

**Central Administrative Tribunal
Principal Bench**

OA No.1195/2014

MA No.1453/2015

MA No.4035/2015

New Delhi, this the 25th day of October, 2017

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)

1. Bhanu Prasad
S/o. Sh. Parash Nath,
R/o. 16/JJ/71, Ordnance Factory Estate,
Muradnagar (Ghaziabad).
2. Ishwar Chand Tyagi
S/o. Sh. Rickpal Singh Tyagi,
R/o. Type I/64 Block/665,
Ordnance Factory, Muradnagar (Ghaziabad).
3. Jitender Kumar
S/o. Sh. Bhagat Singh,
R/o. 25/360/IDS, Ordnance Factory,
Muradnagar (Ghaziabad).
4. Jagat Singh
S/o. Sh. Padam Singh,
R/o. 33/Q/182, Ordnance Factory,
Muradnagar (Ghaziabad).
5. Jai Singh
S/o. Sh. Hoshiyar Singh,
R/o. 20/305/IDS, Ordnance Factory,
Muradnagar (Ghaziabad).
6. Mohan Lal Meena
S/o. Sh. Jetharam,
R/o. 70/719/IDS, Ordnance Factory,
Muradnagar (Ghaziabad).
7. Sugbir Singh
S/o. Sh. Munshi Singh,
R/o. I/DS/ Ordnance Factory Estate,
Muradnagar (Ghaziabad).

8. Kamal Singh
S/o. Sh. Harpal Singh,
R/o. Vill. Ukharsa, Muradnagar (Ghaziabad)
9. Vijendra Kumar
S/o. Sh. Vijay Singh,
R/o. Vill Kanauja Muradnagar (Ghaziabad).
10. Nizamuddin
S/o. Sh. Maq Bool.
R/o. JJ/ Ordnance Factory Muradnagar.
11. Pradeep Kumar
S/o. Late Jai Bhagwan Singh,
R/o. 28/I/38/O.F. Estate Muradnagar (Ghaziabad).
12. Amarjeet Singh
S/o. Late Kalyan Singh,
R/o. Brij Vihar Colony,
Muradnagar (Ghaziabad).
13. Amardeep Bhardwaj
S/o. Late Brij Mohan Sharma
R/o. JJ 41, Ordnance Factory Muradnagar.
14. Hari Prakesh
S/o. Sh. Man Singh,
R/o. Vill, Dheda, P.O. Muradnagar,
Distt. Ghaziabad (U.P.)
15. Lal Singh
S/o. Sh. Jai Singh,
R/o. Sanjay Nagar, Meerut.
16. Ajay Pal Malik
S/o. Late Dharampal Malik,
R/o. I/DS/10/159, Ordnance Factory Estate,
Muradnagar (Ghaziabad).
17. Shunil Kumar
S/o. Sh. Jagpal Singh,
R/o. I/DS/60/634, Ordnance Factory Muradnagar.
18. Jai Prakash
S/o. Late Ramesh Chand,
R/o. II/DS/14/109, Ordnance Factory Estate,
Muradnagar (Ghaziabad).

19. Rakesh Kumar
S/o. Late Sh. Maharam,
R/o. I/DS/13/203, Ordnance Factory Estate,
Muradnagar (Ghaziabad).
20. Ashok Kumar
S/o. Sh. Chander Pal,
R/o. Q. No. JJ 109, Ordnance Factory Estate,
Muradnagar Ghaziabad.

...Applicants

(By Advocate : Shri Yogesh Sharma)

Versus

1. Union of India through the Secretary,
Department of Defence Production,
Ministry of Defence, Govt. of India,
South Block, New Delhi.
2. The Chairman,
Ordnance Factory Board,
Ministry of Defence,
10A, Shahid Khudi Ram Boss Road,
Calcutta.
3. The General Manager,
Ordnance Factory, Murdanagar,
Distt. Ghaziabad (U.P.)

