

Central Administrative Tribunal  
Principal Bench

O.A. No. 1499 of 2001

New Delhi, dated this the 11th Februry, 2002

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE MR. KULDIP SINGH, MEMBER (J)

Ms. Urmila Kumari,  
W/o Shri O.P. Dhupar,  
R/o B-90, Sector 15,  
NOIDA, U.P. .. Applicant

(By Advocate: Shri R.P. Kapur)

Versus

1. The Union of India,  
Ministry of Industry through  
the Secretary,  
New Delhi.
2. The Planning Commission,  
Govt. of India through  
the Dy. Chairman,  
Yojna Bhawan,  
Parliament Street,  
New Delhi-110001.
3. The Departmental Screening Committee  
(of 23.01.2001) through Respondent No.2
4. The Under Secretary,  
Planning Commission,  
Govt. of India,  
Yojna Bhawan,  
Parliament Street,  
New Delhi-1. .. Respondents

(By Advocate: Shri N.S. Mehta)

ORDER (Oral)

S.R. ADIGE, VC (A)

Heard both sides.

2. Applicant became eligible for consideration for second financial upgradation on in 1998, and having regard to para 6 of the guidelines annexed with DOPT's O.M. dated 9.8.99 (Annexure A-2) the grant of second financial upgradation would inter alia depend upon the fulfilment of normal promotion



norms. In other words applicant's ACR for the five years preceding 1998 were required to be taken into consideration by Respondents for considering grant of the benefits of ACP Scheme. Manifestly it appears to us that applicant has been denied the benefits of the aforesaid ACP scheme, either because no ACRs were written for the aforesaid period as she had not serving for a period of three months under any one single officer, or because she was on extended E.L. during the aforesaid period.

3. In this connection we note that applicant had earlier filed O.A. No. 1940/2000 challenging respondents' action in not allowing her to cross E.B. In that O.A. respondents had inter alia taken the defence that the decision not allow applicant to cross E.B. <sup>was</sup> ~~was~~ essentially because she had not served under any single officer for a sufficient length of time to enable her to earn an entry in the ACR at any stage during the relevant period. This argument was rejected by the Tribunal and the O.A. was allowed by order dated 10.5.2001.

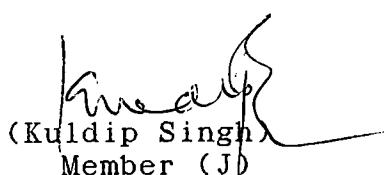
4. In this very connection Hon'ble Supreme Court has held that in cases where ACRs for a particular period are not available to assess the performance of the candidate, the previous ACRs for the aforesaid period require to be seen for considering the candidate's performance, and merely

11

3

because the ACRs of a particular period are not available cannot be used to deny the candidate due consideration.

5. Applying the aforesaid ruling to the facts and circumstances of the present case the O.A. succeeds and is allowed to the extent that the impugned order dated 30.1.2001 (Annexure A-1) is quashed and set aside. Respondents are directed to reconsider applicant's claim for grant of 2nd financial upgradation as per ACP Scheme. These directions should be implemented within a period of three months from the date of receipt of a copy of this order. In the event applicant is found fit for grant of the aforesaid financial upgradation, she will be entitled to the arrears as well as refixation of her pension as she is stated to have taken voluntary retirement in January, 2001. No costs.

  
(Kuldip Singh)

Member (J)

  
(S.R. Adige)  
Vice Chairman (A)

karthik