



CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

No.O A /350/1358/2015

Date of order : 28.11.2018

Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Dr.(Ms) Nandita Chatterjee, Administrative Member

Sri Ashok Kumar Prasad, S/O Late
Suraj Prasad aged about 67 years,
Occupation retired serviceman, residing
at Indrapuri, Near Jagaransangh,
P.O.-Ichapur, Nawabgunj,
Dist-North 24 Parganas,
West Bengal, Pin-743144

.....Applicant

1. The Union of India through Secretary, Ministry of Defence, P.O.-Nirman Bhawan, New Delhi-110011;
2. The Chairman, Ordnance Factory Board, S.K. Bose Road, Kolkata-700001;
3. The Principal Controller of Defence Account(Pension); Draupadi Ghat, Allahabad U.P.-211014;
4. The General Manager, Metal & Steel Factory, Ichapur, P.O-Ichapur Nawabgunj, Dist-North 24 Parganas Pin -743144

.....Respondents

For the applicant : Ms. S. Saha, counsel

For the respondents : Mr. S. Paul, counsel

ORDER

Bidisha Banerjee, Judicial Member

In this O.A. the applicant has sought for the following reliefs:-

- “8.1) Proper Pay Fixation I correct Grade Pay of Rs.2800 in place of Rs.2400;
- 8.2) Give benefit of financial upgradation under ACP-II in the Grade Pay of Rs.2800 w.e.f. 01.01.2006;
- 8.3) Give arrears of payment in the revised Grade Pay w.e.f. 01.01.2006 till the date of superannuation from service on 30.04.2008;
- 8.4) Give arrears of pension in the revised pay band from the date of retirement till date;
- 8.5) Quash and set aside the Pension Payment Order dated 11.05.2015 issued by Respondent no.3;
- 8.6) Set aside the order dated 28.05.2015 passed by Respondent no.4;
- 8.7) Payment of all arrears with retrospective effect;
- 8.8) Any other relief or reliefs which the petitioner is entitled to.”

2. Admitted facts that emerged from the pleadings of the parties are as under:-

(a) The applicant was appointed as Fireman Gr.II on 10-06-1970 in the pay scale of Rs.75-1-85-EB-2-95/- which was subsequently revised to Rs.200-3-206-4-234-EB-4-250/- after implementation of the 3rd Central Pay Commission on and from 01-01-1973. Thereafter he was promoted to Fireman Gr.I on 13-11-1978 in the pay scale of Rs.210-4-250-EB-5-270/-, to Rs.2750-7-3800-75-3950-80-4590/- after implementation of the 5th Central Pay Commission on and from 01-01-1996. The applicant was again promoted to the post of Leading Hand Fireman on 28-03-1998 in the pay scale of Rs.3050-75-3950-80-4590/-.

(b) Upon implementation of recommendations of the 5th Central Pay Commission, DOP&T vide its O.M.No.35034/1/97-Estt(D) dated 09.08.1999 introduced Assured Career Progression Scheme (ACP) for the Central Government

Civilian Employees to mitigate hardship in cases of acute stagnation either in a cadre or in an isolated post by way of improving promotion prospects with two financial upgradations under the ACP Scheme to Group 'B', 'C' and 'D' employees on completion of 12 years and 24 years of continuous service in the same cadre. Since the applicant was already bestowed with two promotions at the time of introduction of ACP Scheme, viz. Firman Gr.II to Fireman Gr.I and Fireman Gr.I to Leading Hand Fireman, he was not eligible for any ACP as per said DOP&T's O.M. dated 09.08.1999.

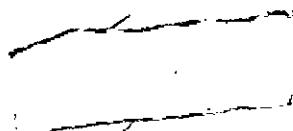
(c) Subsequently, after implementation of recommendation of 6th Central Pay Commission from 01-01-2006, DOP&T vide its O.M. No.35034/3/2008-Estt(D) dated 19-05-2009 had introduced Modified Assured Career Progression Scheme(MACP) for the Central Government Civilian Employees in place of erstwhile ACP Scheme and the said MACP Scheme w.e.f. 01-09-2008. As per this Scheme, every employee would get financial upgradation viz. 1st, 2nd, 3rd at the intervals of 10,20 and 30 years of continuous service, if they do not earn any promotion during the service tenure of 10,20 and 30 years. After implementation of recommendations of 6th Central Pay Commission, the post of Fireman Gr.II and Fireman Gr.I merged to the post of "Fireman". Therefore, as per implementation of recommendation of 6th Central Pay Commission, the applicant had been granted only one promotion i.e. from Fireman to Leading Hand Fireman. In pursuance to implementation of recommendations of 6th Central Pay Commission, Ministry of Defence vide ID No.44(2)/08/US(OS)/D(FY.II) dated 17-12-2009 had sanctioned that Leading Hand Fireman of the Ordnance Factory Organisation in pre-revised pay scale of Rs.3050-4590, the grade pay of Rs.2000/- in Pay Band-1 (i.e. Rs.5200-20200/-). Accordingly pay of the applicant was fixed in the Pay Band-

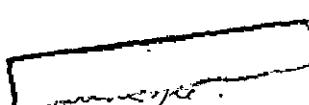
1 i.e. Rs.5,200-20,200/- with Grade Pay of Rs.2000/- w.e.f. 01-01-2006. In para 9 of the DOP&T instruction dated 19.05.2009 it was stated that the MACP Scheme would be operational w.e.f. 01-09-2008 only. In other word, financial upgradation as per provisions of the erstwhile ACP Scheme would be granted till 31.08.2008. In the present case, since the applicant already completed 24 years of service, he was eligible for ACP-II and according to the aforesaid DOP&T instruction dated 19.05.2009, he was eligible for next higher Grade Pay of Rs.2400/-. As such, pay of the applicant was fixed at pay band of Rs.5200-20200/- with grade pay of Rs.2400/-(PB-1) w.e.f. 01-01-2006. The applicant superannuated from service w.e.f. 30.04.2008 and the pension of the applicant was also revised by the Principal Controller of Defence Accounts.

3. Ld. counsel were heard and the materials on record perused.
4. At hearing, Ld. counsel for the applicant would admit that the applicant was appointed as Fireman-II and later on promoted as Fireman-I and then to Leading Fireman which post carried the Grade Pay of Rs.2000/-. It is the contention of the Ld. counsel for the applicant that upon merger of Fireman Gr.I and Gr.II to that of Fireman under revised nomenclature of PB-I Grade Pay of Rs.1900/- and on promotion to the post of Leading Fireman carrying PB-I Grade Pay of Rs.2000/-, he would be entitled to 2nd ACP but to the Grade Pay of Rs.2800/- since the Grade Pay of Rs.2400/- did not exist in the hierarchy of the posts and in the hierarchy of posts, a Supervisor carried Grade Pay of Rs.2800/-.
5. It is settled law that financial benefits of ACP and MACPs are not to be given in accordance with the hierarchy of posts but to the next higher Grade Pay. Therefore, we are of the considered opinion that the applicant has failed to make

out a case for grant of ACP to the Grade Pay of Rs.2800/-, Accordingly the O.A. is dismissed. Since it appears that before introduction of MACP the applicant retired from service, he would also not be entitled to claim 3rd MACP.

6. Accordingly the O.A. is dismissed. No cost.


(Dr. Nandita Chatterjee)
Administrative Member


(Bidisha Banerjee)
Judicial Member

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