

**CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**ERNAKULAM BENCH**

**Original Application No. 1223 of 2013**

**Tuesday, this the 13<sup>th</sup> day of November, 2018**

**CORAM:**

**Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member**  
**Hon'ble Mr. Ashish Kalia, Judicial Member**

V.T.K. Ajayakumar, S/o. V.T.R. Kumaran, aged 63 years,  
 Ex-Junior Works Manager/891132, Ordnance Factory,  
 Thiruchirappally, Thottupura House, PO Talikulam,  
 Thrissur, Kerala, Pin – 680 569. .... **Applicant**

**(By Advocate : Mr. R. Sreeraj)**

**V e r s u s**

1. The Chairman, Ordnance Factory Board,  
 10-A, S.K. Bose Road, Kolkota,  
 West Bengal, Pin – 700001.
2. The General Manager, Ordnance Factory,  
 Thiruchirappalli, Tamil Nadu, Pin – 620 016.
3. Union of India, represented by its Secretary to  
 the Government of India, Ministry of Defence,  
 Indian Ordnance Factories, New Delhi.
4. The Secretary, Ministry of Personnel, Public  
 Grievances and Pensions, Department of Personnel and  
 Training, New Delhi. .... **Respondents**

**(By Advocate : Mr. N. Anilkumar, SCGSC)**

This application having been heard on 01.11.2018 the Tribunal on  
 13.11.2018 delivered the following:

**ORDER**

**Hon'ble Mr. Ashish Kalia, Judicial Member –**

The relief claimed by the applicants are as under:

- “1) To quash Annxure A-4 and to direct the respondents to step up the

pay of the applicant at par with that of his junior Shri K.K. Venugopalan and to grant him all consequential benefits including arrears.

2) To consider the applicant for the benefit of 3<sup>rd</sup> financial up-gradation under the Modified Assured Career Progression Scheme in the promotional hierarchy with all consequential benefits including arrears.

3) To direct the respondents to step up the pay of the applicant at par with that of his immediate junior who was appointed after 1.10.1975 in the grade of Supervisor B or equivalent in the pay scale of Rs. 380-560 in Ordnance Factories under Ordnance Factory Board.

4) Such other relief as may be prayed for and this Tribunal may deem fit to grant.

5) Grant the cost of this Original Application.”

2. The applicant is aggrieved by the refusal on the part of the respondents to step up his pay vis-a-vis his juniors who got upgradation by the virtue of ACP/MACP.

3. The applicant is a retired Junior Works Manager from Ordnance Factory, Tiruchi. He served the department for 42 years and earned five promotions starting from Supervisor-B, Chargeman Grade-II, Chargeman Grade-I, Assistant Foreman and Junior works Manager (Group-B gazetted). He has further submitted that now the rank of Junior Works Manager can be reached in just ten years because earlier Supervisor is merged with Chargeman Grade-II and against as per the recommendations of the 6<sup>th</sup> Pay Commission Chargeman Grade-II was merged with Chargeman Grade-I and Assistant Foreman was merged with Junior Works Manager. The notional effect was given from 1.1.2006 and thereafter by Factory Order No. 811 dated 16.6.2011 the respondents granted financial upgradation in the promotional hierarchy under the ACP scheme to 28 juniors of the applicant

effective from 1.11.2006 and as a result of that those juniors of the applicants started drawing pay in pay band 15,600-39,100/- with Grade Pay of Rs. 5,400/-whereas the applicant was drawing pay in PB 9,300-34,800/- with Grade Pay of Rs. 4,600/- only. The situation got further worse as some of them got financial upgradation under MACP scheme with effect from 1.9.2008 to the Grade Pay of Rs. 6,600/- in same pay band in the promotional hierarchy whereas the applicant has got financial upgradation under MACP with effect from 1.9.2008 in the GP hierarchy of Rs. 4,800/- only. Paragraph 8 of ACP as well as paragraph 20 of MACP rules out the financial upgradations under respective schemes on the ground of any anomaly that had arisen consequent on the junior being conferred financial upgradations. An OM was issued on 4.10.2012 by Ministry of Personnel, Public Grievances and Pension, DOP&T. Applicant has made a representation to 2<sup>nd</sup> respondent seeking stepping up of his pay to that of a known case of his junior one Shri K.K. Venugopalan who is at serial No. 8 in the seniority list annexed as Annexure A1. Applicant had sought RTI information received vide Annexure A6 and made representation thereof for stepping up of his pay with his immediate junior who was appointed after 1.10.1975. The representation is rejected vide Annexure A4 which reads as under:

“Sub:- Stepping up of pay.

