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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

CA NO.2688/2000

NEW DELHI, THIS THE 12 TH DAY OF DECEMBER, 2002.

HON'BLE MR.JUSTICE V.S.AGGARWAL, CHAIRMAN

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

1. SHRI. S. PRASAD SENIOR AUDITOR,
O/O CONROLLER OF DEFENCE ACCOUNTS
PATNA - 19
2. SHRI. R.K.PRASAD, SENIOR AUDITOR
O/O CONROLLER OF DEFENCE ACCOUNTS
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3. SHRI.S. P. SINGH, SENIOR AUDITOR,
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4. SHRI.K K PANDEY, SENIOR AUDITOR,
O/O CONROLLER OF DEFENCE ACCOUNTS.
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5. SHRI.S.N. P SINGH, SENIOR AUDITOR,
O/O CONROLLER OF DEFENCE ACCOUNTS.
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6. SHRI. N.M. KUMAR, SENIOR AUDITOR,
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7. SHRI. RAMANUJ Pd SINGH, SENIOR AUDITOR,
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8. SHRI.J N PANDEY, SENIOR AUDITOR,
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9. SHRI, K C THAKUR, SENIOR AUDITOR,
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10. SHRI C M P SINGH, SENIOR AUDITOR,
O/O CONROLLER OF DEFENCE ACCOUNTS

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11. SHRI M M ANSARI, SENIOR AUDITOR,
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12. SHRI, A P RAMA, SENIOR AUDITOR,
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13. SHRI. K P SHARMA, SENIOR AUDITOR,
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18. SHRI S S SINGH, SENIOR AUDITOR,
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19. SHRI.SACHIDANAND PRASAD, SENIOR AUDITOR,
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20. SHRI, KISHORI PASWAN, SENIOR AUDITOR,
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21. SHRI C C PRASAD, SENIOR AUDITOR,
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34. SHRI, LALLAN SINGH, SENIOR AUDITOR,
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35. SHRI CHITRANJAN ROY, SENIOR AUDITOR,
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36. SHRI A K VERMA, SENIOR AUDITOR,
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44. SHRI L P SHAH, SENIOR AUDITOR,
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45. SHRI C V N SINGH, SENIOR AUDITOR,

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46. SHRI, S K PRASAD SENIOR AUDITOR,
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68. SHRI R S JAISWAL, SENIOR AUDITOR,

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69. SHRI, T N SRIVASTAVA, SENIOR AUDITOR,
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70. SHRI A K JHA, SENIOR AUDITOR,
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72. SHRI, BALESHWAR SINGH, SENIOR AUDITOR,
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73. SHRI RAMESH PRASAD, SENIOR AUDITOR,
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74. SHRI. DIP NARAIN JHA, SENIOR AUDITOR,
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- 84. SHRI MD. AIUMUL HAQUE, SENIOR AUDITOR,
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- 85. SHRI PARMESHWAR PRASAD, SENIOR AUDITOR
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93. SHRI SITA RAM BHAGAT, SENIOR AUDITOR,
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94. SHRI RAMAYAN RAM, SENIOR AUDITOR,
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100. SHRI, R K SARAN, SENIOR AUDITOR,
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103. SHRI K N PANDEY, SENIOR AUDITOR,

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104. SHRI RAM BHADVA, SENIOR AUDITOR,
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105. SHRI R C VISWA KARMA, SENIOR AUDITOR,
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114. SHRI MAHESH CHANDRA JHA, SENIOR AUDITOR,
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117. SHRI A.M. SARKAR, SENIOR AUDITOR,
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119. SHRI N.K.LAL, SENIOR AUDITOR,
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120. SHRI N.A.ZIYA, SENIOR AUDITOR,
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121. SHRI M.L.A. SALOM, SENIOR AUDITOR,
O/O CONTROLLER OF DEFENCE ACCOUNTS
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122. SHRI S.P. YADAV, SENIOR AUDITOR,
O/O CONTROLLER OF DEFENCE ACCOUNTS
PATNA - 19

APPLICANTS

(BY SHRI E.J.VERGHESE, ADVCCATE)
VERSUS

1. UNION OF INDIA

THROUGH THE SECRETARY,

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES

AND PENSION [DEPARTMENT OF PERSONNEL & TRAINING]

NORTH BLOCK, NEW DELHI-110001

2. THE UNION OF INDIA,

THROUGH

THE SECRETARY, MINISTRY OF DEFENCE,

SOUTH BLOCK, NEW DELHI-110010

3. THE CONTROLLER GENERAL OF DEFENCE
ACCOUNTS,

WEST BLOCK V, R.K.PURAM,

NEW DELHI-110066

4. THE CONTROLLER OF DEFENCE ACCOUNTS
PATNA-110010

(BY SHRI H.K.GANGWANI, ADVCCATE)

RESPONDENTS

O R D E R (ORAL)Justice V.S. Aggarwal:-

Applicants are the employees of the Defence Accounts Department and are working in the office of the Controller of Defence. They are presently working as Senior Auditors. By virtue of the present application, they seek a direction that they are entitled to the second financial upgradation with effect from 9.8.1999 and quashing of the orders whereby the said benefit had been denied to them.

