

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR**

Original Application No. 329 of 2004

Indore, this the 17th day of August, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Dr. Alok Kumar Rastogi, aged 52 years,
S/o. Shri Bhishma Chandra Rastogi,
Assistant Director, Official Language,
Bank Note Press, Dewas, R/o. 21, Vivek
Nagar, Radhaganj, Dewas.

.... Applicant

(By Advocate – Shri D.M. Kulkarni)

V e r s u s

1. Secretary, Department of Official Language, Home Ministry, Lok Nayak Bhawan, Khan Market, New Delhi-110003.
2. Union of India, represented by Secretary, Department of Personnel & Training, Ministry of Public Grievances & Pensions, New Delhi.
3. Secretary, Department of Economic Affairs, Ministry of Finance, North Block, New Delhi-110001.
4. General Manager, Bank Note Press, Dewas.

.... Respondents

(By Advocate – Shri S.A. Dharmadhikari)

O R D E R (Oral)

By Madan Mohan, Judicial Member -

By filing this Original Application the applicant has claimed the following main relief :

“8.1 in the facts and circumstances narrated in paragraphs 4 and 5 above, it be declared that the applicant too is entitled to the



financial upgradation to the scale of Rs. 10,000-15200/- retrospectively from 1.3.2001 as has been sanctioned to similarly situated Assistant Directors in similar other departments,

8.2 interest at market rate on the arrears of salary be granted."

2. The brief facts of the case are that the applicant is having education qualification of MA, Ph.d and LLB. He was appointed on the post of Hindi Translator on 1.3.1977. Subsequently he was promoted as Hindi Officer with effect from 3.11.1982 to 10.2.1985. The nomenclature of the post of Hindi Officer has since been changed to Assistant Director, (Official language) vide OM dated 3.9.1992 at par with the Assistant Director of the Department of Official Language. Vide OM dated 31.12.1975 issued by the Department of Official Language, the duties of the Assistant Director, (Official Language) are prescribed. In addition to these duties the applicant is also discharging the duties of Member Secretary, TOLIC, Dewas. The applicant is the devotee of official language, Hindi. He was awarded with the All India Indira Gandhi Raj Bhasha Trophy in the year 2001-02. The benefit of the ACP scheme is to be allowed as per the hierarchy existing on the date on which the employee becomes eligible for financial upgradation under the Scheme on personal basis which shall not confirm to any privileges related to higher status but he would continue to hold the original post on regular basis on same designation, classification, duties and responsibilities etc. He will be simply allowed to draw pay in a higher grade. The applicant's post is not an isolated post as he has been promoted from a feeder post. There is no promotional avenue to the applicant from his promotional post of Assistant Director (OL). The applicant became eligible for second financial upgradation in the pay scale of Rs. 10000-15200/- under the ACP scheme but he has illegally been allowed pay scale of Rs. 7500-12000/- vide the impugned memo dated 22.11.2002 issued by respondent No. 4. The applicant submitted representations on 2.1.2003, 6.4.2003 and 17.4.2003. The respondent No. 4 vide its note dated 12.3.2003 and 25.6.2003 intimated that the financial upgradation under the ACP scheme



would be in the pay scale of Rs. 7500-12000/- as per the clarification issued by respondent No. 2. The action of the respondents is against the rules and law. Hence, this Original Application is filed.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. It is argued on behalf of the applicant that the applicant was initially appointed on 1.3.1977 as Hindi Translator. He was promoted as Hindi Officer with effect from 22.2.1985. The nomenclature of Hindi Officer has been changed to Assistant Director (Official Language) vide memo dated 3.9.1992. The applicant has been granted the pay scale of Rs. 7500-12000/- from 1.3.2001 in ACP scheme. The applicant is demanding the pay scale of Rs. 10000-15200/- as has been sanctioned to Assistant Director, Official Language in other sub ordinate offices of the same Ministry of which the applicant is also an employee. The other departments of the Government of India also have given the above pay scale to the Assistant Directors (OL). The basis of sanction of pay scale of Rs. 7500-12000/- to the applicant has not been explained by the respondents in their return. He further argued that no post of Deputy Director has yet been created in the office of the respondents i.e. Bank Note Press, and no midway pay scale can be sanctioned as ACP to the applicant. The post of Assistant Director (OL) in Bank Note Press is not an isolated post. The isolated post has been defined in Government vide circular dated 10.2.2000. The Bank Note Press, Dewas had written to the Ministry seeking guidance as to what pay scale is to be given to the applicant in the ACP on completion of 24 years of service as second financial upgradation during the year 2001. The DOPT clarified to the Ministry of Finance that scale of Rs. 10000-15200/- be granted to the applicant. Accordingly the respondent No. 4 forwarded the minutes to the respondent No. 3. But the pay scale was not sanctioned. The learned counsel for the applicant has drawn our attention towards the order



