

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.2256/2000

This the 20th day of November, 2001.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

1. Raj Singh HW-108
2. Rekh Bahadur HW-120
3. Maid Singh HW-119
4. Bhagwan Das HW-136
5. Naval Singh HW-143
6. Inder Bahadur HW-144
7. Sukh Lal HW-146
8. Bhopal Singh HW-147
9. Chander Bhan-I HW-148
10. Jai Bhagwan HW-157
11. Rach Pal Singh HW-158
12. Leel Bahadur HW-163
13. Pratap Singh HW-165
14. Mansoor Alam HW-166
15. Raj Singh HW-179
16. Butto Ram HW-184
17. Kartar Singh-II HW-187
18. Mehar Singh HW-189
19. Laxman Singh HW-195
20. Ranjeet Singh HW-197
21. Lalu Ram HW-294
22. Pabu Narain HW-285
23. Mundrika Manju HW-287
24. Mangtu Ram HW-225
25. Prahlad Prasad HW-286
26. Puran Singh HW-235
27. Bishwanath Prasad HW-263
28. Jawahar Manjhi HW-268
29. Ishwar Singh HW-279
30. Randhir Singh HW-281
31. Smt. Joginder Kaur HW-309
(all working as Head Warders in
Central Jail, Tihar,
New Delhi-64).

... Applicants

(By Shri S.C.Luthra, Advocate)

-versus-

1. Govt. of Delhi through
Principal Secretary (Home),
5, Sham Nath Marg, Delhi-54.
2. Addl. DG-cum-IG (Prisons),
Prison Headquarters,
Near Lajwanti Chowk,
New Delhi-110064.

... Respondents

(By Shri H.P.Chakravarty, Advocate)

O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

The applicants have challenged Annexure A-1 dated 27.7.2000 vide which they have not been accorded financial upgradation in terms of the Assured Career Progression (ACP) Scheme on the ground that though they have rendered minimum of 24 years of regular service, they do not fulfil the minimum qualification of matriculation required for regular promotion to the next higher post of Assistant Superintendent. The applicants have sought that the educational qualification of matriculation should be declared as not a pre condition requisite for the benefit under the ACP Scheme and that Annexure A-1 qua the applicants should be quashed. The applicants have also sought benefit of second upgradation in the scale of Rs.4500-125-7000 w.e.f. 9.8.1999 at par with the other eligible officers as per Annexure A-1.

2. Drawing our attention to the ACP Scheme dated 9.8.1999 (Annexure A-2), the learned counsel of the applicants stated that the Scheme was introduced to mitigate hardship in cases of acute stagnation either in a cadre or in an isolated post. Conditions for grant of benefits under the ACP Scheme are detailed in Annexure-I to the Scheme. The learned counsel stated that only condition (4) is applicable to their case and condition (6) therein relates only to Group 'D' employees and not to others. He further stated that whereas financial upgradation under the Scheme has to be given to the next higher grade in accordance with the existing hierarchy in a cadre/category of posts, in the case of isolated posts

in the absence of definite hierarchical course, financial upgradation has to be given to the next higher pay scale. The learned counsel stated that as the applicants are not matriculates and are not eligible for promotion to the next higher post it should be deemed that the applicants are also holding isolated posts and should be given the benefit of financial upgradation under the aforestated Scheme.

3. The learned counsel of the respondents, on the other hand, contended that not only that condition (4) is applicable to the case of the applicants, condition (6) also has to be applied to the applicants. Thus, it is imperative that the applicants should be matriculates and be eligible for promotion to the next hierarchical post and should be considered for according benefit of the ACP Scheme only if they fulfil various norms of promotion. The learned counsel stated that the applicants' present post cannot be considered as an isolated post and as they are not eligible for promotion to the next hierarchical post, being non-matriculates, they cannot be considered for the benefit of the ACP Scheme as well.

4. Conditions (4) and (6) prescribed in Annexure-I to the ACP Scheme are as follows :

"4. The first financial upgradation under the ACP Scheme shall be allowed after 12 years of regular service and the second upgradation after 12 years of regular service from the date of the first financial upgradation subject to fulfilment of prescribed conditions. In other words, if the first upgradation gets postponed on account of the employee not found fit or due to departmental proceedings, etc., this would

have consequential effect on the second upgradation which would also get deferred accordingly."

"6. Fulfilment of normal promotion norms (bench-mark, departmental examination, seniority-cum-fitness in the case of Group 'D' employees, etc.) for grant of financial upgradations, performance of such duties as are entrusted to the employees together with retention of old designations, financial upgradations as personal to the incumbent for the stated purposes and restriction of the ACP Scheme for financial and certain other benefits (House Building Advance, allotment of Government accommodation, advances, etc.) only without conferring any privileges related to higher status (e.g. invitation to ceremonial functions, deputation to higher posts, etc.) shall be ensured for grant of benefits under the ACP scheme."

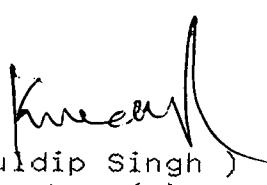
5. Whereas condition (4) is applicable in the present case, as admitted by the applicants, in any case, we do not agree with the learned counsel of the applicants that condition (6) is applicable to Group 'D' employees only. Condition (6) is applicable to employees belonging to other than Group 'D' also. The employees can be considered for grant of benefits of ACP Scheme only if they are eligible for consideration for the next higher post in hierarchy and fulfil normal promotion norms. The applicants are Head Warders for whom the next hierarchical promotion is to the post of Assistant Superintendent. The minimum educational qualification prescribed for regular promotion to the post of Assistant Superintendent is matriculation in the relevant rules. The applicants are admittedly non-matriculates and are not eligible for consideration for the post of regular promotion to the post of Assistant Superintendent. When in the existing hierarchy of the applicants, the next higher post of Assistant Superintendent in the pay scale

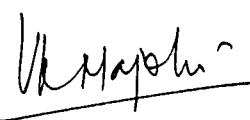
(VS)

of Rs.4500-7000 is available, the applicants have to be eligible for regular promotion to the post of Assistant Superintendent before the benefit of ACP on fulfilment of other conditions is accorded to them. The applicants' post, in view of the higher post of Assistant Superintendent being available in the hierarchy of their cadre, cannot be considered to be an isolated post.

6. We have gone through the provisions of the Scheme carefully and we are in agreement with the interpretation made by the respondents of the relevant provisions of the Scheme and thereby not finding the applicants fit for grant of second upgradation in the pay scale of Rs.4500-7000 (admissible to the post of Assistant Superintendent) even though they have rendered a minimum of 24 years of regular service as they are non-matriculates and do not fulfil the minimum educational qualification required for regular promotion to the next hierarchical post of Assistant Superintendent.

7. In the facts and circumstances of the case, this OA is dismissed being devoid of merit. No costs.


(Kuldip Singh)
Member (J)


(V. K. Majotra)
Member (A)

/as/