

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

**Pronounced on :12.09.2018
Reserved on : 31.08.2018**

OA No. 060/00016/2016

**CORAM: HON'BLE MR.SANJEEV KAUSHIK, MEMBER(J)
HON'BLE MRS. P. GOPINATH, MEMBER(A)**

P.No. 6966683 Ex. LHF 'B' Gurdial Singh, aged 61 years S/o Sh. Gurdial Singh, resident of Village Baba Sawan Singh Nagar, Post Office Beas, Tehsil Baba Bakala Sahib, District Amritsar.

.....Applicant

BY ADVOCATE: **Sh. R.K. Sharma**

Versus

1. Union of India through the Secretary to Government of India, Ministry of Defence, South Block, New Delhi.
2. Director General of Ordnance Services (OS-8C) Master General of Ordnance Branch, Integrated Headquarters of MoD (Army), DHQ PO New Delhi.
3. Director General of Ordnance Services (OS-20) Master General of Ordnance Branch, Integrated Headquarters of MoD (Army), DHQ PO New Delhi.
4. Officer-in-Charge, Army Ordnance Corps Records, Secunderabad, Pin-900453 C/o 56 APO
5. Commandant, 23 Field Ammunition Depot, Pin – 909723 C/o 56 A.P.O.

.....Respondents

BY ADVOCATE: **Sh. Arvind Moudgil**

ORDER

MRS. P. GOPINATH, MEMBER(A):-

1. Applicant joined as Fireman at 23 Field Ammunition Depot in 1978. He was promoted to the post of Leading Hand Fireman 'A' (LHF-A)

on 08.12.1988 and subsequently as LHF-B on 01.01.2003. Applicant retired from service on 30.04.2014. The respondent department revised the pay scales of Fire Fighting Staff vide Notification dated 30.06.2010 whereby the applicant was granted Grade Pay of Rs. 2400 and subsequently granted third MACP in the Grade Pay of Rs. 2800. The contention of applicant is that pay scales of 4000-6000 and 4500-7000 were merged and given Grade Pay of Rs. 2800 and given a common nomenclature of Station Officer. It is brought to our notice that para 3 of Annexure A-3 produced by the applicant states that pre-revised scale of LHF-A AND LHF-B were Rs. 3050-4590 and Rs. 4000-6000 which scales were not merged.

2. The applicant argues that the Notification of 26.07.2010 detailing the new pay scale, does not exclude the Army Ordnance Corps (AOC) where the applicant was employed. The Notification of 26.07.2010 of the Ministry of Defence following the recommendations of the Sixth CPC was uniformly applied to all the three wings of Armed Forces and applicant challenges its non-applicability to the AOC where he is working. The prayer of the applicant is for re-fixation of his Grade Pay as Rs. 2800 in PB-1 Rs. 5200-20200 w.e.f. 01.01.2006 and third MACP in Grade Pay Rs. 4200 in PB-2 Rs. 9300-34800.

3. The respondents in the reply statement submit that the applicant was drawing a pay scale of Rs. 4000-6000 as LHF-B which was revised by the Sixth CPC to PB-1 Rs. 5200-20200 with Grade Pay of Rs. 2400 as per Annexure R-1 letter of the Ministry of Defence dated 30.06.2010.

4. This OA is similar to OA No. 060/00368/2016 titled Nand Ram Vs. UOI wherein the promotional post of LHF-B is Station Officer in Grade Pay of Rs. 2800 and the lower post and the promotional post cannot be given the same Grade Pay as argued by the applicant. The argument of the applicant is not sustainable as the lower post and promotional post cannot be given the same Grade Pay as this would not only take away the benefit of promotion, but would also make the promotion a farcical exercise. In view of this, the field ammunition depot had sought a specific clarification from Integrated Headquarters of MoD (Army) specifically regarding the revised pay scale and Grade Pay of LHF-A and LHF-B in the AOC.

5. The specific reply of Integrated Headquarters of MoD (Army) was that since Grade Pay of Rs. 2800 is granted to Station Officer, the lower post of LHF-B, therefore, cannot be granted the same pay scale.

6. The Tribunal is not the judge of a cadre structure or posts held in the cadre or the pyramidal structure of a cadre. Both logically and legally, it has been clearly held in various judgements that a superior and subordinate cannot draw the same Grade Pay as prayed for in this matter. The Tribunal cannot also direct the respondents to fix or grant a particular pay scale. Bench also notes that an appropriate pyramidal pay structure exists in the respondent department and mere similarity in post, designation, or nomenclature, does not evolve into a right for a similar pay structure. The CPC can make a generalized service recommendation but such recommendation cannot be blindly applied across all service cadres, across all departments, across India. There

would be cases as in the OA before us wherein the prayer made would affect the promotional pyramidal structure. The applicants also do not have an argument for merger of the cadre of LHF-B and Station Officer, so that both the merged posts can be given the same Grade Pay. This is not a case of non-application of mind by respondents, but one of non-disturbing the pyramidal structure of posts. Attention is drawn to pay scales of fire fighting staff in UT wherein GP of Rs. 4200 has been given to ADFO and DDFO which are posts with higher responsibility in Civil Administration and the posts are brought at par with posts of Constable and Head Constable in Delhi Police, IB and CBI. In enclosure to Annexure A II, Ministry of Defence has given Grade Pay of Rs. 2800 to Station Officers and Grade Pay of Rs. 2000 to Leading Fireman. Enclosure to Annexure A II is a letter (date not readable but appears to have been issued in 2011) issued by Ministry of Defence to Chief of Air Staff wherein the details of revised nomenclature and revised Grade Pay has been detailed as follows:-

