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**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

...  
**ORIGINAL APPLICATION NO.060/00121/2014**

**Order Reserved on 01.05.2015.  
Pronounced on 15.5.2015**

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**CORAM: HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)  
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J)**

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MES No.360590 Raj Kumar resident of Vill. & PO Sarna, Tehsil Pathankot,  
Distt. Gurdaspur (Now Pathankot), Punjab.

... Applicant

**Versus**

1. Union of India through Secretary, Ministry of Defence, North Block,  
New Delhi.
2. Engineer in Chief, E-in-C's Branch, Army Headquarters, Kashmir House,  
New Delhi.
3. Garrison Engineer, Basoli (J&K).

... Respondents

**Present:** Sh. Jagdeep Jaswal, counsel for the applicant.  
Sh. Sanjay Goyal, counsel for the respondents.

**ORDER**

**BY HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)**

1. This O.A. has been filed under Section 19 of the  
Administrative Tribunals Act, 1985, seeking the following relief:

- 8(i) That impugned PTO dated 23.09.2013 (Annexure A-1) and  
impugned order dated 25.10.2013 (Annexure A-2) to the  
extent denying the applicant 1<sup>st</sup> ACP in the pay scale of  
Rs.4000-6000 and 2<sup>nd</sup> ACP in the pay scale of Rs.5000-8000  
and 3<sup>rd</sup> MACP in PB-2 with GP 4600/- respectively be  
quashed and set aside.
- (ii) That it be declared that the applicant is entitled to 1<sup>st</sup> ACP  
and 2<sup>nd</sup> ACP in the pay scale of Rs.4000-6000 and 5000-

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8000s from 9.08.1999 and 3<sup>rd</sup> MACP in PB-2 with GP 4600/- w.e.f. 01.09.2008 respectively with all consequential benefits in terms of decision of this Tribunal dated 27.11.2009.

2. Averment has been made in the O.A. that the applicant initially joined service in the respondent Department as Valveman w.e.f. 14.05.1969 and was promoted as Pipe Fitter w.e.f. 01.11.1986. He retired as Pipe Fitter on 31.03.2009. Since initially the applicant was treated as Semi-skilled, he was granted the first ACP w.e.f. 09.08.1999 in the pay scale of Rs.3050-4590 and thereafter second ACP in the pay scale of Rs.4000-6000 from the date of completion of 24 years of regular service. Since the applicant had been described as Semi-skilled although he was entitled to pay scale of skilled category, he filed O.A. No.504/PB/2012, which came to be decided in his favour vide order dated 17.01.2013 (Annexure A-4), whereby the applicant has been held entitled to grant of skilled category of pay scale of Rs.460-400 w.e.f. 16.10.1981. Accordingly, he was granted the revised pay scale of skilled category i.e. Rs.950-1500 w.e.f. 01.01.1986 and Rs.3050-4590 w.e.f. 01.1.1996.

3. While implementing order dated 17.01.2013, respondents issued PTO dated 23.09.2013 revising his pay from semi skilled to skilled but the benefit of revised 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> financial upgradation under ACP/MACP Scheme had been withheld by the respondents. The applicant submitted application in October, 2013 seeking revision of 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup>

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MACP but the same had been rejected by the respondents vide impugned order dated 25.10.2013.

4. It is claimed in the OA that the case of the applicant is squarely covered by judgment dated 27.11.2009 of this Tribunal in O.A. No.104/PB/2008 titled Ajit Ram Vs. UOI and applicant was also entitled to 3<sup>rd</sup> MACP in PB-2 with grade pay of Rs.4600/- as per judgment dated 03.09.2013 in O.A. No.841/PB/2007 titled Ram Sarup vs. UOI & Ors. (Annexure A-5) upheld by the Hon'ble Punjab and Haryana High Court in CWP No.20480 of 2010 vide judgment dated 06.07.2011 (Annexure A-6).

5. In the written statement filed on behalf of the respondents preliminary objection has been taken that the O.A. is barred by limitation. Besides, after issuance of PTO (Annexure A-1) the applicant never represented for grant for ACP-I and ACP-II as prayed for in the O.A. The applicant joined on 14<sup>th</sup> May 1969 in the pay scale of Rs.75-1-85-EB-2-95. The applicant passed the Trade Test of Pipe Fitter skilled on 19.08.1976 vide GE (W) Pkt. PTO No.43/44/76 and he was subsequently promoted as Pipe Fitter (Skilled) w.e.f. 18.11.1986 in the pay scale of Rs.950-20-1150-EB-25-1500 vide 6357 PTO No.51/18/1986. As such the applicant was not entitled to ACP-I because he had got benefit of promotion from Valve Man to Pipe Fitter (SK) granted w.e.f. 18.11.1986 i.e. prior to introduction of ACP Scheme which came to be introduced

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w.e.f. 09.08.1999. In this regard a copy of Govt. of India, Ministry of Personnel and Training, North Block, New Delhi letter No.35034/1/97 Estt (D) dated 09.08.1999 is appended (Annexure R-1). It is further stated that PTO (Annexure A-1) showed that the applicant has already been granted benefit of ACP-II w.e.f. 09.08.1999 and his pay fixed at Rs.4300/- in the pay scale of Rs.4000-6000.

6. Arguments advanced by learned counsel for the parties were heard. Learned counsel for the applicant reiterated the content of the O.A. and pressed that claim of the applicant was covered as per judgments at Annexure A-3 and A-5 with the O.A.

7. Learned counsel for the respondents stated that the applicant had got one promotion from Valve Man to Pipe Fitter and hence only claim for second ACP was admissible which had been allowed to him.

8. We have given our thoughtful consideration to the matter. It is seen that vide judgment dated 03.09.2009 in O.A. No.841/PB/2007 (Annexure A-5), the Tribunal had taken a view that when the applicant who was a Valve man became Pipe Fitter, it did not amount to promotion since there was no financial upgradation. This is a similar case and the applicant is stated to have been promoted as Pipe Fitter in 1986 treating this as a promotion, which is not a promotion in the normal sense of the term. The applicant would be entitled to two financial upgradations w.e.f.

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09.08.1999 when the ACP Scheme came into force and this is in accordance with the judgment dated 27.11.2009 in O.A. No.104/PB/2008 (Supra), wherein it was held that those employees who had been directly recruited as skilled tradesmen may be granted their first ACP in the scale of Rs.4000-6000 and the second ACP in the pay scale of Rs.5000-8000.

9. Hence the O.A. is allowed to the extent that the respondents are directed to revise the pay of the applicant after allowing him first and second ACP as detailed above. Thereafter his claim for third MACP with the grade pay as applicable under the Scheme/rules may be considered on completion of 30 years service if the applicant is eligible for the same under the Scheme. Action to recompute pay and pension of the applicant and release of arrears in this regard may be completed within a period of four months from the date of a certified copy of this order being served upon the respondents.

10. The O.A. is disposed of with the above directions. No costs.

**(DR. BRAHM A. AGRAWAL)**  
**MEMBER (J)**

**(RAJWANT SANDHU)**  
**MEMBER (A)**

**Place: Chandigarh.**

**Dated: 15/5/2015**

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