

**Central Administrative Tribunal
Principal Bench**

OA No. 3650/2012
MA No. 386/2014

Order reserved on : 29.03.2019
Order pronounced on : 15.04.2019

***Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)***

Shri Hari Om P. Sharma, Age 61 years,
S/o Shri Rahunath Parshad,
R/o V-719/2, Street No.9,
Vijay Park, Maujpur,
Delhi-110053.

... Applicant

(By Advocate: Sh. Sachin Chauhan)

Versus

1. Union of India,
Through Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.
2. The Secretary,
Department of Personnel & Training,
North Block,
New Delhi-110001.
3. The Director General,
BPR&D, CGO Complex,
Lodhi Road,
New Delhi.
4. The Assistant Director (Admn.),
BPR&D, CGO Complex,
Lodhi Road,
New Delhi.

... Respondents

(By Advocate: Sh. Gyanendra Singh)

ORDER**By Hon'ble Sh. Pradeep Kumar, Member (A)**

1. The applicant is having a degree of MA and M. Lib. Science. Based on the selection for recruitment held by Staff Selection Commission, he was offered the appointment to the post of Librarian in the pay scale of Rs.425-700 in Bureau of Police Research and Development (BPR&D) on 08.06.1984. He joined on 25.06.1984. On implementation of 4th Central Pay Commission (CPC) this scale was replaced with Rs.1400-2300 w.e.f. 01.01.1986.

2. A Review Committee on Library staff under the purview of Central Government was appointed in follow up of para 11.63 of 4th CPC recommendations. After the report was received, Department of Expenditure under Ministry of Finance issued an OM dated 24.07.1990 which contained decisions on these recommendations in respect of Library staff. The salient decisions are reproduced below:

“2.1 After careful consideration of the recommendations made by this Committee and also keeping in view the overall policy, the Government have decided to introduce following pay structure for Library Staff:

S1. No.	Designation	Existing pay scale	Revised pay scale	Remarks
(1)	(2)	(3)	(4)	(5)
1.	Junior Library Attendant	750-940	750-940	Direct entry Middle pass
2.	Library Attendant	775-1025	775-1025	Promotional Grade
3.	Senior Library Attendant	800-1150	800-1150	Promotional Grade
4.	Library Clerk	825-1200 950-1400 950-1500 975-1540 975-1660	950-1500	Direct entry Matriculation
5.	Library Information Assistant	1200-1800 1200-2040 1320-2040 1350-2200 1400-2300 1400-2600	1400-2600	Direct entry Graduate with Bachelor in Lib. Science/ Promotional Grade for Lib. Clerks
6.	Senior Library & Information Asst.	1640-2900 1600-2660	1640-2900	Direct entry Post Graduate with Bachelor in Lib. Science/ Promotional Gr./ for Lib. Information Asstt.
7.	Assistant Library & Information Officer	2000-3200 2000-3500 2200-4000	2000-3500	Promotion/ Direct Recruitment
8.	Library & Information Officer	3000-4500	3000-4500	- do -
9.	Senior Library & Information Officer	3700-5000	3700-5000	- do -
10.	Principal Library & Information Officer/ Director	4500-5700	4500-5700	- do -
11.			5900-6700	- do -
12.			7300-7600	- do -

2.2 The recruitment qualifications both for the direct recruits and promotees for each grade of the Library Staff are indicated in Annexure I. All the Ministries and Departments are advised to modify the rules of recruitment for various posts obtaining in the Library under their control on these lines. It is not necessary that each Library will have all the grades, a Library may have one or more of these grades.

CATEGORISATION OF THE LIBRARIES

1. After placement of the existing incumbent in the grade structure indicated in para 2 above, each administrative Ministry may initiate action to categorise the Libraries under their control in consultation with F.A. concerned based on the parameters indicated in Annexure II to this O.M. Based on the categorisation of the Libraries so determined the designation and scale of pay of the Librarian Incharge of each category of Library may be adopted on the scales indicated below:-

Category	Post with Designation	Pay Scale as per Vth CPC
I	Library & Information Assistant	Rs. 1400-2600
II	Asstt Library & Information Officer	Rs.2000-3500
III	Library & Information Officer	Rs. 3000-4500
IV	Director (Library & Information)	Rs.4500-5700
V	Director	Rs.5900-6700

In case the existing incumbent (viz. Librarian-Incharge) is in a lower scale of pay than the scale determined based on categorisation, he may be considered for appointment in higher scale provided he fulfils the recruitment qualifications laid down for that post in Annexure I to this O.M. subject to the provisions of para 4.3.

