

**CENTRAL ADMINISTRATIVE TRIBUNAL****CHANDIGARH BENCH****Pronounced on : 10.09.2018****Reserved on : 31.08.2018****OA No. 060/00368/2016****CORAM: HON'BLE MR.SANJEEV KAUSHIK, MEMBER(J)  
HON'BLE MRS. P. GOPINATH, MEMBER(A)**

P.No. 6966603 Nand Ram, aged 64 years, S/o Sh. Ram Bahadur, FED 'B' (Retd.), Fire Brigade Section, 23 Field Ammunition Depot (Ministry of Defence, Government of India), Pin-909723 C/o 56 APO, R/o Village Budha Theh, Post Office Beas, Tehsil Baba Bakala, District Amritsar (Pb.).



.....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. Sanjay Goyal**

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

1. Applicant joined as Fireman at 23 Field Ammunition Depot on 01.11.1976. He was promoted as Fire Engine Driver-A (FED-A) in 1988 and subsequently as Fire Engine Driver-B (FED-B) in 2000. Applicant stands retired from service on 30.04.2012.
2. The respondent department revised the pay scales of Fire Fighting Staff vide Notification dated 30.06.2010 whereby the applicant was granted a Grade Pay of Rs. 2400. The applicant was granted third MACP in the Grade Pay of Rs. 2800.
3. The applicant's grievance is that the Notification of 30.06.2010 was not strictly in accordance with the recommendations of the Sixth Central Pay Commission for Fire Fighting Staff as approved by the Department of Expenditure, Ministry of Finance.
4. The Ministry of Defence independently examined the recommendations of the Sixth Central Pay Commission as contained in para 3.8.12 of VI CPC in respect of Fire Fighting Staff which included the staff of the respondent department i.e. Armed Ordnance Cops (AOC) and recommended PB-1 with Grade Pay of Rs. 2800 to Leading Hand 'A' and Grade Pay of Rs. 2000 to Leading Hand 'B'.
5. The applicant submits that the pay scale of Rs. 4000-6000 and Rs. 4500-7000 were merged into the Grade Pay of Rs. 2800 and were given a common designation of Station Officer. The applicant's argument is that the Notification of 26.7.2010 was made uniformly applicable to all wings of Army, and AOC where the applicant was employed, should also

have been included in the said order. He bases this argument on the contention that the Air Force and the Navy have implemented the said order.

6. The applicant's representation was rejected by the respondents. Applicant bases his argument in the OA on the settled proposition of law that the persons similarly situated, have to be given similar treatment and if not, it would be a violation of Articles 14 and 16 of the Constitution of India. 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 grant of third MACP w.e.f. 01.09.2008 in PB-2 Rs. 9300-34800 with Grade Pay of Rs. 4200.

7. The respondents in the reply statement submit that the applicant was drawing pay in the scale of Rs. 4000-6000 as FED-B which was revised in the pay scale of PB-1 Rs. 5200-20200 and Grade Pay of Rs. 2400. The pay scale attached to FED-A and FED-B was omitted in the Sixth CPC and the same was revised vide R-1, letter of the Ministry of Defence dated 18.12.2015. The reasons cited for fixing the pay as above is that the promotional post of FED-B is Station Officer, and this promotional post has been granted pay scale of PB-1 with Grade Pay of Rs. 2800. Hence, the feeder post had to be given a lower grade pay. Since the Sixth CPC has not made any recommendation in respect of FED-A and FED-B, the respondents carried out their pay revision as per directions in Government of India MOD letter dated 30.06.2010. FED-B who was drawing pay scale of Rs. 4000-6000, was fixed in the revised Sixth CPC pay scale of Rs. 5200-20200 with Grade Pay of Rs. 2400 and

this was on account of the fact that the promotional post had been assigned Grade Pay of Rs. 2800 and hence, feeder post and promotional post could not be in the same pay scale. The Ministry of Defence letters of 30.06.2010 and 18.12.2015 clarify that the scale of pay of FED-A and FED-B is same as LFH-A and LFH-B and they have also been given the same pay scale of PB-1 with Grade Pay of Rs. 2400.

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. 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 FED and Station Officer, so that both posts can be merged and given the same Grade Pay.

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 abovesaid 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.

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.

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

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

Dated:

**ND\***

