003, the School authority requested Area Accounts Officer to re-fix the pay of the applicant in the scale of Rs. 4000-100-6000/- on account of 1st ACP w.e.f. 17.08.2000 but to no result.

Copy of the letter dated 28.09.03 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 4.

4.10 That the School authority again vide letter No. 6013/ACP/Adm dated 06.11.03, it has been clarified to the Area Accounts Officer, Shillong that remustered of the applicant to the cadre of Model Maker is not a promotion but the said appointment should be treated as appointment on 'transfer'. The School authority also quoted the clarification contained in DOPT letter dated 10.02.2000 in support of their contention and further requested the Area Accounts Officer to re-fix the pay of the applicant in the revised pay scale.

Copy of the letter dated 06.11.03 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 5.

4.11 That the Area Accounts officer vide letter No. Pay/Tech/Coord/49 (C) ACP Army XIV dated 02.12.2003 stated that pay of the applicant has been fixed in the scale of Rs. 4,000-6,000/- on 20.05.03 although the effective date of financial upgradation under ACP Scheme has been shown as 17.08.2000 but the benefit in the scale of Rs. 4,000-6,000/- is given from 20.05.03 for the reason best known to the authority.

Copy of the letter dated 02.12.03 and statement dated 17.07.03 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 6 (Series).

4.12 That the School authority vide letter No. 6013/ACP/Adm dated 19.04.2004 addressed to Area Accounts Office, informed that the applicant is getting lesser amount of pay then his junior, therefore necessary verification may be made for re-fixation of pay. However, Area Accounts Officer vide letter bearing No. Pay/Tech/Coord/49 (C)/ACP Army XV dated 26.05.2004 informed that pay fixation of the applicant may be proposed under ACP

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Scheme w.e.f. due date in the scale of next promotional post and the record returned by the Accounts Office without any action.

Copy of letter dated 19.04.04 and 26.05.04 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 7 and 8 respectively.

4.13 That it is stated that vide impugned letter bearing No. 74175/Cir/VCPC/GS/MT-7 dated 02.12.2004 the Army HQ, New Delhi informed that remustering from Cook to Model Maker is *prima facie* appears to be *irregular* as because Model Maker is a promotional post from the Model Mazdoor with 5 years service and also observed that the individual could be eligible for 1st ACP benefit only after completing 12 years of service from the date of remustering i.e. on November 2007 the applicant will be eligible for 1st ACP and as per impugned letter dated 02.12.04 it is further directed to take necessary corrective measures in this matter. However, the applicant vide his representation dated 30.03.2005 requested the Commandant of CIJW School that he is entitled to be placed in the scale of Rs. 4,000-6,000/- in terms of recommendation of 5th CPC as well as in terms of clarification given by the authority. He has also pointed out that AAO, Shillong has clarified his entitlement of 1st ACP w.e.f. 17.08.2000 in the higher scale. It is also stated that the arrear amount is denied to the applicant when the applicant was placed in the scale of Rs. 4000-6000/- w.e.f. 20.05.2003 as because the applicant is due to the scale of Rs. 4000-6000/- w.e.f. 17.08.2000 and requested the authority to reconsider the case of the applicant and also agitated against the verbal order of recovery issued by the Officer Commanding, Administrative wing. Similar representations also submitted by the applicant on 25.01.2006 but to no result. In the representation dated 25.01.06, the applicant *inter alia* pointed out that even as per the letter of the authority he is entitled to the benefit of ACP w.e.f. 01.12.2007. But the applicant claimed that since he has completed 12 years of service, as such he is entitled to 1st ACP w.e.f. 17.08.2000 instead of 20.05.2003 in the scale of Rs. 4,000-6,000/- the representation dated 25.01.06 of the applicant was duly forwarded to the higher authority on 30.01.06 vide letter No. 6013/ACP/Adm.

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Copy of the impugned letter dated 02.12.04, representation dated 30.03.05, 25.01.06 and forwarding letter dated 30.01.06 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 9, 10 and 11 (Series) respectively.

4.14 That your applicant vide his representation dated 07.02.2006 addressed to Respondent No. 3 brought it to the notice of the authority that in terms of 5th CPC scale of pay of various posts have been re-fixed in the higher revised scale of pay of Rs. 4000-6000/-, said representation was duly forwarded to the respondent No. 3 vide letter dated 07.02.06.

Copy of the representation dated 07.02.06 and forwarding letter dated 07.02.06 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 12 (Series).

4.15 That it is stated that the Area Accounts Officer, Shillong vide his letter No. Pay/Tech/Coord/49/ACP/Army/XIV dated 17.10.2003 informed the Officer Commanding that the applicant is not entitled to the benefit of 1st ACP in view of the fact that he has already got a financial upgradation to the post of Model Maker from 01.12.1995. As such he is not entitled to the benefit of ACP w.e.f. 01.12.2000 and further directed to make recovery in lump sum without providing any opportunity to the applicant.

Copy of the letter dated 17.10.03 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 13.

4.16 That it is stated that the Area Accounts Officer vide letter No. Pay/IV/19-Vol-VII dated 26.03.04 requested the School authority i.e. respondent No. 3 for submission of documents and service book, in respect of applicant for review of his pay fixation. Thereafter the impugned letter dated 02.12.2004 was issued by the Army HQ, New Delhi holding that the appointment of the applicant to the cadre of Model Maker is irregular and the extension of benefit of ACP is also irregular, and further directed to take necessary corrective measures in the matter and accordingly the authority have decided to re-fix the pay as well as to effect recovery of the alleged excess payment.

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Copy of letter dated 26.03.04 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 14.

4.17 That the Area Accounts Office, Shillong vide letter bearing No. Pay/Tech-Co-ord 19 (3) ACP Army dated 20.03.06, whereby it has been informed to the respondent No. 3 that the applicant is not entitled to 1st ACP as on 17.08.2000 as per relevant order of the scheme and also stated that the applicant is entitled to 1st ACP on completion of 24 years of regular service. Therefore, it appears that the Area Accounts Office has treated the appointment of the applicant as Model Maker as promotion and as such the respondents, more particularly the Area Accounts Office (P/Tech) under a wrong notion directed to re-fix the pay and effect recovery, treating the remustered to Model Maker as promotion. The applicant was remustered as Model Maker on 01.12.1995. The word 'muster' means to take recruits into the service in the Army and inscribe the names in the muster roll or official records, or to enroll in service. In the later sense the term implies that the persons mustered are not already in the service. However, there is an exception in the instant case that the applicant was already in service, therefore the word 'remustered' has been used while appointing the applicant in the cadre of Model Maker. Therefore, when the applicant was remustered as Model Maker as stated in the Area Accounts Office letter dated 20.03.2006, as such the said re-appointment or appointment as Model Maker cannot be treated as promotion, at best it can be termed as "appointment on transfer" as such the benefit of 1st ACP was rightly granted to the applicant considering his initial date of appointment in the cadre of 'Cook' w.e.f. 17.08.1988, and on that score alone the impugned letter dated 20.03.2006 is liable to be set aside and quashed.

Copy of the impugned letter dated 20.03.06 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 15.

4.18 That it is stated that the Commandant vide impugned letter No. 6013/ACP/Admin. dated 31.05.06 informed the applicant that in terms of the letter dated 20.03.2006 and also due to audit objection raised by AAO,

Rintu Roy

Shillong recovery of pay and allowance on account of grant of ACP w.e.f. 17.08.2000 till date will be affected and further stated that in terms of condition No. 5.1 of Annexure- 1 of O.M dated 09.08.1999, the applicant is entitled to benefit of 1st ACP only after completion of 24 years of service. This impugned decision is contrary to the facts and records of the instant case and on that score alone the impugned letter dated 31.05.06 is liable to be set aside and quashed.

Copy of impugned letter dated 31.05.06 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 16.

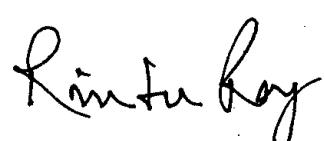
4.19 That it is stated that the Senior Accounts Officer, Area Accounts Office, by the impugned letter bearing No. Pay/Tech/Coord/49 (B)/ACP dated 25.07.2007 wherein it is stated that in view of the clarification given by the DOPT that the applicant shall be eligible for 1st ACP only after completion of 12 years from the date of his remustered and the view have also been endorsed by the DG of Military Training vide letter 02.12.2004 and it is further held that the upgradation granted on 01.12.2000 in the scale of pay of Rs. 3200-4900/- and on 20.05.03 in the scale of Rs. 4000-6000/- may be cancelled and over payment directed to be recovered immediately from the applicant. In this connection it is relevant to mention here that applicant was wrongly granted benefit of 1st ACP in the scale of Rs. 3200-4900/- w.e.f. 01.12.2000 and after detecting the mistake the respondents on their own granted benefit of 1st ACP to the applicant in the scale of Rs. 4000-6000/- w.e.f. 20.05.2003, as such it cannot be said that the applicant has got two upgradation after completion of 12 years of service in the cadre of Cook/Model Maker. The said impugned letter dated 25.07.07 has been forwarded to the applicant vide letter No. 6013/ACP/Admin dated 03.08.07. It is relevant to mention here that the applicant was remustered as Model Maker, therefore such appointment on transfer basis cannot be termed as promotion, as alleged in the impugned letter dated 25.07.07. Moreover, the decision of the respondents that the financial upgradation/or benefit of 1st ACP is granted wrongly, such decision of the authority cannot be sustained in the eye of law, as because 'remustered' is not a promotion, as such upgradation were rightly granted to the applicant.



Moreover, the applicant never committed any fraud in receiving the benefit of upgradation, as such question of recovery does not arise in the instant case of the applicant, rather the applicant has been denied the benefit of the scale of pay of Rs. 4000-6000/- w.e.f. 01.01.1996 since the post of 'Model Maker' falls within the purview of "Other Technicians", moreover, the applicant also possess the requisite qualification prescribed therein for the post of "Other Technician" and as such the applicant is entitled to the pay scale of Rs. 4000-6000/- w.e.f. 01.01.1996. It is further stated that in terms of ACP Scheme, particularly in terms of condition No. 1, 3, 5.1 and 5.2 of the Annexure- 1 of O.M dated 09.08.1999, the applicant is entitled to be placed in the next higher scale of Rs. 4000-6000/- in the event of removal of anomalies as because, the applicant has completed 12 years regular service in the cadre of 'Cook'/'Model Maker' on 17.08.2000, as such he is entitled to the benefit of 1st ACP from the date of completion of 12 years service in the grade of 'Cook'/'Model Maker'. It is further submitted that no opportunity or show cause notice is provided to the applicant before communication of arbitrary decision of re-fixation and recovery. Therefore, order of recovery is highly arbitrary, illegal and on that score alone the impugned letter dated 25.07.2007 is liable to be set aside and quashed.

