

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA No.3379/2012

Order Reserved on: 30.03.2017
Order Pronounced on: 05.04.2017

Hon'ble Shri P.K. Basu, Member (A)
Hon'ble Shri Raj Vir Sharma, Member (J)

Mrs. Anjana Dutta
W/o Shri Sunit Kumar Dutt
ADP Branch, C/o Central Ordnance Depot
Delhi Cantt-110010.

-Applicant

(By Advocate: Shri Amit Anand)

Versus

1. Union of India
Through the Secretary,
Ministry of Defence,
South Block,
New Delhi-110011.
2. Director General of Ordnance Services
(OS-14), Integrated HQ of MoD (Army),
Army Headquarters, DHQ, PO,
New Delhi-110011
3. The ADG OS (CN & A)
'B' Block, Integrated HQ of MoD (Army),
Army HQs, DHQ, PO,
New Delhi-110011
4. The Commandant
Central Ordnance Depot
Delhi Cantt-110010

-Respondents

(By Advocate: Shri Rajesh Katyal)

ORDER

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

The applicant was appointed as Civilian Assistant Programmer on 02.05.1983 through the Union Public Service Commission in the pay

scale of Rs.650-1200. When the IV CPC recommendations were implemented, she was granted the pay scale of Rs.2000-3500. On implementation of the V CPC, the applicant was granted the pay scale of Rs.6500-10500 w.e.f. 01.01.1996.

2. Pursuant to the IV CPC recommendations, the pay structure and designations for all Electronic Data Processing (EDP) posts were re-organized to bring rationalization in all Central Government as well as semi-Government organizations. As a result of such re-structuring, since the post of the applicant was identified as EDP post and accepted by the Ministry of Defence, her designation was accordingly changed to Programmer. She was, however, granted the pay scale of Rs.2375-3500 w.e.f. 11.09.1989 and not from 01.01.1986 from which date all IV CPC recommendations were made effective.

3. When the V CPC recommendations were effected, the applicant was granted the replacement scale of Rs.2375-3500, i.e., Rs.7450-11500 w.e.f. 01.01.1996. The applicant's claim is that whereas the scale of Programmer was Rs.2375-3750 w.e.f. 01.01.1986 and Rs.7500-12000 w.e.f. 01.01.1996, she was granted the lower scales of Rs.2375-3500 and Rs.7450-11500 from the respective dates.

4. When the applicant had approached this Tribunal in OA No.670/2008, it was disposed of on 21.04.2009 with a direction to the respondents to pass a reasoned and speaking order on her representation. The speaking order is dated 19.01.2010 and has been

impugned herein. The respondents through the speaking order rejected her claim. Being aggrieved, the applicant has filed this OA with the following prayers:-

“(i) Quash and set aside the impugned order dated 19.01.2010 declaring as illegal, unjust, arbitrary and non-speaking.

(ii) Direct the respondents to grant the applicant the benefit of IV and V CPC recommendations by correctly fixing her pay in the pay scales of Rs.2375-3750 w.e.f. 01.01.1986 with the benefit of FR 22 and then fix her pay in the pay scale of Rs.7500-12000 w.e.f. 01.01.1996 with all consequential benefits including arrears of pay and allowances with interest;

(iii) Further direct the respondents that after fixing her pay correctly, to grant to her the benefits of two ACPs due to the applicant w.e.f. 09.09.1999 in the pay scale of Rs.10000-15200 and w.e.f. 02.05.2007 in the next promotional pay scale of Rs.12000-16800;

(iv) award costs in favour of the applicant;

(v) may also pass any further order(s), direction(s) as be deemed just and proper to meet the ends of justice.”

5. The applicant has filed copies of the following orders:-

- i) Ministry of Defence order dated 09.10.1997 whereby the Civilians in Defence Services (Revised Pay) Rules, 1997 were notified and it is indicated that these orders will come into force on 01.01.1996. Under the heading '**Electronic Data Processing Staff**', the pay scale of Programmer/System Analyst has been shown as Rs.2375-3750 (pre-revised) and Rs.7500-12000 (revised).
- ii) Department of Personnel and Training Office Memorandum dated 14.10.1998 on the subject of Model Recruitment Rules for Group 'A' and Group 'B' posts in the Electronics Data

Processing discipline where Programmer has again been indicated to be in the pay scale of Rs.7500-12000.

- iii) Copy of the recommendation of the V CPC contained in Para 55.70 pertaining to EDP staff. Again, the pay scale of Programmer/Systems Analyst has been indicated as Rs.2375-3750.