Where based on categorisation the post of the head of a Library gets upgraded by more than one grade, the post will be upgraded only by one step initially. Its upgradation to appropriate higher grade may be reviewed after three years in consultation with Ministry of Finance.

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Sl. No.	Designation	Pay scale (Rs.)	Qualification and Experience	
			Direct	Promotion
1.	Junior Library Attendant	750-940	Middle pass	
2.	Library Attendant	775-1025		Promotional Grade for Jr. Library Attendant
3.	Senior Library Attendant	800-1150		Promotional Grade for Library Attendant

4.	Library Clerk	950-1400	Matriculation	
5.	Library Information Assistant	1400-2600	B.A./B.Sc./B. Com. + B. Of Library Science	Promotional Grade for Library & Information Assistant
6.	Senior Library & Information Asst.	1640-2900	M.A./M.Sc./ M.Com. + B. Of Library Science	Promotional Grade for Library & Information Assistant
7.	Assistant Library & Information Officer	2000-3500	M.A./M.Sc./ M.Com. + B. Lib. Science with 3 years experience	3/8 years experience at Rs.1640-2900/ Rs.1400-2600 pay scales. Master degree essential for language/subject specialised posts.
8.	Library & Information Officer	3000-4500	M.A./M.Sc./ M.Com. + B. Lib. Science with 7 years experience	Qualifications same 5/8 years experience at Rs.2200-4000/ Rs.2000-3500 pay scales.
9.	Senior Library & Information Officer	3700-5000	M.A./M.Sc./ M.Com. + B. Lib. Science with 10 years experience	Qualifications same 5 years experience at Rs.3000-4500 pay scale.
10.	Principal Library & Information Officer/ Director	4500-5700	M.A./M.Sc./ M.Com. + B. Lib. Science with 12 years experience	Qualifications same 5/10 years experience at Rs.3700- 5000/ Rs.3000- 4500 pay scales.
11.		5900-6700	M.A./M.Sc./ M.Com. + B. Lib. Science with 15 years experience	Qualifications same: 5 years experience at Rs.4500-5700 pay scales.
12.		7300-7600	Eminent Librarian/ Scholar Ph.D/M. Lib. Science & Research Work, Publications, 20 years experience	

3. In accordance with these orders (para 2 supra, item 5 of first table thereof), the applicant was granted the revised scale of Rs.1400-2600 w.e.f. 24.07.1990 vide orders dated 28.01.1991.

It appears that the BPR&D Library was categorised as a Category-II Library as envisaged in OM dated 24.07.1990 (para 2 supra). Accordingly, vide OM dated 24.07.1990, the existing staff needing two stage upgradation, were to be granted the same in a two stage process after every three years rather than granting the same in one go. The applicant, being incharge of a Category-II Library, was required to be granted the scale of Rs.2000-3500 (pre-revised). However, in keeping with two stage process in such cases, as per OM dated 24.07.1990, he was first granted the scale of Rs.1640-2900 w.e.f 06.10.1993 vide orders dated 18.12.1997. Thereafter, the final stage of Rs.2000-3500 was granted w.e.f. 24.03.2000 vide orders dated 17.05.2000, i.e., after about seven years of being granted the first stage scale of Rs.1640-2900 (pre-revised) w.e.f. 06.10.1993, instead of the stipulated period of three years, i.e. w.e.f. 06.10.1996.

Feeling aggrieved, the applicant approached the Tribunal in OA No.432/2005. It was decided on 29.05.2008 with following directions:

“8. In view of the observations made above, we allow this Original Application. We quash and set aside impugned order dated 29.11.2000 to the extent it denies the pay scale of Rs.6500-10500 to the applicant w.e.f. 07.10.1996. Respondents are directed to make available the pay scale of Rs.6500-10500 w.e.f. 07.10.1996 to the applicant and the arrears that may be due be calculated and made over to him as expeditiously as possible, and preferably within a period of three months from the date of receipt of certified copy of this order. There shall, however, be no order as to costs.”