Ref.: 1) Your letter dated 31/12/2012.  
2) DOP&T OM No. 35034/1/97-Estt(D) dated 4.10.2012.

You have requested for stepping up of pay at par with your juniors who have been granted ACP with a higher grade pay vide FO Pt II No. 811 dated 16.6.2011.

02. The order under reference (2) states that “The ACP Scheme was

applicable upto 31.8.2008 and was replaced by the Modified Career Progression Scheme (MACPS) with effect from 1.9.2008. As the revised pay scales are applicable w.e.f. 1.1.2006 those employees who received ACP between 1.1.2006 to 31.8.2008 got financial upgradation under ACP Scheme in the revised pay scales. Instances of senior employees who got benefit under ACP Scheme prior to 1.1.2006 and are drawing less pay than their juniors who got benefits under ACP Scheme after 1.1.2006 (i.e. between 1.1.2006 and 31.8.2008) have been brought to the notice of this Department. ....it has been decided to allow stepping up of pay in such cases.....”

03. Accordingly, since you have not been granted any ACP, such condition of stepping up does not arise in your case.

04. This is for your information please.”

4. Notices were issued to the respondents. They entered appearance through Shri N. Anilkumar, SCGSC and contended that the applicant has got five promotions during his service career. It is further submitted that Mr. K.K. Venugopalan was appointed as Draughtsman with effect from 1.2.1978, then he was promoted as Chargeman Grade-II on 30<sup>th</sup> March, 1983, then to the post of Chargeman Grade-I with effect from 14.8.1997 and further as Assistant Foreman (Technical) on 31<sup>st</sup> January, 2003 and later promoted as Junior Works Manager (Technical) on 30<sup>th</sup> July, 2007. It is further submitted that he was not considered for any financial upgradation under the ACP scheme but as per the recommendation of the VIth CPC the posts of Chargeman Grade-I and II were merged and was made a single cadre with effect from 1.1.2006. Similarly the post of Assistant Foreman (Technical) was merged with the post of Junior Works Manager (Technical) with effect from 1.1.2006. It is also submitted that the posts of Chargeman Grade-II and Grade-I are merged and made a single grade of Chargeman and Assistant Foreman (Technical) is merged with the post of Junior Works Manager (Technical) w.e.f. 1.1.2006 and having been completed more than

30 years of service and given only two promotions the applicant was granted the 3<sup>rd</sup> MACP with Grade Pay of Rs.4,800/- which is the next Grade Pay in the hierarchy of Grade Pay of Junior Works Manager w.e.f. 1.9.2008. Respondents further contended that in the reply statement that the ACP/MACP Scheme shall be purely personal to the employee and shall have no relevance to his seniority position and as such, there shall be no additional financial upgradation for the senior employee on the ground that the junior employee in the grade has got higher pay under the ACP/MACP scheme. Lastly it is submitted that the senior employees who got the benefit under the ACP scheme prior to 1.1.2006 and are drawing less pay than their juniors who got benefits under ACP scheme after 1.1.2006 have been brought to the notice of the Department. The issue was examined in consultation with the Department of Expenditure and it has been decided to allow stepping up of pay in such cases where the senior but for the pay revision on account of 6<sup>th</sup> CPC would have continued to draw higher pay. But the case of the applicant does not satisfy this condition as he was not in receipt of any benefits under ACPs neither pre-2006 nor within 1.1.2006 to 31.8.2008. Hence, his case does not attract the provisions of DOP&T OM dated 4.10.2012. Moreover, clarification No. 27 of Annexure R2 clarify that the ACPs is to act as a safety net to provide relief in cases of acute stagnation. The concept of senior-junior is quite alien to the idea behind the ACPs recommended by the V<sup>th</sup> CPC which had also quite specifically recommended against it. Benefits granted under the Scheme are personal in nature and in recognition of long hardships faced by stagnating employees. In the nutshell they prayed for dismissal of the Original Application.

5. Heard Shri R. Sreeraj learned counsel appearing for the applicant and Shri N. Anilkumar, SCGSC learned counsel appearing for the respondents. We have also considered the short note of argument presented by the applicant in this case. Perused the records.

