

THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET

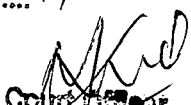
APPLICATION NO. : _____

Applicant (s)

Advocate for the applicant (s)

Respondents (s)

Advocate for the respondent (s)

NOTES OF REGISTRY	ORDERS OF THE TRIBUNAL
	<p><u>25/04/2014</u> <u>O.A. No. 440/2011</u></p> <p>Present : Mr. C.B. Sharma counsel for the applicant. Mr. V.K. Pareek counsel for the respondents.</p> <p>This case has been listed before the Joint Registrar due to non-availability of Division Bench. Let the matter be placed before the Hon'ble Bench on 13/05/2014.</p> <p style="text-align: right;">Joint Registrar</p> <p>Vv</p> <p><u>Dated: 12.5.2014</u> <u>O.A. No. 440/2011</u></p> <p>Mr. C.B. Sharma, Counsel for Applicant Mr. V.K. Pareek, Counsel for Respondents</p> <p>Case adjourned on the request of learned counsel for applicant (s) / respondent (s). Put up for hearing on <u>22/5/2014</u></p> <p style="text-align: right;"> Court Officer</p>

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 440/2011

Order Reserved on 22.5.2014

Date of Order: 28.5.2014

CORAM

**HON'BLE MR.ANIL KUMAR, ADMINISTRATIVE MEMBER
HON'BLE MR. M.NAGARAJAN, JUDICIAL MEMBER**

Narendra Singh Devda son of Late Shri Ladu Singh Devra, aged about 59 years, Resident of Plot No.605, Surya Nagar, Gopalpura By Pass, Behind Triveni Public School, Jaipur and presently working as Vehicle Driver, Special Grade, Office of the Regional Director, Central Ground Water Board, (Western Region), 6-A, Jhalana Doongri, Jaipur.

.....Applicant

(By Advocate Mr.C.B.Sharma)

VERSUS

1. Union of India through Secretary to the Ministry of Water Resources, Government of India, Shram Shakti Bhawan, Rafi Marg, New Delhi.
2. Chairman, Central Ground Water Board, Government of India, CHQ, New CGO Complex, NH-IV, Faridabad.
3. Regional Director, (Western Region), Central Ground Water Board, 6-A, Jhalana Doongri, Jaipur-302004.

.....Respondents

(By Advocate Mr.V.K.Pareek)

ORDER

(Per Hon'ble Mr. Anil Kumar, Administrative Member)

The applicant has filed the present OA praying for the following reliefs:-

- (i) That respondents may be directed to allow Grade Pay Rs.4600 instead of Rs.4200 in the pay band Rs.9300-34800 by modifying order dated 7.12.2010 (Annexure-A/11) by quashing letter dated 18.7.2011 (Annexure A/1) with all consequential benefits.
- (ii) That the respondents be further directed to extend benefits of promotion to the post of Driver (Special Grade) w.e.f. 13.10.2008 by taking into account of Grade Pay Rs.4600 by modifying order dated 13.10.2008 and 17.11.2008 (Annexure A/9 and Annexure A/10) with all consequential benefits.
- (iii) Any other order /directions of relief may be granted in favour of the applicant, which may be deemed just and proper under the facts and circumstances of this case.
- (iv) That the costs of this application may be awarded.

2. The brief facts of the case as stated by the learned counsel for the applicant are that the applicant was initially appointed as Motor Truck Driver in the pay scale of Rs.260-350 on 5.10.1976. He was further allotted the scale of Rs.4000-6000 w.e.f. 1.1.1986 after the recommendation of Fourth Pay Commission. Thereafter the applicant was allowed financial upgradation under the A.C.P. Scheme in the pay scale of Rs.4500-7000 w.e.f. 4.10.2000 on completion of 24 years service (Annexure A/3).

Anil Kumar

3. That the applicant after passing Trade Test promoted to the Grade I in the pay scale of Rs.4500-7000 vide order dated 3.1.2002 w.e.f. 1.8.1998 (Annexure-A/6). This action of the respondents undone the placement of the applicant in the pay scale of Rs.4500-7000 vide Annexure A/3.

