

Central Administrative Tribunal, Principal Bench  
New Delhi

O.A. No.732 of 2002

New Delhi this the 20th day of December, 2002

Hon'ble Smt. Lakshmi Swaminathan Vice Chairman (J)  
Hon'ble Mr. S.K. Malhotra, Member (A)

Shri Ram Kishan,  
S/o Shri Sukh Ram,  
R/o H-519, Kalibari Marg,  
New Delhi-110011

- Applicant

(By Advocate : Shri H.P. Singh)

Versus

1. The Chief Controller of Accounts  
Ministry of Urban Development,  
F Wing, 2nd Floor,  
Nirman Bhawan,  
New Delhi-110011.
2. The Senior Accounts Officer (Admn.)  
Principal Accounts Office,  
Ministry of Urban Development,  
F Wing, 2nd Floor,  
Nirman Bhawan,  
New Delhi-110011.
3. Assistant Accounts Officer,  
(S.K. Gupta),  
Pay & Accounts Office (F.Z.),  
Ministry of Urban Development,  
I.P. Estate, New Delhi.
4. Shri N.S. Malhotra,  
Senior Accounts Officer,  
Food Zone,  
Ministry of Urban Development,  
I.P. Estate, New Delhi.

- Respondents

(By Advocate : Shri M.M. Sudan)

ORDER (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)

In this application, the applicant has impugned the action and orders issued by the respondents vide memoranda dated 3.9.1998, 31.12.1998, 15.4.1999 and office order dated 8.1.2001 <sup>and the 21st</sup> last one is Memo dated 25.7.2001. These Memoranda/orders have been placed as annexures A, C, E, F and H to the OA.

B.

2. We have seen the pleadings and heard Shri H.P. Singh, learned counsel for the applicant and Shri M.M. Sudan, learned senior counsel for the respondents.

3. We note from Memo dated 3.9.1998 <sup>that</sup> the applicant had been issued this memo conveying to him the summary of adverse remarks contained in his ACR for the period from 1.4.1997 to 31.3.1998 in accordance with the rules. He has submitted a representation against this Memo on 12.10.1998 which has been considered by the competent authority <sup>and</sup> rejected ~~vide~~ vide Memo issued in December 1998. By this Memo, the decision was conveyed to the applicant clearly stated that the competent authority had decided not to expunge the adverse remarks from the applicant's ACR for the period from 1.4.1997 to 31.3.1998. The applicant has filed an appeal against this Memo on 20.1.1999, which was also rejected by the competent authority vide Memo dated 15.4.1999.

4. Thereafter, the respondents issued office order dated 25.5.2001 by which 47 employees have been given upgradation in terms of Assured Career Progression Scheme (ACP Scheme) issued by the Govt. of India, DOP&T for grant of financial upgradation in terms of this Scheme. The applicant's name was not included in this list. The applicant filed a representation on 18.6.2001 representing to the respondents that his name ought not to have been omitted in the office order dated 25.5.2001. With regard to this representation,

the respondents issued Memo dated 25.7.2001. The relevant portion of this Memo reads as under:-

"With reference to his representation regarding benefit under ACP Scheme, Sh.Ram Kishan, Sr.Acctt. is hereby informed that he was not granted financial benefit under ACP Scheme as he has not been found fit by the screening committee due to adverse remarks in his CR for 1997-98 that had been expunged."

5. The applicant has, on the basis of the aforesaid rejection of his representation vide Memo dated 25.7.2001, filed this application in which he has sought a direction to the respondents to delete the adverse remarks from his ACR for the year 1997-1998 with the further direction to the respondents to provide the financial and other benefits under the ACP Scheme.

6. Learned counsel for the respondents has rightly pointed that in the garb of challenging the office order issued by the respondents on 25.5.2001, wherein the applicant's name was not included for upgradation and financial benefits in accordance with the ACP Scheme because of the adverse remarks in his ACR for the year 1997-1998, the applicant has tried to reopen the issues with regard to expunging the adverse remarks in that year belatedly. As mentioned above, it is noted that not only his representation but his appeal has also been dismissed against the expunction of the adverse remarks in his ACR for the year 1997-98 by the competent authorities as far back as December 1998 and April 1999. This OA is filed on 23.5.2002.

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7. Having regard to the facts of the case and the provisions of Section 21 (3) of the Administrative Tribunals Act, 1985, the prayer in paragraph 8(i) of the OA is, therefore, barred by limitation and is accordingly rejected.

8. The other main prayer is for a direction to the respondents to include his name for grant of benefits under the ACP Scheme. It cannot be held that respondents <sup>have</sup> ~~acted~~ illegally or arbitrarily with regard to grant of financial benefits under the ACP Scheme by issuing the impugned Memo dated 25.7.2001. They have given the reasons why the Screening Committee was not found him fit for promotion under the ACP Scheme, which cannot be faulted.

9. In the above facts and circumstances of the case, we find no merit in the application. OA accordingly fails and is dismissed. No order as to costs.

Malhotra  
( S. K. Malhotra )  
Member(A)

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

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