



**Central Administrative Tribunal  
Principal Bench  
New Delhi**

OA No.2185/2015

Order reserved on 26.07.2024  
Order pronounced on 12.08.2024

**Hon'ble Mr. Manish Garg, Member (J)**  
**Hon'ble Dr. Anand S. Khati, Member(A)**

Shri Rajinder Singh  
Aged 50 years, S/o Shri Jagmal  
R/o H. No.69/2, Village Bhainsrawli  
Block-2, Tehsil Ballabgarh  
District Faridabad  
Pass No.56 ASP, AF/377  
Parent Unit 56 ASP, AF, AF  
Trade:Lascar

...Applicant

(By Advocates: Mr. Anuj Aggarwal, Mr. Sidharth Nair  
and Ms. Nidhi Pawar and Mr. Pradeep Kumar )

Vs.

1. Indian Air force through the Air Chief Marshal  
Vayu Bhawan, Rafi Marg  
AIR HQ, New Delhi-110006.
2. The Controller General of Defence Accounts (Air  
Force), 107, Rajpur Road  
Dehradun-248001.
3. The Station Commander  
56 ASP, Air Force Station  
Faridabad-121005.

...Respondents

(By Advocate: Mr. Subhash Gosain)



## **ORDER**

### **Hon'ble Mr. Manish Garg, Member(J)**

In the instant OA the applicant seeks the following reliefs:-

- a) *"Direct the respondents to re-fix the pay of the applicant at par with the junior of the applicant w.e.f. 01.01.2006 and to pay him arrears of salary arising therefrom w.e.f. 01.01.2006 till date;*
- b) *Direct the respondents to pay to the applicant all the consequential benefits (monetary as well as non-monetary) thereof;*
- c) *Allow the present Original Application with costs in favour of the applicant."*

2. Learned counsel for the applicant contends that the anomaly has arisen in the matter of pay fixation as on 01.01.2006 basic pay of applicant was fixed at Rs.6400/- whereas on the said date the basic pay of Shri Lekhraj, who is stated to be junior to the applicant was fixed at Rs.6530/-. The applicant approached the respondents bringing the entire situation in their notice. On consideration the respondents replied to the applicant stating that due to ACP rules he could not be given the benefit of stepping up of pay. Hence, the present OA.

3. Learned counsel for the applicant further relies upon Annexure A-3 statement where a finding of the



case has been given by the respondents which reads as under:-

| PASS No.  | Name               | Trade  | Date of Appointment |
|-----------|--------------------|--------|---------------------|
| 56ASP/377 | Sh. Rajender Singh | Lascar | 01.05.1987          |
| 56ASP/386 | Sh. Lekhraj        | Lascar | 03.05.1988          |

*Junior Lascar for Comparison*

*Pass No.56ASP/377 Sh. Rajender Singh was appointed as a lascar on 01.05.1987 and after Pay fixation of the individual Pay has been fixed Rs.6400/- w.e.f. 01.01.2006 as per VIth CPC. Where as PASS No.56 ASP/386 Sh. Lekh Raj, was appointed as a Lascar prior this junior on 03.05.1988 after Pay fixation of the individual Pay has been fixed Rs.6530/- w.e.f. 01.01.2006 as per VIth CPC. In the year 2006, there was a difference of Rs.130/- i.e. one increment. This variation came to light after audit of document. (Appendix 'A' & 'D' refers). The matter is now being taken up for pay fixation & fresh w.e.f. 01 Jan 2006."*

4. He further draws a comparative statement where a recommendation was already made by the competent authority in favour of the applicant which reads as under:-

*"It is recommended that the pay of the senior lascar PASS No.56ASP/377 Sh. Rajender Singh may be stepped up at par with the Junior lascar PASS No.56 ASP/386 Sh. Lekh Raj w.e.f. 01.01.2006.*

*Recommendation by Station Commander*

*It is recommended that the pay of senior Lascar PASS No.56 ASP/377 Sh. Rajender Singh may be stepped up at par with the junior lascar PASS No.56 ASP/386 Sh. Lekh Raj w.e.f. 01.01.2006 in Accordance with AFO/384/74 and VI CPC RP Rule 2008."*



