

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

.....

Original Application No. 836/2001

Jabalpur, this the 15th day of June, 2004

HON'BLE SHRI M.P. SINGH, VICE CHAIRMAN
HON'BLE SHRI MADAN MOHAN, MEMBER (J)

Sri R.K. Dwivedi,
Aged about 60 years.
S/o late Laxmi Prasad Dwivedi,
Supervisor 'B' (NT) (Retd.)
Resident of 995, New Colony,
Cherital, Jabalpur.

...Applicant

(By Advocate: Shri S.K. Nagpal)

-versus-

1. Union of India through
Secretary,
Government of India,
Ministry of Defence,
Department of Defence Production,
New Delhi.

2. Chairman,
Ordnance Factory Board,
Ayudh Bhawan, 10-A, Shaheed Khudiram Road,
Calcutta-700 001.

3. The General Manager,
Vehicle Factory,
Jabalpur.

...Respondents

(By Advocate: None)

O R D E R

By Madan Mohan, Member (J)-

By filing the present Original Application, the applicant has sought the following reliefs:

i) grant second financial up-gradation to the applicant to the post of Chargeman Grade II inscale of pay Rs. 5000-8000 w.e.f. 9.8.1999 in accordance with the directions contained in OM dated 9.8.1999 with all consequential benefits including interest.

2. The brief facts of the case are that the applicant was appointed as a Checker under the respondents w.e.f. 22.1.1971. He was subsequently selected and directly recruited/appointed to the post of Assistant Store Keeper (For short ASK) in the scale of Rs. 110-180 w.e.f. 12.3.1973. This was direct



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recruitment/appointment to the post of ASK and it was not a promotion from the post of Checker. The applicant was promoted to the post of Supervisor 'B'(NT) from the post of A.S.K. w.e.f. 1.2.1981 in the pay scale of Rs. 4000-6000. On attaining the age of superannuation i.e. 60 years, he retired on 31.3.2001 on the post of Supervisor 'B'(NT). The applicant was directly appointed as A.S.K. w.e.f. 12.3.1973, he was given only one promotion to the post of Supervisor 'B' (NT) w.e.f. 1.2.1981. Thereafter he did not get any further promotion. In accordance with the directions contained in the Govt. of India Deptt. of P & T O.M. dated 9.8.1999 (Annexure A/4), the applicant is entitled for second financial upgradation on completion of 24 years of regular service w.e.f. 12.3.1973 to 12.3.1997. However, since the A.C.P. Scheme was operational from the date of second issue of OM dated 9.8.1999, the applicant is entitled for/ financial upgradation to the post of Chargeman Gr. II in the scale of Rs. 5000-8000 w.e.f. 9.8.1999. The General Manager, Vehicle Factory, Jabalpur has issued Factory Order Part-II No. 394 dated 28.1.2001 (A/5) by which second financial upgradation has been granted to many employees but the name of the applicant was not found in the aforesaid factory order. The applicant had submitted representation dated 14.11.2000 and 24.11.2000 to the General Manager, Vehicle Factory, Jabalpur requesting for grant of benefit under A.C.P. Scheme but the same has neither been granted nor he received any reply from the General Manager, Vehicle Factory, Jabalpur.

2.1 The applicant filed one O.A. No. 593/2001 with a prayer to direct the respondents to grant the second financial upgradation to the applicant in accordance with the O.M. dated 9.8.1999. The said O.A. was disposed of by the Tribunal vide its order dated 16.10.2001 (A/8)



with the direction that the applicant shall file afresh representation within fifteen days of this order to respondent no. 3 through registered post/speed post annexing a copy of the said order. It was further directed that if applicant complies with the above order, the respondent no. 3 shall dispose of the said representation within four weeks through speaking order and communicate the same to the applicant promptly.

2.2 In accordance with the directions of the Tribunal. the applicant had submitted a fresh representation dated 31.10.2001. Respondent no. 3 disposed of the said representation of the applicant vide his letter dated 17.11.2001 (A/1). The applicant, being aggrieved with the said order, has filed the present Original Application for seeking the aforesaid relief.

3. Heard the learned counsel for the applicant. Since none is present on behalf of the respondents and the matter being old one pertaining to the year 2001, we propose to decide the matter by invoking the provisions of Rule 16 of the Central Administrative Tribunal (Procedure) Rules, 1987.

