CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

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Original Applications No. 247 & 248 of 2001
Date of Decision: This is the 9th day of Aug, 2002

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CORAM :

The Hon'ble Mr. Gopal Singh, Administrative Member

The Hon'ble Mr. J.K. Kaushik, Judicial Member

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Hawaldar Singh S/o Shri Sukhwasi Singh
aged 53 years, Watchman, Nuclear Power
Corp., Anushakti Via Kota, Resident of
H/I/3/261/NTC Colony, RAPP, Rawatbhata. ... Applicant in OA 247/01

Versus

1. Union of India through the Secretary to the Government, Department of Atomic Energy, Chatripati Shivaji Maharaj Marg, Mumbai.

2. Manager (IR) Nuclear Power Corporation, Anushakti, Via Kota.

3. D.G.M. Nuclear Power Corporation, Anuskakti, Via Kota. ... Respondents in OA 247/01

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Jugal Kishore S/o Shri Narain
aged 45 years, Watchman,
Nuclear Power Corp. Anushakti Via Kota
C/o H/I/3/215 NTC Colony, RAPP,
Rawatbhata. ... Applicant in OA 247/01

versus

...Contd..2

1. Union of India through the Secretary to the Govt., Department of Atomic Energy, Chatrapati Shivaji Maharaj Marg, Mumbai.

2. Manager (IR), Nuclear Power Corporation, Anushakti Via Kota.

3. D.G.M. Nuclear Power Corporation, Anushakti, Via Kota. ... Respondents in OA 248/01

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Mr. Vijay Mehta, counsel for the applicants.
Mr. Arun Bhansali, counsel for the respondents.

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ORDER

Per Mr. Gopal Singh :

In both these applications, the controversy involved as also the relief sought is the same and, therefore, both the applications are being disposed of by this common order.

2. In both these applications filed under section 19 of the Administrative Tribunals Act, 1985, applicants' have prayed for the following reliefs :-

> "The respondents be directed to give benefits of ACP scheme and further directed to give uniform, shoes, towels, soaps etc. and to make payment thereof for the period 1980 andonwards. The respondents be further directed to give encashment of LTC for three times. The respondents be further directed to give promotion with all consequential benefits from the date of his juniors were given promotion. The impugned Annexure A-1 may

kindly be quashed and set aside. Any other appropriate order which this Hon'ble Tribunal deems fit just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant with costs."

3. At the very outset, the learned counsel for the applicants submitted that he will only press for the relief regarding grant of benefits under the Assured Career Progression Scheme ('ACP Scheme' for short) and not the rest of the reliefs prayed for. Contention of the applicants is that they had put in more than 24 years of service at the time when the ACP Scheme was announced by the Government of India on 9.8.1999 and, therefore, they are entitled to get the benefit under the said Scheme. Having failed to get their grievance redressed by the employer, applicants have approached this Tribunal.

4. In the counter, it has been stated by the respondents that the ACP Scheme has not been adopted for implementation in the respondent-department and they are following the erst-while scheme of upgradation. It has also been pointed out by the respondents that both the applicants have got two promotions till date, one in 1991 and the other is in 2001. It has, therefore, been urged by the respondents that the applicants are not entitled to the benefits of ACP Scheme and, therefore, the O.As are liable to be dismissed.

5. We have heard the learned counsel for the parties and perused the record of the cases carefully.

6. Our attention has alsobeen drawn by the learned counsel for the respondents to Para 13 of Conditions for grant of benefits under the ACP Scheme, annexed to Government of India letter dated 9.8.1999 introducing the ACP Scheme. We consider it appropriate to reproduce below Para 13 of the Conditions for grant of ACP Scheme :

> "13. Existing time-bound promotion schemes, including in-situ promotion scheme, in various Ministries/Departments may, as per choice, continue to be operational for the concerned categories of employees. However, these schemes, shall not run concurrently with the ACP Scheme. The Administrative Ministry/Department - not the employees - shall have the option in the matter to choose between the two schemes, i.e. existing time-bound promotion scheme or the ACP Scheme, for various categories of employees. However, incase of switch-over from the existing time-bound promotion scheme to the ACP Scheme, all stipulations (viz. for promotion, redistribution of posts, upgradation involving higher functional duties etc.) made under the former (existing) scheme would cease to be operative. The ACP Scheme shall have to be adopted in its totality."

7. It is clear from above that the departments have the option to continue with their existing time-bound promotion schemes or adopt ACP Scheme and in case of swith-over from the existing time-bound promotion scheme to the ACP Scheme, all stipulations (viz. for promotion, redistribution of posts, upgradation involving higher functional duties etc.), made under the former (existing) scheme would cease to be operated. The ACP Scheme shall have to be adopted in its totality. As has been mentioned above, the respondent-department has not adopted the ACP

Scheme for their employees and they are continuing with their existing upgradation scheme. It is also seen that both the applicants have got two promotions to higher grades. In the circumstances, it has rightly been pointed out by the respondents that the applicants are not entitled to get any benefit under the ACP Scheme.

8. The learned counsel for the respondents has also produced before us a letter dated 8.2.2002, wherein, it is reiterated that those employees who are covered under NPCIL, upgradations scheme shall not be considered under the ACP Scheme. This letter has been taken on record.

9. In the light of above discussions, we do not find any merit in these applications (OAs No. 247 and 248 of 2001) and the same are hereby dismissed with no orders as to cost.

(J.K.Kaushik)
Judl.Member

(Gopal Singh)
Adm.Member

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प्रमाणित सही प्रतिलिपि
13/8/02
अनुभाग अधिकारी (न्यायिक)
केन्द्रीय प्रशासनिक अधिकरण
जोधपुर