It is noted here that in respect of the pay scale of Rs.2000-3500 (pre-revised), the corresponding scale in 5th CPC which came into effect w.e.f. 01.01.1996, was Rs.6500-10500.

4. These directions in OA No.432/2005 were challenged by the respondents in Hon'ble High Court of Delhi vide WP (C) No.7881/2008. This writ was decided on 07.11.2008. The observations made by the Hon'ble High Court and the decision thereupon read as under:

“The Respondent was working as Librarian (Head of Library) in the Bureau of Police Research and Development. According to the Respondent, the post of Librarian was upgraded from category-I to category-II but it transpires that the Library in which he was working was upgraded and as a consequence thereof his post was also upgraded. The effect of this was that the Respondent who was then in the pay scale of Rs.1400-2600 became entitled to the pay scale of Rs.2000-3500 without having to work in the intervening pay scale of Rs.1640-2900.

However, the Respondent was placed in the pay scale of Rs.1640-2900 with effect from 6th October, 1993. This was because of paragraph 4.3 of the Office Memorandum dated 24th July, 1990 to the effect that when a post gets upgraded by more than one grade, the upgradation will be reviewed by only one step initially and further upgradations will be reviewed after every three years in consultation with the Ministry of Finance. According to the Respondent, the first upgradation having taken place on

6th October, 1993 the second upgradation should, therefore, take place with effect from 7th October, 1996.

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In other words, even though the Petitioner may have completed the review in 2000, the benefit to the Respondent should have been given to him with effect from 7th October, 1996 the date of the entitlement.

In our opinion, the Tribunal has taken a correct view of the matter and its order requires to be sustained.

Learned counsel for the Petitioner also drew our attention to an Office Memorandum dated 4th February, 1992 particularly paragraph 3 thereof to submit that where the upgradation involves higher responsibility, higher qualification and higher eligibility, the suitability of the incumbent need to be assessed accordingly and if he is found suitable, then the appointment to the upgraded post may be made prospectively. In our opinion, this issue does not at all arise. Firstly, no such contention as urged before the Tribunal and secondly the Respondent has not claimed upgradation from a back date. All that he has claimed is his entitlement from the date on which he believes it was due to him as per the Office Memorandum dated 24th July, 1990.

There is no merit in this writ petition.

Dismissed."

5. However, these directions were further challenged by respondents before the Hon'ble Supreme Court in 2009 vide CC No.8969/20. This petition was dismissed vide orders dated 20.07.2009.

As a result of this adjudication, the applicant was granted the scale of Rs.6500-10500 w.e.f. 06.10.1996 vide orders dated 21.01.2010.

Thereafter, the applicant had superannuated on 31.07.2010, while working in this scale.

6. Meanwhile, with a view to alleviate the suffering of the staff who were stagnating in the same scale for long, an Assured Career Progression (ACP) Scheme was introduced vide OM dated 09.08.1999. This Scheme provided that if a staff is not promoted for 12 years he/she will be granted first financial upgradation and those stagnating for 24 years will be granted second financial upgradation in the departmental promotional hierarchy of scales.

The applicant made representations vide his letters dated 24.04.2003, 02.04.2004, 06.09.2008, 06.12.2008, 14.07.2009, 24.07.2009 and 25.08.2009 for ACP benefits but the same was not considered. Applicant had represented for grant of scale of Rs.10,000-15,200 w.e.f. 09.08.1999 as first ACP benefit and Rs.14,300-18,300 w.e.f. 26.06.2008 as second ACP benefit. Since these representations were not replied to, applicant approached the Tribunal again vide OA No.789/2010 which was decided on 21.11.2011 with the following directions:

“3. During the course of arguments, counsel confines his relief in this OA for disposal of his representation dated 24.07.2009 which is for grant of financial upgradation under ACP Scheme.

4. Without going into the merits of the controversy, we direct Respondent No.2 to deal with the representation of the applicant aforesaid, as expeditiously as possible and take a final decision thereon, preferably within a period of three months from today. OA stands disposed of accordingly.”

