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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

QA.No.885 of 1996

New Delhi, this 7th day of February, 2000.

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE CHAIRMAN
HON'BLE MR. M.P. SINGH, MEMBER(A)

1. Manbodh
1161/S-II, R.K.Puram, New Delhi
2. Doba Mondal
QM-A-445, Kasturba Nagar
New Delhi
3. D.N. Murari
209/S-III, M.B. Road
Pushp Vihar, New Delhi
4. K.P. Mistry
123/9/S-IV, M.B. Road
Pushp Vihar, New Delhi
5. Rajmani Besoi
2060, L.R. Complex, New Delhi
6. B. Anand Rao
H-159, Srinivasपुरi, New Delhi
7. Pillan Dass
E-107, Kidwai Nagar, New Delhi
8. K.K. Haldar
Qr.No.402, New Delhi .. Applicants

(By Shri D.R. Gupta, Advocate)

versus

Union of India, through

1. Secretary
Department of Culture
Ministry of HRD, New Delhi *L. Shrin' Brahman*
2. Director General of Archives, *National Archives of India,*
Janpath, New Delhi .. Respondents

O R D E R (ORAL)

Reddy, J.

The applicants seek the benefits of in situ promotion.

2. The applicants were initially engaged in Group 'D' cadre in a project. As they were found surplus, they were transferred to the Group 'D' Cell of the Directorate General of Employment & Training. Eventually, they were appointed in various departments of the Government of India. The applicants were

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redeployed on 1.1.1981 in the office of the Director General of archives, National Archives of India, New Delhi. It is the grievance of the applicants that applicants 1 to 7 reached the maximum of pay scale of Rs.750-940 on 1.1.1989 and applicant no.8 on 1.1.1988 after they rendered eight years of service in the Department of National Archives. Thus the applicants have been stagnating for several years without any promotional avenues after reaching the maximum scale in 1988 and 1989.

3. The Government of India have evolved a scheme dated 13.9.1991 whereby Group 'C' & 'D' employees should get at least one promotion viz. in situ promotion, in their service career. The grievance of the applicants is that even though they were entitled for in situ promotion as per the above scheme, the respondents by the impugned order, refused illegally, to give them the benefits of the said scheme.

4. It is the case of the respondents that the applicants are not entitled for the benefits of the scheme as they were not originally appointed as Group 'C' & 'D' employees in the Department of National Archives. It is further the case of the respondents that in view of the later scheme evolved Assured Career Progression (ACP, for short) on August 9, 1999 whereby Group 'C' & 'D' employees were given not one but two in situ promotions/financial upgradations as per the recommendations of the Vth Pay Commission, the applicants were already given a promotion on completion of 12 years of service. It is stated that the employees who would complete 24 years of service would

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be given the next in situ promotion. Thus it is the case of the respondents that the applicants are benefited by the subsequent scheme with two financial upgradations in their service career. Hence they can have no further grievance.

5. Heard the learned counsel for the applicants and the respondents. We have given careful consideration to the arguments advanced by the learned counsel.

6. The first contention as regards that the ineligibility of the applicants for any benefit under the scheme dated 13.9.1991 since they were not initially appointed in Group 'C' or Group 'D' categories of service in the Government of India, cannot be accepted. The identical question came up for consideration by the Principal Bench of the Tribunal in OA.No.724/96, and in its judgement dated 9.12.1999, it has been clearly held that the applicants in the said OA who were initially appointed as Peon in the Central Administrative Tribunal, New Delhi, and who were also redeployed to other departments having been found surplus, were extended the benefits of the scheme dated 13.9.1991 on the ground that the said scheme, if its true spirit was taken into consideration, any employee in Group 'C' & 'D' should be given in situ promotion after reaching the maximum scale on completion of one year of regular service in the grade, when stagnate without promotional avenues.

7. In the instant case, the applicants have reached the maximum of scale in 1988 and 1989. Hence they are entitled for the benefits of the scheme. Respondents



refused granting in situ promotion to the applicants by giving vague reason. In the impugned order it was stated that the applicants could not be given the benefits under the scheme due to legal complications. We are clearly of the view that the impugned order is arbitrary and is liable to be set aside.

8. The next contention of the learned counsel for the respondents is that in pursuance of the ACP Scheme dated August 9, 1999 as the applicants were already given one promotion and that they are also entitled for the second in situ promotion during their career they cannot still fall back upon the earlier scheme. It is true that the applicants will get the benefits of two promotions under the ACP scheme. We are of the view that the applicants should have been extended the benefits under the 1991 Scheme since they had fulfilled the conditions prescribed under that scheme. Had the applicants given in situ promotion under the said scheme, the applicants might be getting second promotion under the ACP Scheme of August 9, 1999 after fulfilling the condition of completion of 24 years of service. Thus the new scheme cannot deprive the rights accrued by the applicants under the earlier scheme. Even as stated by the learned counsel if the respondents in the proceedings dated 7.1.2000 promoted many on completion of 12 years of service, it should be noted that the first promotion that the applicants are now getting under the ACP scheme is delayed by more than nine years and all the increments and other benefits the applicants would have got had they have

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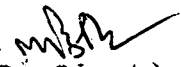
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been given in situ promotion under the previous scheme are lost to the applicants. The new scheme is, therefore, no solace to the applicants.

9. In view of the aforesaid discussions, we direct the respondents to consider the applicants for in situ promotion from the date of completion of one year after reaching maximum of the scale of pay or from the date they became eligible under the scheme dated 13.9.1991. Subsequently on such promotion, the applicants would have to forego the promotion given to them and other financial benefits extended under the Assred Career Progression Scheme of August 9, 1999 as regards their first in situ promotion. They are however entitled for the 2nd financial upgradation under the ACP Scheme after completing 24 years of service.

10. The OA is disposed of with the above directions.

No order as to costs.


(M.P. Singh)
M(A)


(V. Rajagopala Reddy)
VC(J)

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