

**Central Administrative Tribunal
Principal Bench**

**OA No.4493/2013
MA No.432/2019
MA No.431/2019**

New Delhi, this the 20th day of March, 2019

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

- 1) K.P. Srivastava,
S/o late Sh. N.P. Srivastava,
R/o Village Chakbakhari,
PO Modhopur Ram,
Distt. Vaishali,
Bihar-844113.
 - (i) Smt. Geeta Devi,
W/o Late Sh. K.P. Srivastava,
R/o Village Chakbakhari,
PO Madhopur Ram,
Distt. Vaishali,
Bihar-844113.
 - (ii) Sh. Udai Shankar Srivastava,
S/o late Sh. K.P. Srivastava,
R/o Village Chakbakhari,
PO Madhopur Ram,
Distt. Vaishali,
Bihar-844113.
 - (iii) Sh. Amit Shanker,
S/o late Sh. K.P. Srivastava,
R/o Village Chakbakhari,
PO Madhopur Ram,
Distt. Vaishali,
Bihar-844113.
- 2) Harpal Singh Yadav,
S/o late Sh. Chote Lal Yadav,
Residing at 4/144, Shakti Vihar,
Meethapur, Badarpur, Delhi.

...Applicants

(By Advocate : Shri M.K. Bhardwaj)

Versus

- 1) Union of India through its Secretary,
Ministry of Textiles,
Udyog Bhawan,
New Delhi.
- 2) The Development Commissioner (Handicraft),
West Block-7, RK Puram,
New Delhi.

...Respondents

(By Advocate : Ms.Aishwarya Dobhal for Shri Hilal Haider)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The applicants joined the service of Ministry of Textiles as Technical Assistant in the year 1978 and 1974 respectively. The 1st applicant has since expired during the pendency of this OA, and through an MA, his legal heirs have been brought on record.

2. While the applicants were in service, the ACP scheme was introduced. Under this, they were entitled to be extended the benefit of financial upgradation in two spells, i.e., on completion of service of 12 years and 24 years; if they did not earn any promotion during those spells. Both of them were extended the benefit of 1st and 2nd ACP. However, they contend that the upgradation of the 1st ACP should have been, in terms

of the pay scale attached to the post of Assistant Director, namely, Rs.6500-10500, and 2nd financial upgradation should have been to the scale of Rs.10000-15200. The applicants submit that they were extended the benefit of 1st ACP only in the pay scale of Rs.5500-9000, and the 2nd ACP in the pay scale of Rs.6500-10500. Reliance is placed upon the judgment of this Tribunal dated 10.10.2012 in OA No.366/2012.

3. The respondents filed counter affidavit opposing the OA. According to them, the promotion from the post of Technical Assistant is to the post of Handicraft Promotion Officer (HPO) with the pay scale of Rs.5500-9000 and the further promotion is to the post of Assistant Director with pay scale of Rs.6500-10500, and such a benefit was extended to the applicants. It is stated that the question of 1st ACP being to the scale of Rs.6500-10500, much less, the 2nd ACP to the pay scale of Rs.10000-15200, does not arise.

4. We heard Shri M.K. Bhardwaj, learned counsel for applicant and Ms. Aishwarya Dobhal for Shri Hilal Haider, learned counsel for respondents.

5. The entire service of the applicants in the respondent organisation was in the post of Technical Assistants. They retired in the years 2006 and 2013 respectively. The scheme of ACP provided for upgradation of the pay scale of an employee, if in the first spell of 12 years, he does not earn any promotion either for want of vacancy or there not being any promotional avenue. Similar facility was created for the next spell of 12 years also. In the case of the applicants, the pay scale of post of Technical Assistant is Rs.4500-7000. The benefit of ACP was extended to them by putting them in the pay scale of Rs.5500-9000, attached to the post of HPO. In the second spell also, they did not earn any promotion. Therefore, they were placed in the pay scale of Rs.6500-10500, attached to the post of Assistant Director. The applicants insist that the 1st ACP should be to the pay scale of Rs.6500-10500. In other words, they intend to jump straightaway to the post of Assistant Director, skipping the post of HPO.

6. Heavy reliance is placed on the judgment of this Tribunal in OA No.366/2012. We have carefully gone through the entire judgment. It was a case in which a

Technical Assistant was denied the ACP on the ground that he did not hold the qualification of Graduation, stipulated for the next higher post. The only point decided therein was that once a Technical Assistant was granted exemption from holding the qualification of Graduation at the stage of initial recruitment to the post of Technical Assistant, the insistence on the same qualification, for the purpose of ACP is untenable. Beyond that, the Tribunal did not observe anything, much less, hold that the first ACP of Technical Assistant should be straightforwardly to the post of Assistant Director's pay scale. Therefore, the plea of the applicants cannot be accepted at all.

7. The applicants did not deny that they have been extended the benefit of 1st and 2nd ACP, in terms of the pay scales, attached to the two successive promotional posts.

8. Though a prayer is made in the OA in the context of counting the service of the applicants, prior to October, 1983, we are not inclined to consider the same. The reason is that, it was only in the October, 1983, that they were appointed on regular basis. Earlier to that,

their appointment was against the vacancies earmarked for direct recruitment.

9. We do not find any merit in the OA and the same is, accordingly, dismissed. There shall be no order as to costs.

Pending MAs, if any, also stand disposed of.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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