Copy of the impugned letter dated 25.07.07 and letter dated 03.08.07 are enclosed herewith as Annexure- 17 and 18 respectively.

4.20 That it is stated that the grant of ACP is a welfare measure adopted by the Govt. of India, therefore if the authority feels that the order of remusterling is *prima facie* irregular, in that event also the applicant is entitled to the benefit of 1st ACP w.e.f. 17.08.2000 and such benefit cannot be denied to the applicant only with the pretext that the appointment of the applicant to the cadre of 'Model Maker' is 'promotion'. As such the Hon'ble Tribunal be pleased set aside and quash the impugned letters dated 02.12.2004, 20.03.2006, 31.05.2006 and 25.07.2007 and further be pleased to direct the respondents to grant the higher revised scale of Rs. 4,000-6,000/- to the applicant w.e.f. 01.01.1996 treating the post of 'Model Maker', which falls within the purview of 'Other Technician' as declared by the 5th CPC or



alternatively be pleased to direct the respondents to place the applicant in the scale of Rs. 4,000-6,000/- w.e.f. 17.08.2000 on account of attaining eligibility for grant of 1st ACP, even assuming the applicant is working in the line of 'Civilian Cook', with all consequential benefit or alternatively to treat the appointment as Model Maker, on transfer basis and be pleased to declare that applicant is entitled to 1st ACP in the scale of Rs. 4,000-6,000/- and further be pleased to declare that the respondents are not entitled to make any recovery on account of upgradation of pay scale.

4.14 That this application is made bonafide and for the cause of justice.

5. Grounds for relief (s) with legal provisions:

- 5.1 For that, the applicant is entitled to the benefit of higher revised scale of Rs. 4000-6,000/- w.e.f. 01.01.1996 on account of revision of the pay scale and also in view of the fact that the post of Model Maker falls within the purview of highly skilled grade i.e. within the meaning of 'Other Technician' for which the higher revised scale of Rs. 4,000-6,000/- have been granted following recommendation of 5th CPC.
- 5.2 For that, appointment of the applicant to the cadre of Model Maker cannot be treated as promotion and as such benefit of 1st ACP which is due to the applicant w.e.f. 17.08.2000 cannot be denied on the sole ground that the applicant has been remustered on 01.12.¹⁹⁹⁵ only on transfer basis.
- 5.3 For that, the applicant has been denied higher revised scale of pay deliberately in the cadre of Model Maker in spite of repeated representation.
- 5.4 For that, no opportunity has been provided before issuing the impugned letters of re-fixation and recovery of pay and allowances of the applicant in total violation of principle of natural justice.
- 5.5 For that, no fraud is committed by the applicant in receiving the benefit of upgradation granted by the competent authority i.e. Union of India.

Rintu Ray

5.6 For that, there is no difference in the post of 'Cook' or in the post of 'Model Maker'; as such the applicant is entitled to 1st ACP in the scale of pay of Rs. 4000-6000/- w.e.f. 17.08.2000.

5.7 For that, benefit of ACP has been granted with the sole object to eradicate stagnation since the applicant has been stagnated in the post of Cook/ Model Maker, as such he is entitled to the benefit of 1st ACP provided under the O.M dated 09.08.99.

6. Details of remedies exhausted.

That the applicant declares that he has exhausted all the remedies available to and there is no other alternative remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for.

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned letter No. 74175/Cir/VCPC/GS/MT-7 dated 02.12.2004 (Annexure- 9) letter bearing No. Pay/Tech Co-ord 19 (B) ACP Army dated 20.03.2006 (Annexure- 15), letter bearing letter No. 6013/ACP/Adm dated 31.05.2006 (Annexure- 16) and letter bearing No. Pay/Tech/Coord/49 (B)/ACP dated 25.07.2007 (Annexure- 17) so far the applicant is concerned.

Rintu Roy

8.2 That the Hon'ble Tribunal be pleased to declare that remustering of the applicant from Cook to Model Maker w.e.f. 01.12.1995 in the pay scale of Rs. 950-1500/- is an appointment on 'transfer'.

8.3 That the Hon'ble Tribunal be pleased to direct the respondents to grant revised higher pay scale of Rs. 4000-6000/- w.e.f. 01.01.1996 Or alternatively to grant the benefit of 1st ACP to the applicant on completion of 12 years of service in the cadre of Cook/Model Maker, in the scale of Rs. 4,000-6,000/- w.e.f. 17.08.2000, and also be pleased to declare that the respondents are not entitled to make any recovery from the applicant in terms of the impugned order dated 25.07.2007.

8.4 Costs of the application.

8.5 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for

During pendency of the application, the applicant prays for the following interim relief: -

9.1 That the Hon'ble Tribunal be pleased to stay operation of the impugned letter bearing letter No. 6013/ACP/Adm dated 31.05.2006 (Annexure- 16) and letter bearing No. Pay/Tech/Coord/49 (B)/ACP dated 25.07.2007 (Annexure- 17) so far the applicant is concerned till disposal of the Original Application.

9.2 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.

10.

11. Particulars of the L.P.O

i) L.P.O No. : 349 655391
 ii) Date of issue : 7.7.07
 iii) Issued from : G.P.O., Guwahati.
 iv) Payable at : G.P.O., Guwahati.

12. List of enclosures:

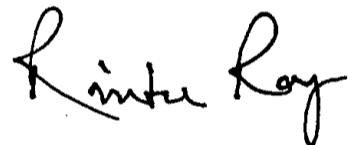
As given in the index.

Rintu Roy

VERIFICATION

I Shri Rintu Roy, No. 14117514 Model Maker, aged about 44^{1/2}, working in the Counter Insurgency and Jungle Welfare School, Pin: 900446, C/O-99 APO, applicant in the instant application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 26th day of August, 2007.



RESTRICTED

STATS SER NO. 5594005

UNIT CLW SCHOOL, C/O 99 APO

SERVING IN ARMY CONCESSION OF BATTLE AXE (MIZORAM)

Last DO Part II Order No.6017/1/16/Civ(III) dated : 22 Nov 95

Present DO Part II Order No.6017/1/17/Civ(III) dated : 04 Dec 95

REMASTERING OF TRADE

1. Shri Rintu Roy 01 Dec 95

*and affix
986*

Remustered from Cook Unit to Model
Maker with effect from 01 Dec 95
and pay fixed Rs. 950/- p.m. in the
scale of Rs. 950-20-1150-EB-25-1500,
wef.

(Board Proceeding alongwith Order of the appointing authority ~~attached~~ attached for AAO Shillong only in original)

1-1-86
Distribution
Normal

Narbir Singh

Major

OC Adm Wing
for Conct

*Attested
Smt
Advocate*

Model Maker

RESTRICTED

Ent Rep'

17/8/2020

4000, 6000

May 2020

RESTRICTED

DO PART II ORDER : CIV STAFF

STATS SER NO : 5598076

UNIT : CIJW School, C/o 99 APG

Last DO Part II Order No 6017/1/23/Civ(II&III) dated : 09 Dec 2003

Present DO Part II Order No 6017/1/24/Civ(II&III) dt : 10 Dec 2003

FIXATION OF PAY UNDER
ACP SCHEME (1st Level) :-

The under mentioned pers have been granted financial upgradation (1st Level/2nd Level) and pay fixed in the pay scale and with effective dates shown against each of their names (Fixation of pay photo copy attached) :-

Serial No.	Trade & Name	Pay Fixed	Pay Fixed	Pay Fixed	Date of in the pay scale	Date of next in- cremen
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1ST LEVEL :

01.	No 14117514, M/M Shri Rintu Roy	Rs 4000/-p.m	Rs 4000-100- 6000.	6000.	20.5.2003-01.5.04
02.	No 059754, Ck M/Spl Shri Birendra Ch Roy	Rs 3625/-p.m	Rs 3200-85- 4900.	4900.	18.8.2002-01.8.03
03.	No 14117466, Ck Mess Shri Santosh Roy	Rs 3455/-p.m	- do -	09.8.99	01.8.2000
04.	No 4226522, Ck Mess Shri Sabut Das	Rs 3455/-p.m	- do -	09.8.99-	01.8.2000
05.	No 14117154, Ck(U) Shri Amar Bahadur	Rs 3625/-p.m	- do -	- do -	- do -
06.	No 14117462, Ck(U) Shri Narayan Paul	Rs 3455/-p.m	- do -	- do -	- do -
07.	No 14117464, Ck (U) Shri NC Sutradhar	Rs 3455/-p.m	- do -	- do -	- do -
08.	No 14117465, Ck(U) Shri SK Paul	Rs 3455/-p.m	- do -	- do -	- do -
09.	No 14117467, Ck(U) Shri Nilkanta Roy	Rs 3370/-p.m	- do -	- do -	- do -
10.	No 14117469, Ck(U) Shri DB Rai	Rs 3455/-p.m	- do -	- do -	- do -
11.	No 14117470, Ck(U) Shri Girdhar Das	Rs 3455/-p.m	- do -	- do -	- do -
12.	No 14117486, Ck(U) Shri PC Barua	Rs 3455/-p.m	- do -	- do -	- do -

2ND LEVEL :

01.	No 14137154, Cook(U) Shri Amar Bahadur	Rs 4000/-p.m	Rs 4000-100- 6000.	09.8.99-01.8.2000
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Distr

1. LAO Shillong (Meghalaya)
2. LAO (A) Silchar
3. Office copy

S
(Purushothaman M)
Maj
OC Adm Wing
For Comdt

H/Off *AS*
D/Cdr *AS*

Attested
John
Associate
R. P.

BY HAND

Counter Insurgency and
Jungle Warfare School
C/O 99 APO

6013/ACP/Adm

 Jul 2003

Area Accounts Office
'River Road'
Shillong (Meghalaya)

RE-FIXATION OF PAY ON RS 4000-100-6000
ACP SCHEME

1. It is submitted that No 14117514 Model Maker Shri Rintu Roy of this School has been granted financial upgradation Assured Career Progression (ACP) Scheme (1st Level) to next higher pay scale from Rs 3050-75-3950-80-4590 to Rs 3200-85-4900 (S-5 to S-6) wef 17 Aug 2000. However, as per the scale revised to Rs 4000-100-6000 instead of Rs 3200-85-4900 vide Govt of India, Min of Defence issued Gazette of India (S.R.O 17) New Delhi, the dated 17 Jan 2001 (Photo copy attached herewith for your ready reference).
2. In view of the above, Pay Fixation Proforma, DO Part II Order alongwith Service Book in respect of the above mentioned individual who fulfill all the QRs mentioned in the said SRO, are forwarded herewith for your further necessary action please.
3. An early action in this matter is solicited.


