

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.1764/2003

This the 14th day of May, 2004

HON'BLE SHRI V.K.MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

M.N.Ghosh S/O S.K.Ghosh,
Deputy Manager (PL),
R/O A-Block, H.No.212,
Pandara Road,
New Delhi.

... Applicant

(By Shri Sachin Chauhan, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of Defence,
South Block, New Delhi.
2. Secretary, Department of
Personnel & Training,
North Block, New Delhi.
3. Joint Secretary (Training) &
Chief Administrative Officer,
Ministry of Defence,
C-II Hutments, Dalhausie Marg,
New Delhi.
4. Director (Establishment),
Department of Personnel & Training,
North Block, New Delhi.
5. Under Secretary (Estt.D),
Department of Personnel & Training,
North Block, New Delhi.

... Respondents

(By Shri N.S.Mehta and Shri B.K.Barera, Advocates)

O R D E R

Hon'ble Shri V.K.Majotra, V.C.(A) :

Applicant has challenged his first financial upgradation to the pay scale of Rs.7500-12000 under the Assured Career Progression (ACP) Scheme introduced on 9.8.1999 contending that respondents have wrongly treated his present post of Deputy Manager (Photo Litho) as an isolated post. As he does not hold an isolated post, he



should have been accorded analogous grade (Rs.10000-15200) as available to Deputy Manager (PL) in the Government of India Presses under the Directorate of Printing, Ministry of Urban Development and Poverty Alleviation.

2. On the other hand, respondents have contended in their reply that the post of Deputy Manager (PL) in the Ministry of Urban Development is not an analogous post as there are essential differences in the recruitment and educational qualifications of the post held by the applicant and that of Deputy Manager (PL) in the Ministry of Urban Development. It is stated that in the Ministry of Defence the post of Deputy Manager (PL) is filled by composite method of promotion/transfer on deputation failing which by direct recruitment whereas in Directorate of Printing the post of Deputy Manager (PL) is filled by promotion failing which by transfer and failing both by direct recruitment. The educational qualification of diploma in photo technology and allied trades is an essential qualification even for the feeder post holder in Directorate of Printing, which is not the case in the Ministry of Defence. In this view of the matter, respondents have rejected applicant's claim for grant of first financial upgradation in the pay scale of Rs.10000-15200.

3. We have heard the learned counsel of both sides.

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4. The learned counsel of the applicant contended that under the ACP Scheme (Annexure A-6) applicant's post cannot be considered as an isolated post and as such he could not have been accorded the next higher (standard/common) pay scale of Rs.7500-12000 as indicated in Annexure-II to Annexure A-6. Relying on Office Memorandum dated 10.2.2000 by which DOP&T has issued clarifications regarding ACP scheme, the learned counsel contended that as applicant's post has a feeder cadre in the post of Technical Officer, his post of Deputy Manager (PL) should not be considered as isolated and as such he should have been accorded upgradation in the pay scale of an analogous grade of a cadre/post in the same Ministry/Department, failing which, comparison should have been made with an analogous grade available with other Ministries/Departments. In this view of the matter, it was claimed on behalf of the applicant that he is entitled to the analogous grade of Rs.10000-15200 as available to Deputy Manager (PL) of Government of India Presses, Directorate of Printing, Ministry of Urban Development and Poverty Alleviation.

5. Reiterating the pleadings made in the counter affidavit, the learned counsel of the respondents stated that the mode of recruitment as well as educational qualification of the post held by the applicant and those of the post of Deputy Manager (PL) in the Directorate of Printing are entirely different and as such, financial upgradation as allowed in the Ministry of Urban Development on the post of Deputy Manager (PL) cannot be made available to the applicant.

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6. We have considered the rival contentions.

7. Admittedly, applicant has been working as Deputy Manager (PL) since 16.5.1980. He was not granted any promotion till now. Respondents have considered the applicant as holder of an isolated post and as such, they have granted the first financial upgradation to the applicant in the grade of Rs.7500-12000 as per the next higher (standard/common) pay scale as indicated in Annexure A-II to the OM dated 9.8.1999.

8. Annexure-I to the ACP Scheme dated 9.8.1999 prescribes conditions for grant of benefits under the ACP Scheme. Condition 7 reads as follows :

"7. Financial upgradation under the Scheme shall be given to the next higher grade in accordance with the existing hierarchy in a cadre/category of posts without creating new posts for the purpose. However, in case of isolated posts, in the absence of defined hierarchical grades, financial upgradation shall be given by the Ministries/Departments concerned in the immediately next higher (standard/common) pay scales as indicated in Annexure-II which is in keeping with Part-A of the First Schedule annexed to the Notification dated September 30, 1997 of the Ministry of Finance (Department of Expenditure)....."

