

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 879/2012
MA 22/2012
With
OA 2771/2012

Reserved on: 16.07.2016
Pronounced on: 22.07.2016

Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Dr. Brahm Avtar Agrawal, Member (J)

OA 879/2012

1. S/Shri Brij Singh Ex. P.No.4370 aged 61 years
S/o Late Shri Naurang Singh R/o Near
Prankur Hospital Roadways Colony, Dehradun Road
Saharanpur (U.P.)
2. Dharampal Sharma Ex. P.No.4363 aged about
63 years S/o Late Shri Ram Lal Sharma
R/o 3/1354/4, New Bhagat Singh Colony,
New DM Avas, Gali No.3,
Saharanpur (U.P.)
3. Gurnam Singh Ex. P.No.4369 aged about 65 years
S/o Late Shri Mange Ram
R/o H.No. 140 Village Nangal Industrial Area
Ambala Cantt. Last posted in Saharanpur (U.P.)
4. Dharambir Ex. P.No.4451 aged about 64 years
S/o Late Shri Harnam Singh
R/o 11, Janak Puri
Dehradun Road Saharanpur (U.P.)
5. Salim Ahmad Ex. P.No.4450 aged about 62 years
S/o Late Shri Bundu Khan
R/o Village Manak Mau
Gangoh Road, Saharanpur (U.P.)
6. Ved Prakash Ex. P.No.4452 aged about 59 years
S/o Late Shri Ram Prashad Rao
R/o Village & Post Dudhli Dehradun Road,
Saharanpur (U.P.)

(All are superannuated Tractor Driver on different dates
while last posted in RTS & Depot Saharanpur except
Sl.No. 6 who is to be superannuated soon) ... Applicants

(Through Shri V.P.S. Tyagi, Advocate)

Versus

1. The Union of India
(Through Secretary)
Ministry of Defence
South Block, New Delhi
 2. The Director General
Remount and Veterinary Service (RV-1)
Integrated HQ of MOD (Army)
QMG's Branch, AHQ, West Block-III
R.K. Puram, New Delhi
 3. The Controller General of Defence Accounts
Ulan Batar Marg,
Palam, Delhi Cantt.
 4. The Controller General of Defence Accounts (Army)
Belvadier Complex,
Meerut Cantt. (U.P.)
 5. The Records Officer
RVC Records
Meerut Cantt (U.P.)
 6. The Commandant
RTS & Depot
Saharanpur (U.P.)
- ... Respondents

(None appeared)

OA 2771/2012

Smt. Bimla Devi Widowed wife of Late Shri Kabi Singh
Ex. P. No.4731 who was
Prematurely superannuated on medical ground
While working as Tractor Driver Gp `C`
Defence Civilian in RTS & Depot Saharanpur
Under Dte. General RVS (RV-1) QMG's Branch
AHQ Ministry of Defence now expired on 21.12.2011
R/o Roadways Colony Near Prankur Hospital
Dehradun Road, Saharanpur (U.P.) as applicant

...Applicant

(Through Shri V.P.S. Tyagi)

Versus

1. The Union of India
(Through Secretary)
Ministry of Defence
South Block, New Delhi
2. The Director General

Remount and Veterinary Service (RV-1)
Integrated HQ of MOD (Army)
QMG's Branch, AHQ, West Block-III
R.K. Puram, New Delhi

3. The Controller General of Defence Accounts
Ulan Batar Marg,
Palam, Delhi Cantt.
 4. The Controller General of Defence Accounts (Army)
Belvadier Complex,
Meerut Cantt. (U.P.)
 5. The Records Officer
RVC Records
Meerut Cantt (U.P.)
 6. The Commandant
RTS & Depot
Saharanpur (U.P.)
- ... Respondents

(None appeared)

ORDER

Mr. P.K. Basu, Member (A)

Since OA 879/2012 and OA 2771/2012 are on the same issue, they are being disposed of by this common order. We have taken the facts from OA 879/2012.

2. The applicants were appointed as Tractor Driver under respondent no.6. Initially the pay scale of the applicants was Rs.140-180, which was replaced by the pay scale of Rs.320-400 as per CDS (RP) Rules 1973. Their pay was fixed in the pay scale of Rs.1150-1500 with effect from 1.01.1986. The applicants were granted in situ promotion with effect from 1.04.1995 in the pay scale of Rs.975-1660 and again their pay was revised under the Revised Pay Rules (RPR) from 1997, effective from 1.01.1996 in the pay scale of Rs.3200-4900.

They were granted Assured Career Progression (ACP) from 9.08.1999 in the pay scale of Rs.4500-7000.