(Purushothaman M)

Major
OC Adm Wing
For Comdt

Enclos : (As above).

Attested
Smt.
Advocate -

S. R. O. 17.—In exercise of the powers conferred by the proviso to article 309 of the Constitution and in supersession of the of Raksha Upadan Vibhag, Directorate General of Quality Assurance (Group 'C' and 'D') Recruitment Rules, 1987, except as respects things done or omitted to be done before such supersession, in so far as they relate to the posts of Unskilled, Semiskilled, Skilled and Highly Skilled Grade II posts, the President hereby makes the following rules, regulating the method of recruitment of Industrial (Group 'C' and Group 'D') posts in the Department of Defence Production and Supplies (Directorate General of Quality Assurance) namely—

1. **Short title and commencement.**— (1) These rules may be called the Department of Defence Production and Supplies Directorate General Quality Assurance Industrial (Group 'C' and 'D') Recruitment Rules, 2001.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. **Number of posts, classification and scale of pay.**— The number of the said posts, their classification and the scale of pay attached thereto shall be as specified in columns (2) to (4) of the Schedule annexed to these rules.

3. **Method of recruitment, age limit, qualifications, etc.**— The method of recruitment, age limit, qualifications and other matters relating thereto shall be as specified in columns (5) to (14) of the said Schedule.

4. **Disqualification.**— No person,

(a) who has entered into or contracted a marriage with a person having spouse living, or

(b) who having a spouse living, has entered into or contracted a marriage with any person, shall be eligible for appointment to any of the said posts.

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

5. **Power to relax.**— Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order and for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.

6. **Saving.**— Nothing in these rules shall affect reservation, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, Ex-servicemen and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

SCHEDULE

Name of post/posts	No. of posts	Classification	Scale of Pay	Whether selection-cum seniority or selection by merit or non-selection posts	Age limit for direct recruitment
1	2	3	4	5	6
1. Examiner (Highly Skilled Grade-II) * * (Subject to variation upon workload)	866*(2000)	General Central Service Group 'C' Non-Gazetted Industrial Non- Ministerial	Rs. 4000-100- 6000	Non-selection	Upto 37 years (relaxable for Government servants upto 40 years in case of General candidates, 43 years in case of Other Backward Class candidates and 45 years in case of candidates belonging to Scheduled Castes and Scheduled Tribes in accordance with the instructions or orders issued by the Central Government)

Item No.	23*(2000)	General Worker (*Subject to Central Controlled) variation dependent upon work	Group 'C' Non-Gazetted Industrial Non-Min- isterial	Rs. 3050-75-3950- 80-4590	Non-selection	Upto 37 years (relaxable for Government servants upto 40 years in case of General candi- dates, 43 years in case of Other Backward Classes candidates and 45 years in case of candidates belonging to Scheduled Castes and Scheduled Tribes in accor- dance with the instructions or orders issued by the Central Government)
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7	8	9	10	11
applicable	(i) Matriculation or equivalent. (ii) Industrial Train- ing Institute certifi- cate in the specified trade or its equivalent or its equivalent Defence Services Tradesman course approved as such by the Central or State Governments. (iii) One year's experience in the Trade.	No.	Two years in case of direct recruits only.	By promotion failing which by absorption and failing both by direct recruitment.

*Note:- Eligible
candidates are to
qualify in a
departmental trade
test.*

12	13	14
option : From any Semi-skilled Grade with years service in the grade.	Group 'C' Departmental Promotion Committee for promotion and con- firmation consisting of Head of the Establishment—Chairman (i) Senior most Officer next to the Head of the Establishment—Member	Not applicable
option : Persons working in equivalent or similar posts in Directorate General of Quality Assurance/Lower formations of Defence services. All eligible candidates are to qualify in a departmental trade test.	(ii) An officer from other Directorate General of Quality Assurance Establishment located in the station/ nearby station.—Member	
2: Direct recruits in Semi-skilled grades possess Industrial Training Institute certificate/ex-trade Apprentices/NCTVT etc. will be considered for promotion with Two years experience in the grade.		

43. Pattern Maker (Highly Skilled Grade-II)	1*(2000)	General (* Subject to variation dependent upon work-load)	Rs. 4000-100-6000	Non-selection	Upto 37 years (relaxable for Government servants upto 40 years in case of General candidates, 43 years in case of Other Backward Class candidates and 45 years in case of candidates belonging to Scheduled Castes and Scheduled Tribes in accordance with the instructions or orders issued by the Central Government.)
	7	8	9	10	11
Not applicable		(i) Matriculation or equivalent (ii) Industrial Training Institute certificate in the specified trade or its equivalent or its equivalent Defence Services Tradesman course approved as such by the Central or State Governments. (iii) Two years' experience in the Trade.	No.	Two years in case of direct recruits only.	By promotion failing which by absorption and failing both by direct recruitment.
	12		13		14
Promotion: From Pattern (skilled) with three years service in the grade.		Group 'C' Departmental Promotion Committee for promotion and confirmation consisting of Head of the Establishment—Chairman (i) Seniormost Officer next to the Head of the Establishment—Member			Not applicable
Absorption: Persons working in equivalent or similar posts in Directorate General of Quality Assurance/Lower formations of Defence services.		(ii) An officer from other Directorate General of Quality Assurance Establishment located in the station/nearby station—Member			
Note 1: All eligible candidates are to qualify in a departmental trade test.					
Note 2: Direct recruits in Semi-skilled grades who possess Industrial Training Institute certificate/ex-trade Apprentices/NCTVT etc. will be considered for promotion with Two years.					

Counter Insurgency and
Jungle Warfare School
C/O 99 APO

6013/ACF/Adm

28 Sep 2003

Area Accounts Office
'Bivar Road'
Shillong (Meghalaya)

RE-FIXATION OF PAY: ACP SCHEME

1. Ref your letter No. Pay/Tech/Coord/4% c) ACP - Army XII dated 24 Jul 2003.
2. Service Book in respect of Tradesman No 14117514 Model Maker Shri Rintu Roy of this School for re-fixation of pay under ACP Scheme received vide your letter under ref is resubmitted herewith alongwith pay fixation proforma as per vide Govt of India, Min of Defence letter No 11(1) 2002/D (Civ-I) dated 20 May 2003 (Copy attached). It has been clarified that the industrial as well as in the non-industrial Estns. all the trades have been classified as skilled (including left out trades, like Model Maker). Accordingly the pay scales have been modified wcf 01.01.1996 as under :-

(a) Skilled	:	Rs 3050-4590
(b) Highly Skilled	:	Rs 4000-6000 (HS-I+HS-II)
(c) Master Craftsman	:	Rs 4500-7000
3. In view of the above, Model Maker Shri Rintu Roy of this School is eligible for the above ACP Scheme as Highly Skilled (HS-I+HS-II) and should have been given the pay scale of Rs 4000-6000 as per Govt of India letter mentioned at para 1 above wcf the date of implementation of 1st ACP i.e 17 Aug 2000.
4. However, the pre-revised scale of pay in respect of the above mentioned case Skilled grade (Rs 3050-4590) to next higher grade Highly Skilled (Rs 4000-6000).
5. In view of the above, you are requested to re-fix the pay and forward the verified revised pay scale of the above individual as per Govt of India, Min of Def letter mentioned above for our further necessary action please.

Attested
S. L. D.
Advocate

Encls : (As above).

U. C. Gaur
(Umesh Kumar M)
Maj
(C) Admin Wing
For Comdt

BY HAND

Counter Insurgency and
Jungle Warfare School
C/O 99 APO

6013/ACP/Adm

6 Nov 2003

Area Account Office
Bivar Road
Shillong (Meghalaya)

RE-FIXATION OF PAY - ACP SCHEME

1. Further to this School letter No 6013/ACP/Adm dt 28 Sep 2000 and your remarks thereon. *Do/Teach/Coord/69/ACP/Army xiv dt 17.10.2003*
2. It is submitted that No 14117514 Model Maker Shri Rintu Roy, who was initially direct recruited in the post of Cook wef 17 Aug 1988 and subsequently joined another post of Model Maker by the Board of Officer wef 01 Dec 1995, since the vacancy was created at that time. Both the post further comes in the same pay scale wef 01 Jan 1996. Hence, his remustered has been treated as 'transfer' and not a 'promotion'. However, Govt authority on the subject is not held with this School.
3. In connection of granting of ACP, you are requested to refer clarification on the subject issued vide Govt of India, Min of Personnel, Public Grievances & Pension letter No 35035/1/97-Est(D) (Vol.IV) dated 19 Feb 2000 (Photo copy attached). As per doubts raised/clarification at Scr 5 of Annexure of the GOI letter, it is clarified that if the Govt servant has been appointed to another post in the same pay scale either as a direct recruit or on transfer, his previous regular service in the same pay scale, even if it was in different posts should be taken in to account for purpose of ACP. No 14117514 Model Maker Shri Rintu Roy remustered to the post of Model Maker from the post of Cook wef 01 Dec 1995, just after one month both posts comes under equal pay scale of Rs. 3050-4590. A photo copy of Govt of India, Min of Def letter No PC-1 to 11(15)/ 97/D(Civ.I) dt 18 Mar 2001 regarding of pay scale of Cook is also attached for your info please.
4. In view of the above, No 14117514 Model Maker Shri Rintu Roy is eligible for ACP 1st level wef 17 Aug 2000, after completion of 12 yrs of service from his initial appointment of Cook wef 17 Aug 1988. You are therefore, requested to re-fix the pay and verify revised pay scale of the individual as per the authorities of above mentioned Govt of India letters.



(Purushothaman M)
Muj
OC Adm Wing
For Comdt

Encl : As above.