4. It is argued on behalf of the applicant that the respondents have admitted that the applicant was appointed to the post of A.S.K. This appointment is to be treated as fresh appointment as it was not a departmental promotion. Learned counsel for the applicant further argued that the applicant's appointment to the post of A.S.K. w.e.f. 12.3.1973 cannot be treated as a fast track promotion but is to be treated as a direct promotion. Hence, the applicant is entitled to the second financial upgradation on completion of 24 years of service under A.C.P. Scheme (A/4) w.e.f. 9.8.1999. It is further argued on behalf of the applicant that contention of the respondents that the appointment of the applicant to the post of A.S.K. has been treated as fast track promotion for the purpose of ACP is baseless as the respondents have



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not supported their stand by any order issued by the Govt. of India in this regard. Rather there is no such order to treat such an appointment as a fast track promotion. If there is any such order, the respondents should have filed the same. Hence, the action of the respondents is totally baseless, unjustified, illegal and against the rules and deserves to be condemned.

5. We have given careful consideration to the rival contentions. We have perused the reply and additional reply filed on behalf of the respondents in which it is mentioned that the applicant was initially appointed as Checker in the Factory w.e.f. 23.12.1971 and subsequently in February, 1973 an interview was conducted for the post of Security Asstt. 'B' in which candidates sponsored by the Employment Exchange and applicant who was a departmental candidate participated. In the interview, applicant was not found suitable for the post of Security Asstt. 'B'. He was, however, offered the post of A.S.K. which was a lower post. The applicant accepted the said post and accordingly he was appointed as A.S.K. w.e.f. 12.3.1973. No outsider unsuccessful candidate was however offered and appointed to the post of Asstt. Store Keeper. Since no outsider candidate who competed along with the applicant was appointed as A.S.K., his appointment was treated as a fast track promotion to the post of A.S.K. for the purpose of ACP benefits. Since the applicant has already received two financial upgradation i.e. first from the post of Checker to A.S.K. to A.S.K. w.e.f. 12.3.1973 through a fast track promotion and second from the post of A.S.K. to Supervisor 'B' (NT) through regular promotion, he is not entitled again for financial upgradation under the A.C.P. scheme w.e.f. 9.8.1999.

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6. The respondents have also filed a letter dated 18.9.2000 (Annexure R/2) issued by the Govt. of India, Ministry of Defence, Ordnance Factory Board, Calcutta Equipment addressed to All General Managers of Ordnance & Ordnance/ Group of Factories in which it is clearly mentioned that in case of departmental candidates who have been appointed to a post through an open competitive examination by competing along with outsiders fulfilling direct recruitment terms and conditions, the appointment to the post shall be considered as fresh appointment and the date of such appointment should be taken into account for the purpose of A.C.P. But this is not the case of the applicant as he was not appointed to the post for which the examination was held but he was given a lower post of A.S.K. after having been found him not suitable for the post of Security Asstt. 'B'. In this very letter of the respondents it is clearly mentioned that "the movement of departmental candidates to a higher post in such cases through limited Departmental selection process shall be treated as a Fast Track promotion through a Limited Departmental Competitive Examination and shall be counted as a regular promotion for the purpose of ACP Scheme. Such incumbents shall be eligible for second ACP if otherwise eligible." The case of the applicant falls under this category. By filing the aforesaid order dated 18.9.2000, the respondents have rebutted the contention of the applicant that the respondents have not been able to file any order regarding the treatment of fast track promotion.

7. In view of the fact that the applicant has already got two promotion/financial upgradation i.e. from the post of Checker to A.S.K. and from the post of A.S.K. to the post of Supervisor 'B' (NT) as has been mentioned in the foregoing paragraphs and admitted on either side, during

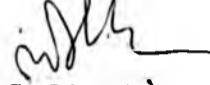
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his service tenure, he is not entitled to any further financial upgradation under A.C.P. Scheme.

8. In view of the observations made above, we are of the considered view that the application is having no merit and deserves to be dismissed and the same is accordingly dismissed. No costs.


(Madan Mohan)
Member (Judicial)


(M.P. Singh)
Vice Chairman

/na/

पृष्ठांकन सं. ओ/न्या.....जबलपुर, दि.....
प्रतिलिपि अब्दे दित:-

(1) सचिव, उच्च न्यायालय बार एसोसिएशन, जबलपुर^{के लाईसल S.K. Nayak}
(2) आवेदक श्री/श्रीमती/बहु.....
(3) पत्न्यर्थी श्री/श्रीमती/बहु.....
(4) अध्यक्ष, फैसला, जबलपुर न्यायालय^{के काउंसल K.N. Pethkar}
संघजा एवं आवश्यक कार्यवाही द्वारा ^{By Bajrulal}
24.6.04

Issued
On 24.6.04
Bajrulal