7. In compliance of these directions, the representation dated 25.08.2009 was considered and rejected vide orders dated 15.03.2010 and the representation dated 24.07.2009 was considered and rejected vide orders dated 18.01.2012. This rejection is the grievance that has been ventilated in the instant OA.

8. The applicant pleads that matters regarding Libraries under Central Government, were considered and orders were issued vide OM dated 24.07.1990 as per which the BPR&D Library was actually a Category-II Library where Head of Library was required to be kept in the scale of Rs.2000-3500 (pre-revised) or Rs.6500-10,500 (as per 5th CPC) and as such this pay scale needs to be treated as entry scale in his case and accordingly the first ACP benefit and second ACP benefit are required to be released to the scale of Rs.10000-15200 and Rs.14300-18300 respectively.

Applicant relied upon the following cases decided by the Tribunal and the Hon'ble High Court:

(1) **Jatindra Prasad Singh vs. Union of India and another**, OA No.1217/HR/2001 decided by Chandigarh Bench of this Tribunal on 24.01.2003.

The applicant was working in a Central Govt. Library at an Institute at Hissar. In accordance with the

scheme formulated on 24.07.1990, this library was declared as Category-II library w.e.f. 24.07.1990. The applicant therein was working in Grade Rs.1400-2600 and as per Category II library, he was needed to be placed in Rs.2000-3500. However, this involved upgradation to Rs.1640-2900 and thereafter to Rs.2000-3500 with three years interval as per OM dated 24.07.1990. But this was denied on the plea that there is ban on creation of new posts. The OA was allowed with directions to place the applicant in Rs.1640-2900 w.e.f. 24.07.1990 as first upgradation and to Rs.2000-3500 w.e.f. 24.07.1993 as second upgradation.

(2) **Smt. K.K. Kharbanda vs. Union of India**, OA No.1841/2004 decided by Principal Bench of this Tribunal on 11.04.2005.

The applicant, namely, Smt. K.K.Kharbanda had joined as Librarian Grade III on 14.05.1974. In terms of policy for libraries dated 24.07.1990, the said library was placed in Category II and Library incharge was to be placed in scale of Rs.2000-3500. Applicant possessed requisite qualification of graduation in Library Sciences, and was promoted to pay scale of Rs.2000-3500 w.e.f 10.11.1997. On the plea that applicant does not possess Postgraduate qualification, the ACP benefit to the next scale of Rs.10,000-15,200 was denied.

Feeling aggrieved, applicant preferred OA. It was brought out that under similar circumstances one Shri Mohan Lal Hans who was only BA with B.Lib. was accorded ACP in the pay scale of Rs.6500-10,500 in Planning Commission and also one Smt. Manju Bala was accorded the benefit of ACP in the pay scale of Rs.10,000-15,200 in Ministry of Tourism & Culture.

In this case, OA was partly allowed and matter was remanded back to respondents for reconsideration for grant of financial upgradation to the applicant in the pay scale of Rs.10,000-15,200.

In compliance thereof, Smt. K.K.Kharbanda was granted the benefit of 2nd ACP benefit in the pay scale of Rs.10,000-15,200 w.e.f. 09.08.1999 vide orders dated 26.09.2005.

(3) **Ram Singh vs. Union of India**, OA No.1812/2006 decided by Principal Bench of this Tribunal on 31.07.2007 which was upheld by Hon'ble High Court of Delhi in WP (C) No.8485/2007 on 20.10.2010.

In this case applicant had joined as LDC in the office of Development Commissioner of Cement Industry. On being declared surplus, he was appointed as Library Clerk in the pay scale of Rs.950-1500 (Revised to Rs.3050-4590) in Department of Agriculture and Cooperation vide orders dated

26.08.1996. He was granted the first financial upgradation in the pay scale of Rs.3200-4900 w.e.f. 21.02.2004 in terms of ACP scheme. Feeling aggrieved at denial of the scale Rs.5000-8000, applicant approached Tribunal. It was held that ACP is to be considered in departmental hierarchy and accordingly in Library cadre next scale after Rs.950-1500 was Rs.1400-2600 (revised to Rs.5000-8000), and this was granted to the applicant as ACP benefit.