Attestd
Sgt.
Adm Wing

- 24 -

To

No. Pay/Tech/Coord/49/6
Area Accounts Office Acpt Army
" Fiver Road " Shillong - 793001

Dated : 02.12.03

The .. Comptroller & Auditor General
and Single Accounting HeadSub : Fixation of Pay on 1st July 2000

Ref : Your No. G/13/Acpt/Adm etc G-14/03

Pay Fixation Proforma and Service Books received under your
memo above is returned herewith duly Pay Fixed on 1st July 2000 for your
further necessary action please.D.O. Part II Order for the above may please be published at
your end under intimation to all concern.One copy of the Pay Fixation Proforma may please be attached
with the Service Book.

Enc 101 - 1 (One Service Book)

Rintu Roy Model Maker

M.C.C

Accounts Officer

Affisted
SAC
Advocate

STATEMENT OF FIXATION OF PAY FINANCIAL UPGRADEATION
UNDER THE ACP SCHEME WITH EFFECT FROM 09 AUG 99

1. Name : NO 14117514, Shri Rintu Roy

2. Present post/Pay scale held : Model Worker, Rs 3050-75-3950-
~~17 Aug 2000~~ 80-4590.

3. Basic pay drawn as on ~~09 Aug 99~~ in the existing pay scale : Rs. 3350/- P.m. - 160 = 3190/-

4. Post to which directly recruitment : Cosk (Unit)

5. Date of Appointment by direct recruitment : 17 Aug 1988

6. Date of completion of 12 years of regular service (From the date of direct recruitment) : 17 Aug 2000

7. Date of completion of 24 years of regular service (From the date of direct recruitment) : —

8. Details of promotion (including in-situ promotion) if any : N/A

(i) Post/Pay scale to which promoted : —

(ii) Date of promotion : —

(iii) Period of debarment for promotion, if any : —

9. Effective date of financial upgradation under ACP scheme : 17 Aug 2000.
 (i) I Level (Pay Scale) : Rs 4000-100-6000 (3-5 to 3-7)

(ii) II Level (Pay Scale) : —

10. Pay me be fixed as per ACP scheme : Rs 4000/- P.m.

11. Date of next increment : 01 Aug 2001.

12. Authority : Govt of India, Min of pers
 public grievances and pension (Dept) of pers and Trg OM No 35034/1/97/1833
 (D) dated 09 Aug 99 and Board proceeding, Govt of India, Min of defence issued Gazette of India (S.R. O-17) New Delhi, dated 17 Jan 2001.

Station : C/o 99 APO

Dated : 17 Jul 2001

Alvin
 Adarsh
 Advocate

BY HAND

Counter Insurgency and
Jungle Warfare School
C/O 99 APO

6013/ACP/Adm

9 Apr 2004

Area Accounts Office
(Pay IV Section)
Shillong (Meghalaya)

RE-FIXATION OF PAY : ACP SCHEME

1. Refer your No Pay/IV/19-Vol-VII dated 31.12.2003 and 26.03.2004.
2. In this connection, it is intimated that Shri Rintu Roy, Model Maker was promoted wef 01.12.1995 from Cook grade and his pay was fixed accordingly by simultaneously granting ACP wef 09.8.99 which has been treated as wrong fixation.
3. But, the Cook, who were appointed after the appointment of Shri Rintu Roy, has got the ACP benefit and are getting more pay than him.
4. As such, Shri Rintu Roy, Model Maker is being deprived of his legitimate fundamental right and are getting less pay than his juniors, which is against the rule prescribed by the Govt of India.
5. Hence, to step up his pay at par with his juniors, a re-fixation Performa for re-fixing his pay wef 01/01/1996 alongwith comparative statement of pay is also enclosed herewith for your perusal and consideration please.
6. Service documents in r/o Shri Rintu Roy, Model Maker and other two juniors are forwarded herewith for your verification and approval of re-fixation Performa, so that a senior employee is not being deprived of his legitimate right please.

S
2w

(Perushothaman M)

Lt Col
OC Adm Wing
For Comdt

Encls : (Three Service Books).

Attest
J. S. G. C. A.
A. D. C. A.

(TRUE COPY)

REGD/INSURED Rs 100/-

Area Accounts Office
Bivar Road, Shillong - 1
Pay/Tech/Coord/49(C)/ACP
Army XV dated 26 May 2004

To The Counter Insurgency and
Jungle Warfare School
C/O 99 APO

Sub : Re-Fixation of pay : ACP Scheme

Ref :- Your letter No 6013/ACPAadm dated 19 Apr 2004.

In this connection it is intimate that Shri Rintu Roy was Model Maker as on 01.01.96 whereas Shri BC Roy and Jangbo Sherpa were Cook on that date. Hence, no comparism can be made.

However, it appears from your letter No 6013/ACP/Adm dated 06 Nov 2003 that remustering to Model Maker wef 01.12.95 is not to be treated as promotion. If so, it may please be stated clearly that remustering to Model Maker is not a promotion and is not a part of hierarchy, i.e Model Maker post of normal promotion to Cook. Accordingly, pay fixation of Shri R Roy may please be proposed under ACP wef due date in the scale of next promotional post for our further necessary action.

Service Books and connected papers received with your above cited letter are returned herewith.

Sd/- x x x x
(D MISHRA)
AO

Encls : 3 (Three S/Books)
(1) Rintu Roy
(2) BC Roy
(3) J Sherpa

Copy to :-

Pay IV For information.
Local

Attended
Sgd:
AFCO/2004

Tele : 23373514

Dte Gen of Military Training
General Staff Branch
Army Headquarters
DHQ PO, New Delhi-110011

No. 74175/Cir/VCPC/GS/MT-7

02 Dec 2004

✓ Counter Insurgency and Jungle Warfare School
C/O 99 APO

RE-FIXATION OF ACP SCHEME : CLARIFICATION REGARDING

1. Reference your letter No. 6013/ACP/Adm dated 06 Nov 2004.

2. The matter has been examined at this HQs. As per SRO 140/76 (extract in respect of the post of Model Maker enclosed) applicable to the Group 'C' and 'D' posts in the Military Training Directorate, the post of Model Maker is to be filled by promotion from the Model Mazdoor with 5 years' service in the grade. However, it is seen from the available documents including the order dated 28 Nov 1995 issued by CIJWS that Shri Rintu Roy was re-mustered from Cook (unit) to Model Maker which prima facie appears to be irregular. It is also pertinent to mention that in any case the individual could be eligible for the first ACP benefit only after completing 12 years of service after re-mustering. The individual will be completing 12 years of service after re-mustering in Nov 2007 whereas he has been granted ACP wef 01 Dec 2000, which is also irregular, and not as per rules.

3. In light of the observations mentioned above you are requested to reconcile and take corrective action in the matter.

(Signature)
(BS Chawla)
Dy Director
For DCOAS (IS&T)

*Attested
R.S. Chawla
Adm. Secy.*

From : No 14117514
Model Maker
Shri Rintu Roy
CIJW School

To : The Commandant
CIJW School
C/O 99 APO

(Through proper channel)

RECOVERY OF PAY & ALLCES : ACP SCHEME

Sir,

1. With due respect and humble submission, I beg lay down the following few lines for your kind consideration and favourable action please.
2. That Sir, I was employed in the trade of Cook on dt 17 Aug 1988 in the pay scale of Rs 775-1025 and remustered in the trade of Model Maker wef 01 Dec 1995 in the pay scale of Rs 950-1500. It is also submitted that as per 5th Pay Commission pay scale of both category i.e Cook and Model Maker brought under same pay scale of Rs 3050-4590 wef 01 Jan 1996.
3. In view of the above, I was entitled financial up gradation after completion of 12 years service under ACP Scheme due on 17 Aug 2000 in the pay scale of Rs 3200-4900, but as per Govt of India, Min of Def vide letter No 11(1)/2002/D (Civ-I) dated 20 May 2003 it is to be re-fixed in the pay scale of Rs 4000-6000 instead of Rs 3200-4900.
4. AAO Shillong (Pay Tech) re-fixed @Rs 4000/- wef 20 May 2003 in the pay scale of Rs 4000-6000 and (Pay IV) already passed the monthly salary drawn wef 01 Dec 2003. But the arrear amount (by Pay IV) disallowed due to required re-clarification of pay fixation vide their letter No Pay/IV/19-Vol-VII dated 31 Dec 2003 and 26 Mar 2004.
5. As per audit authorities concern and fwd a advice latter with comparative statement herewith two juniors Service Books vide No 6013/ACP/Adm dated 19 Apr 2004. It has been re-clarified by AAO Shillong both sec (Pay Tech & Pay IV) be approved next higher promotional pay scale with due date (i.e 17 Aug 2000) vide their letter No Pay/Tech/Coord/49(C) ACP Army XV dated 26 May 2004.
6. OC Adm Wing informed to me that fixation of pay scale of Rs 3050-4590 to Rs 3200-4900 and next higher pay scale as per 5th Pay Commission not for Rs 4000-6000. So, it will be required necessary clarification.
7. A verbal order passed by OC Adm Wing for necessary recovery will be made from my pay and allces on account of ACP scheme due to remustring.

*Attested
Ranjan
Advocate*

8. If it is so, than in this connection, I would like to mention a few trades which they are also in the same case are as mentioned below :-

- (a) (i) Tin Smith (ii) Driver they are two times re-mustering in this School and they have already availed ACP Scheme & Skilled grade also. They are also supposed to be made recovered of their pay & allowances.
- (b) As per fundamental rules junior employee can not be granted higher scale of pay than a senior employee at par fixation of pay.
- (c) As per revised pay scale 1996, pay scale of civilian staff is brought category wise not by trade wise. So, necessary amendments for recruitment rules as per 5th Pay Commission revised pay scales.
- (d) There are no rules for promotion Cook to Model Maker and not a part of hierarchy as the post are different cadre.
- (e) While, AAO Shillong affords a lot of dilemma in my case, that junior of same category (pay scale) are getting more pay & allowances than me, hence re-clarified to be approved as ACP Scheme. Because, ACP Scheme is neither a promotion nor upgrade. it is only a financial benefit.

9. In view of the above, I request your kind honour to look into this matter symmetrically consider my case and fwd a suitable reply in view of the above facts and I shall ever remain grateful to you.

Thanking you Sir.

