

**Central Administrative Tribunal
Ernakulam Bench**

OA No.180/00998/2018

Wednesday, this the 27th day of November, 2019.

CORAM

Hon'ble Mr.E.K.Bharat Bhushan, Administrative Member

Hon'ble Mr.Ashish Kalia, Judicial Member

John S.Paul, aged 65 years

S/o Late J.W.Paul

Purchase Officer (Retd)

Department of Atomic Energy, Mumbai.

Aniparambil House, 18/221-A, Nadakavu,

South Vazhakulam,

Aluva, Ernakulam District-683 105.

Applicant

(Advocate: Mr.C.S.G.Nair)

versus

1. Union of India represented by
its Secretary,
Department of Atomic Energy,
Anushakthi Bhavan, CSM Marg,
Mumbai-400 094.
2. Director of Purchase,
Directorate of Purchase & Stores,
Vikram Sarabhai Bhavan,
Anushakthi Nagar,
Mumbai-400 094.
3. Pay & Accounts Officer,
Department of Atomic Energy,
Vikram Sarabhai Bhavan,
Anushakthi Nagar,
Mumbai-400 094.

Respondents

(Advocate: Sri Thomas Mathew Nellimoottil, Sr.PCGC)

The OA having been heard on 22nd November, 2019, this Tribunal delivered the following order on 27.11.2019:

ORDER

By E.K.Bharat Bhushan, Administrative Member

The OA is filed by Sri John S Paul, retired Purchase Officer, Department of Atomic Energy, aggrieved by the denial of Performance Related Incentive Scheme (PRIS for short) benefit due to him for the years 2010-11. The reliefs sought in the OA are as follows:

- (i) Quash Annexures A10 and A12.*
- (ii) Direct the respondents to grant the applicant PRIS (Performance Related Incentive Scheme) for the years 2010-11.*

2. The applicant had joined the service of the Department of Atomic Energy on 1.3.1990 as Assistant Purchase Officer. He retired from service on 31.3.2013 on superannuation after a qualifying service of 23 years and one month. He was granted a monthly pension of Rs.18,490/-. A copy of the PPO is marked as Annexure A2. He submits that on being overlooked for promotion as Deputy Director, he had filed OA No.1227/2011 before the Hyderabad Bench of this Tribunal and the said OA had been allowed in his favour, directing the respondents to consider the applicant for promotion as per rules by not considering the grading recorded in the ACRs for the years 2005-2006 to 2009-2010. A copy of the order is available at Annexure A3. On being further found unfit by the Review DPC convened for the purpose, he had approached the Hyderabad Bench of this Tribunal by filing another OA No.1139/2013 and that OA happened to be dismissed as per order dated 28.9.2016 (Annexure A4).

3. It is on a different but related issue that he is coming before this Tribunal now. He submits that in the Department of Atomic Energy, a financial

Incentive Scheme had been introduced since 2009, called “Performance Related Incentive Scheme” (PRIS for short) by which Organizational Incentive was granted to employees. A copy of the OM introducing the scheme is marked as Annexure A5. Pursuant to Annexure A5, another OM was issued prescribing the condition for the grant of Organizational Incentive as per Annexure A6. This Scheme was further revised by yet another OM dated 30.8.2010 (Annexure A7). Annexure A5 guidelines mention that *"the final overall grading of the employee in the ACR/APAR of the preceding year should be Good/B+ or above"*.

4. First respondent had constituted an Expert Committee for setting goals/targets and for evaluating performance against those targets after the end of each financial year for grant of PRIS (Group). But the applicant was not paid any incentive for the years 2010-11 and due to this, he submitted a representation on 25.10.2017, a copy of which is available at Annexure A9. The 2nd respondent disposed of the same through Annexure A10, stating that he was not eligible for payment of PRIS for the year 2010-11 as the grading in his APAR was not meeting the criteria. There is a reference made in Annexure A10 to the orders of the Hyderabad Bench of this Tribunal in order to substantiate the rejection. Actually the Hyderabad Bench of this Tribunal had set aside the reduction of marks from 7.6 by the Reviewing Authority for the reporting period 2010-11 commenting as follows:

“12. In respect of ACR for the yer 2010-11, admittedly the Reporting Officer recorded marks as 7.6. While reviewing the matter, the Reviewing Authority recorded 5.11 marks. But he has not given any reasons for reducing such marks. The applicant has also brought the same to the 3rd respondent through his representation stating that there are no justified reasons for reducing marks as recorded by the Reporting Officer. But the 3rd respondent did not consider such

claim of the applicant and simply rejected the same without any reasons and as such the same is liable to be set aside. Hence, the finding of the 3rd respondent in respect of such ACR is also liable to be set aside. Without giving any discussion for coming to such conclusion, passing of such an order is not at all a reasoned order and as such the claim of the applicant seeking for quashing of the said order is valid and justified.”