5. A comparative table between both the two employees has also been given by the applicant:-

| Particulars                       | Rajinder Singh | Lekhraj    |
|-----------------------------------|----------------|------------|
| Date of appointment               | 01.05.1987     | 03.05.1988 |
| Trade                             | Lascar         | Lascar     |
| Pay Band                          | 5200-20200     | 5200-20200 |
| Pay-in-Band                       | 9630           | 9830       |
| Total credit as per the year 2014 | 30,875/-       | 31,349/-   |

6. He further relies upon a decision rendered by the Hon'ble Supreme Court in **Union of India v. C.R. Madhava Murthy** (2022) 6 SCC 183, wherein it has been held as under:-

*"11. Therefore, it was a case where a junior was drawing more pay on account of upgradation under the ACP Scheme and there was an anomaly and, therefore, the pay of senior was required to be stepped up. Hence, in the facts and circumstances of the case, the High Court has rightly directed the appellants herein to step up the pay of the original writ petitioners keeping in view of pay scale which has been granted to the Juniors from the date they have started drawing lesser pay than their juniors. We are in complete agreement with the view taken by the High Court. No interference of this Court is called for.*

*12. In view of the above and for the reasons stated above, the present appeals deserve to be dismissed and the same are dismissed accordingly."*

7. Learned counsel for the applicant states that the impugned rejection order dated 25.10.2013 is perverse.



8. Opposing grant of any relief in the OA, learned counsel for the respondents relied upon the averments contained in the counter affidavit as well as the Annexure R-2 wherein the following has been recorded:-

*"That Shri Rajinder Singh, Lascar of 56 ASP, AF, was enrolled in IAF, w.e.f. 01 May, 1987. On 23 Aug 2013 (Annexure- R/1), Shri Rajinder Singh, hereinafter referred as applicant, had submitted a general application under subject pay fixation. By way of said general application, applicant brought to notice of the officials of Unit, that he is getting less pay in comparison to his junior Shri Lekhraj, Lascar of 56 ASP, AF, whose enrolment date is 03 May 1988. After scrutiny of the matter, it was found that applicant is senior and from Jan 2006, he was getting less pay in comparison to Shri Lekhraj. It was found that as on 01 Jan 2006, basic pay of applicant was fixed Rs. 6400/- whereas on the said date the basic pay of Shri Lekhraj was fixed Rs. 6530/-. In this way, on 01 Jan 2006, the applicant's basic pay was Rs. 130/- (one increment) less than Shri Lekhraj. On that, concerned officials of Unit took the necessary steps to provide all possible assistance to the applicant and recommended the re-fixation of pay (stepping up) and forwarded the recommendation by way of a statement of case, alongwith relevant documents of re-fixation to PCDA (AF), Dehradun, the approving authority for re-fixation of the pay, for their approval. After considering his case, PCDA (AF), Dehradun, vide letter 25 Oct 2013, (Annexure-R/2), had sent a comprehensive reply on the subject stating that due to ACP rules applicant could not be given the benefit of stepping up. Hence, the applicant preferred the present Original Application."*

9. Learned counsel further stated that after considering the case of pay fixation of the applicant, the competent authority i.e. PCDA (AF), Dehradun, vide letter 25.10.2013, had informed the applicant that due

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to ACP rules he could not be given the benefit of stepping up. In this connection, it is submitted that the applicant was appointed to the post of Anti Malaria Lascar on 01.05.1987 and Shri Lekhraj was appointed on 03.05.1988. The applicant was drawing higher pay i.e. Rs.846/- than Shri Lekhraj (Rs. 834/-) before implementation of 5<sup>th</sup> CPC. After implementation of 5<sup>th</sup> CPC, the stages of Rs.846/- and Rs.834/- in the pre-revised pay scale of Rs.750-940 were granted a common stage of pay scale of Rs.2,660/-w.e.f. 01.01.1996. Accordingly, basic pay of both the employees was fixed at Rs.2,660/- in pay scale of Rs. 2550-3200 w.e.f. 01.01.1996. Both the employees were drawing the same pay scale but with different dates of increment. When 6<sup>th</sup> Central Pay Commission was introduced, the fixed date of increment i.e. 01<sup>st</sup> July of every year was implemented. After implementation of 6<sup>th</sup> CPC, some Govt. servants whose date of increment lies between February to June of every year in the past were in disadvantageous position as they lost one increment. In order to avoid this position, Ministry of Finance, Department of Expenditure vide their letter No.10/02/2011-E.III/A

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dated 19.03.2012 granted one additional increment w.e.f. 01.01.2006, to those employees who were drawing increment between February to June of every year. Due to this, the pay of Shri Lekhraj was fixed at Rs.6,530/- w.e.f. 01.01.2006, and pay of the applicant was fixed at Rs.6,400/- w.e.f. 01.01.2006.