Sl. No.	Pre-revised Nomenclature	No. of Posts	Pre-revised pay scales	Nomenclature as per Govt. Letter dated 26 th July 2010	No. of Post	Revised Pay Scale
1.	Fireman Gde II Fireman	172 145	Rs. 2650-4000 Rs. 2750-4400	Fireman	317	PB-1 GP Rs. 1900
2.	Fire Engine Driver	09	Rs. 3050-4590	Fire Engine Driver	09	PB-1 GP Rs. 1900
3.	Leading Hand Fireman	86	Rs. 3050-4590	Leading Fireman	86	PB-1 GP Rs. 2000
4.	Supervisor (Fire) Fire Master	21 05	Rs. 4000-6000 Rs. 4500-7000	Station Officer	26	PB-1 GP Rs. 2800

From above table, we note that Air Force did not have separate post of LHF-A and LHF-B but had only a post of LHF which was redesignated by

VI CPC as Leading Fireman and given Grade Pay of Rs. 2000. Hence, any similarity or comparison between applicants in AOC and Air Force Firemen does not appear to exist in terms of post nomenclature and in comparison to AOC. Leading Fireman in Air Force has been given lower Grade Pay of Rs. 2000.

7. Applicant as LHF-B was drawing pay in scale of Rs. 4000-6000. Going by the VI CPC revised pay scale, the scale of Rs. 4000-6000 was revised to PB I Rs. 5200-20,200 + Grade Pay of Rs. 2400 vide OM dated 30.06.2010. Hence, the VIth CPC pay revision table also does not support the applicant. Grade Pay of Rs. 2800 was granted to Station Officer in AOC which is the promotional post of LHF-B/ Thus, the claim of the applicant is not sustainable as the lower post and the next promotional post cannot draw the same Grade Pay.

8. Whereas it is necessary for every employee to have aspirations, the aspiration cannot go beyond the pyramidal structure of feeder and promotional post. It has never been the policy of the Government that the feeder grade and promotional grade would be in the same pay scale as this would result in an anomaly of the feeder and the promotional posts being in the same pay scale, and a dissatisfaction of not getting a higher Grade Pay on promotion to the post of Station Officer who has been placed in Grade Pay of Rs. 2800 in the AOC and which is based on LFH-B and which is made applicable to all similarly placed employees of the Army Ordnance Corp posted in any part of the country.

9. We also accept the argument of the respondents that the particular AOC Depot where the applicant works, would not be entitled to a pay fixation which is different from the pay fixation of Fire Fighting Staff of AOC Depots in other parts of the country. We also accept the argument that the Ministry of Defence

being the coordinating Ministry of all the three armed forces, once draws up a policy should be followed by all the AOC Depots in the country and it cannot be that one AOC Depot can be treated differently by way of higher pay fixation in comparison to other AOC Depots in the country. It would not be appropriate for the Tribunal to disturb pyramidal structure of posts in the Fire Fighting Division of Army Ordnance Corp and impose on it a pay scale which would have a cascading effect of pay revision up the line.

10. The Tribunal is not the judge of a cadre structure or posts held in the cadre or the pyramidal structure of a cadre. Both logically and legally, it has been clearly held in various judgements that a superior and subordinate cannot draw the same Grade Pay as prayed for in this matter. The Tribunal cannot also direct the respondents to fix or grant a particular pay scale. Bench also notes that an appropriate pyramidal pay structure exists in the respondent department and mere similarity in post, designation, or nomenclature, does not evolve into a right for a similar pay structure.

11. The Apex Court in Food Corporation of India Vs. Ashis Kumar Ganguly (2009) 7 SCC 734 had held as follows:-

“21. There is no dispute nor can there be any to the principle as settled in the above-mentioned decisions of this Court that fixation of pay and determination of parity in duties is the function of the executive and the scope of judicial review of administrative decision in this regard is very limited.”

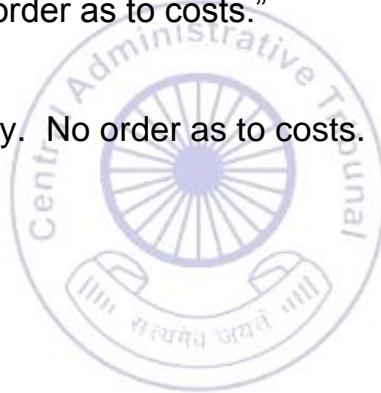
Equation of posts and equation of pay structure are best understood in the context of a pyramidal structure of posts starting from early level to senior most level of promotion or exit level. This structure should not be disturbed by judicial decisions which would have a cascading impact on the cadre structure which may result into multifarious litigation. If one level of the service is picked up and given a higher grade pay as available in other services, then the balance in the pay structure of the fighters in AOC cadre would be disturbed.

Whereas a bonafide mistake can be corrected, this does not appear to be one and has been perpetuated on account of cadre balance in terms of movement to higher posts or the availability of reasonable promotional opportunities for growing in the service.

12. This OA is similar to OA No. 060/00368/2016 in which a detailed order has been passed and which would apply to the facts of this case also. At the cost of repetition, the operative part of the order is reproduced as under:-

“11. For the foregoing discussion, we dismiss the OA with the proviso directing the respondents to undertake an exercise whereby the entire pay structure of Fire Fighting Staff in AOC Cadre be reviewed in order to bring the posts and pay scales at par with the other fighting wings of Army, Navy and Air Force. This would not only remove any element of dissatisfaction or unrest, which is not good for the welfare of civilian persons working in Armed Forces or the AOC for reasons not necessary to cite in detail. No order as to costs.”

Ordered accordingly. No order as to costs.



**(P. GOPINATH)
MEMBER (A)**

**(SANJEEV KAUSHIK)
MEMBER (J)**

Dated:
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