

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD**

**ORIGINAL APPLICATION NO.967 OF 2004**

This the 1st day OF February 2006.

**HON'BLE MR. K.B.S. RAJAN, J.M.**  
**HON'BLE MR. A. K. SINGH, A.M.**

Mahendra Kumar Malviya (8060577) aged about 59 years, S/o late Kailash Nath Malviya, at present working on the post of Manager, Military Farm, Meerut cantt., Meerut.

.....Applicant.

(By Advocate Shri K.P. Singh)

Versus

1. Union of India through General Manager, Ministry of Defence, Government of India, New Delhi.
2. DDGMF, Army Headquarter Q.M.G. Branch West Block-3, Wingh-7, R.K. Puram, New Delhi.

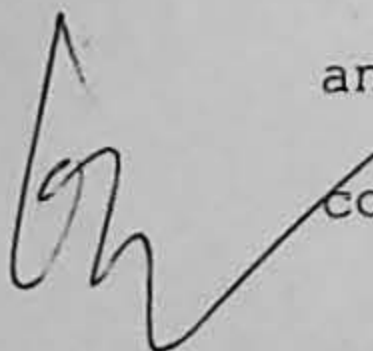
.....Respondents.

(By Advocate Sri S. Singh.)

**ORDER**

**By K.B.S. RAJAN, MEMBER-J.**

The applicant, initially inducted into service in 1969 got his first promotion as Manager in 1982 and in the wake of order dated 9,8,99, he was considered for IInd financial up gradation when his



case was rejected. The applicant contends that as per the provisions of clause IV of Annexure 2 order dated 9.8.99 read with the decision of this Tribunal dated 20.1.2003 in O.A. no. 332 of 2003, he must be granted the ACP from the date of issue of OM dated 9.8.99.

2. The respondents contest the O.A and their plea is that since the applicant did not earn the prescribed Bench Mark for higher promotion, he cannot be given the financial up gradation.

3. We have considered the arguments advanced. Financial up gradation is no-doubt in lieu of actual promotion but the benefits are not the same as available for promotion, hence, the same rigid prescription for promotion may not be applied while considering the financial up-gradation. As the spirit behind the financial up gradation, as stated in order dated 9.8.99 is to mitigate the hardship in case of acute stagnation, in our considered view, if an employee is not subjected to disciplinary proceedings at the time of consideration and if he has not been communicated any adverse remarks, the employee should be made eligible for financial up gradation. Again in so far as the instant case is concerned, it is not exactly clear whether the respondents have undertaken the exercise of consideration of the applicant for the benefit of ACP from the date he was due for the same, i.e.



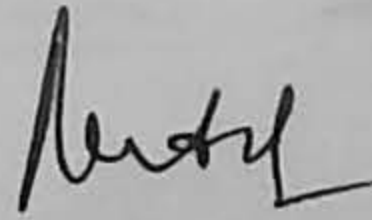


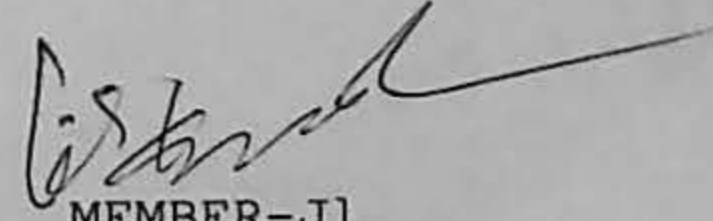
9.8.99. It is only as late as in 2003 that the respondents have rejected the grant of ACP to the applicant.

4. In all fairness, the respondents should consider the case of the applicant from August, 1999 onwards to see whether he fulfilled the requisite conditions for financial up gradation and even assuming that Bench Mark should also be considered, on an annual feature, the exercise should be repeated and in this case this does not seem to have taken place.

5. In view of the above, the O.A. stands disposed of with a direction to the respondents to reconsider the case of the applicant from 1999 onwards and if the applicant had a clean records, during those period, he be afforded the financial benefits from the date he fulfills the requisite conditions. Needless to mention that in that event, the applicant is entitled to get the arrears of pay and allowances and re-fixation of pension.

6. As the applicant has already retired, the above exercise be conducted within a period of 3 months from the date of communication of this order. No costs.

  
MEMBER-A

  
MEMBER-J]

GIRISH/-