

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

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O.A. NO. 237/2001

This the 25th day of February, 2002.

HON'BLE SHRI S.R.ADIGE, VICE-CHAIRMAN (A)

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

I.K.Khanna S/O Ram Saran Das Khanna,
Chief Draughtsman,
Development Wing (Transport Wing),
Ministry of Surface Transport,
1, Parliament Street, New Delhi,
R/O B-1/176, Paschim Vihar,
New Delhi-110063.

... Applicant

(By Shri M.L.Chawla, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of
Surface Transport,
New Delhi.
2. Secretary,
Ministry of Personnel, Public
Grievances & Pension (Deptt. of
Personnel & Training),
North Block, New Delhi-110001.

... Respondents

(By Shri S.Mohd. Arif, Advocate)

O R D E R

Hon'ble Shri S.R.Adige, VC(A) :

Applicant impugns respondents' order dated 18.7.2000 (Annexure A-2 colly.) withdrawing the benefits of ACP Scheme granted to him vide respondents' earlier order dated 3.4.2000 and 7.4.2000 {Annexure A-2(a) & (b) colly.} and seeks restoration of those benefits along with further consequential benefits.

2. Heard.

3. Clearly the benefits of ACP Scheme were granted to applicant erroneously, because as per para 6 of the conditions for grant of benefits of ACP Scheme at

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Annexure-I of respondents' order dated 9.8.1999 read with para 16 of the clarificatory OM dated 10.2.2000, all promotional norms were required to be fulfilled for entitlement under ACP Scheme. Applicant at the relevant time was working as Chief Draftsman and the next promotional post is that of Asstt. Director for which a degree in Civil Engineering is an essential qualification, which applicant admittedly does not possess.

4. Under the circumstances, respondents cannot be faulted for withdrawing the benefits of ACP Scheme granted to applicant.

5. Applicant has contended that his work experience should be considered as a substitute for the degree in Civil Engineering. In this connection he has relied upon Head Note-B of the Hon'ble Suypreme Court's ruling in Bhagwati Prasad v. Delhi State Mineral Corporation, AIR 1990 SC 371, but that ruling which was handed down in the particular facts and circumstances of that case does not advance applicant's cause in the present case, where respondents' aforesaid OMs dated 9.8.1999 and 10.2.2000 have themselves not been challenged, which specifically require the promotional norms to be satisfied before the benefits under ACP Scheme are available, and one of the essential qualifications for promotion in the present case as per RRs is a degree in Civil Engineering, which applicant admittedly does not possess.


6. Applicant also contends that the impugned order dated 18.7.2000 was issued without putting him to notice, although it entailed civil consequences. In this

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connection, applicant has not denied that when respondents informed applicant that they proposed to withdraw the benefits of the ACP Scheme granted to him, his protest was not regarding non-issue of show cause notice, but only that recoveries not be made from him in a lump sum. In this view of the matter, the ~~for going~~ ^{for going} argument is no longer available to applicant to challenge the impugned order.

7. This OA, therefore, warrants no interference. It is dismissed. No costs.


(Kuldip Singh)
Member (J)


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

/as/