3. The applicants along with some other similarly situated Tractor Drivers working in RVC, approached this Tribunal through OA No.2741/1999, which was decided vide order dated 13.07.2000, holding that the applicants therein were entitled to the pay scale of Rs.1200-1800 with effect from 1.04.1995, when they were given in situ promotion and the pay scale of Rs.4000-6000 with effect from 1.01.1996, consequent to the recommendations of the 5th CPC, with all consequential benefits.

4. The learned counsel for the applicants further points out that the ACP Scheme was introduced vide notification dated 9.08.1999 making the applicants eligible for upgradation after completion of 12 and 24 years of regular service. The applicants were given the benefit of ACP by fixing their pay in the pay scale of Rs.4500-7000 with effect from 9.08.1999. According to the applicants, this upgradation should have been in the pay scale of Rs.5000-8000 in view of para 7 of Annexure – I to DoP&T OM dated 9.08.1999. It is further stated that the DoP&T vide OM dated 10.02.2000 clarified the position with regard to isolated posts as to what would be the upgradation under the ACP, which is as follows:

S.No.	Point of Doubt	Clarification
31.	What is an isolated post for the purpose of ACP Scheme	Isolated post is a stand alone post having neither feeder grade nor promotional grade. As such a post having a feeder grade and vice versa shall not be treated as isolated post for the purpose of ACP

10.	For isolated post, the pay for ACPS as recommended by the pay commission may be implemented and not the standard/ common pay scales indicated vide Annexure-II of the OM dated 9.08.1999	For isolated posts, the scale of pay for ACPs shall be the same as those applicable for similar posts in the same Ministry/ Department/ Cadre except where the pay commission has recommended specific pay scales for mobility under ACPs. Such specific cases may be examined by respective Ministries/ Departments in consultation with the DoP&T. In the case of remaining isolated posts the pay scales contained in Annexure - II of the OM dated 9.8.99 (ACPS) shall apply.
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5. According to the applicants, their trade is Industrial (isolated) and of skilled category which is granted replacement scale on revision under 5th CPC in the pay scale of Rs.3200-4900 and, therefore, their first ACP should not have been in the pay scale of Rs. 4500-7000 by applying para 7 of Annexure - I of the DoP&T OM dated 9.08.1998 but in the pay scale of Rs.5000-8000 as by then the applicants had completed 24 years of regular service.

6. It is further stated that one Shri Ganga Ram, who was also a Tractor Driver in RVC like the applicants and who was transferred to Ordnance Factory Muradnagar, was granted ACP in the pay scale of Rs.5000-8000 and, therefore, they should also be given the same benefit on the principles of "equal pay for equal work".

7. In their additional affidavit dated 30.09.2014, the respondents have stated that they have implemented the order of the Tribunal in OA 2741/1999 (supra) and the pay of the applicants has already been fixed in the pay scale of Rs.1200-1800 on in situ promotion with effect from 1.04.1991 and in the pay scale of Rs.4000-6000 under Revised Pay Rules 1997.

8. We have heard the learned counsel for the parties and gone through the pleadings available on record.

9. The applicants, admittedly, have completed 24 years of regular service on 9.08.1999 when the ACP Scheme came into effect. Since they have been granted the benefit of the order in OA 2741/1999 (*supra*), the only question that remains to be adjudicated is whether the upgradation under ACP Scheme granted from 9.08.1999 should be in the pay scale of Rs.4500-7000 or Rs.5000-8000.

10. Clearly, the applicants had completed 24 years of regular service as on 9.08.1999 and, therefore, are eligible for second upgradation, which would clearly be in the pay scale of Rs.5000-8000. The prayer of the applicants, therefore, to grant ACP benefit to them in the pay scale of Rs.5000-8000 with effect from 9.08.1999 is allowed. Consequently, after 30 years of service, the applicants would be eligible for third upgradation under the provisions of Modified ACP Scheme. We, however, do not find any merit in the claim of the applicants for payment of interest at the rate of 18% per annum as there is no malafide or deliberate delay by the respondents in granting the above benefit.

11. The OA is thus allowed with a direction to the respondents to grant ACP benefit to the applicants in the pay scale of Rs.5000-8000 with effect from 9.08.1999 and benefit of Modified ACP Scheme, as applicable, with consequential benefits arising out of re-fixation of pay. This exercise should be completed

within a period of three months from the receipt of a certified copy of this order. No costs.

(Dr. Brahm Avtar Agrawal)
Member (J)

(P.K. Basu)
Member (A)

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