4. The applicant was further granted the Grade I w.e.f. 8.11.1996 instead of 1.8.1998, thus the applicant was allowed Grade I w.e.f. 8.11.1996 (Annexure A/7).

5. That the applicant further promoted to the post of Driver(Special Grade) in the Pay Band PB-2 in scale of Rs.9300-34800 with the Grade Pay Rs.4200 vide order dated 13.10.2008 w.e.f. the date of actual joining (Annexure A/9).

6. The learned counsel for the applicant submitted that the Government of India promulgated the Modified Assure Career Progression Scheme (MACP) for the Central Government employees for placement in higher scale after completion of 10, 20 and 30 years of service.

Anil Kumar

7. The respondents department also adopted the Scheme. They also placed certain officials in the next Grade pay of Rs.4200 w.e.f. 1.9.2008 vide order dated 7.12.2010 (Annexure A/11) in which the name of the applicant finds place at Serial No.2.

8. That the applicant represented before the respondent No.2 vide letter dated 9.2.2011(Annexure A/12) stating therein that he is entitled for Grade Pay of Rs.4600 instead of Rs.4200.

9. The learned counsel for the applicant submitted that the applicant allowed the scale Rs.4500-7000 w.e.f. 8.11.1996 vide order dated 10.4.2003 at Annexure A/7 and thereafter allowed benefits of MACP Scheme w.e.f. 1.9.2008 after completion of 30 years of service and allowed pay band Rs.9300-34800 with grade pay Rs.4200 in spite of fact that applicant became due for further scale after completion of 24 years service on 4.10.2000 under ACP Scheme applicable prior to MACP Scheme in the scale of Rs.5000-8000 as allowed to other officials. Besides this vide order dated 13.10.2008 at Annexure-A/9 applicant further promoted to the post of Driver (Special Grade) in the same pay band with the same grade pay, whereas grade pay should be Rs.4600.

Anil Kumar

In view of this position co-workers of the applicant allowed higher grade pay of Rs.4600 as allowed to Shri Hari Singh Meena, Driver (Special Grade) who retired in the year 2009.

10. The respondents rejected his representation vide letter dated 18.7.2011 (Annexure A/1) showing placement in scale which goes away due to allowing Grade I scale w.e.f. 8.11.1996. Therefore, he submitted that the OA be allowed and respondents be directed to grant him grade pay Rs.4600 instead of Rs.4200.

11. The respondents have filed the reply. In the reply the respondents have stated that the applicant was appointed as Motor Truck Driver in the Board on 5.10.1976 in the pay scale of Rs.260-350 revised pay scale PB-1 of Rs. 5200-20200 with grade pay of Rs.1900. He was promoted to the post of Driver (Grade II) on 2.1.1996 in the pay scale of Rs.1200-1800 revised pay scale in the 5th Pay Commission of Rs.4000-6000 and revised in the 6th Pay Commission PB-1 and correspondence pay scale of Rs.5200-20200 with grade pay of Rs.2400. Thereafter, he was given antedating promotion to the post of Driver (Grade I) in the pay scale of Rs.4500-7000 w.e.f. 8.11.1996 revised pay scale PB-1 and corresponding pay

Anil Kumar

scale Rs.5200-20200 with grade pay of Rs.2800. As per his turn, he has been promoted to the post of Driver (Special Grade) in the pay band-2 and corresponding pay scale of Rs.9300-34800 with grade pay of Rs.4200 and he has joined his duties w.e.f. 13.10.2008 (Annexure A/9) which fact is revealed from the letter dated 17.11.2008 (Annexure A/10).

12. Further, the applicant has completed 30 years on 5.10.2006 and MACP scheme has been implemented w.e.f. 1.9.2008. Therefore, he was granted 3rd financial upgradation under MACP Scheme w.e.f. 1.9.2008 in the pay band -2 and corresponding pay scale of Rs.9300-34800 with grade pay of Rs.4200 wide CHQ office order No.921 of 2010 dated 7.12.2010 (Annexure A/11).