In compliance thereof, the applicant was granted the scale of Rs.5000-8000 in place of Rs.3200-4900 w.e.f. 21.02.2004, vide orders issued on 09.06.2011.

(4) **Sanjay Padmakar Singatkar vs. Union of India & ors.**, OA No.518/2005 decided by Bombay Bench of this Tribunal on 29.11.2010.

The applicant was working as a tracer and was not promoted for 16 years. However, certain financial upgradation was given after 7 years of service as a tracer. This upgradation was treated by respondents to be an ACP benefit under the scheme of 09.08.1999. This was challenged by applicant that ACP envisages upgradation in departmental hierarchy only and as such the said financial upgradation cannot be counted as ACP benefit. This plea of applicant was upheld.

8.1 The applicant further brought out that one Smt. Kiran Puri, Senior Librarian in the pay scale of Rs.6500-10,500 working in Department of Administrative Reforms and Public Grievances was granted 2nd ACP benefit in the pay scale of Rs.10,000-15,200 w.e.f. 09.08.1999 vide orders dated 07.02.2007.

8.2 The applicant also brought out that five other staff working as Senior Library and Information Assistants, Planning Commission were granted first ACP benefit to the scale of Rs.6500-10,500 w.e.f. 09.08.1999, 25.08.2001 and 05.07.2002 vide orders dated 25.02.2003. Further, these orders were in supersession of previous orders, if any, granting first financial upgradation to any of these five officials.

8.3 Applicant pleaded that his case is covered by these pronouncements and precedences and he needs to be granted ACP benefits as prayed for.

9. As against this, the respondents pleaded that the applicant was appointed as a Librarian in the scale of Rs.425-700 which was revised to Rs.1400-2300 in 4th CPC. Further, the posts in higher scales were created by abolition of lower

level posts and accordingly the applicant had got three upgradations in his service, namely:

- (A) from Rs.1400-2300 to Rs.1400-2600
- (B) from Rs.1400-2600 to Rs.1640-2900 which was revised to Rs.5500-9000
- (C) from Rs.5500-9000 to Rs.6500-10,500.

10. The upgradations at para 9.0 (B&C) above were said to be as per OM dated 24.07.1990 and accordingly since a total of three upgradations were implemented as against two envisaged by ACP Scheme, no further upgradation is admissible to the applicant and OA is required to be dismissed.

11. Matter has been heard at length. Sh. Sachin Chauhan, learned counsel represented the applicant. Since no one argued the case for respondents, the available records were scrutinised.

12. There is no dispute that the applicant was appointed in the scale of Rs.425-700 which was revised to Rs.1400-2300 on implementation of the 4th CPC. However, with implementation of the OM dated 24.07.1990, the issues pertaining to the Library staff were rationalised and all those appointed in many scales from Rs.1200-1800 to Rs.1400-2600 including those in the scale of Rs.1400-2300, were granted one unified scale of Rs.1400-2600 and re-designated

as Library Information Assistant (para 2 supra, item 5 of first table thereof). Hence, it is the Tribunal's view that this scale Rs.1400-2600 is required to be treated as entry scale in respect of the applicant.

Subsequently, the applicant was granted the financial upgradation to the scale of Rs.1640-2900 (pre-revised as per 4th CPC) w.e.f. 06.10.1993 which corresponds to Rs.5500-9000 (as per 5th CPC which came into force w.e.f. 1.1.1996). However, in accordance with categorization of Libraries as per OM dated 24.07.1990, the categorisation of the BPR&D Library was Category II and applicant was entitled to be placed in Rs.2000-3500 scale (para 2 supra, item II of second table). The applicant was placed in the scale of Rs.2000-3500 w.e.f. 24.03.2000 under the designation Assistant Library and Information Officer. This date was however revised to 06.10.1996 as per adjudication (para 3, 4, & 5 supra).

This scale was replaced with Rs.6500-10500 in 5th CPC w.e.f. 01.01.1996. Applicant superannuated from this scale on 31.07.2010.

The contention of applicant that scale of Rs.2000-3500 should be counted as entry scale in his case, is not acceptable as his recruitment took place in a lower scale of Rs.1400-2300 which got modified to Rs.1400-2600 as per

rationalisation. Accordingly, applicant's contention in this regard is rejected.