6. During the course of arguments, learned counsel for the applicant Shri R. Sreeraj has relied upon the Full Bench judgment of this Tribunal in OA No. 1103 of 2011 dated 22<sup>nd</sup> March, 2013 and the order of the Madras Bench of the Tribunal in OA Nos. 966 and 967 of 2009 dated 29<sup>th</sup> December, 2010. As per the Full Bench judgment in paragraph 25 it was held as under:

“25. In view of the above, while declaring that clause 20 of the MACP scheme is fully valid and legal and while rejecting the claim of the applicants for financial upgradations under the MACP Scheme at par with the juniors, liberty is given to the applicants to have their grievances redressed by way of stepping up of pay, through administrative machinery. Neither the provisions of clause 20 of the Scheme nor does this order come in their way in this regard.”

The counsel for the applicant interpreted the judgment that his pay should be stepped up in pursuance to the Full Bench judgment. Reading carefully this judgment transpires that the validity of clause 20 has been upheld by the Full Bench meaning thereby that the financial upgradation granted due to stagnation is purely a personal in nature and it does not give any right to the senior to get his pay stepped up. Stepping up was done only on one condition that if an employee who got the benefit of ACP scheme prior to 1.1.2006 and drawing less pay than the junior who got benefits under ACP scheme after 1.1.2006, then stepping up of pay was allowed. But the case of

the applicant does not satisfy this condition as he was not in receipt of any benefits under ACP neither pre-2006 nor within 1.1.2006 to 31.8.2008. The DOP&T OM has given the benefits to those seniors who got ACP benefits prior to 1.1.2006 and were drawing less pay than the junior. Applicant has earned five promotions during his career and certainly has no case for grant of ACP. However due to merger of posts of Chargeman Grade-II and Grade-I with Chargeman and Assistant Foreman (Technical) with Junior Works Manager (Technical) w.e.f. 1.1.2006 and applicant having completed 30 years of service was granted 3<sup>rd</sup> MACP with Grade Pay of Rs. 4800/- which is the next Grade Pay in the hierarchy of Grade Pay of Junior Works Manager w.e.f. 1.9.2008.

7. In view of the facts and circumstances, we find that the applicant has not made out any case for stepping up of his pay at par with his junior. There is no merit in this Original Application and accordingly it is dismissed. No order as to costs.

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

**(E.K. BHARAT BHUSHAN)**  
**ADMINISTRATIVE MEMBER**

**“SA”**

**Original Application No. 1223 of 2013**

**APPLICANT'S ANNEXURES**

- |                           |   |
|---------------------------|---|
| <b><u>Annexure A1</u></b> | - True copy of the factory order Part-II No. 811 dated 16.6.2011.   |
| <b><u>Annexure A2</u></b> | - True copy of the office memorandum No.35034/1/97-Estt.(D) dated 4.10.202.                               |
| <b><u>Annexure A3</u></b> | - True copy of the representation dated 31.12.2012 submitted by the applicant.                            |
| <b><u>Annexure A4</u></b> | - True copy of the letter No. 7159/ESTT dated 8.4.2013.   |
| <b><u>Annexure A5</u></b> | - True copy of the request for information under RTI Act 2005 dated 22.4.2013 submitted by the applicant. |
| <b><u>Annexure A6</u></b> | - True copy of the letter No. 7936/VIG/RTI ACT 05.02.2013-14 dated 8.5.2013.                              |
| <b><u>Annexure A7</u></b> | - True copy of the information furnished as per Annexure A6 converted into tabular form.                  |
| <b><u>Annexure A8</u></b> | - True copy of the representation dated 29.7.2013 submitted by the applicant.                             |
| <b><u>Annexure A9</u></b> | - True copy of the letter No. 1314459/PIO/A/RTI dated 4.10.13.  |

**RESPONDENTS' ANNEXURES**

- |                                    |  |
|------------------------------------|--|
| <b><u>Annexure R1</u></b>          | - Photocopy of the OM dated 9.8.99.                                |
| <b><u>Annexure R2 series</u></b>   | - True copies of the OMs dated 10.2.2000.                          |
| <b><u>Annexure R3 &amp; R4</u></b> | - Photocopies of the letters dated 2.3.2012 and 5.3.2013.          |
| <b><u>Annexure R5</u></b>          | - Photocopy of the DOPT OM No. 35034/1/97-Estt(D) dated 4.10.2012. |
| <b><u>Annexure R6</u></b>          | - Photocopy of the order No. 811 dated 16.6.2011.                  |

-X-X-X-X-X-X-X-