Annexure-II to the ACP Scheme prescribes standard/common pay scales. At Sl. No.12 of these scales revised pay scale S-13 has been prescribed as Rs.7450-225-11500. The next higher grade, i.e., Sl. No.13 revised pay scale S-14 has been prescribed as Rs.7500-250-12000. Treating applicant's post as isolated where defined hierarchical grade is absent, applicant has been accorded the next

higher (standard/common) pay scale, i.e., Sl. No.13, S-14: Rs.7500-12000 as described in Annexure A-II ibid. DOP&T has defined an isolated post for purpose of the ACP Scheme in Annexure A-7 dated 10.2.2000 as follows :

"Isolated post is a stand alone post, having neither feeder grade nor promotional grade. As such, a post having no promotional grade but having a feeder grade and vice-versa shall not be treated as isolated post for the purpose of ACPS."

9. Applicant's present post of Deputy Manager (PL) has a feeder grade, namely, Technical Officer (Photo Litho) as is established from the Ministry of Defence, Armed Forces Headquarters and Inter Service Organisations Deputy Manager (Photo Litho) and Technical Officer (Photo Litho) Recruitment Rules, 1988. Under these rules, among others, the departmental Technical Officer (PL) with three years regular service in the grade is eligible for selection for appointment to the post of Deputy Manager (PL). As such, as the post of Deputy Manager (PL) has a feeder grade in the Directorate of Printing, the post of Deputy Manager (PL) cannot be treated as an isolated post for the purpose of ACP Scheme. In Annexure A-7 DOP&T has also clarified the pay scale for grant of second upgradation under ACP Scheme where the cadre/hierarchy is limited to two grades. The clarification provided is as follows :

"(i) If such cadre/hierarchy exists in the Ministry/Department concerned, the second upgradation may be allowed in keeping with the pay-scale of an analogous grade of a cadre/post in the same Ministry/Department. However, if no such grade exists in the Ministry/Department concerned, comparison may be made with an analogous grade available in other Ministries/Departments."

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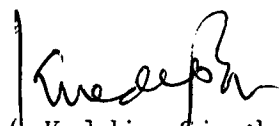
Although in this clarification, DOP&T has not mentioned about the pay scale for grant of first financial upgradation under the ACP Scheme where the cadre/hierarchy is limited to two grades only, however, the rationale ^{for first upgradation} ^{in such an eventuality} shall also be the same as clarified for second upgradation.

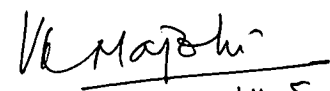
10. In the light of the above clarifications, in the instant case, applicant would be entitled to first financial upgradation after completion of 12 years of regular service in keeping with the pay scale of an analogous grade of a cadre/post in the same Ministry/Department. However, if no such grade exists in the same Ministry/Department, then analogous grade available in other Ministries/Departments has to be accorded. According to the respondents, no analogous post/grade is available in the same Ministry. As such, applicant has to be considered for grant of first financial upgradation as available to an analogous post in another Ministry/Department. Applicant has claimed that he should be granted first financial upgradation in the pay scale of Rs.10000-15200 at par with the analogous post of Deputy Manager (PL) in the Ministry of Urban Development and Poverty Alleviation. Respondents have contended that the methods of recruitment and educational qualifications for the post held by the applicant and those of the post of Deputy Manager (PL) in the Ministry of Urban Development and Poverty Alleviation are essentially different and as such the first financial upgradation made available to the post of Deputy Manager (PL) in the Ministry of Urban Development and Poverty

Alleviation cannot be accorded to the applicant. To our specific query whether analogous posts/grades are available in other Ministries/Departments, the learned counsel of respondents responded that respondents have not verified on that. However, he did not refute that in case analogous post/grade is available in another Ministry/Department, the same should be made available to the applicant by way of first financial upgradation.

11. Having regard to the above discussion, we are of the view that applicant would be entitled to financial upgradation in keeping with the pay scale of an analogous grade of a cadre/post in other Ministries/Departments.

12. In result, the OA succeeds partly. Annexure A-1 dated 10.1.2001 is quashed and set aside. Respondents are directed to consider granting first financial upgradation to the applicant on completion of 12 years of regular service in keeping with the pay scale of an analogous grade of a cadre/post available in other Ministries/Departments. Respondents are further directed to carry out the exercise as above and sanction first financial upgradation to the applicant in keeping with the pay scale of an analogous grade of a cadre/post in other Ministries/Departments expeditiously and preferably within a period of three months. No costs.


(Kuldip Singh)
Member (J)


14.5.04
(V. K. Majotra)
Vice-Chairman (A)

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