13. It is noted that in supersession to the ACP scheme a new MACP Scheme was introduced w.e.f. 01.09.2008. In this Scheme a stagnating staff was entitled to three upgradations on completion of respectively 10/20/30 years of service. However, before MACP Scheme was launched, the ACP Scheme was in force and 6th CPC recommendations had come into force w.e.f. 01.01.2006. The 6th CPC has also merged certain scales and replaced with same Grade Pay. In this context, certain clarifications were sought on how to govern ACP benefits for those who complete requisite period of 12/24 years between 01.01.2006 and 31.08.2008. Following clarification was circulated in Item No.27 thereof by DOP&T:

S. No.	Point of doubt	Clarification
27	<p>In a hypothetical situation cadre hierarchy was as follows:</p> <p>Rs.5000-8000 (revised GP 4200) Rs.5500-9000 (revised GP 4200) Rs.6500-10500 (revised GP 4600) Rs.7450-11500 (revised GP 4600) Rs.10000-15200(revised GP 6600)</p>	<p>In terms of clarification given on point of doubt no.3 issued vide DOPT's O.M. No.35034/3/2008-Estt.(D) dated 9.9.2010, the benefits of ACPS would be applicable in the new pay structure adopted w.e.f. 1.1.2006 in the promotional hierarchy.</p>
(i)	<p>What would be the 1st financial upgradation under the ACPS for a Government employee recruited in pre-revised pay scale of Rs.5000- 8000, who has completed his 12 years of regular service on 12.04.2007 (between 1.1.2006 and 31.8.2008);</p>	<p>(i): Since the pre-revised pay scales Rs.5000-8000 & Rs.5500-9000 have been merged and placed in PB-2 with grade pay of Rs.4200, 1st financial upgradation would be allowed in the grade pays of Rs.4600,</p>

		subject to fulfilment of promotional norms as stipulated in condition no.6 of Annexure-I ACPS dated 9.8.1999, in terms of clarification given on point of doubt no.1 of ACPS dated 10.02.2000.
(ii)	What would be 2 nd financial upgradation for employee recruited in 5000-8000, who has completed 24 years of regular service on 12.04.2007 (between 1.1.2006 and 31.8.2008)	Since the pre-revised pay scales Rs.6500- 10500 & Rs.7450-11500 have been merged and placed in PB-2 with grade pay of Rs.4600, 2nd financial upgradation would be allowed in the grade pay of Rs.6600, subject to fulfillment of promotional norms (after framing of RRs post merger) as stipulated in condition no.6 of Annexure-I ACPS dated 9.8.1999, in terms of clarification given on point of doubt no.1 of ACPS dated 10.02.2000.
(iii)	If a Government servant recruited in the pre-revised pay scale of Rs.5000- 8000 has been promoted in the promotional hierarchy in the pre-revised pay scale of Rs.5500-9000 prior to 1.1.2006 (and he has put in 14 years of regular service) then would there be any claim for financial upgradation under ACPS	(iii): The pre-revised pay scales Rs.5000- 8000 & Rs.5500-9000 have been merged and placed in PB-2 with grade pays of Rs.4200 w.e.f. 1.1.2006. Hence, the promotion would be ignored as he has completed his 12 years of regular service and the benefit of 1 st ACP would accordingly be allowed in the promotional hierarchy i.e. in the grade pay of Rs.4600 w.e.f. 01.01.2006.

14. For the ease of understanding the scales under various CPC and their correspondence is tabulated as under:

S.No.	4 th CPC w.e.f. 1.1.86	5 th CPC w.e.f. 1.1.96	6 th CPC w.e.f. 1.1.06
1.	Rs.1400-2600	Rs.5000-8000	These two scales were merged into PB-2 plus GP Rs.4200
2.	Rs.1640-2900	Rs.5500-9000	

3.	Rs.2000-3500	Rs.6500-10500	PB-2 plus GP Rs.4600. See note * also.
4.	Rs.3000-4500	Rs.10000-15200	PB-3 plus GP Rs.6600

Note: *This was initially in GP Rs.4200/- vide OM dated 30.08.2008. However, subsequently vide OM dated 13.11.2009 it was modified to be in GP Rs.4600/-. The relevant parts of this OM are reproduced below:

