

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

OA No. 1205/2016

New Delhi this the 23<sup>rd</sup> day of April, 2019

**Hon'ble Ms. Nita Chowdhury, Member (A)  
Hon'ble Mr. S.N.Terdal, Member (J)**

1. DUDH NATH SHAW, Aged 63 years,  
S/o Late Sh. R.S.Shaw,  
Retired as Jamadar Durwan from  
Ordnance Factory,  
Presently r/o H.No. A-220, B.L.No.11,  
Road No.4, Mahipalpur, New Delhi-37
2. MRIDUL KANTI CHANDA, Aged 69 years,  
S/o Late Sh. S.C.Chanda  
Retired as Subedar Durwan from  
Ordnance Factory,  
Presently r/o H.No. 1165, B.L.No.11,  
Road No.4, Mahipalpur, New Delhi-37
3. SHREE NATH CHUDHAR, Aged 64 years,  
S/o Late Sh. R.B. Chaudhary,  
Retired as Subedar Durwan from  
Ordnance Factory,  
r/o House No.2, Block No. 13,  
P.O. Kankinara-743126  
24 Pargana (N), West Bengal.
4. JUGAL SARDAR, Aged 61 years,  
S/o late Sh. B.Sardar,  
Retired as Jamadar Durwan from  
Ordnance Factory,  
r/o Naihati Gwala Fathak, P.O.Naihati,  
24 Pargana (N), West Bengal.
5. RAJ BALI RAM, Aged 67 years,  
S/o Late Sh. H.Ram,  
Retired as Subedar Durwan from  
Ordnance Factory,  
r/o Vill & Post Office Chapra Sultanpur,  
via Azamgarh, Distt. Azamgarh-276126(UP).

... Applicants

(By Advocate: Mr. Yogesh Sharma)

## **VERSUS**

1. Union of India through the Secretary, Department of Defence Production, Ministry of Defence, Govt. of India, South Block, New Delhi.
2. The Director General, Ordnance Factories, Ordnance Factory Board, Ministry of Defence, 10A, Shahid Khudi Ram Boss Road, Calcutta.
3. The Principal Controller of Accounts (Fys), Ministry of Defence, 10A, Shahid Khudi Ram Boss Road, Calcutta.
4. The General Manager, Ordnance Factory, Icchapur (WB). ... Respondents

(By Advocate: Mr. Lalta Prasad for Mr. Vijendra Singh )

### **O R D E R (ORAL)**

#### **Hon'ble Mr. S.N. Terdal, Member (J):**

We have heard Mr.Yogesh Sharma, counsel for applicants and Mr.Lalta Prasad for Mr. Vijendra Singh, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicants have prayed for the following reliefs:

“(i) That the Hon'ble Tribunal may graciously be pleased to pass an order of quashing the impugned orders dated 12.6.2014 with covering letter dated 26.6.14 (Annex.A/2), declaring to the effect that the same are illegal, arbitrary and against the principle of natural justice and consequently, pass an order directing the respondents to re-fix the pay of the applicants w.e.f. 1.1.2006 by way of granting the Ist financial up-gradation to the next promotional hierarchy pay scale to the post of Supervisor in the pay scale of Rs.4000-6000/ PB-II +GP 2400/-, 2<sup>nd</sup> financial up-gradation under ACP Scheme is to the post of charge man in the pay scale of Rs.5000-8000/ PB-II + GP 4200/- and third financial upgradation in Grade Pay of Rs.4600/- on completion of 30 years of service, as all the applicants completed 24 years of service as on 1.1.2006 with all the consequential benefits including re-fixation of retirement benefits of the applicants with arrears and interest.

(ii) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicant."