Yours faithfully



(Rintu Roy)
Model Maker

Dated : 30 Mar 2005

From : No 14117514

- 34 -

Model Maker
Shri Rintu Roy
CIJW School
C/O 99 APO

Annexure - 11

To : The Commandant
CIJW School
C/O 99 APO
(Through proper channel)

Subject : ANOMOLY IN PAY FLXATION UNDER CCS (RP) RULES 1997

Sir,

1. With due respect, I the undersigned submit following facts for your kind perusal and favourable orders please.
2. That Sir, I was initially appointed as Civ Cook(U) in your establishment on 17 Aug 1988 in pre revised scale of 775 – 1025 (ref CCS (RP) Rules 1986). The same scale has been revised wef 01 Jan 1996 under CCS (RP) Rules 1997 and Govt of India, Min of Def letter No PC-1 to 11 (15)/97/D (Civ-I) dt 28 Mar 2001 as 3050-75-3950-80-4590 (ref S-5 scale).
3. On 01 Dec 1995 vide your DO Part II No 6017/1/17/Civ(III) dt 04 Dec 1995, I was remustered from Civ Cook(U) to Model Maker in pre-revised scale of 950-20-1150-EB-25-1500 (ref CCS (RP) Rules 1986). As per CCS (RP) Rules 1997, my pay has been fixed/revised as 3050-75-3950-80-4590 which is seems to be incorrect.
4. On this contest, I like to submit that, as per CCS (RP) Rules 1997, my scale would have been fixed as 4000-100-6000 wef 01 Jan 1996 based on following :-

Revised Pay scales for certain common category staff

The revised scales of pay mentioned in column 4 of this part of the Notification for the posts mentioned in column 3 have been approved Sy the Government.

(1)	(2)	(3)	(4)	(5)
-----	-----	-----	-----	-----

XXII OTHER TECHNICIANS

(a)	Posts requiring Matriculation with some experience as minimum qualification for direct recruitment.	4000-100-6000	52.111
-----	---	---------------	--------

5. As per RR of Model Maker following qualifications are needed :-

- (a) Matriculation and its equivalent.
- (b) Diploma in GD Arts or two years experience in the trade.

As I fulfill all above essential qualifications as per RR of Model Maker hence, my name has been approved Sy your honour for re-mustering.

Attnct
Kewal
Kewal

6. Similarly, in MES there is a post of 'Sub Overseer' and as per RR essential qualifications are same as Model Maker. Though, this post has now been abolished but existing individuals are getting scale of 4000-100-6000 based on clarification of CCS (RP) Rules 1997 as mentioned in Para 4 above.

7. In my case, though at the time of re-mustering from Civ Cook(U) to Model Maker on 01 Dec 1995 pay was fixed correctly as 950-20-1150-EB-25-1500. But on introduction of CCS (RP) Rules 1997 from 01 Jan 1996, my pay would have been fixed in the scale of 4000-100-6000 instead of 3050-75-3950-80-4590 keeping in view the clarification of Govt of India as per Para 4 above.

8. Further, vide your office DO Part II No 6017/1/24/Civ(ii&iii) dated 10 Dec 2003, 1st ACP have been granted to me wef 20.5.2003 in the scale of 4000-100-6000 which also seems to be not in order due to following reasons :-

(a) I had completed 12 years service On 17 Aug 2000 hence, I am entitled for 1st ACP wef 17 Aug 2000 and not from 20 May 2003.

(b) As my scale would have been revised wef 01 Jan 1996 as 4000-100-6000 so I should have been granted next higher scale on grant of ACP as per prima object of ACP scheme Sy the Govt of India.

(c) Also, if my remustering from Civ Cook(U) to Model Maker from 01 Dec 1995 is considered as promotion then, I should have been granted 1st ACP wef 01 Dec 2007 and present DO Part II require cancellation.

9. In view of the above, may I request your honour to examine my case in detail and issue necessary directive to authorities concern for correction of anomalies thus I may be able to get my legitimate dues accordingly.

For this act of kindness, I and my family would have been ever remain grateful to your honour Sir

Thanking you.

Yours faithfully



(Shri Rintu Roy)

Dated: 25 Jan 2006

Model Maker

6013/ACP/Adm.

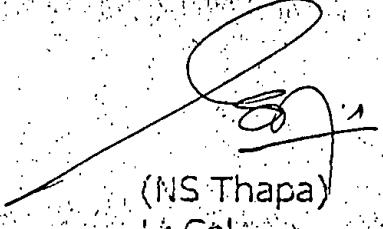
Annexure - 11
(Serial)

30 Jan 2006

ADM WING

ANOMALY IN PAY FIXATION UNDER CCS (RP) RULES 1997

1. Photocopy of application submitted by Model Maker Shri Rintu Roy your wing is fwd herewith for your perusal.
2. You are requested to direct Model Maker Shri Rintu Roy to forward the names of trades of other technician which mentioned in his application at para 4 for our info and further action.
3. An early action is requested.


(NS Thapa)
Lt Col
OC Adm Wing
For Offg Commandant

Encls : Two only

Courses Wing

*Attest
Sat
for o/c*

Annexure (Series) 12

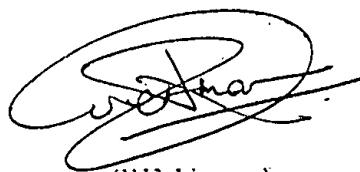
4001/Civ/CW

07 Feb 2006

COURSES WING

ANOMALY IN PAY FIXATION UNDER CCS (RP) RULES 1997

1. Ref your letter No 6013/ACP/Adm dated 30 Jan 2006.
2. The name of trades other technician asked by you is fwd herewith along with application form of the indl for your further necessary action please. It is requested that the application of indl directly be considered compassionately.



(RD Verma)
Maj
DS Coord
For SI

Encls : Two only.

Adm Wing

*Alli Par
Arovale*

To

The Commandant
CIJW School
C/o 99 APO

(Through proper channel)

ANOMALY IN PAY FIXATION UNDER CCS (RP) RULES 1997

1. Ref to your letter No 6013/ACP/Adm dated 30 Jan 2006.
2. Relevant extracts of Gazette Notification No GSR 569 (E) are enclosed wherein trades of different organizations had scale of pay 950-20-1150-EB-25-1500 as per CCS (RP) Rule 1986 have been revised as 4000-100-6000 wef 01 Jan 1996 vide CCS (RP) Rules 1997 :-

Posts	Present scale As per RPR 1996	Revised scale as per RPR 1997	Para No of Report
XXIV. VETERINARY STAFF			
Stockman/Compounder/Stock Asstt/ Animal Husbandry Asstt/ Dresser	950-20-1150- EB-25-1500	4000-100-6000	55.296
CENTRAL CATTLE BREEDING FARMS			
Stockmen	- do -	- do -	56.75
VII. COMMON CATEGORY - PRINTING STAFF			
Binder Gr - II	-do-	-do-	55.217
VII. TECHNICAL SUPER- VISORS IN THE NAVY			
Ammunition Mech	-do-	-do-	63.317
MARINE STAFF/INDIAN NAVY DECK STAFF			
Sukhani supervisory	-do-	-do-	55.184
PRINTING STAFF			
Compositor Gde - I	-do-	-do-	63.91
ARMED FORCES MEDICAL SERVICES			
Cinema projectionist Gr - III	-do-	-do-	55.230
IX. ZOOLOGICAL SURVEY OF INDIA			
Photographer	-do-	-do-	64.43
XIV. REGIONAL LEPROSY TRAINING AND RESEARCH INSTITUDE, ORISSA COMMON CATEGORY EDP STAFF			
Computer	-do-	-do-	55.115

Alvin
Advocate

- 2 -

XVI. NATIONAL RESEARCH
LABORATORY FOR CONSER-
VATION OF CULTURAL;
PROPERTY, LUCKNOW.

Repairer -do- -do- 71.54

XVIII. CAMERA WING.

Photographer -do- -do- 73.54

XXVI. ANDAMAN AND
LAKHSDWEEP HARBOUR
WORKS

Field Assistant -do- -do- 87.57

XXIX. CENTRAL WATE
COMMISSION.

Jr wireless Mech -do- -do- 90.11

XXXVI. HEALTH DEPARTMENT

Linemen cum Meter Reader -do- -do- 104.29

3. Thanking you.

Yours faithfully



(Shri Rintu Roy)
No 14117514
Model Maker
CIJW School

Dated : 17 Feb 2006.

Copy to :-

Courses Wing - For info please.

Annexure- 13

(Typed true copy)

No. Pay/Tech/Coord/49/ACP/Army XIV

Dated 17.10.2003

Sub:- Re-fixation of pay: ACP Scheme

Ref: Your letter No. 60/S/ACP/Admin dated 28/9/03

Pay fixation proforma along with Service Book in respect of No. 14117514 Model Maker Sri Rintu Roy received under your above cited memo is returned herewith unactioned with the following remarks:-

It is seen from Service Book that the individual was appointed as Civilian Cook with effect from 17.8.1988 in the scale of Rs. 775-12-955-EB-14-1025 and remustered from Cook to Model Maker w.e.f. 01.12.1995 in the scale of pay Rs.950-20-1150-EB-25-1500. Since the individual has already got a financial upgradation and higher scale w.e.f. 1.12.95 by virtue of remustered from Cook to Model Maker he is not entitled to another upgradation after completion of 12 years from the date of his direct recruitment w.e.f. 17.8.88. On review of the case it is seen that the pay of the individual has fixed under ACP at Rs. 3540/- (i.e. S-5 to S-6) w.e.f. 01.12.2000 with DNI 01/12/01 may please be treated as cancelled and therefore he will be entitled to the pay of the Model Maker i.e. Rs. 3425 as he was drawing before the said fixation with normal DNI as before. Consequently the over payment resulted in due to the above wrong fixation recorded in lump sum.

An immediate action is to be taken on priority basis.

A.O (Pay Tech)

Copy to:-

The Pay Gp-IV

Local

For information and necessary action wr to the above.

Attested
Smt.
Advocate

Annexure- 14

(Typed true copy)

No. Pay/IV/19-Vol-VIII

AAO Shillong dt 26/3/04

Sub:- Re-fixation of pay: ACP Scheme

Ref: This Office No. No. Pay/IV/19-Vol-VIII dt 31.12.2003.

Please refer to the above cited communication and confirm submission of documents and service book in respect of Model Maker Rintu Roy to Pay/Tech Section of this Office for review of pay fixation as the individual has already got financial upgradation as Model Maker.

Due/Drawn statement w.e.f. 01.12.2000 may please sent to this Office for out verification also.

It is further requested that pay of the individual may also please be preferred accordingly.

A.O

Copy to:-

The Pay/Tech : With reference to No cited above. Please receipt of the (Local) cancellation DO II and revised fixation in r/o Rintu Roy for effecting recovery and to regulate his pay. If the same has already been received in your section further course of action to be taken by this section may please be intimated at an early date.

