

Central Administrative Tribunal  
Principal Bench: New Delhi

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O.A. No.576/2002

This the 30th day of July, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)  
Hon'ble Shri V.K. Majotra, Member (A)

1. All India CPWD (MRM) Karamchari Sangathan (Regd) through its President Shri Satish Kumar
2. Jeet Singh S/o Pumma Singh Plumber
3. Manohar Dutt S/o Shri Parmanand Plumber
4. Deep Chand S/o Shri Challu Ram Mason
5. Sohan Lal S/o Shri Heera Lal Mason
6. Mahavir Singh S/o Phool Singh Carpenter
7. Jamma Lal S/o Bhairo Lal Mason
8. Rajbir Singh S/o Khaedu Singh Carpenter
9. Jagdish Prasad S/o Ram Singh Carpenter
10. Ishwar Chand S/o Dhani Ram Mason
11. Laxman Prasad S/o Hattu Ram Mason
12. Nand Lal S/o Nathu Ram Plumber
13. Dwarka Das S/o Ram Dayal Plumber
14. Prabhu Dayal S/o Narain Ram Plumber
15. Ram Bahadur Gupta S/o Ram Adhar Gupta Plumber
16. Ranjeet Singh S/o Balwant Singh Painter
17. Surender Singh S/o Janak Singh Plumber

-Applicants

All C/o 34, DIZ Area, Sec.4, Raja Bazar,  
New Delhi.

(By Advocate: Ms. Shilpa Chauhan, proxy for  
Shri Naresh Kaushik)

Versus

1. The Director General of Works,  
CPWD, Nirman Bhawan,  
New Delhi.
2. The Supdt. Engineer  
Co-ordination (Elect),  
CPWD, East Block, R.K. Puram,  
New Delhi.
3. The Supdt. Engineer (DCC-IX),

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CPWD, I.P. Bhawan,  
New Delhi.

4. The Executive Engineer,  
(A) Division,  
C.P.W.D., I.P. Bhawan,  
New Delhi.
5. The Executive Engineer,  
(L) Division,  
C.P.W.D., Barakhamba Road,  
New Delhi.

(By Advocate: Shri M.M. Sudan)

-Respondents

ORDER (Oral)

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

This application has been made seeking quashing of order dated 30.1.2002 and order dated 5.2.2002, whereby the benefit of Assured Career Progression Scheme (ACPS) evolved on the basis of Fifth Central Pay Commission (CPC) has been withdrawn and recoveries have been ordered to be made from pay and allowances of the applicants from the month of February, 2002. Learned counsel stated that the reason for withdrawal of the benefit of ACPS granted to the applicants previously is stated to be that they have not passed the prescribed trade test for the post of Work Assistant. Learned counsel stated that applicants are willing to appear in the trade test but the respondents have to be blamed themselves for not having held the trade test till now. She further suggested that recovery could be made only from the pay and allowances from such persons who do not qualify the trade test to be held by the respondents.

2. On the other hand Shri M.M. Sudan, learned Senior Standing counsel for the respondents stated that

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as per Annexure R-I which is the ACPS for the Central Government Civilian Employees issued on August 9, 1999, it was necessary for the applicants to have fulfilled "normal promotion norms (Benchmark, departmental examination seniority-cum-fitness in the case of Group 'D' employees etc.) for grant of financial upgradation". However, such trade test could not be held for administrative reasons. Respondents issued clarificatory O.M. dated 21.5.2001 (Annexure R-2) and the trade test was fixed for April, 2002. However, the same could not be held again for some administrative reasons and the test has now been slated for 21.9.2002. Learned counsel stated that recovery is not being made from such persons who had qualified the trade test held earlier for purposes of promotion to the post of Work Assistant and the recovery is being made from the personnel who had not qualified the trade test earlier. He stated that those who qualify in the trade test to be held in September 2002, shall be allowed the benefit of ACP Scheme. However, a decision will have to be taken by the respondents whether the benefit accorded to them earlier would continue retrospectively. In any case, he stated that the benefit cannot be given to the persons who do not qualify the trade test now.

3. The Scheme was promulgated on August 9, 1999 vide Annexure R-I. Annexure to the related O.M. prescribed the condition for fulfillment of normal promotion norms, still the respondents due to some administrative reasons have not held the trade test in <sup>7-1</sup> according the benefit of ACP Scheme and granted the

benefit without holding the trade test. For this, respondents themselves have to be blamed and not the applicants. The clarification for holding the trade test was issued after a lapse of two years by Annexure R-2 and the trade test has yet to be held on 21.9.2002, i.e., after a period of more than three years from the introduction of the Scheme. Such delay and lapses on the part of the respondents for clarifying the import of the provisions of the Scheme and also for holding the prescribed trade test, cannot be countenanced. Such ~~lackadaisical~~ attitude on the part of the respondents is very unfortunate and it is now expected that the respondents do not further postpone the trade test to be held by them on 21.9.2002. If now any administrative hurdles occur, respondents must remove them and hold the trade test on the scheduled date.

4. After due consideration of the rival contentions and in the facts and circumstances of the case, in our considered view, after holding the trade test to be held on 21.9.2002, respondents should accord benefit of ACP Scheme to such personnel who qualify in the trade test. Recovery from the pay and allowances should be made from such personnel who do not qualify in the trade test, but in easy instalments. Such recovery has also to be made from the pay and allowances of the persons who qualify now in the trade test for the amounts paid prior to their qualification in the trade test. We order accordingly and also that the stay order granted on 27.2.2002, in the facts and circumstances of the case shall continue till the

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results of the trade <sup>test</sup> are declared.

5. Copy of these orders be sent to Respondent No.1, Director General of Works, CPWD, Nirman Bhawan, New Delhi for strict compliance of these orders.

6. The OA is disposed of in the above terms. No costs.

V.K. Majotra

(V.K. Majotra)  
Member (A)

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)  
Vice-Chairman (J)

cc.