“Sixth Pay Commission recommended merger of the three pre-revised scales of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500 and replaced them by the revised pay structure of grade pay of Rs.4200 in the pay band PB-2. Vide para 2.2.21(v) of its Report, the Commission recommended that on account of the merger of these 3 scales, some posts which constituted feeder and promotion grades would come to lie in an identical grade. The Commission gave specific recommendations in its Report granting higher grade pay of Rs.4600 to some categories of those posts. As regards the other posts, the Commission recommended that it should first be seen if the posts in these 3 scales can be merged without any functional disturbance and if possible, the same should be done. Further, the Commission recommended that in case it is not feasible to merge the posts in these pay scales on functional consideration, the posts in the scale of Rs.5000-8000 and Rs.5500-9000 should be merged with the posts in the scale of Rs.6500-10500 being upgraded to the next higher grade in the pay band PB-2 with grade pay of Rs.4600 corresponding to the pre-revised scale of Rs.7450-11500. In case a post already exists in the scale of Rs.7450-11500, the post being upgraded from the scale of Rs.6500-10500 should be merged with the post in the scale of Rs.7450-11500.

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3. Consequent upon the Notification of CCS (RP) Rules, 2008, Department of Expenditure has received a large number of references from administrative ministries/departments proposing upgradation of the posts which were in the pre-revised scale of Rs.6500-10500 as on 1.1.2006 by granting them grade pay of Rs.4600 in the pay band PB-2. The matter has been considered and it has now been decided that the posts which were in the pre-revised scale of Rs.6500-10500 as on 1.1.2006 and which were granted the normal replacement pay structure of grade pay of Rs.4200 in the pay band PB-2 will be granted grade pay of Rs.4600 in the pay band PB-2 corresponding to the pre-revised scale of Rs.7450-11500 w.e.f. 1.1.2006.”

15. With this in view, on implementation of the ACP policy w.e.f. 09.08.1999, the applicant was entitled for first ACP benefit on completion of 12 years service i.e., on 25.6.1996 and second ACP benefit on completion of 24 years service i.e. on 25.6.2008. In the case of applicant, the entry scale was Rs.1400-2600 (para 12 supra) and he was granted the scale of Rs.1640-2900, w.e.f. 06.10.1993, by creating a higher level post which occurs in departmental hierarchy (para 2 supra). Thus, in the period upto 25.06.1996, the requirement of Ist ACP stands fulfilled.

In a similar way, the scale of Rs.2000-3500 was granted w.e.f. 06.10.1996, as a result of decision of Hon'ble High Court (para 5 supra). This also falls in departmental hierarchy of posts (para 2 supra). Thus, in the period up to 25.06.2008, the requirement of 2nd ACP also stands fulfilled.

16. Accordingly, on implementation of ACP policy w.e.f. 09.08.1999, the requirement in respect of first and second ACP benefit stood fulfilled when he was granted Rs.2000-3500 scale w.e.f. 06.10.1996, (which is equivalent to Rs.6500-10500 as per 5th CPC and PB-2 + GP Rs.4600 as per 6th CPC w.e.f. 01.01.2006).

With introduction of MACP Scheme w.e.f. 01.09.2008, the 3rd MACP benefit becomes due to the applicant on

stagnation in the same scale for a period of 10 years. This event occurred on 05.10.2006, as he was stagnating in PB-2 + GP Rs.4600 during this period. This financial upgradation shall be to the next hierarchical scale of PB-2 + GP Rs.4800 as 6th CPC recommendations had already come into force by this time.

This needs to be granted to the applicant along all consequential benefits including arrears of pay w.e.f. 05.10.2006, revision of gratuity and leave encashment and revision of pensionary benefits and arrears of pension on this account. These benefits shall be granted and released within a period of three months from the date of receipt of certified copy of this order. It is clarified that these arrears shall not call for any interest.

17. Accordingly, OA is partly allowed as above. No order as to costs.

18. Pending MA No.386/2014 filed for taking additional documents on record also stands disposed of.

(Pradeep Kumar)
Member (A)

(Justice L.Narasimha Reddy)
Chairman

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