5. Finally he was not promoted on the ground that there was only one Deputy Director post and the decision of the respondents was upheld by the Hyderabad Bench of the Tribunal in the second OA filed.

6. The respondents have filed a reply statement, in which the contentions of the applicant have been disputed. The details of the Performance Related Incentive Scheme brought out by the Department of Atomic Energy have been given in full. PRIS is a Group Incentive Scheme based on group performance. Yet at the same time, the Award Committee also considers the rating in the ACR. It is as per guidelines brought out by the Department relating to implementation of the scheme.

7. Heard Sri C.S.G.Nair, learned counsel for the applicant and Sri Thomas Mathew Nellimoottil, learned Sr.PCGC on behalf of the respondents, and perused the records.

8. The crux of the issue here is whether the applicant is entitled to PRIS (Group) benefits as per OM issued by the Department of Atomic Energy. On a perusal of the Scheme in the said OM at Annexure R6, it is seen that the following is stipulated:

“The final overall grading of the employee in the ACR/APAR of the preceding reporting year should be “Very Good” or above.”

9. In OA No.1227/2011, the Hyderabad Bench of the Tribunal had stated that there was no justification for giving a low rating to the applicant for the year 2010-11 and the same has been quoted on pre-page. This was duly acted upon by the respondents while convening the DPC, although in view of the Deputy Director post being a single post, he was not given the promotion. However, it is seen that the quashing of the low rating by the Tribunal had no effect upon the respondents who used the lack of adequate APAR rating criteria as a reason for denying PRIS benefit to the applicant as per Annexure A10. This is found to be unjustified. In any case, as per Annexure A13 which is a further guideline brought out by DoPT on the subject, it is seen that any rating given between 6 and 8 would qualify as “Very Good”. In the circumstances, we have no hesitation in concluding that the OA has merit on its side. OA succeeds. The reliefs sought for in the OA are to be granted in full within sixty days from the date of receipt of a copy of this order.

(Ashish Kalia)
Judicial Member

(E.K.Bharat Bhushan)
Administrative Member

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Annexures filed by the applicant:

- Annexure A1: Copy of the intimation of pay fixation on promotion dated 4.2.1999.
- Annexure A2: Copy of the PPO No.454531300087.
- Annexure A3: Copy of the order dated 8.2.2013 in OA No.1227/2011.
- Annexure A4: Copy of the order dated 28.9.2016 in OA No.1139/13.
- Annexure A5: Copy of the OM No.1/1(5)/2008-SCS/284 dated 1/5-5-2009 issued by the 1st respondent.
- Annexure A6: Copy of the OM No.1/1(5)2008 SCC/286 dated 1/5.5.2009 issued by the 1st respondent.
- Annexure A7: Copy of the OM No.1/1(40/2010 SCS/8266 dated 30.8.2010.
- Annexure A8: Copy of the OM No.30/6/2011-SCS/8273 dated 28.7.2011 issued by the 1st respondent.
- Annexure A9: Copy of the representation dated 25.10.2017.
- Annexure A10: Copy of the letter No.DPS/PRIS(O&G)/Vig-2017/133 dated 4.1.2018 issued by the 2nd respondent.
- Annexure A11: Copy of the representation dated 19.1.2018.
- Annexure A12: Copy of the letter No.DPS/PRIS (O&G)/VIG-2017/3644 dated 4.6.2018 issued by the 2nd respondent.
- Annexure A13: Copy of the Guidelines for filling up of APAR with numerical grading.
- Annexure A14: Copy of the OM No.21011/1/2010-Estt.A dated 13.4.2010.

Annexures filed by the respondents:

- Annexure R1: Gazette Notification dated 28.10.1992 issued by Law Ministry.
- Annexure R2: Copy of DAE OM No.1/1(5)/2008-SCS/284 dated 5.5.2009.
- Annexure R3: Copy of DAE OM No.1/1(5)/2008-SCS/285 dated 5.5.2009.
- Annexure R4: Copy of DAE OM No.1/1(4)/2010-SCS/8266 dated 30.8.2010.
- Annexure R5: Copy of DAE OM No.1/1(5)/2008-SCS/286 dated 5.5.2009.
- Annexure R6: Copy of DAE OM No.1/1(4)/2010-SCS/8265 dated 30.8.2010.