

OA.No.170/00343/2017/CAT/Bangalore Bench
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO. 170/00343/2017

DATED THIS THE 20th DAY OF FEBRUARY, 2018

HON'BLE DR.K.B. SURESH, MEMBER (J)
HON'BLE SHRI P. K. PRADHAN, MEMBER (A)

Sri.M.Munidev
 S/o Late V.Muniyappa
 Aged about 66 years
 Retd. Senior Project Assistant
 Office of the ISRO Satellite Centre Bangalore
 R/at No.31/1-2. 2nd Floor, 18th Cross
 8th Main, Malleshwaram West
 Bangalore-560055.

... Applicant

(By Advocate Shri Yogesh L.Hiremath)

Vs.

1. Union of India
 Represented by its Director
 ISRO Satellite Centre
 Old Airport Road, Vimanapura Post
 Bangalore-560017.
2. The Secretary
 Department of Space
 Anthariksh Bhavan
 New BEL Road
 Bangalore-560231.
3. Union of India
 Represented by its Secretary
 Ministry of Finance
 Department of Expenditure
 New Delhi-110001.
4. Secretary
 Department of Personnel and Training
 North Block, Central Secretariat
 New Delhi-110001.

... Respondents

(By Advocate Shri S.Prakash Shetty)

ORDER

(PER HON'BLE PRASANNA KUMAR PRADHAN, MEMBER (A))

The applicant has filed the present OA seeking the following relief:

- a. *Issue writ of certiorari or order or any other appropriate Writ or Order or Direction quashing the endorsement/Memorandum dated 06.06.2017 in No.020/1(1)/Est-1/2017 issued by the respondent No.1 as per Annexure-A10.*
- b. *Issue a writ of Mandamus directing the respondents to pay Grade Pay of Rs.5400/- in PB-3 (Rs.15,600-39,100/-) with effect from 01/01/2010 as per representation dated 26.05.2017 at Annexure-A9.*

2. According to the applicant, he was initially appointed as Helper vide order dtd.23.08.1976. Thereafter he became Helper-B in November 1978. Through a selection process, he was appointed as Office Clerk-A on 26.12.1980. Thereafter after getting various promotions, he retired as Senior Assistant on 31.01.2011. Pursuant to the implementation of MACP scheme, the applicant was initially allowed 3rd MACP benefit with Grade Pay Rs.4600/- vide order dtd.27.12.2010. However, by subsequent office order dtd.07.03.2013(Annexure-A2), he was granted 2nd ACP w.e.f. 01.01.2006 with Grade Pay Rs.4800 and 3rd MACP w.e.f. 26.12.2010 with Grade Pay Rs.5400 in PB-2.
3. According to the applicant, vide Office Memorandum on 24/26.12.2009 several category of employees including Sr.Project Assistants who were assigned grade pay of Rs.4800 are entitled to get the higher grade pay of Rs.5400 in PB 3 on completion of 4 years from the date of assigning the Grade Pay Rs.4800. The applicant claims that he being Sr. Project Assistant is eligible for placement in PB 3 with grade pay of Rs.5400/- immediately after completion of 4 years in the grade pay of Rs.4800/- i.e. from 01.01.2010. He submits that some similarly situated employees approached this Tribunal in OA No.308/2013 for placement in PB 3 with grade pay of Rs.5400/- which was allowed. When the respondents approached the Hon'ble High Court of Karnataka in Writ Petition No.32501/2016 against the order of the Tribunal, the Hon'ble High Court of Karnataka dismissed

the Writ Petition and confirmed the order of the Tribunal (Annexure-A6). When the matter was taken up before the Hon'ble Apex Court in SLP No.34238/2016, the said SLP was dismissed (Annexure-A7) and the applicants therein were granted the benefit of PB 3 with grade pay of Rs.5400/- vide order dated 24.04.2017 (Annexure-A8). The applicant then filed representation on 26.05.2017(Annexure-A9) to the respondents seeking extension of similar benefit to him but the same was rejected vide Memorandum dtd.06.06.2017(Annexure-A10) on the ground that the benefit given to the applicants in OA.No.308/2013 and OA.No.136/2014 was restricted to them only and cannot be extended. Aggrieved by the same, the applicant has approached the Tribunal in the present OA seeking the relief as stated above.

4. The respondents in their reply statement have mentioned that the applicant who had initially joined as Helper was holding the post of Senior Assistant at the time of his retirement. His career progression is as follows:

| Designation | w.e.f. | Details | Pay Scale |
|---------------------------------|------------------------------------|--|---|
| Helper | 23.08.1976 | Initial Appointment | 200-3-206-4-234-EB-4-250 |
| Helper-B | 16.11.1978 | Promotion | 210-4-226-EB-4-250-EB-5-290 |
| Office Clerk 'A' | 26.12.1980 (Date of Charge Report) | Appointment/Selection | 260-6-290-EB-6-326-8-366-EB-8-390-10-400 |
| Office Clerk 'B' | 15.04.1985 (Date of Charge Report) | Promotion | 330-10-380-EB-12-500-EB-15-560 |
| Assistant 'A' | 12.08.2006 | Promotion | 5000-150-8000 |
| Assistant 'B'/ Sr.Assistant 'B' | 02.08.2006 | Promotion | Pre-revised scale of Rs.5500-175-9000 |
| Sr.Assistant 'A' | 26.12.2004/ 01.01.2006 | 2 nd financial upgradation under ACP Scheme | In the pre-revised Pay Scale of 5500-175-9000. Subsequently, on implementation of 6 th CPC, he was granted with a Grade Pay of Rs.4800/- in the pay band of Rs.9300-34800/- w.e.f.01.01.2006 |
| Sr.Assistant 'B' | 26.12.2010 | Third Financial Upgradation under MACP Scheme in PB-II | Pay Band of Rs.9300-34800/- with GP of Rs.5400/- |

