

Central Administrative Tribunal  
Principal Bench

New Delhi, dated this the 27<sup>th</sup> AUGUST

2001

(A)

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

1. O.A. No. 384 of 2001

1. Govt. of India Press Workers Union,  
Minto Road, New Delhi-110002.  
through its Joint Secretary.
2. Shri Bhagwat Singh,  
S/o late Shri Ram Sarup
3. Shri Inder Singh  
S/o Shri Dharam Singh
4. Shri Raj Kumar,  
S/o Shri Ant Ram
5. Shri Krishan Gopal  
S/o late Shri Ram Lal
6. Shri Jag Phool  
S/o Shri Dhanpat Singh
7. Shri Budh Sain Sharma  
S/o late Shri Ran Chhore Sharma
8. Shri Bihari Lal,  
S/o Shri Sohan Lal
9. Shri Om Prakash,  
S/o late Panna Lal
10. Shri Prem Singh,  
S/o Shri Durga Prasad
11. Shri Raghunandan Lal  
S/o late Shri Janki Das
12. Shri Ram saran,  
C/o Govt. of India Press  
Minto Road,  
New Delhi-110002. .... Applicants

(By Advocate: Shri S.N. Shukla)

Versus

1. Union of India through  
the Assistant Manager (Admn.),  
Govt. of India Press,  
Minto Road,  
New Delhi-110002.
2. The Manager,  
Govt. of India Press (PLU),  
Minto Road,  
New Delhi.

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3. The Director (Estt),  
 Govt. of India  
 Ministry of Personnel, Public Grievances  
 and Pension,  
 Dept. of Personnel & Training,  
 New Delhi-110001. .. Respondents

(By Advocate: Mrs. Promila Safaya)

2. O.A. No. 388 of 2001

1. Govt. of India Press Workers Union,  
 Minto Road, New Delhi-110002  
 through its Joint Secretary.
2. Bhadar Singh Chandoliya  
 S/o Shri Bali Ram
3. Shri Shyam Sunder,  
 S/o late Shri Ram Sarup
4. Shri Thakur Singh Rawat,  
 S/o late Shri Dalip Singh
5. Shri Mange Ram  
 S/o Shri Ram Lal
6. Shri Mohinder Pal,  
 S/o Shri Des Raj
7. Shri Ravinder Nath Srivastava  
 S/o Shri G.P. Srivastava
8. Shri P.N. Dhaundhyal,  
 S/o Shri N.R. Dhaundhyal
9. Shri Bakshi Ram,  
 S/o Shri Sunder Singh
10. Shri Ram Prakash Gupta,  
 S/o Shri Budh Sen .. Applicants

(By Advocate: Shri S.N. Shukla)

Versus

1. Assistant Manager (Admn.),  
 Govt. of India Press,  
 Minto Road, New Delhi-110002.
2. The Manager,  
 Govt. of India Press (PLU),  
 Minto Road, New Delhi-110002.
3. The Director (Estt),  
 Govt. of India,  
 Ministry of Personnel, Public Grievances  
 and Pensions,  
 Dept. of Personnel & Training,  
 New Delhi-110001. .. Respondents

(By Advocate: Mrs. Promila Safaya)

ORDER

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S.R. ADIGE, VC (A)

As both O.As involve common questions of law and fact, they are being disposed of by this common order. For this purpose the pleadings in O.A. No. 384/2001 will be referred to.

2. In both O.As applicants impugn respondents' Memo dated 10.2.2000 (Ann. A-1) and order dated 23.6.2000 (Page 17 of O.A.). They seek extension of the ACP Scheme to themselves with consequential benefits.

3. As per DP&T's O.M. dated 9.8.99 (Ann. A-4) introducing the ACP Scheme for Central Govt. Civilian Employees, the Scheme needs to be viewed as a 'Safety Net' to deal with the problems of genuine stagnation and hardship faced by employees due to lack of promotional avenues. Under the Scheme, 2 financial upgradations, to Group 'B', 'C' and 'D' employees are to be granted on completion of 12 years and 24 years (subject to condition No.4 in Annexure I of the O.M.) of regular service respectively. In the aforesaid Annexure it has further been made clear that financial upgradation under the Scheme would be given to the next higher grade in accordance with the existing hierarchy in a cadre/category of posts without creating new posts for the purpose.

(X)

4. Certain aspects of this ACP Scheme were further clarified in impugned Memo dated 10.2.2000. In Page 3, Para 4 of that O.M. it was clarified that the basic criterion to allow the higher pay scale under ACPs would be whether a person was working in the same pay scale (emphasis supplied) for the prescribed period of 12/24 years, because the benefits under ACPs are limited to a higher pay scale and did not confer designation, duties and responsibilities of the higher post. However, if the appointment is made to higher pay scale either through direct recruitment or through absorption (transfer basis) or first on deputation basis and later on absorption through transfer basis such appointment would be treated as a direct recruitment and past service/promotion would not count for benefits under ACP till he completed 12/24 regular service from the date of such post.

4. In the present case, applicants were initially appointed as compositors (Rs.950-1500) and Machine Attendants (Rs.800-1150) (pre-revised) in L.P. Unit of Govt. of India Press Minto Road, New Delhi, and they have not denied that ~~they were~~ subsequently <sup>7</sup> ~~they were~~ absorbed as Plate Makers and Machine Attendants in the higher scale of Rs.1320-2040 and Rs.950-1500 (pre-revised). During hearing applicants' counsel asserts that they had been placed in the higher scale of pay after training, but even so it cannot be denied that they were placed in the higher pay scale and, therefore, cannot count their service in the lower pay scale of

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Compositors/Machine Attendants for the purpose of the benefits of the ACP Scheme. To do so would be to confer a double benefit to applicants which is not contemplated under the ACP Scheme. (8)

5. During hearing applicants' counsel raised the point that provision of statutory rules could not be modified by executive instructions and relied upon the Hon'ble Supreme Court's ruling in Shri Bindeshwar Ram Vs. State of Bihar & Others JT 1989 (3) SC 712, but in the present case, O.M. dated 9.8.99 is only an executive instruction which could very well be clarified by a subsequent impugned O.M. dated 10.2.2000. Hence the ruling in Bindeshwar Ram's case (supra) does not avail applicant.

6. Applicants have also not succeeded in establishing that any payments under ACP Scheme were actually made to them and then withdrawn, which might have necessitated a show cause notice to them before actual withdrawal of benefits.

7. In the result the two O.As warrant no interference. They are dismissed. No costs.

8. Let a copy of the order be placed in each case record.



(Dr. A. Vedavalli)  
Member (J)

karthik



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

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27/8/2001