10. Further, it is submitted that as per conditions of Assured Career Progression (ACP) Scheme introduced by DoP&T vide their OM No. 35034/1/97-Estt (D) dated 09.08.1999, the financial upgradation under the ACP Scheme has been treated as purely personal to the employee and shall have no relevance to his seniority position. As such, there shall be no additional financial upgradation for the senior employee on the ground that the junior employee in the grade has got higher pay-scale under the ACP Scheme.

11. Heard learned counsel for the respective parties.

### **ANALYSIS**

12. The issue in the present case is no longer *res integra* in light of decision rendered in case of ***Union of India & Ors. Vs. Shri C.R. Madhava Murthy & Anr.***





[Civil Appeal Nos. 2087-2088 of 2022] by the Hon'ble  
Apex Court, wherein it has been held as under:-

*"5. The High Court has therefore rightly relied and/or considered FR 22 and the order issued by the Government of India on removal of anomaly by stepping up of pay, which reads as under:*

*"(22) Removal of anomaly by stepping up of pay of Senior on promotion drawing less pay than his junior ( a) As a result of application of FR 22 C. [Now FR 22 (I) (a) (1)]. In order to remove the anomaly of a Government servant promoted or appointed to a higher post on or after 141961 drawing a lower rate of pay in that post than another Government servant junior to him in the lower grade and promoted or appointed subsequently to another identical post, it has been decided that in such cases the pay of the senior officer in the higher post should be stepped up to a figure equal to the pay as fixed for the junior officer in that higher post. The stepping up should be done with effect from the date of promotion or appointment of the junior officer and will be subject to the following conditions, namely:*

*(a) Both the junior and senior officers should belong to the same cadre and the posts in which they have been promoted or appointed should be identical and in the same cadre;*

*(b) The scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical;*

*(c) The anomaly should be directly as a result of the application of FR22C. For example, if even in the lower post the junior officer draws from time to time a higher rate of pay than the senior by virtue of grant of advance increments, the above provisions will not be invoked to step up the pay of the senior officer.*

*The orders refixing the pay of the senior officers in accordance with the above provisions shall be issued under FR27. The next increment of the senior officer will be drawn on completion of the requisite qualifying service with effect from the date of refixation of pay.*

*[G.I., M.F., O.M. No.F.2 [78]E. III (A)/66, dated the 4th February, 1966).*





*6. Therefore, it was a case where a junior was drawing more pay on account of upgradation under the ACP Scheme and there was an anomaly and therefore, the pay of senior was required to be stepped up. Hence, in the facts and circumstances of the case, the High Court has rightly directed the appellants herein to step up the pay of the original writ petitioners keeping in view of pay scale which has been granted to the juniors from the date they have started drawing lesser pay than their juniors. We are in complete agreement with the view taken by the High Court. No interference of this Court is called for."*

13. In the present case, as the facts which have been dealt herein above, the anomaly occurred for the wrong interpretation of ACP Scheme and not granting increment after coming into force the 6<sup>th</sup> CPC w.e.f 01.01.2006. The benefit which was extended to the applicant w.e.f implementation of ACP scheme resulted in denial of annual increment on the pretext that increment by virtue of grant of ACP already stood extended, as such the applicant was not entitled to increment due and payable on or after 01.01.2006 i.e. the effective date of implementation of 6<sup>th</sup> CPC. On noticing the variation, re-audit in August, 2013 remarks pointed to the said anomaly and recommendations were made which have been quoted hereinabove.

### **CONCLUSION**

14. In view of the above, the impugned Office Order dated 25.10.2013 is quashed and set aside. We allow

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this OA with directions to grant benefit of stepping up of pay to the applicant from the date when his junior was accorded the benefit of 6<sup>th</sup> CPC within a period of two months from date of receipt of a certified copy of this order. All arrears be released within aforesaid period falling which, the applicant shall be entitled to interest @ 6 % per annum till the actual date of payment for delay period. Consequential re-fixation of pay/pension shall follow. All pending application(s), if any, also disposed of. No costs.

**(Dr. Anand S Khati)**  
**Member(A)**

**(Manish Garg)**  
**Member(J)**

/vb/