

(2019) 04 CAT CK 0064

In the Central Administrative Tribunal

Case No : Original Application No. 1205 Of 2016

Dudh Nath Shaw

APPELLANT

Vs

Union Of India Through The Secretary

RESPONDENT

Date of Decision : 23-04-2019

Acts Referred:

Citation : (2019) 04 CAT CK 0064

Hon'ble Judges : Nita Chowdhury,, J;S.N. Terdal, J

Bench : Division Bench

Advocate : Yogesh Sharma, Lalta Prasad, Vijendra Singh

Final Decision : Allowed

Judgement

S.N. Terdal, J

1. 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/-, 2nd 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.

Name of

Governed by

Scale of pay (Pay

Mode of

Remarks

No.

the Post

SRO

Band & Grade Pay

induction as

in Rs.) as per 6th

per SRO

CPC

1.

Durwan

SRO-14(E) dated

PB-1 (5200-20200)

Initial Grade

04/05/1989

Grade Pay 1800/-

2.

Jamadar

SRO-14(E) dated

PB-1 (5200-20200)

Promotion

Promotional

Durwan

04/05/1989

post of

Grade Pay 1800/-

Durwan

3.

Subedar

SRO-14(E) dated

PB-1 (5200-20200)

Promotion

Promotional

Durwan

04/05/1989

post of

Grade Pay 1800/-

Jamadar

Durwan

4.

Supervisor

SRO-58 dated

PB-1 (5200-20200)

Promotion

Promotional

19/07/2012

post of

(NT)

Grade Pay 2400/-

Subedar

Durwan

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

1.

Chargeman

SRO-13(E) dated

PB-2 (9300-34800)

Promotion

Promotional

(NT)

04/05/1989

post of

Gr.B (Non

Grade Pay 4200/-

Supervisor

Gazetted)

(NT)

2.

JWM(NT),

SRO-13(E) dated

PB-2 (9300-34800)

Promotion

Promotional

Gr-B

04/05/1989

post of

(Gazetted)

Grade Pay 4600/-

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 6th 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 co-ordinate 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.