Sd/-

A.O

*Alu Sif
Jaw.
Adv. Colé*

Regd

No : Pay/Tech Co-ord 19(B)

Acp ARMY.

Area Accounts Office

Shillong - 1

Dt : 20.03.2006

To

CIJW School
C/O 99 APO

SUB : Re-fixation of pay No 14117514, Model Maker, Shri Rintu Roy
Ref : Your No 6013/ACP/Adm dt 28.02.2006.

With reference to your cited letter No, views of this office are appended below :-

- 1) Since the individual was re-mustered as Model Maker with effect from 01.12.1995 and has been granted higher pay scale with effect from the same date, he is not to 1 st ACP as on 17.08.2000 as per orders relevant to ACP Schemme.
- 2) The individual will be entitled to 1 st ACP after completion of 24 years of regular service as per condition no. 5.1 of Annexure-I to ACP Rules.

Sd/-

ACCOUNTS OFFICER (P/Tech)

Copy to,

The CDA (Pay Section) : In continuation to this office letter of even no dated 01.3.2006 and CIJW School letter cited under reference with a request to confirm correctness of the views of this office.

At his/ her
last
Hos. cal.

C. T. C

Sd/-

ACCOUNTS OFFICER (P/Tech)

6013/ACP/Adm

May 2006

ADM WING

FIXATION OF PAY : NO 14117514, MODEL MAKER, SHRI RINTU ROY
OF THIS SCHOOL

1. Further to our letter No 6013/ACP/Adm dt 17 Feb 2006.
2. The case for pay fixation under CCS (RP) Rules 1997 in respect of Model Maker Shri Rintu Roy of your Wing has been taken up with Army HQ (MT-7) Line Dte and Area Accounts Office, Shillong for the clarification of status and grade structure of the individual.
3. Now the Area Accounts Office, Shillong directed that action may be taken as per the views fwd vide their letter No Pay/Tech/Coord/49(B)/ACP/ARMY dt 20 Mar 2006.
4. In view of the Audit Objn raised by AAO Shillong, the pay of ACP granted from 17 Aug 2000 is required to recover from his pay and allowances from 17 Aug 2000 to till date. The individual will be entitled 1st ACP only after completion of 24 years of regular service as per condition No 5.1 of Annexure-I to ACP Rules.
5. Please info the individual accordingly.



(NS Thapa)
Lt Col
OC Adm Wing
For Commandant

Ends : Two

COURSES WING

*Attired
Advocate*

Encd/Enclred for Rs. 100/-
No: Pay/Tech/Coord/49(8)/ACP
Area Accounts Office
Shillong-1.
Dt: 25.07.2007.

To,

CIJW School,
Pin: 900446,
C/C 99 APO.

SUB: Fixation of Pay

REF: Your nos: 6013/ACP/Adm (1) dt. 14.4.07 and 6001/8/Adm dt. 8.5.07.

Service books and pay fixation proforma in respect of following individuals are returned herewith unactioned for the following remarks:

I: Sri Maaranjan Roy, Cook

- 1) The individual was appointed as Safaiwala wef: 5.11.1976 in the pay scale of 196-232 and re-mustered to Cook wef: 1.4.1983 in the pay scale of 200-250.
- 2) As per Govt. of India, Min. of Personnel, Public Grievances & Pensions (Deptt. of Pers & Trg) F.No.35034/1/97-Eatt (D) (Vol-IV) dt. 10.2.2000, clarifications on the points of doubt no. 4,5,6, it has been clarified that if an employee who is direct recruit in one grade and subsequently joins another post again as direct recruit, such appointment will be treated as direct recruitment and past service shall not count for benefits under ACP's
- 3) As re-mustered to Cook from Safaiwala can not be treated as promotion and the two posts carry different pay scales, the individual will therefore in the same hierarchy be eligible for grant of 1st ACP only after completion of 12 years of service from the date of his re-mustered to Cook.

II: Sri Rintu Roy, Model Maker

- 1) The individual was appointed as Cook wef: 17.8.1988 in the pay scale of 775-1025 and re-mustered to the post of Model Maker wef: 1.12.1995 in the pay scale of 950-1500
- 2) The contention in para 3 of your letter dt. 14.4.2007 has not been agreed by this office. Clarification-1 of DoPT clarificatory order dated: 10.2.2000 speaks about ignoring of promotion in the same hierarchy, whose pay scale has been merged while fixing one's pay under ACP scheme. In the instant case, Cook and Model Maker does not come under the same hierarchy and Sri Roy will therefore be eligible for 1st ACP only after completion of 12 years of service from the date of his re-mustered. The views of this office have also been endorsed by Dte. Gen of Military Training, GS Branch, AHQ letter No. 74175/Cir/VCPC/GS/MT-7 dt. 2.12.2004
- 3) In view of the above, upgradation already granted on 1.12.2000 in the scale of 3200-4900 and on 20.5.2003 in the scale of 4000-6000 may please be cancelled and overpayment be recovered immediately.

The Service Books and pay fixation proforma may be re-submitted duly complying with the above observations for our necessary action.

*Filed
Recd.
A/W/Cat*

Enclo: As above.

..... /
Sr. Accounts Officer (P/Tech)

W - A2 -

Annexure - 18

6013/ACP/Adm

03 Aug 2007

ADM WING

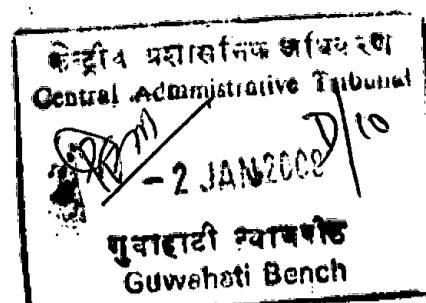
FIXATION OF PAY

A photocopy of Area Accounts Office Shillong letter No Pay/Tech/Coord/49(B)/ACP dt 25 Jul 2007 is fwd herewith for info the bch please.


(YS Rawat)
Lt Col
OC Adm Wing

Courses Wing

Attested
Dat.
Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH,
GUWAHATI.

O.A.No.225/07

Written Statement on behalf of the respondents to
Original Application no.225/07.

Shri Rintu Roy

...Applicant.,

-Vs-

The Union of India and ors.

...Respondents.

INDEX

Sl.no	Annexure	Particulars	Page no.
1.	-	Written statement	1 to,7
2.	-	Verification	8.
3.	1 & 1A.	Letter dated 2.12.04 along with the Recruitment Rules of the model maker.	9 to 11.

Date: 2.1.2008

Filed by:-

Manjulor Das
Advocate.

- 2 JUNE 2008

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

File No: -
Case No: -
The Respondent Nos.
1 to 4

Through
Major
Counter
Insurgency
Jungle Welfare
School
Guwahati Bench, 21/1/2008
CAT

IN THE MATTER OF:

O.A.No.225/07

Sri Rintu Roy

...Applicant

-Vs-

Union of India and ors.

...Respondent.

-AND-

IN THE MATTER OF:

Written statement on behalf of
the respondents no.1 to 4.

(WRITTEN STATEMENT ON BEHALF OF THE RESPONDENTS no.1 to 4)

I, Major Ashwani Sinha son of S.K.Sinha, presently officiating as O.C. Administrative Wing, Counter Insurgency Jungle Welfare School, do hereby solemnly affirm and state as follows:-

1. That I am the officiating O.C. Administrative Wing, Counter Insurgency Jungle Welfare School. I have gone through the aforesaid application and have understood the contents thereof. Being the officiating O.C. Administrative Wing, I am acquainted with the facts and circumstances of the case. I have been authorized to file this written statement on behalf of respondents no.1 to 4.
2. I do not admit any of the averments except which are specifically admitted hereinafter and the same are deemed as denied.
3. The applicant, Sri Rintu Roy, was appointed as cook (Unit Group-D Category in the Counter Insurgency and Jungle Welfare School) vide order dated 17.08.1985 in the pay scale of Rs.775-12-995-EV-14-1025 in the existing vacancies and was working at Administrative Wing.

Received
Abul
02/01/08

- 2 JAN 2003

গুৱাহাটী ন্যায়পাই

Guwahati Bench

4. Thereafter, on 01.12.95 the applicant was re-mustered from cook (U) to Model maker (Group-C Category) in the scale of 950-1500.

5. That, as per 5th Central Pay Commission Recommendation and as implemented the pay scale of the applicant was fixed at Rs.3050-4590 with effect from 01.01.96.

6. That as per CCS (Revised Pay) Rules 1997 the pay scale of Model maker from Rs.950-1500 was revised in the 5th Pay Commission Recommendation and the pay scale fixed at Rs.3050-4590.

Further, the pay scale of "other technicians" of department of Medical and Para-medical services was fixed as Rs.4000-6000/-.

The applicant in the instant case claiming the pay scale of Rs.4000-6000/- in fact is not applicable to him as the same is not for model maker.

7. That the applicant was granted the first ACP benefit in the pay scale of Rs.3200-4900 on completion of the mandatory survey on 01.12.2000. However, erroneously the applicant pay scale was refixed in the scale of Rs.4000-100-6000. Subsequently the documents along with the service-book of the applicant were submitted to the Area Account Office, Shillong for verification. During course of verification and exploration of the records the Area Accountant Office, Shillong objected the same stating that there is an error of fixation of pay under ACP scheme which required review by their office. Accordingly, Arrear Accountant Office, Shillong returned the Service book vide letter dated 27.07.01.

8. Thereafter the service book was again re-submitted to Area Accountant Office, Shillong for pay fixation in the pay scale Rs.3200-

- 2 JAN 2008

4900 as first ACP. Accordingly, Area Accountant Office, Shillong fixed the pay.

9. That the rank of Model maker is not identical to the rank of Pattern Maker (HS-Grade-II).

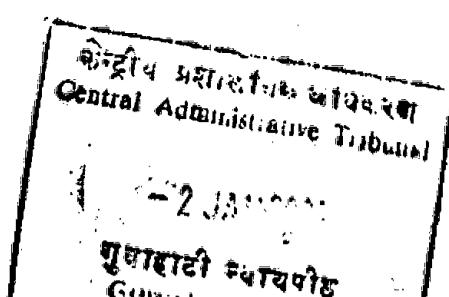
10. That the Model Maker does not fall within the purview of the "other technicians". Hence the pay scale of Rs.4000-6000/- is not applicable to him. He even does not fulfill the requisite criteria as prescribed in the Recruitment Rule.