...Respondents

(By Advocate : Shri Amit Anand)

ORDER (ORAL)

Mr. V. Ajay Kumar, Member (J) :-

Heard both sides.

2. The applicants, twenty in number, working as Durwan filed the instant OA seeking the following reliefs :-

- (i) That the Hon'ble Tribunal may graciously be pleased to pass an order directing the respondents to implement their own order

dated 11.06.2013 (Annex.A/2) and grant the consequential benefits to the applicants immediately with the arrears of difference of pay and allowances with interest.

- (ii) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicant."

3. It is the short grievance of the applicants that they were granted the first and 2nd financial upgradations on completion of 12 and 24 years of service, as the case may be, from due dates. However, after 6th Pay Commission's recommendations, the pay scale to the post of Jamadar Durwan and Subadar Durwan became merged in the pay scale of PB-I+GP Rs.1800/- and therefore, all the financial upgradations which were already granted to them became inoperative thereby w.e.f. 01.01.2006, the respondents are required to give the financial upgradations once again as per the said recommendations. It is their case that the respondents, in fact, issued Annexure-A/2 dated 11.06.2013 granting the said benefits as desired by the applicants, but not implemented the same till date.

4. In the identical circumstances, the persons who were working in identical posts in other Ordinance Factories approached this Tribunal by filing various OAs. One such Application being OA No.3626/2014 (***Om Prakash & Ors. Vs. Union of India***), was allowed by this Tribunal on 27.10.2015, after considering the

detailed submissions made on behalf of both sides on the same issue, as under :-

“16. We do not accept the contention of the respondents denying the applicants on the ground that this involved upgradation from Group `D' to Group `C' for two reasons. Firstly, this is nowhere mentioned in the guidelines of ACP. Moreover, the clarification as pointed by the applicants regarding Group `D' also clearly does not support the contention of the respondents. Therefore, we dispose of this OA with a direction to the respondents to consider the first and second financial upgradations under the ACP Scheme in the case of applicants in the hierarchy of posts. However, while doing so, they will follow the condition as laid down in para 6 of the ACP Scheme guidelines, which has already been cited above. The time frame for a final decision in O.A.No.3626/2014 this regard is fixed as three months from the date of receipt of a copy of this order. There shall be no order as to costs.”

5. It is also brought to our notice that another OA No.634/2013 - **Madhu Malti Tyagi & Another Vs. UOI & Ors.** was also allowed by this Tribunal by an order dated 22.10.2013. The MA No.1866/2015 filed for seeking clarification of the said order was also dismissed by this Tribunal on 18.03.2016.

6. Another OA No.3465/2014 **Ram Gopal Verma & Ors. Vs. UOI & Ors.** was also allowed following the decision in OA No.634/2013 (**Madhu Malti Tyagi**, supra) on 25.04.2016.

7. This Tribunal in RA No.130/2016 by its order dated 17.08.2016, modified the order dated 25.04.2016 in OA No.3465/2014 to the effect that the same is subject to the outcome of WP(C) No.5902/2016, filed against the orders in OA No.634/2013 **(Madhu Malti Tyagi)**.

8. Learned counsel for respondents while not disputing the aforesaid facts, brought to our notice, the stay granted by the Hon'ble High Court of Delhi in the WP(C) No.3367/2016 by its order dated 25.04.2016 against the aforesaid order passed in OA No.3465/2014 dated 25.04.2016

9. It is not in dispute that except the aforesaid stay of the Hon'ble High Court, no other contrary view was taken by any other Bench of this Tribunal or by any other higher forum.

10. In the circumstances, the OA is allowed in terms of the orders in OA No.3626/2014 dated 27.10.2015 **(OM Prakash & Ors. Vs. Union of India & Ors.)**, however, subject to the result of the WP(C) No.3367/2016. No costs.

Pending MAs, if any, stands disposed of.

(Nita Chowdhury)
Member (A)

(V. Ajay Kumar)
Member (J)

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