

This application having been finally heard on 5.10.2018, the Tribunal on 1.11.2018 delivered the following in the open court.

ORDER

Per: MR.ASHISH KALIA, JUDICIAL MEMBER

Applicant is presently working as Binder Grade II under respondent nos.2 and 3. She has joined the service on 24.7.1991 as Binding Assistant in the pay scale of Rs.800-1150. The pay scale of Bindery Assistant was upgraded from Rs.800-1150 to Rs.915-1400 with effect from 31.10.1989. As a result, the pay scale of Bindery Assistant and Binder Gr.II became one and the same with effect from 31.10.1989. She has been promoted as Binder Grade II in the year 1996 on completion of 5 years service in the grade of Bindery Assistant in the pay scale of Rs.915-1400.

2. The grievance of the applicant is that while her pay has been fixed at Rs.7350 + GP 1900 w.e.f 1.1.2006 her junior Mrs.B.Sarommabi who was appointed as Binding Assistant and joined duty on 10.12.1993 and her pay was fixed at the rate of Rs.7210+ 1900 GP. She was granted 1st ACP w.e.f 21.2.2008 and her pay was fixed at Rs.7380+2400 GP. Whereas the applicant was drawing higher pay of Rs.7920/- w.e.f 1.7.2007, but she has been granted Rs.1900 as Grade Pay only with effect from 1.7.2006. Applicant submits that she was granted Rs.1900/- GP w.e.f 1.7.2006 and GP Rs.2000/- w.e.f 1.9.2008 instead of Rs.2400/-. Applicant pointed out this anomaly by way of a

representation dated 19.6.2014. No decision has been taken by the respondents and hence the applicant has approached this Tribunal for redressing her grievances. The relief sought in the Original Application are as follows:

- “ i) To call for the records relating to Annexure A-1 to A-13 and to declare that the applicant is entitled for the 1st ACP and to declare that the applicant is entitled for the 1st ACP benefits of upgradation of her scale of pay as that of the Binding Assistant Grade I or any other equivalent post, with effect from 17.1.2003 and 2nd MACP benefits with effect from 17.1.2003 and 2nd MACP benefits with effect from 17.1.2011;
- ii) To direct the respondents to revise the scale of pay of the applicant on 1st ACP with effect from 17.1.2003 and the 2nd MACP upgradation with effect from 17.1.2011 and to refix the pay and allowances of the applicant accordingly, at the earliest and to draw the arrears of such pay fixation immediately with 18% penal interest.
- iii) To issue such other appropriate orders or directions this Hon'ble Tribunal may deem fit, just and proper in the circumstances of the case. “

3. Notices were issued. Mr.S.Manu takes notice on behalf of respondents and entered appearance.

4. Respondents have filed reply statement and admitted that the applicant is entitled for 1st ACP on completion of 12 years. Since the pay scale of Bindery Assistant was upgraded from Rs.800-1150 to Rs.915-1400 with effect from 31.10.1989, department has conducted trade test on 21.2.2008 and on being successful in that test, Smt.B.Sarommabi was granted first ACP with effect from 21.2.2008. Whereas in the case of applicant, the trade test could not be

conducted in time by the department since the employees were posted in different islands. In the meantime, Government of India has implemented MACP in place of ACP by O.M dated 19.5.2009 w.e.f 1.9.2008. Respondents submitted that for want of amendment in the existing Recruitment Rules, the said MACP could not have been awarded to the applicant herein. Lastly, it is submitted that the DPC meeting held on 6.4.2016 recommended amendment of the Recruitment Rules. This process will take at least 3 months time for completion and this reply has been filed by the department on 31.5.2017.

5. Applicant has filed rejoinder to the reply statement reiterating the same contentions .

6. Heard Mr.Shafik M.Abdulkhadir, learned counsel for the applicant and Mr.S.Manu, learned standing counsel for the respondents and perused the records.

7. The short question raised by the applicant herein that being senior she has not been granted the 2nd MACP but her junior has been granted the same and fixed in the Grade Pay of Rs.2400/-. Hence she claims similar treatment to her by the department. Department has not denied to what extent the applicant

has not cleared the trade test. She has cleared the trade test immediately when it was conducted by the respondents. Thus, the delay occurred for conducting the trade test should not be detrimental to the applicant particularly when she has cleared the trade test.

8. We are of the view that it is a clear case of discrimination and the applicant deserves similar treatment as that of her junior who has been granted the Grade Pay of Rs.2400/-. Thus, the case of the applicant is having merit on its side. Thus, we hereby allowed this Original Application and direct the respondents to fix her pay after grant of 2nd MACP at par with her junior with effect from the date it was given to the junior and fix her salary in the Grade Pay of Rs.2400/-.

9. The Original Application is allowed. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

List of Annexures

- Annexure A-1 - True copy of the order F.No.1/4/90-Press(K) dated 17.1.1991 issued by the Asst.Manager, Lakshadweep Government Press
- Annexure A-2 - True copy of the order F.No.1/10/95-LGP dated 17.5.1996 issued by the 2nd respondent
- Annexure A-3 - True copy of the order F.No.1/6/2009-I-GP dated 30.8.2010 issued by the Director
- Annexure A-4 - True copy of the Order F.No.1/1/2008-LGP(AND)/3777 dated 25.10.2010 issued by the BDO, Androth
- Annexure A-5 - True copy of the order F.No.1/21/2004-LGP(3) dated09/2012 of the Director, Printing
- Annexure A-6 - True copy of the Order F.No.1/21/2004-LGP(10)/198 dated 16.3.2013 issued by the Director (Printing)
- Annexure A-7 - True copy of the representation dated 27.9.2013 submitted by the applicant
- Annexure A-8 - True copy of the order F.No.1/21/2004-LGP dated 11.11.2013 issued by the Director, Printing
- Annexure A-9 - True copy of the representation dated 19.6.2014 submitted by the applicant
- Annexure A-10 - True copy of the message F.No.1/1/2014-LGP(1)/664 dated 3.9.2015 of the Director, Printing
- Annexure A-11 - True copy of the Office Order F.No.01/01/2014-LGP dated ...09.2015 issued by the Director Printing
- Annexure A-12 - True copy of the letter F.No.1/3/2014-SDO(KLP)/895 dated 13.6.2016 of the SDO, Kalpeni
- Annexure A-13 - True copy of the representation dated 21.7.2016 submitted to the 2nd respondent

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