3. The relevant facts of the case are that the applicants were retired Jamadar Durwan or Subedar Durwan of Rifle Factory Ishapore under Ministry of Defence. They were initially appointed to the respective posts between 1940 to 1980 as per the details given below:-

Sl.No	Name	Date of appointment	Date of retirement with posts.
1.	Dudh Nath Shaw	23.12.1976	31.1.2012 as Jamadar Durwan
2.	Mridul Kanti Chanda	11.8.1946	31.8.2006 as Subedar Durwan
3.	Sree Nath Choudhary	1.12.1975	31.3.2011 as Subedar Durwan
4.	Jugal Sardar	11.6.1979	17.4.2012 as Jamadar Durwan
5.	Raj Bali Ram	1.11.1948	31.10.2008 as Subedar Durwan

The promotional hierarchy with respect to the said posts are as per the table given below:

**Table-A**

Sl. No.	Name of the Post	Governed by SRO	Scale of pay (Pay Band & Grade Pay in Rs.) as per 6 <sup>th</sup> CPC	Mode of induction as per SRO	Remarks
1.	Durwan	SRO-14(E) dated 04/05/1989	PB-1 (5200-20200) Grade Pay 1800/-		Initial Grade
2.	Jamadar Durwan	SRO-14(E) dated 04/05/1989	PB-1 (5200-20200) Grade Pay 1800/-	Promotion	Promotional post of Durwan
3.	Subedar Durwan	SRO-14(E) dated 04/05/1989	PB-1 (5200-20200) Grade Pay 1800/-	Promotion	Promotional post of Jamadar Durwan
4.	Supervisor (NT)	SRO-58 dated 19/07/2012	PB-1 (5200-20200) Grade Pay 2400/-	Promotion	Promotional post of Subedar Durwan

Further promotional avenue of Supervisor (NT) is as follows:-

1.	Chargeman (NT) Gr.B (Non Gazetted)	SRO-13(E) dated 04/05/1989	PB-2 (9300-34800) Grade Pay 4200/-	Promotion	Promotional post of Supervisor (NT)
2.	JWM(NT), Gr-B (Gazetted)	SRO-13(E) dated 04/05/1989	PB-2 (9300-34800) Grade Pay 4600/-	Promotion	Promotional post of Chargeman (NT)

The applicants state that the Assured Career Progression Scheme (ACP Scheme)/ Modified Assured Career Progression Scheme (MACP Scheme) which came into effect from 1.01.1996 and 01.09.2008 respectively to deal with the stagnation and hardship faced by the employees due to lack of adequate promotional avenues were not implemented in their cases as per the provisions and that they were not given the benefit of introduction of merger of different earlier pay scales as per the recommendations of 6<sup>th</sup> Central Pay Commission. At the time of hearing, both the counsels for the applicants and the respondents have brought to our notice that this Tribunal vide its order dated 27.10.2015 in OA No. 3626/2014, titled **Om Prakash and Others Vs. UOI and Others**, dealt with the identical issue and ultimately directed the respondents to consider the first and second financial upgradations under the ACP Scheme in the case of applicants in the hierarchy of posts. The operative portion of para 16 of the said order is extracted below:

“Therefore, we dispose of this OA with a direction to the respondents to consider the first and second financial upgradations under the ACP Scheme in the case of applicants in the hierarchy of posts. However, while doing so, they will follow the condition as laid down in para 6 of the ACP Scheme guidelines, which has already been cited above. The time frame for a final decision in this regard is fixed as three months from the date of receipt of a copy of this order.”

The parties have further brought to our notice that the said order dated 27.10.2015 is challenged before the Hon'ble High Court of Delhi in Writ Petition (Civil) No. 3367/2016 and the said Writ Petition is still pending and in another case OA 1195/2014, titled **Bhanu Prasad and Others Vs Union of India and Ors**, vide order dated 25.10.2017 another coordinate Bench of this Tribunal in identical facts situation allowed the OA subject to the final outcome of the above said Writ Petition (C) No. 3367/2016. The operative portion is extracted below:

"10. In the circumstances, the OA is allowed in terms of the orders in OA No. 3626/2014 dated 27.10.2015 (**Om Prakash & Ors. Vs. Union of India & Ors**), however, subject to the result of the WP(C) No. 3367/2016."

4. In respectful agreement with the reasoning given in the above said orders, the OA is allowed in terms of the orders in OA No. 3626/2014 dated 27.10.2015 (**Om Prakash & Ors. Vs. Union of India & Ors.**), however, subject to the result of the WP (C) No. 3367/2016. No order as to costs.

**(S.N.Terdal)**  
**Member (J)**

**(Nita Chowdhury)**  
**Member (A)**

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