

# **CENTRAL ADMINISTRATIVE TRIBUNAL ERNAKULAM BENCH**

**ORIGINAL APPLICATION NO. 544 OF 2008**

**Dated the 11<sup>th</sup> February, 2009**

**CORAM:-**

**HON'BLE MR. JUSTICE K.THANKAPPAN, JUDICIAL MEMBER  
HON'BLE MS K. NOORJEHAN, ADMINISTRATIVE MEMBER**

**C.G. Anto, S/o CC George,  
Residing at Kozhikode,  
Employed as Junior Engineer,  
Office of Assistant Engineer,  
Sub Division No.2, Calicut Division,  
CPWED, Kozhikode.**

**.... Applicant**

**[By Advocate: None for the applicant]**

**-Versus-**

- 1. The Union of India,  
Represented by the Secretary to the Govt. of India,  
Ministry of Urban Development, New Delhi.**
- 2. The Director General of Works,  
Central Public Works Department,  
Nirmal Bhavan, New Delhi-1.**
- 3. The Superintending Engineer,  
Calicut Central Circle,  
Central Public Works Department,  
Dutt Saw Mill Road, Kallai, Kozhikode-673 003.**
- 4. The Executive Engineer,  
Calicut Central Division,  
Central Public Works Department, Kozhikode.**
- 5. The Superintending engineer, TCC,  
Central Public Works Department,  
Thiruvananthapuram.**
- 6. The Executive Engineer, Trichur Central Division,  
Central Public Works Department, Trissur.**

**...Respondents**

**[By Advocates: Ms Jisha for Mr TPM Ibrahim Khan, SCGSC]**

This application having been heard on 9<sup>th</sup> February, 2009 the Tribunal delivered the following -

ORDER

[Hon' Mr Justice K Thankappan, J.M.]

The applicant has filed this original application under Section 19 of the Central Administrative Tribunals Act, 1985 praying for the following reliefs:

- "1. Direct respondents to issue orders granting 1<sup>st</sup> Higher Grade to the applicant with all consequential benefits with effect from 9.8.1999.
2. Issue any other orders, declaration or direction appropriate in the circumstances of the case."

The original application came up for admission and on receipt of notice issued from this Tribunal, a reply statement on behalf of the Respondents is filed. Hence this original application is heard at this stage itself.

[2] The case of the applicant is that the applicant first joined as Junior Engineer in the Central Public Works Department on 21.11.1985 and he continued in the same cadre. In the meanwhile, the Government of India enunciated a scheme known as 'Assured Career Progression' (for short ACP) with effect from 9.8.99 onwards. As per the said scheme, the employees who are not getting promotion in the normal case and because of stagnation in promotion, they will be given the next higher grade pay, in other words, financial upgradation on fulfilment of certain conditions mentioned in the scheme. The contention of the applicant is that he has completed 12 years of service in the cadre of Junior



Engineer on 21.11.97 and as per the ACP scheme he is entitled to both first and second financial upgradation. But in spite of Annexure-A/1 letter dated 5.2.2003 from 6<sup>th</sup> respondent to 5<sup>th</sup> respondent forwarding all service particulars of the applicant for grant of ACP, the applicant was not given the financial upgradation. Hence the applicant filed Annexure-A/2 representation dated 27.9.2006 for grant of ACP benefit. Thereafter Annexure-A/3 recommendation dated 12.1.07 of the Executive Engineer Calicut Central Division, CPWD was forwarded to the 3<sup>rd</sup> respondent, but his case has not been considered. In the above circumstances the applicant has approached this Tribunal.

[3] None appears for the applicant. The counsel appearing for the respondents has filed a reply statement in the matter. It is stated therein that the non-granting of financial upgradation to the applicant was due to the reasons that since objective assessment of the work and conduct of the Government servant is not considered so far to grant ACP. It is further stated in the reply statement that the applicant's case for grant of ACP is under process with second Respondent - the Director General (Works) CPWD, New Delhi and actually the claim of the applicant has not been denied. The delay has caused due to administrative reasons and there is no denial of dues as alleged.

4] In the context of the averments made in the reply statement and also on considering the grounds urged in the original application, we are of the view that none of the grounds stated in the reply statement is sustainable in the light of the scheme

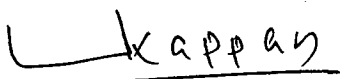


promulgated by Government of India for granting ACP. The respondents have no case that the applicant is not entitled for any such financial upgradation of the scheme and / or is not applicable to the applicant. If the applicant comes within the conditions prescribed in the scheme, such as completion of normal period of 12 years or 16 years or even 20 years, as the case may be, and even in stagnation for promotion has occurred, the applicant is entitled for such financial upgradation. Further it may be noted that as per the scheme, if the promotion is due and no pendency of any disciplinary proceeding and acquisition of any qualification for promotion is completed, the applicant is entitled for financial upgradation.

5] In the above circumstances, this original application succeeds and is allowed accordingly. The 1<sup>st</sup> and 2<sup>nd</sup> respondents are directed to pass appropriate orders in the above matter within a reasonable period and at any rate within 60 days from the date of receipt of a copy of this order. There will be no order as to costs.

Copies of this order be furnished to either side for compliance.

  
(Ms. K Noorjehan)  
Administrative Member

  
(Justice K Thankappan )  
Judicial Member