

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Applications Nos. 291/02

Jabalpur, this the 2nd day of September 2004

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

Arup Ratan Sit
S/o Shri Birendra Nath Sit
Aged about 38 years,
Works Manager,
Vehicle Factory,
R/o Room No.18,
Officers' Mess
Vehicle Factory, Jabalpur.

APPLICANT

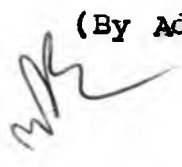
(By Advocate - Shri V. Tripathi on behalf Shri S.Paul)

VERSUS

1. Union of India
Through its Secretary,
Ministry of Defence,
New Delhi.
2. The Secretary,
Ministry of Personnel, Public
Grievance & Pension (Dept. of
Personnel & Training),
Govt of India
New Delhi.
3. The Chairman/DGOF
Ordnance Factories Board,
10-A Shahid Khudi Ram Bose Marg,
Kolkata.
4. The General Manager,
Vehicle Factory,
Jabalpur.
5. Gulshan Singh
Dy. General Manager,
Vehicle Factory,
Jabalpur.
6. Shri Ajay Kumar Singh
Dy General Manager,
Vehicle Factory,
Jabalpur
7. Shri Randhir Kumar Sinha
Dy General Manager,
Vehicle Factory,
Jabalpur

RESPONDENTS

(By Advocate - Shri P. Shankaran)



O R D E R

By M.P. Singh, Vice Chairman -


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

"(ii) Set aside clause 5 of office memorandum dated 6th June 2000 Annexure A-1 and dated 20.12.2000 Annexure A-2 to the extent it prescribes the same selection procedure for financial upgradation which is applicable in the case of promotion. The same be declared as unconstitutional and ultra-virus.

(iii) Set aside the rejection order dated 12.10.2001 Annexure A-9 and also the ACR dt. 27.6.2001 Annexure A-7.


(iv) Consequently command the respondents to consider and provide the financial upgradation as DGM to the applicant from the date his juniors have been given with all consequential benefits".

2. The brief facts of the case are that the applicant was appointed as Assistant Works Manager w.e.f. 10.8.1989 in the pay scale of Rs.8000-275-13500 (revised). He was promoted to the post of Works Manager w.e.f. 28.10.1993 in the pay scale of Rs.10000-15200 (revised). According to the applicant, the Government had decided to provide financial upgradation to the officers who had rendered 9 and 13 years of service. The applicant, who has completed the said period of service and was senior to the private respondents, has been denied the financial upgradation, whereas the private-respondents, who are junior to him, have been granted the same benefit vide order dated 22.12.2001 (Annexure-A-4). He has stated that vide Office memorandum dated 20.12.2000 and 6.12.2000 the respondents have decided that in the upgradation also in the pay scale of Rs.12000-16500, the prescribed procedure of selection should be observed. The applicant has submitted that merely on completion of stipulated years of service, officers are being placed in the pay scale of Rs.14300-18300, without there being any selection procedure. Thus, for higher pay scale, there is no screening or



requirement of under going selection procedure whereas for the inferior pay scale of feeder cadre i.e. Rs.12000-16500, the requirement to undergo selection procedure has been made. This is discriminatory and without there being any justification. The applicant has also submitted that the adverse remarks communicated to him is against the settled norms and does not contain the necessary details and, therefore, that should be expunged. He had also made a representation against the adverse remarks which has been rejected. Aggrieved by this, the applicant has filed this O.A. claiming the afore-mentioned reliefs.

3. The respondents in their reply have stated that the contention of the applicant that STS(non-functional) post is a financial upgradation to remove the stagnation like ACP scheme, is not correct. They have contended that consequent to issue of DOPT's OM dated 6.6.2001(Annexure-A-1) read with clarification order dated 20.12.2000(Annexure-A-2), IOFS was declared as technical service. Under these instructions, earlier functional grade in the scale of pay of Rs.12000-16500 for JAG has been made a non-functional scale for STS. It was provided that 30% of the Senior Duty Posts in the pay scale of Rs.10000-15200 and above, would be available in the non-functional scale and officers on completion of five years in STS (Rs.10000-15200) may be considered for non-functional scale subject to being found suitable in terms of guidelines contained in DOPTs OM dated 9.10.1989. The screening committee assessed all the eligible officers for appointment to the non-functional grade of STS (i.e. in the pay scale of Rs.12000-16500) but did not recommend the applicant and some other officers for appointment in this grade on the basis of record of their service. The respondents have further stated that the ACP scheme does not cover the officers in Group-A Central Services(Technical and Non-technical). The scheme states that in respect of Group-A Central Services, no financial upgradation under the scheme is being proposed,