2. Some of the relevant facts are that the Government of India, on the recommendations of the Fifth Central Pay Commission decided to implement the Assured Career Progression Scheme (for short, "the ACP Scheme") for all the Central Government Civilian Employees. The Scheme had been introduced to mitigate the problem of genuine hardship and acute stagnation faced by the employees due to lack of additional promotional avenues either in the cadre or in an isolated post. It was made effective from 9.8.1999 and no new post was required to be created. The benefit of the said Scheme was granted from the date of completion of the eligibility prescribed under the ACP Scheme or from the date of issue of the instructions whichever was later. The benefit of upgradation is allowed after 12 years from the date of the first

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financial upgradation. If the first financial upgradation gets postponed on account of the employee not being found fit or due to departmental proceedings, this would have consequential affect on the second financial upgradation. In other words, if an employee has already got one regular promotion, he would be entitled to the second upgradation only on completion of 24 years of regular service under the ACP Scheme.

2. The applicants had earlier been awarded one promotion and they seek the second financial upgradation which is being denied to them on the ground that they have not qualified the departmental examination of Supervisor (A)/SAS Part-I/SAS Part-II in conformity with the clarification given by the Government of India. According to the applicants, this contention is totally illegal and is against the recruitment rules.

3. The application has been contested. It is reiterated that this controversy had been referred to the Government of India and it was clarified that all promotion norms have to be fulfilled for upgradation under the ACP Scheme. If an employee fails to qualify the departmental/skill test prescribed for the purpose, no financial upgradation shall be allowed. All the applicants

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admittedly have served for more than 24 years but have not passed the departmental examination as such. Their entitlements were rejected by Respondent No.3 in the light of the said clarification.

4. The question in controversy herein, therefore, revolves only with respect to the fact as to if the applicants have not passed the departmental examination of Supervisor (A)/SAS Part-I/SAS Part-II, still they would be entitled to the second financial upgradation under the ACP Scheme. Our attention has been drawn towards the method of recruitment to the Subordinate Accounts Service Section Officer (Accounts) grade and the relevant portion of it reads:-

"The normal method of appointment to the Subordinate Accounts Service Section Officer (Accounts) grade will be by promotion, as vacancies occur, of senior Auditors/Auditors/Clerks/Typists/D.E.Os/Stenographers/Hindi Translators and Librarians who have passed the Subordinate Accounts Service Examination and who have been adjudged fit by the Local Promotion Committee. Other qualifications being equal, such individuals will ordinarily be selected for promotion in the order of their seniority. The seniority of Section Officers (Accounts) will be fixed according to the dates of their passing the Subordinate Accounts Service Examination. The relative Seniority in the Roster of Section Officers (Accounts) as between individuals passing in the same examination will be determined with reference to the date of confirmation in the Auditors' grade or if these dates are the same, with reference to their dates of appointment as Auditors, and if these dates happened to be the same again with reference to their

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dates of birth, the older in age being treated as Senior."

It is abundantly clear from the aforesaid that an individual would ordinarily be selected for promotion in the order of his seniority but the concerned person should have passed the Subordinate Accounts Service Examination and must have been adjudged fit by the Local Promotion Committee. Admittedly, the applicants have not passed the said examination. In the absence of the same, the applicants indeed cannot allege that they should be appointed when they did not fulfil the required qualifications.

5. In that event, our attention was being drawn to Clarification No.34 given by the Ministry of Personnel, Public Grievances and Pensions dated 18.7.2000 with respect to the ACP Scheme. The question referred to was:-

"34. An employee has superannuated after 9.8.1999, i.e. the date from which ACPS was introduced. He had completed the required eligibility service as on 9.8.1999 for grant of financial upgradation but he retired on superannuation before the Screening Committee could meet to assess his suitability for grant of benefits under ACPS. Will he be entitled for financial upgradation under ACPS?"

As one glances through the same, it is obvious that this pertained to those employees who have superannuated after 9.8.1999 when the ACP Scheme was implemented but they could not be able to

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undergo any such test with respect to the eligibility. Obviously, the controversy had to be answered accordingly because after attaining the age of superannuation, one could not insist that he should undergo any such eligibility criteria. The clarification referred to and so much thought of does not come to the rescue of the applicant.

6. Our attention has also been drawn to the Clarification No.16 of the Ministry of Personnel, Public Grievances and Pensions which we are reproducing for the sake of facility:-

"16. The relevant Recruitment/ Service Rules prescribe departmental examination/ skill test for vacancy based promotion. However, this need not be insisted for upgradation under ACPS.	As per the scheme (Condition No.6), all promotion norms have to be fulfilled for upgradation under the Scheme. As such, no upgradation shall be allowed if an employee fails to qualify departmental/skill test prescribed for the purpose of regular promotion."
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It was clarified that as per the Scheme, all promotion norms have to be fulfilled. When promotions norms are not being fulfilled, as referred to above, indeed the applicants cannot claim a right to the benefit of the second financial upgradation under the ACP Scheme.

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7. As an offshoot of the reasons given above, it is obvious that the present application is without merit. It must fail and is accordingly dismissed. No costs.

Announced.

V. K. Majotra

(V.K. Majotra)
Member (A)

V. S. Aggarwal

(V.S. Aggarwal)
Chairman

/sns/