11. That as per the clarification dated 02.12.04 of the Director General of Military Training Army Headquarter (Respondent no.2) the post of Model maker is a promotional post and the said post is to be filled by promotion from the Model Mazdoor with 5 years service. Accordingly the applicant is entitled to get the benefit of 1st Financial Upgradation only in November 2007 counting the period from 28.11.95 as and when the applicant was re-mustered to Model maker. Thus, the 1st ACP granted to the applicant on 01.12.2000 is irregular and not as per rules.

12. Reply to the facts of the case:

12.1 That with regard to the statements made in paragraphs 4.1 to 4.4 of the application the humble answering respondent has nothing to make comment on it.

12.2 That with regards to the statements made in paragraph 4.5 of the application the humble answering respondent begs to state that as per the CCS (Revised Pay) Rules 1997 the pay scale of Model Maker from Rs.950-1500 (4th CPC) was revised in the 5th Pay Commission Recommendation at the pay scale of Rs.4000-6000 is applicable to "other technician" in the department of Medical and Para Medical services.



It is not correct that the model maker fall within the purview of other technicians. Hence the pay scale of Rs.4000-6000 is not applicable to him. Further the applicant does not even fulfill the requisite qualification as prescribed in the recruitment rules.

12.3 That with regards to the statements made in paragraph 4.6 of the application the humble answering respondent begs to state that as per the clarification of the respondent no.2 dated 02.12.04 the post of model maker is a Promotional post and is to be filled up by promotion from model Mazdoor with 5 years service in the grade. Further it is clarified that the order dated 28.11.95 issued by the humble answering respondent no.3 regarding the re-mustering of the applicant from cook to the model maker is irregular and he is entitled to get the 1st financial upgradation on November 2007 by counting the period 1995 when he was re-mustered as model maker. Thus the 1st ACP granted on 01.12.2000 is irregular and not as per rule.

A copy of the said letter dated 02.12.04 issued by the respondent no.2 alongwith the recruitment rules of the model maker is annexed herewith and marked as annexure 1 and 1A.

12.4 That with regards to the statements made in paragraph 4.7 of the application the humble answering respondent begs to state that as per the Office Memorandum 09.08.99 the scheme of Assured Career Progress is applicable to the Central Government Civilian Employees in all Ministries/ Department. The main objective of the said scheme as recommended in the 5th CPC to deal with the problem of genuine stagnation hardship faced by the employees due to lack of adequate promotional avenues. The said scheme provides the 1st financial upgradation to the employees after completion of 12 years of services and second upgradation after completion of 24 years of services subject to the condition. In the instant case applicant was granted the 1st ACP benefit ob 01.12.2000 by counting

the period from his initial appointment from the initial appointment of the year 1988. However, the said benefit was granted erroneously in the pay scale of Rs.4000-6000 instead of Rs.3200-4900. Thereafter the documents alongwith the service book of the applicant were submitted to the Area Account Officer (Respondent .5) for verification. During verification and exploration of the records of the service book of the applicant the Area Account Officer (Respondent 5) objected as there is an error in fixation of pay under ACP scheme. Accordingly the Area Accounts Officer vide letter dated 17.10.03 requested the Respondent 3 to work out the wrong fixation of pay and recover the amount.

12.5 That with regards to the statements made in paragraphs 4.8 to 4.10 of the application the humble answering respondent reiterates and reaffirms the statements made in paragraph 12.3 of the written statement . Further it is stated that as per the clarification of the respondent no.3 the applicant is not entitled to get the benefit of ACP on 01.12.2000 but in November 2007 as the post of model maker is a promotional and he was re-mustered in the years 1995.

12.6 That with regards to the statements made in paragraph 4.11 of the application the humble answering respondent begs to state that the Area Accounts Officer (R5) has disallowed the ACP for the period from 17.08.2000 to 12.05.03

12.7 That with regards to the statements made in paragraph 4.12 to 4.13 of the application the humble answering respondent has nothing to make comment on it as they are being matters of records of the case. He, however, does not admit any statements which are contrary to records.

12.8. That with regards to the statements made in paragraph 4.14 of the application the humble answering respondent begs to

1 - 2 JAN 2009

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Guwahati Bench

state that as stated by the applicant the various post are infact not the posts of Model Maker. All the post are for the department i.e. the post of for Medical/ Para Medical service/ Department of Telecommunication/ Geological Survey of India and was not common category of Ministry of Defense.

Further it is stated that in the 4th CPC Recommendation the pay fixed for Model Maker was Rs.950-1500/- subsequently further revised in 5th CPC to Rs.3050-4590/-.

12.9 That with regards to the statements made in paragraph 4.15 to 4.18 of the application the humble answering respondent has nothing to make comment on it.

12.10. That with regards to the statements made in paragraph 4.19 of the application the humble answering respondent begs to state that the Model Maker does not fall within the purview of "other technician". Hence the pay scale of Rs.4000-6000 is not fixed for the other technician which include post of Department of Medical/ Para Medical Service is not applicable to the applicant.

12.11 That with regards to the statements made in paragraph 4.20 of the application the humble answering respondent reiterates and reaffirms the statements made in paragraph 12.8 of this written statement.

13. Reply to the Grounds

13.1 In response to the grounds made in paragraph 5.1 it is submitted that as per the Service Routine Order the post of Model Maker does not fall under the purview of the "other technicians". Hence the revised pay scale fixed in 5th Pay Commission Recommendation of Rs.4000-6000 is not applicable to the applicant.

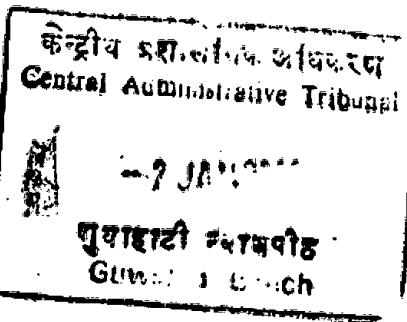
- 2 JAN 2008

Guwahati Bench

13.2 In response to the grounds made in paragraph 5.1 it is submitted that as per SRO the post of Model Maker is promotional post. Hence the applicant is entitled to get the 1st ACP in the November 2007 by counting the period from the 1995 when the applicant was re-mustered to Model Maker.

13.3 In response to the grounds made in paragraph 5.3 to 5.7 it is submitted that the applicant is not entitled to get the 1st ACP with effect from 1.12.2000 but from November 2007.

14. The humble answering respondent begs to submit that there is no valid and legal grounds and as such the application is liable to be dismissed.



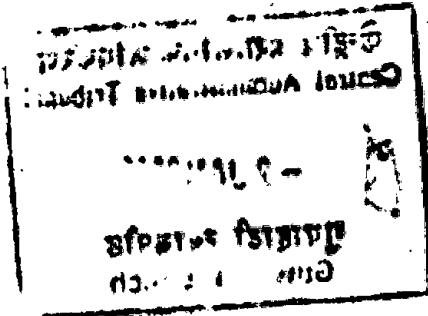
VERIFICATION.

I, Major Ashwani Sinha son of S.K.Sinha presently officiating as O.C. Administrative Wing, Counter Insurgency Jungle Welfare School, aged about 32 years do hereby verify that the statements made in paragraphs 1, 2, 7, 10, 12, 1, 12, 5, 12, 9 and 12, 10 are true to my knowledge ; and those made in the paragraphs 3 to 6, 11, 2 to 12, 8 and 12, 11 are being matters of records of the case derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

I have not suppressed any material facts.

And I sign this verification on this 29 November 2007 at Guwahati.


Major Ashwani Sinha
SIGNATURE



VERIFICATION

I, M/s/o/o Aparna Srinivas Son of S.K.Srinivas presented officially on 25.11.2007 at O.C. Administrative Wing, Counter Insurance Judge Welfare School, Guntur about 35 years do hereby certify that the statements made in this application are true to the best of my knowledge; and those made in the application are true to the best of my knowledge which I believe to be true and the last one by himself submission before this Hon'ble Tribunal.

I have not suppressed any material facts.

At Guntur on the 20th November 2007 at

10.30 A.M.

2007/11/20

- 9 -

Dte: Gen of Military Training
General Staff Branch
Army Headquarters
DHQ PO, New Delhi-110011

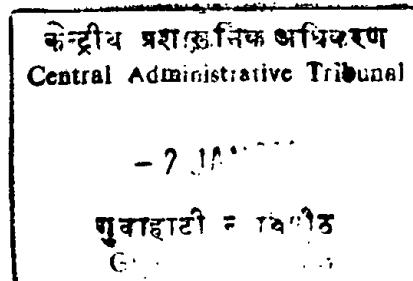
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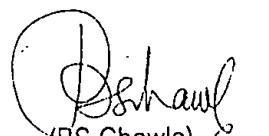
09 Dec 2004

Counter-Insurgency and Jungle Warfare School
C/O 99 APC

RE-FIXATION OF ACP SCHEME : CLARIFICATION REGARDING

1. Reference your letter No. 6013/ACP/Adm dated 06 Nov 2004.
2. The matter has been examined at this HQs: As per SRO 140/76 (extract in respect of the post of Model Maker enclosed) applicable to the Group 'C' and 'D' posts in the Military Training Directorate, the post of Model Maker is to be filled by promotion from the Model Mazdoor with 5 years' service in the grade. However, it is seen from the available documents including the order dated 28 Nov 1995 issued by CIJWS that Shri Rintu Roy was re-mustered from Cook (unit) to Model Maker which prima facie appears to be irregular. It is also pertinent to mention that in any case the individual could be eligible for the first ACP benefit only after completing 12 years of service after re-mustering. The individual will be completing 12 years of service after re-mustering in Nov 2007 whereas he has been granted ACP wef 01 Dec 2000, which is also irregular, and not as per rules.
3. In light of the observations mentioned above you are requested to reconcile and take corrective action in the matter.




(BS Chawla)
Dy Director
For DCOAS (IS&T)

Certified to be true
Marginal S. No. 116. C. G.S. -

2/1/2008

ANNEXURE - I - A

(82)

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39 Sand Model Maker	4	Civilians in Defence Services, Group 'C', Non-preserved, Non-Industrial, Non-Ministerial.	Rs. 236.6-260.6-290.1-316-303.	Non-Selecting	Between 18 to 25 years.	(a) Middle School pass. (b) 2 years experience in the trade.
40 Model Maker	4	Civilians in Defence Services, Group 'C', Non-preserved, Non-Industrial, Non-Ministerial.	Rs. 260.6-290.1-316-326-350.	Not Applicable	Between 18 to 25 years.	Essential : (a) Matriculation or its equivalent. (b) Diploma in GD Art. years experience in the trade.