for the reasons that their promotions are being made in their turn. The scheme is only applicable to personnel in Group B, C and D. The respondents have also stated that the applicant in this OA has also challenged the communication of the short-comings reported in his CR for the year 2000-2001 ⁱⁿ ~~this OA~~, therefore, this OA is liable to be dismissed as multiple reliefs have been sought. The respondents have further submitted that the CRs of every employee either in Group-A service or in other services, are being written on clear objective assessment of the performance, duly watched for the whole year, in accordance with the existing instructions on the subject. The ACRs contain a number of attributes about the personality and functioning of an employee, which lend objectivity in writing of CRs. Therefore, wherever short-comings have been noticed in the CR, it should have been properly communicated to the concerned employee for his information and improvement. The same has happened in the case of the applicant and it is not an exception only to him. Therefore, the allegations made in this regard are not tenable. The respondents have therefore, submitted that the OA is without any merit and is liable to be dismissed.

4. We have heard both the learned counsel of parties and perused the record.


5. By filing this OA the applicant is claiming for setting aside of clause 5 of office memorandum dated 6.6.2000 (Annexure-A-1) and ^{OM} dated 20.12.2000 (Annexure-A-2). These office memoranda have been issued by the Government on the recommendations of the 5th CPC which prescribes the procedure for appointment to the post of non-functional grade of Rs.14300-18300 and also to the grade of Rs.12000-16500. The letter issued on 20.12.2000 is only a clarificatory order regarding the pay scale granted to Executive Engineer/ Superintending Engineer and equivalent. The applicant is trying to compare these instructions with the scheme of ACP.

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The ACP scheme, which is a financial upgradation and restricted only to Group-B, C & D employees, has been framed on the recommendations of the 5th CPC, with a view to deal with the problem of genuine stagnation and hardship faced by the employees due to lack of adequate promotional avenues. Para 2.1 of the ACP scheme dated 9.8.1999 specifically provides that 'in respect of Group 'A' Central Services (Technical/Non-Technical) no financial upgradation under the scheme is being proposed for the reason that promotion in their case must be earned'. Therefore, the contention of the applicant that the same selection procedure which is applicable for grant of financial upgradation under the ACP Scheme, should be applicable in the case of promotion is not correct and is rejected. This is not a financial upgradation under the ACP scheme but it only provides the procedure and conditions for appointment of the members of the organised Engineering Service to the grade of Executive Engineer and Superintending Engineer.

6. As regards the contention of the applicant that the adverse remarks communicated to him have been recorded against the settled norms, and does not contain necessary details, we find that no justifiable reasons have been given by the applicant in support of his contention. Moreover, the applicant has also sought plural remedies which is not permissible under Rule 10 of the Central Administrative Tribunal (Procedure) Rules, 1987, on that ground also the OA is liable to be rejected.

7. In fact the applicant has been considered for appointment to the non-functional grade of STS but was not found suitable as his name was not recommended by the selection committee on the basis of his record of service. In stead of challenging the DPC proceedings, the applicant has compared his claim of promotion to the grade of Executive Engineer and Superintending Engineer with that of ACP scheme/^{which is} meant for Group-B, C & D employee, the same has no merit and is accordingly rejected.



8. In the result, for the reasons recorded above,
this OA is without any merit and is accordingly rejected.
No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

rkv.

पृष्ठंकन सं ओ/व्या.....जबलपुर, दि.....
पतिलिपि अर्जित:-

- (1) सचिव, उच्च न्यायालय वार एडमिनिस्ट्रेशन, जबलपुर
- (2) अन्वेषक श्री/श्रीमती/कु.....के काउंसल
- (3) प्रत्यक्षी श्री/श्रीमती/कु.....के काउंसल
- (4) वंद्यपाल, कोप्रडा, जबलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही हेतु

Shri S. Paul. H.C. JDP
Shri P. Shankaran N.C.M.

सि. रेजिस्ट्रार

gssyed