

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION No.588/2013
This the 18th day of June, 2019

CORAM:- R. VIJAYKUMAR, MEMBER (A).
R.N. SINGH, MEMBER (J).

Kamal Rasiklal Yoganand,
Aged about 50 years,
Presently working as Lineman/Wireman,
in the Office of the Assistant Engineer,
Electricity Department,
Sub-Division No.II, Diu-362520.
And Residing at: House No.728,
Surajvav, Diu-362520.

... Applicant.

(By Advocate Shri S. R. Atre)

VERSUS.

1. The Administrator,
Union Territory of Daman and Diu,
Secretariat, Daman-396220.
2. The Secretary,
Union Territory of Daman and Diu,
Finance Department, Secretariat,
Daman-396220.
3. The Assistant Engineer,
Electricity Department,
Sub-Division No.II, Diu-362520.

... Respondents

(By Advocate Shri B. K. Ashok Kumar)

O R D E R

Per: R. VIJAYKUMAR, MEMBER (A)

1. Today when the case was called out, Sh.
S. R. Atre, learned counsel appeared for the

applicant and Sh. Rishi Ashok, proxy counsel appeared for Sh. B. K. Ashok Kumar, learned counsel for the respondents.

2. The applicant has filed this O.A. on 19.07.2013 under Section 19 of Administrative Tribunals Act, 1985 seeking the following reliefs:-

" A. This Hon'ble Tribunal be pleased to call for the Record and Proceedings of the present case and after examining the legality and propriety thereof quash and set aside the Impugned Order dated 5th of January, 2013 (ANNEXURL-A-1) and direct the Respondents:

(i). To place the Applicant in the scale of pay of Rs. 4500-7000 as per the Second Financial upgradation under the Assured Career Progression Scheme of 9th of August, 1999 with effect from 24th of February, 2008 and after granting the above referred scale of pay.

(ii). place the Applicant in the pay-band - 1 namely in the pay-scale of Rs. 5200-20200 with the grade pay of Rs. 2800/- as per the Sixth Central Pay Commission recommendations with effect from 24th of February, 2008 and in any case, in the alternative, with effect from July, 2011 when the Applicant has passed his ITI Certificate Course.

B. This Hon'ble Tribunal be pleased to hold and declare that the action of the Respondents in not granting the Applicant his due benefits of appropriate pay-scale under the second financial upgradation is illegal and bad in law and the Respondents accordingly deserve to be directed:

(I). To place the Applicant in the scale of pay of Rs.4500-7000 as per the Second Financial Upgradation under the Assured Career Progression Scheme of 9th of August, 1999 with effect from 24th of February, 2008 and after granting the above referred scale of pay.

(ii). place the Applicant in the pay-band - 1 namely in the pay-scale of Rs.5200-20200 with the grade pay of Rs.2800/- as per the Sixth Central Pay Commission Recommendations with effect from 24th of February, 2008 and in any case, in the alternative, with effect from July, 2011 when the Applicant has passed his ITI Certificate Course.

C. Pass any such Order and/or Orders as this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the present case.

D. Costs of the Application be provided for."

3. The applicant has challenged the order of the respondents in reference no. ED/AE-II/PF-KRY/2012-13/944 dated 05.01.2013 in which they had agreed that the ACP scheme would be granted until 21.08.2008 but under para-11 of the said OM dated 19.05.2009, no past case could be reopened.

4. The applicant has filed representation on 29.04.2013 (Annexure A-17) giving detailed arguments as to why he should have been granted ACP scheme in the hierarchy of the post rather than on the hierarchy of grade pay under the MACP

Scheme and that his case should have been properly considered while granting upgradation under the MACP Scheme.

5. No specific reply and speaking orders have been passed by the respondents in this response. They have also not given any reasons as to why para-11 of the said OM dated 19.05.2009 relating to past cases should apply in the present case when they have granted ACP benefits to him on 24.02.2008 prior to commencement of the MACP Scheme.

6. In these circumstances, the respondents are directed to consider the pending representation of the applicant afresh and with reference to the extant circular instructions and pass reasoned and speaking orders within six weeks from the date of receipt of certified copy of this order and communicate the same to the applicant within two weeks thereafter.

7. There shall be no order as to costs.

(R. N. Singh)
Member (J)

(R. Vijaykumar)
Member (A)