6. The applicant also relies on the following orders:-

- i) Order dated 27.10.2010 in OA No.2263/2008 filed by one **Smt. Neeru Singhal vs. Union of India & Ors.** who was a Programmer in the Ministry of Defence and had sought parity with decision in an earlier OA No. 553/2003 with connected OA decided on 18.12.2003 and the Tribunal came to the conclusion that parity has to be granted and the OA was allowed and respondents were directed to consider to grant the benefit of revised grade of Programmer to the applicant with all consequential benefits.
- ii) Order dated 17.05.2016 in OA No.1959/2010. This OA had been filed by one **Km. Mridula Gupta vs. Secretary, Ministry of Defence & Ors.** seeking the relief that she may be granted the grade of Programmer in the pay scale of Rs.2375-3500 w.e.f. 01.01.1986 instead of 11.09.1989 etc. The OA was allowed with direction to treat her as Programmer and grant her the scale of pay of Rs.2375-3500 etc. This OA has been relied upon by the applicant only to the extent that similarly placed persons have been treated as Programmers.

7. In short, her case is that while granting her the revised scale after recommendations of the IV CPC, she was wrongly granted the pay scale of Rs.2000-3500 instead of Rs.2375-3750. In fact, when the applicant was re-designated as Programmer still she was kept in the scale of Rs.2375-3500 whereas the scale of Programmer was Rs.2375-3750. Again, instead of what was recommended by the V CPC for Programmers under the category of EDP staff, i.e., Rs.7500-12000 she was granted the lower scale of Rs.7450-11500. The other issue raised is that when she was granted the pay scale of Rs.2000-3500, it was not w.e.f. 01.01.1986 which was the date with effect from which all revised pay scale after IV CPC recommendations were accepted, but her pay was fixed as on 11.09.1989 at Rs.2300 which she was already drawing earlier and hence effectively there is no increase in her pay on granting to her the pay scale of Rs.2375-3500.

8. The respondents in their reply basically have taken one plea which is that the pay of the applicant, who was designated as Civilian Programmer, was revised to Rs.7450-11500 because her pre-revised scale was Rs.2375-3500 and not Rs.2375-3750. Only those who were in the scale of Rs.2375-3750 have been granted the scale of Rs.7500-12000 as would be clear from the orders also, which were placed by applicant in her OA and cited above.

9. We have heard the learned counsel and perused the pleadings as well as judgments cited above.

10. It will be clear from the narration of facts that the applicant's job of a Programmer in the Respondents' Office was not part of a unified cadre of EDP staff. In fact, many EDP staff in different offices in Govt. of India were holding such posts and the Government decided to re-structure the whole arrangement and make a unified cadre, as would be evident from OM dated 14.10.1998 in which the scale of Programmer was indicated as Rs.7500-12000. In all orders cited by the applicant, the scale of Programmer was shown as Rs.7500-12000 after the V CPC and Rs.2375-3750 after the IV CPC.

11. In our view, the respondents made a mistake while granting her the scale of Rs.2375-3500 instead of Rs.2375-3750, which was applicable to all Programmers. This was the first mistake. Based on this, again they placed the applicant in the replacement scale of Rs.7450-11500 after the V CPC whereas the Programmers in the EDP cadre were all granted Rs.7500-12000. The error was, therefore, compounded. There is no ground for denying the applicant the scale of Rs.2375-3750 w.e.f. 01.01.1986 and Rs.7500-12000 w.e.f. 01.01.1996. It is clear that all the IV CPC recommendations were implemented w.e.f. 01.01.1986 and, therefore, the grant of revised pay scale to the applicant from 11.09.1989 is also clearly incorrect.

12. In the above background, we allow the OA and quash and set aside order dated 19.01.2010 with a direction to the respondents to grant to the applicant pay scale of Rs.2375-3750 w.e.f. 01.01.1986 and Rs.7500-12000 w.e.f. 01.01.1996 with all consequential benefits, including

arrears of pay and allowances as well as grant the ACP benefits to the applicant from the due dates, i.e., 1st ACP w.e.f. 09.08.1999 in the pay scale of Rs.10500-15200 (as this is the pay scale of Senior Programmer in the hierarchy) and the second upgradation w.e.f. 02.05.2007 (on completion of 24 years of service) in the next promotional pay scale of Rs.12000-16500 in the EDP structure. This order of the Tribunal should be implemented by the respondents within a period of 60 days from the date of receipt of a certified copy of this order. No costs.

(Raj Vir Sharma)
Member (J)

(P.K. Basu)
Member (A)

cc.