Annexure A-5 which supports the version of the applicant. Further our attention is drawn towards the letter dated 28/29.9.2000 at page 21 of the OA, towards the letter dated 18.1.2001 at page 22 also another letter dated 7th August, 2001 at page 23. By all these documents the contention of the applicant is that the applicant is entitled for the reliefs claimed by him. Hence, this Original Application deserves to be allowed.

5. In reply the learned counsel for the respondents argued that initially the applicant was appointed as Hindi Translator on 1.3.1977 and was subsequently promoted as Hindi Officer with effect from 22.2.1985 and Assistant Director from 3.9.1992 (Annexure R-3). The applicant holding the post of Assistant Director (Official Language) in Bank Note Press, Dewas in the pay scale of Rs. 6500-10500/- As no higher post exists in the hierarchy in this organization, the matter was referred to the Ministry for clarification as to which scale he is entitled for grant of ACP. The Ministry in consultation with the DOP&T vide letter dated 16.8.2002 (Annexure R-5) answered that the applicant be allowed the second financial upgradation under the ACP scheme in the pay scale of Rs. 7500-12000/. Accordingly based on the recommendation of the screening committee the applicant was granted the benefit of ACP scheme in the pay scale of Rs. 7500-12000/- with effect from 1.3.2001 vide order dated 22.11.2002 (Annexure R-6). The applicant has submitted an application dated 4.12.2002 (Annexure R-7) for granting the benefit of ACP in the pay scale of Rs. 10000-15200/- instead of 7500-12000/. The applicant further submitted a representation dated 2.1.2003. In reply to the above the Ministry vide letter dated 24.2.2003 again clarified that the applicant be allowed second financial upgradation in the pay scale of Rs. 7500-12000/. Accordingly the applicant was intimated. The financial upgradation granted under ACP in the scale of Rs. 7500-12000/- to the applicant is strictly in order. Hence, the action of the respondents is perfectly legal and justified and the Original Application deserves to be dismissed.

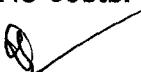


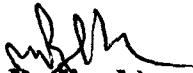
6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records we find that vide Annexure A-5 issued from the office of the Official Language, Central Board of Direct Taxes, Directorate of Income Tax, New Delhi the pay scale of Rs. 10000-15200/- is sanctioned to the Assistant Director (Official Language) under the ACP Scheme with effect from 9.8.1999 to certain similarly placed officers. We have also perused letters dated 7th August, 2001 issued by the Government of India, Ministry of Finance, Department of Revenue, of which department the applicant also belongs and wherein similarly placed officers have been granted the pay scale of Rs. 10000-15200/. All these documents support the version of the applicant. The applicant has completed 24 years of service on 1st March, 2001 as he was initially appointed on 1st March, 1997. Hence he is legally entitled for the second financial upgradation under the ACP scheme. We have also perused the document produced on behalf of the respondents i.e. the order dated 22.11.2002 (Annexure R-6). The argument advanced on behalf of the applicant that the next hierarchical post of Assistant Director is Deputy Director in the pay scale of Rs. 10500-15000/- and as no post of Deputy Director has yet been created in the respondents Department i.e. Bank Note Press, hence, the scale of Rs. 10500-15000/- can be sanctioned to the applicant in ACP, seems to be correct as no specific reasons or explanation have been given by the respondents in their return. The further argument on behalf of the applicant that in all other Government Department including Labour Assistant Directors and also in some other offices of the Ministry under which the applicant is serving have been given the pay scale of Rs. 10000-15200/- seems to be correct as they are not controverted by the respondents.

7. Considering all the facts and circumstances of the case we are of the considered view that the Original Application deserves to be allowed. Hence, the Original Application is allowed and the respondents are directed to award the applicant the financial upgradation under ACP



scheme in the pay scale of Rs. 10000-15200/- with effect from the due date. The applicant shall be entitled for all the consequential benefits within a period of three months from the date of receipt of a copy of this order. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

Copy received
Sh. A. K. S.
20/10/05
“SA”

Agreed
26/10/05