13. Now, the applicant has again requested for granting him MACP in the grade pay of Rs.4600 but he has already taken three promotions i.e. from Motor Truck Driver to Motor Truck Driver (Gr.II) to Driver (Grade I) and Driver (Grade I) to Driver (Special Grade). Therefore, applicant is not entitled for 3rd financial upgradation under MACP Scheme in the grade pay Rs.4600.

Anil Kumar

14. The learned counsel for the respondents further submitted that some drivers were promoted to the post of Driver (Grade I) directly and they had not been granted benefits of pay fixation to the post of Driver(Grade II) and then Driver (Grade I). Therefore, they were promoted from Motor Truck Driver to Driver (Grade I) and Driver (Grade I) to Driver (Special Grade) and they were granted only two promotions during entire service. Resultantly, they were entitled for 3rd financial upgradation under MACP Scheme in the grade pay Rs.4600 after implementation of 6th Pay Commission who have completed 30 years service. They have been granted 3rd financial upgradation under MACP Scheme in the PB-2 and corresponding pay scale of Rs.9300-34800. But the case of the applicant Driver (Special Grade) is not similar to those. Therefore, the learned counsel for the respondents submitted that there is no merit in the OA, hence it should be dismissed with costs.

15. Heard the learned counsel for the parties and perused the documents on record. From the perusal of the record it is clear that the applicant was initially appointed as Motor Truck Driver with the respondents department on 5.10.1976. That subsequently, he was promoted to the post of Driver (Grade II) on 2.1.1996 in

Anil Kumar

the pay scale of Rs.1200-1800 and in the revised pay scale after the 5th Pay Commission in the scale of Rs.4000-6000. Thus he got his first promotion on 2.1.1996 on the post of Driver (Grade II). This fact has not been disputed by the applicant in his OA. Thereafter, the applicant was given antedating promotion to the post of Driver(Grade I) in the pay scale of Rs.4500-7000 w.e.f. 8.11.1996. This was his 2nd promotion. The learned counsel for the applicant argued that the applicant was given the benefit of ACP vide order dated 4.8.2010 (Annexure-A/3). A perusal of this order clearly shows that it was his financial upgradation under the ACP Scheme. The learned counsel for the applicant stated that this benefit was taken away by his antedating promotion to Driver (Grade I) w.e.f. 8.11.1996. Even if we agree with the submissions made by the learned counsel for the applicant then also the applicant was given his 2nd promotion w.e.f. 8.11.1996 on the post of Driver (Grade I) from the post of driver Grade II. Thus clearly his promotion to Driver (Grade I) w.e.f. 8.11.1996 was his 2nd promotion.

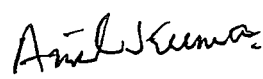
16. Subsequently the applicant has been promoted to the post of Driver (Special Grade) in the PB-2 of Rs.9300-34800 with Grade Pay Rs.4200 vide order dated

Anil Kumar

13.10.2008(Annexure A/9). Clearly this is his 3rd promotion from Driver Grade I to Driver (Special Grade) and the applicant has joined on this post. The respondents on completion of 30 years also gave 3rd MACP to the applicant vide order dated 7.12.2010 (Annexure A/11). In this order there are 14 officials who have been given the 3rd Financial upgradation in which many of them are Driver(Special Grade). All of them have been given the grade pay Rs.4200. Thus we do not find any infirmity or illegality in the letter dated 18.7.2011 (Annexure A/1) issued by the respondents to the applicant. The applicant has been given three promotions during his service career. He was initially appointed as Driver (O.G.) then promoted to Driver (Grade II) and further promoted to Driver (Grade I) and subsequently to Driver (Special Grade). Thus he has been given three promotions and, therefore, he is not entitled for any further relief as claimed by him.

17. Consequently, the OA being devoid of merit, is dismissed with no order as to costs.


(M. NAGARAJAN)
MEMBER (J)


(ANIL KUMAR)
MEMBER (A)