विधी उपायकारी विधायक
Central Administrative Tribunal

दाता = २०१८

Age : No.	Two years.	By promotion failing which by transfer, filling both by direct recruitment.	Promotion : Lithu Mazdoor with 3 years' service in the grade.	Chairman : Commandant or Principal.	Not Applicable.
Qualifications : Yes			Transfer : Persons serving in similar equivalent or higher grade in lower formations of Defence Services and possessing qualifications as indicated in Col. 8.	Members : 1. Establishment Officer or Administrative Officer. 2. Two Lecturers or Masters or Instructors Class 'W'. 3. One Member from an unconnected Department.	
Not Applicable.	Two years.	By transfer failing which by direct recruitment.	Transfer : Persons serving in similar equivalent or higher grade in lower formations of Defence Services and possessing qualifications as indicated in Col. 8.	Not Applicable.	Not Applicable.
Not Applicable.	Two years.	By promotion failing which by transfer, filling both by direct recruitment.	Promotion : Lithu Mazdoor with 3 years' service in the grade.	Chairman : Commandant or Principal. Members : (1) Establishment Officer or Administrative Officer. (2) Two Lecturers or Masters or Instructors Class 'W'. (3) One Member from an unconnected Department.	Not Applicable.

Category	Qualification	Experience	Selection	Age	Other Requirements
26 Cinema Projectionist/ Operator, Grade III.	2 Civilian in Defence Services, Group 'C', Non-gazetted, Non-Industrial, Non-Ministerial.	Rs. 250-6-326-EB-8-350. Rs. 260-6-290-EB-6-326-8-366-EB-8-390-10-400. (For Operators or Projectionists directly recruited from among the Matriculates with certificate/licence for Cinema Operator or experience varying from one to five years).	Not Applicable.	Between 18 to 25 years.	(a) Middle School pass. (b) 2 years' experience in the trade. (c) Must possess a licence as prescribed by respective State Govts., Municipal Corporations etc.
28 Storekeeper	1 Civilian in Defence Services, Group 'C', Non-gazetted, Non-Industrial, Non-Ministerial.	Rs. 330-10-380-EB-12-500-EB-15-560.	Not Applicable	Between 25 to 40 years.	Essential : Army 2nd Class English or civil equivalent. Army 2nd Class certificate of education or civil equivalent. Should be able to carry out minor repairs or adjustment to the Band instrument. Should be able to tune the Piano. 22. Desirable : 5 years' experience in keeping an upto date record of Band Stores.
27 Printer Grade IV (Printing Press)	5 Civilian in Defence Services, Group 'C', Non-gazetted, Non-Industrial, Non-Ministerial.	Rs. 260-6-326-EB-8-350.	Non-Selection.	Between 18 to 25 years.	(a) Middle School pass. (b) 3 years' experience in the Printing job.

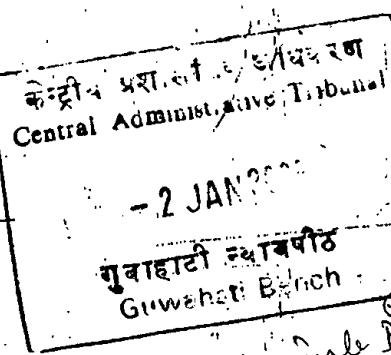
9	10	11	12	13	14
Not Applicable	Two years	By transfer failing which by direct recruitment.	Transfer : Persons serving in similar equivalent or higher grade in lower formations of Defence Services and possessing qualifications as indicated in Col. 8.	Not Applicable	Not Applicable
Not Applicable	Two years	By transfer failing which by direct recruitment.	Transfer : Persons working in similar equivalent or higher grade in lower formations of Defence Services and possessing qualifications as indicated in Col. 8.	Not Applicable	Not Applicable
Age : 35 years Qualifications : Yes	Two years	By promotion failing which by transfer failing both by direct recruitment.	Promotion : Assistant Printer Grade IV with 3 years' service in the grade. Transfer : Persons serving in similar equivalent or higher grade in lower formations of Defence Services and possessing qualifications as indicated in Col. 8.	Chairman : Commandant or Principal Members : 1. Establishment Officer or Administrative Officer 2. Two Lecturers or Masters or Instructors Class 'B' 3. One Member from an unconnected Department.	Not applicable

केन्द्रीय प्रशासनिक अधियरण
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गुवाहाटी - त्रिपुरा
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1	2	3	4	5	6	7	8	9	10	11	12	13
28. Blue Printer		Civilians in Defence Services, Group 'C', Non-gazetted, Non-Ministerial, Non-Industrial.	Rs. 225.5-260.6-290.1-303.	Non-Selection	Between 18 to 25 years.							(a) Middle School pass. (b) 2 years' experience in trade.
29. Sand Model Maker	4	Civilians in Defence Services, Group 'C', Non-gazetted, Non-Industrial, Non-Ministerial.	Rs. 260.6-290.1-303-326.8-366-388-390-10-400.	Not Applicable	Between 18 to 25 years.							Essential : (a) Matriculation or its equivalent. (b) Diploma in G.O. Art. years' experience in the trade.
30. Model Maker	1	Civilians in Defence Services, Group 'C', Non-gazetted, Non-Industrial, Non-Ministerial.	Rs. 260.6-326-388	Non-Selection	Not applicable.							

9	10	11	12	13
Age : No.	Two years.	By promotion failing Litho Matador with 3 years' service in the grade.	Promotion : which by transfer failing.	Chairman : Not Applicable.
Qualifications : (Yes)		both by direct recruitment.	Transfer : Persons serving in similar equivalent or higher grade in lower formations of Defence Services and possessing qualifications as indicated in Col. 8.	Commandant or Principal. Members : 1. Establishment Officer or Administrative Officer. 2. Two Lecturers or Masters or Instructors Class 'B'. 3. One Member from an unconnected Department.
Not Applicable.	Two years.	By transfer failing which by direct recruitment.	Promotion : Model Matador with 3 years' service in the grade.	Not Applicable. Not Applicable.



Chairman : Not Applicable.
Commandant or Principal.
Members :
(1) Establishment Officer or Administrative Officer.
(2) Two Lecturers or Masters or Instructors Class 'B'.
(3) One Member from an unconnected Department.

10. JULY 2008

गुवाहाटी न्यायपीठ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

In the matter of:-

O.A.No. 225 / 2007.

Shri Rintu Roy..

-Versus-

Union of India and others.

-And-

In the matter of:-

Rejoinder submitted by the applicant
against the written statements
submitted by the respondent.

The applicant above named most respectfully begs to state as follows:-

1. That in reply to the statements made in paragraph 3 to 11 of the written statement, the applicant begs to state that as per the recommendations of the 5th Central Pay Commission the pay scale of both the category of Cook and Model Maker were made same and stood revised to Rs. 3050-4590/-. So, if the applicant would have continued in the post of Cook, even then he would have got the scale of Rs 3050-4590/-. But the post of Model Maker to which the applicant was re-mustered, falls within the category of "other technicians". The requirements for the post of "other technicians" have been specified in the part notification of revision of pay and the scale for other technicians has been specified as Rs. 4000-6000/- therein. Further, as per recruitment rules, the qualifications required for the post of model maker are as follows:-

- (a) Matriculation and its equivalent.
- (b) Diploma CDRS or 2 years experience in the scale.

Filed by the applicant
through Mr. Biju, advocate
on 10.06.08

Rintu Roy

10/11/2008

गुवाहाटी न्यूचॉर्च
Guwahati Bench

Since the applicant has fulfilled the above mentioned qualifications and since the post of Model maker occupied by him falls within the category of "other technicians" he ought to have been placed in the scale of Rs. 4000-6000/- instead of Rs. 3050-4590/- as has been granted to all other "other technicians" serving in the respondent department.

Further the post of Model maker was granted to the applicant by way of re-mustering only which is in the same scale of Cook (which the applicant had been holding prior to his re-mustering) and as such it is not a promotional post given to the applicant. Had it been a promotion, then the applicant should have been placed in the scale higher than that of cook since he was re-mustered from the post of cook to the post of model maker, and in that event, he ought to have been placed in the scale of Rs. 4000-6000/-. As such the applicant was entitled to get his 1st ACP on completion of his 12 years of service i.e on 17.08.2000 and not from the date of his re-mustering which has been misconstrued by the respondents. It is not a fact that the scale of Rs. 4000-6000/- was granted to the applicant erroneously but done as per the provisions of rules, which he is entitled to get from 17.08.2000 itself.

2. That the applicant categorically denies the statements made in para 12.2, 12.3, 12.4, 12.5, 12.6, 12.8, 12.10 and 12.11 of the written statements and further begs to submit that the post of model maker very much falls within the category of "other technicians" as per specification and the applicant fulfilled the requisite qualifications for the post of model maker as prescribed in the recruitment rules and as such he was entitled for the scale of Rs. 4000-6000/- as model maker falling within the purview of "other technicians".

Further, the re-mustering of the applicant from the post of cook to model maker is not a promotion since both the posts of cook and model maker enjoins the same scale of Rs. 3050-4590/- in terms of recommendations of the 5th CPC. As such the applicant is entitled for his 1st ACP benefit w.e.f 17.08.2000 i.e the day on which he completed his 12 years service.

Final Reply

10 JUNE 2008

गुवाहाटी नक्षेबोर
Guwahati Bench

3. That the applicant categorically denies the statements made in para 13.1, 13.2 and 13.3 and begs to submit that the applicant was legitimately entitled for the scale of Rs. 4000-6000/- as model maker for the reasons shown in the preceding para. Further he is entitled for 1st ACP w.c.f 17.08.2000 i.e the day on which he had completed 12 years of service as stipulated in the ACP scheme and not otherwise.
4. That in reply to the statements made in para 14 of the written statements, the applicant begs to state that all the grounds stated in the O.A are bonafide and valid in law as well as in facts and the application deserves to be allowed with costs.
5. In the facts and circumstances stated above, the applicant most humbly and respectfully prays that the application be allowed with costs.

Lalit Roy

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

10 JUL 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

VERIFICATION

I Shri Rintu Roy, No. 14117514 Model Maker, aged about 44, working in the Counter Insurgency and Jungle Welfare School, Pin: 900446, C/O 99 APO, applicant in the instant application, do hereby verify that the statements made in Paragraph 1 to 5 are true to my knowledge and to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 1st day of June, 2008.

Rintu Roy