

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 169 of 2002

Jabalpur, this the 3rd day of September, 2004

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

G.K. Nair S/o late R.K. Nair, aged 55 years
R/o Vehicle Factory, Jabalpur.

APPLICANT

(By Advocate - Shri S. Yadav)

VERSUS

1. Union of India through its Secretary Ministry of Defence,
2. Ordnance Factory, Board, through its Secretary, 10-A Khudiram Bose Road, Kolkatta.
3. General Manager, Vehicle Factory, Jabalpur.

RESPONDENTS

(By Advocate - Shri K.N. Pethia)

ORDER

By Madan Mohan, Judicial Member -

By filing this OA, the applicant has sought the following main reliefs :-

"a. Direct the respondents to grant to the applicant the next higher grade i.e. of Operation Theatre Assistant i.e. Rs.5000-8000.

b. Declare that the standard conversion of the pay scale will not be applicable in respect of the posts which have specifically been granted the pay Scales under Vth Pay Commission".

2. Brief facts of the OA are as follows:

The applicant, an operation room assistant, having put in more than 12 years of regular service has qualified for grant of higher pay scale under the ACP Scheme. The applicant was initially enrolled in the Army Medical Corps as Nursing Assistant, a Group 'C' post w.e.f. 30.8.65. The applicant retired from service w.e.f. 30.6.82 i.e. after more than 16 years of service. After retirement from AMC, the applicant was appointed against the ex-serviceman quota as Operation Room Assistant in scale Rs.260-400 w.e.f 11.6.83.

3. Heard the learned counsel for both parties.

4. In reply the learned counsel for the respondents argued that the applicant is an ex-serviceman who was appointed as an Operation Room Assistant in Vehicle Factory, Jabalpur against the Ex-serviceman quota w.e.f 11.6.83. He did not get any promotion since appointment, therefore, he became eligible for financial upgradation under ACP Scheme after completion of 12 years regular service as Operation Room Assistant to the pay scale of Operation Room Technician. The operation Room Technicians were in the pay scale of Rs.1350-2200 before the implementation and recommendation of Vth CPC. As per CPC recommendation and subsequent notification of M of D vide SRO 14-E dated 9.10.97 (CDS(RP) Rules 1997) the scale of Rs.4500-7000 has been given as replacement scale of Rs.1350-2200. The counsel further argued that the pay scale of Rs.5000-8000 proposed in the report of the CPC is only for the grade of Operation Theatre Technicians of Central Govt. Hospitals with minimum qualification as B.Sc plus Diploma/Certificate in relevant subject. From this it is evident that those who are in the pre-revised pay scale of Rs.1600-2660 will only be replaced with the scale of Rs.5000-8000. The applicant does not possess the prescribed qualification and therefore he cannot claim a pay scale of Rs.5000-8000.

5. After hearing the learned counsel for both parties and carefully perusing the records, we find that in rule 6 of the Ex-Servicemen (Re-employment in Central Civil Services and Posts) Rules 1979, the following sub rules are inserted as per notification dated 12th February, 1986 (Annexure A-1) :

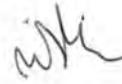
- "(a) For appointment to any reserved vacancy in Group C posts, a matriculate ex-serviceman (which term includes an ex-serviceman who has obtained the Indian Army Special Certificate of Education or the corresponding certificate in the Navy or the Air Force) who has put in not less than 15 years of service in the Armed Forces of the Union may be considered eligible for appointment to the posts for which the essential educational qualification prescribed is graduation and where,
- (b) work experience of technical or professional nature is not essential.

Matriculate

According to the above rules the Ex-Serviceman who has put in 15 years of service in the Armed Forces of the Union is considered eligible for appointment to the posts for which the essential educational qualification prescribed is graduation. In the instant case the respondents have not granted the applicant the benefit of ACP as he is not in possession of B.Sc. degree. Hence, in view of the aforesaid rules, we are of the considered opinion that the case of the applicant is required to be considered for the post in question. Accordingly, this Original Application is disposed of with a direction to the respondents to consider the case of the applicant in the light of the aforesaid rules quoted above, 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

"SA"

पूर्णांकन द्वारा जारी किया गया

(1) श्री योगेन्द्र कुमार यादव, जलपुर

(2) आकेश श्री योगेन्द्र कुमार यादव, जलपुर

(3) श्री योगेन्द्र कुमार यादव, जलपुर

(4) श्री योगेन्द्र कुमार यादव, जलपुर

सूचिता एवं आकर्षक विषयाली हैं

Shri S. Yadav FHC 23/3
Shri A. K. Patel

उप रजिस्टर

gssued
by