5. The respondents have also mentioned that since the applicant has retired as

Senior Assistant, he did not even belong to that category of employees which was mentioned in OM No.24/26.12.2009 as he did not get promotion to Sr.Project Assistant during his entire service. Hence, under no circumstances, he is eligible for grant of Grade Pay Rs.5400 in PB-3. The respondents further submit that some more employees of the department had approached the Ernakulam Bench of the Tribunal in OA Nos. 521, 514&544/2013 and the Tribunal had dismissed their claim in terms of the clarificatory OM dated 13.12.2012. Therefore, they submit that the applicant is not entitled to any further benefit.

6. During the hearing, Learned Counsel for either side practically reiterated the submissions made in the OA and in the reply statement as have been highlighted above.

7. We have carefully considered the facts of the case and submissions made by either side. The OM dtd.24/26.12.2009 has stipulated vide para-2 of its order as follows:

2. The issue regarding assignment of Grade Pay of Rs.5400/- has since been examined in detail in the Department. Taking all aspects into account, it has now been decided to assign the Grade Pay of Rs.5400/- in PB-3 to the following category employees, who were assigned with the Grade Pay of Rs.4800/-, on completion of four years from the date of assigning the Grade Pay of Rs.4800/- i.e. 01.01.2006:-

- (1) Personnel Secretary
- (2) Project Personal Secretary
- (3) Sr. Project Assistant
- (4) Asst. Catering Manager
- (5) Asst. Security Officer

Accordingly, they shall be eligible for placement in PB-3 (Rs.15600-39100) with a Grade Pay of Rs.5400/- on or after 1st January, 2010. However, there shall be no fixation benefits while placing them in PB-3 with a Grade Pay of Rs.5400/-. The procedure for granting the Grade Pay of Rs.5400/- to the eligible employees will be subject to vigilance clearance and approval of the Competent Authority.

8. Subsequently, the Dept. of Space has issued a further clarificatory order on 13.12.2012 saying that only employees who have completed four years of regular service in specific posts with the Grade Pay of Rs.4800/- after appointment/promotion shall be entitled for the aforesaid upgradation. The matter

OA.No.170/00343/2017/CAT/Bangalore Bench was considered by this Tribunal in OA.No.308/2013 wherein vide order dtd.27.10.2015, it was held that the applicants therein who are Sr.Project Assistants shall be entitled to receive non-functional upgradation in PB-3 with Grade Pay of Rs.5400 on completion of 4 years' service in the Grade Pay of Rs.4800. The same order was also upheld by the Hon'ble High Court of Karnataka. Though the applicant in the present OA had mentioned that he is entitled to similar benefits being a Sr.Project Assistant, we note that the applicant was never promoted to the post of Sr.Project Assistant and retired on 31.01.2011 as Senior Assistant only. Since the applicant did not become Sr.Project Assistant, he cannot claim the benefit extended to the applicants in OA.No.308/2013 or other identical cases where similar benefits were extended. Only persons who were working in those five category of posts specified in OM dtd.24/16.12.2009 shall be entitled to get Grade Pay Rs.5400 in PB-3 after rendering regular service of four years in Grade Pay Rs.4800 irrespective of whether they got it through ACP or through regular promotion. Therefore, the applicant who did not fall under any of the categories mentioned above and had retired as Senior Assistant only shall not be entitled to claim similar benefits.

9. On detailed consideration of the facts and circumstances of the case, we hold that the contention of the applicant does not merit any consideration and the OA being devoid of any merit stands dismissed. No order as to costs.

(P.K. PRADHAN)
MEMBER(A)

(DR. K.B. SURESH)
MEMBER (J)

Annexures referred to by the applicant in OA.170/00343/2017

Annexure-A1: Copy of appointment order
Annexure-A2: Copy of office order dtd.07.03.2013
Annexure-A3: Copy of office order dtd.27.12.2010
Annexure-A4: Copy of OM dtd.24/26.12.2009
Annexure-A5: Copy of order dtd.27.10.2015 in OA.No.308/2013
Annexure-A6: Copy of order dtd.02.09.2016 in WP.No.32501/2016(S-CAT)
Annexure-A7: Copy of order dtd.23.02.2017 in SLP.No.34238/2016
Annexure-A8: Copy of OM dtd.24.04.2017
Annexure-A9: Copy of representation dtd.26.05.2017
Annexure-A10: Copy of impugned Memorandum dtd.06.06.2017

Annexures with reply statement:

Annexure-R1: Copy of OM dated 9.8.1999
Annexure-R2: Copy of OM dtd.12.09.2008
Annexure-R3: Copy of OM dtd.24/26.12.2009
Annexure-R4: Copy of clarificatory OM dtd.13.12.2012
Annexure-R5: Copy of order dtd.27.10.2015 passed in OA.No.308/2013
Annexure-R6: Copy of order dtd.12.7.2016 passed in WP.No.32524/2016(S-CAT) &
36516/2016 by the Hon'ble High Court of Karnataka
Annexure-R7: Copy of dtd.02.09.2016 in WP.No.32501/2016(S-CAT)
Annexure-R8: Copy of order dtd.23.02.2017 in SLP.No.34238/2016
Annexure-R9: Copy of OM dtd.24.04.2017
