

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHCIRCUIT BENCH AT RANCHIREGN.NO.: OA/051/00078/2015Date of Order:- 09.08.2018**C O R A M**

HON'BLE MR. K.N.SHRIVASTAVA, MEMBER (ADMN.)

HON'BLE MR. JAYESH V.BHAIRAVIA, MEMBER (JUDL.)

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Janardan Mohan Choudhary, son of Ananta Lal Choudhary, Sr. Security Officer (SG), Central Institute of Mining Fuel Research (CIMFR), Digwadih Campus P.O. FRI, P.S.-Jorapokhar, Distt. Dhanbad (Jharkhand)- 828 108.

.....**Applicant.****By Advocate:-** Mr. A.K.Rashidi.

Mr. R.R.Ravidas.

Vs.

1. Central Institute of Mining Fuel Research (CIMFR) represented through the Director, Digwadih Campus P.O. FRI, PS-Jorapokhar, Dist. Dhanbad (Jharkhand)-828 108.
2. The Director, Central Institute of Mining Fuel Research (CIMFR), Digwadih Campus, PO FRI, PS-Jorapokhar, Distt. Dhanbad (Jharkhand)-828 108.
3. Council of Scientific and Industrial Research through Joint Secretary, Anusandhan Bhawan, represented through Rafi Marg, New Delhi-110 001.

.....**Respondents.****By Advocate:-** Mr. Abhay Prakash.**O R D E R (ORAL)**

K.N.Shrivastava, Member (Admn.) :- The applicant joined as a Security Officer on 09.05.1988 at Central Fuel Research Institute (CFRI), a Unit of Council of Scientific and Industrial Research (CSIR), Digwadih Campus, Dhanbad. CFRI is now re-christened as Central Institute of Mining Fuel Research (CIMFR). It is stated that there is

only one post of Security Officer at CIMFR. In order to address to the issue of stagnation, the three grades of pay have been provided to the said post having the following 5th CPC pay scales:-

(a) Rs.6500 – 10500

(b) Rs.8000-13500

(c) Rs.10000 – 15200

2. Normally, a Security Officer is appointed at the initial pay scale of Rs.6500-10500. The residency period for an officer to move from Rs.6500-10500 to Rs.8000-13500 was 11 years and likewise, from Rs.8000-13500 to Rs.10000-15200 it was also 11 years.

3. The applicant joined as a Security Officer at CFRI, now called CIMFR on 09.05.1988 in the pay scale of Rs.8000-13500. It was a lateral entry. He was granted the next pay scale of Rs.10000-15200 in the year 1999 and was given the designation of Sr. Security Officer. After the implementation of the 6th CPC recommendations w.e.f. 01.01.2006 the applicant has been granted replacement scale of Rs.15600-39000 with Grade Pay of Rs.6600. The grievance of the applicant is that he has neither been given any promotion after 1999, nor has been given the benefits of MACP.

4. Accordingly, the applicant through the medium of this OA has prayed for the following relief:-

“It is therefore, prayed that your Lordships may be pleased to declare that refusal on part of the respondent to extend to the applicant benefit of promotion/upgradation under MACP service is highly illegal, arbitrary, unjust, unreasonable and irrational violates Article 14 & 16 of the

Constitution and direct the respondent to provide benefit under MACP Scheme for upgradation and promotion of the applicant and to quash office memorandum No. 1(2)2000/DPC/Isolated/RU/826 dated 17.10.2012 issued by Controller of Administration and its appellate order memorandum no. 1(2)2006/DPC/Isolated/RU 1106 dated 21.03.2014 passed by the Administrative Controller CSIR. And other order may be passed as Your Lordships may deem fit and proper.”

5. Pursuant to the notice issued, the respondents entered appearance and filed their reply/written statement. The applicant thereafter filed rejoinder and so also supplementary affidavit. On completion of pleadings the case was taken up for hearing of learned counsel for the parties today.

6. Learned counsel for the applicant submitted that the applicant has been stagnating in the pay scale of Sr. Security Officer since 1999 and has been denied the benefits of MACP Scheme. He further submitted that MACP Scheme has been adopted and implemented in CIMFR.

7. Per contra, the learned counsel for the respondents argued that the post of Security Officer is an isolated post and a notification to that effect has also been issued by the respondents on 30.01.2003 (Annexure-R/2). He further submitted that the issue is no more res integra and that in an identical case a co-ordinate Bench of the Tribunal i.e. Chandigarh Bench in OA No. 969 of 2011 vide order dated 30.10.2013 has held that MACP benefits to the applicant therein cannot be extended beyond the scale of Rs.10000-15200 (PB 3 + GP Rs.6600). He further stated that the applicant in the said OA

was also a Security Officer working in Institute of Microbial Technology (IMTECH), a laboratory of CSIR.

8. Shri A.K.Rashidi, learned counsel for the applicant, however, contended that the aforementioned order of the Chandigarh Bench of the Tribunal has been challenged by the applicant therein before the Hon'ble Punjab & Haryana High Court in CW(P) No. 3189 of 2014 which is still pending. However, no stay has been granted by the Hon'ble High Court against the said order of Chandigarh Bench.

9. We have considered the arguments of learned counsel for the parties and have also perused the pleadings. We have also gone through the order of the Tribunal in OA No. 969 of 2011 (J.N.Ahuja vs. Union of India & Ors.)(supra). We find that the applicant in OA 969 of 2011 before the Chandigarh Bench and the applicant in the instant OA are identically situated. They are working in two different entities of CSIR and holding the post of Security Officer. The three pay scales applicable to the Security Officer of CIMFR, as noticed herein above, are also applicable to the post of Security Officer in IMTECH as noticed by the Chandigarh Bench in para 7 of its order. It is also noticed that the applicant before the Chandigarh Bench was seeking promotion to the next pay scale of Rs.12000-16500 which was denied by the Tribunal on the ground that the said applicant was holding an isolated post where there is no scope of promotion.

9. In the present case, the applicant has in fact prayed for the same scale but in a different way. He has claimed financial upgradation under MACP Scheme to the Grade Pay of Rs.7600 in PB-

3. In no way this prayer is different from the prayer in the OA before the Chandigarh Bench for the simple reason that the replacement scale of Rs.12000-16500 (5th CPC) is PB-3 + GP Rs.7600 under the 6th CPC. Hence, we hold that the controversy involved in the instant case is squarely covered by the judgment of the Chandigarh Bench in J.N.Ahuja (supra).

10. In terms of the dictum of the order of the Chandigarh Bench, this OA is dismissed. However, liberty is granted to the applicant to agitate for his rights in case the aforementioned order of the Chandigarh Bench does not survive in the Hon'ble Punjab & Haryana High Court.

Sd/-

(Jayesh V.Bhairavia)
Member (Judl.)

Sd/-

(K.N.Shrivastava)
Member (Admn.)

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