

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 614 of 2001

Tuesday, this the 16th day of September, 2003

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HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. A.K. Karthiayani,
T C 41/1588, Sree Nagar,
Manacaud, Thiruvananthapuram-9Applicant

[By Advocate Mr. George Varghese Perumpallikuttyil]

Versus

1. Union of India represented by
Secretary to Government,
Department of Space, New Delhi.

2. Director (Establishment),
Ministry of Personnel, Public Grievances
and Pensions, Department of Personnel and
Training, New Delhi.

3. Director,
Vikram Sarabhai Space Centre, ISRO,
Thiruvananthapuram - 695 022Respondents

[By Advocate Mr. C.N. Radhakrishnan]

The application having been heard on 16-9-2003, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant, who retired on superannuation on 31-7-2001, is aggrieved that she has not been given the financial upgradation with effect from the due date, viz. 9-8-1999, but has been granted the same only with effect from 9-8-2000 by Annexure A7 order dated 17-4-2001 for the reason that she did not attend the interview on 26-9-2000. The case of the applicant is that she was away in United States on leave duly granted by Annexure A1 order dated 12-7-2000, that the call letter requiring her to appear for interview before the Screening Committee on 26-9-2000 was never served on her, that

her absence for the interview was for unavoidable reason as she had been out of India on duly granted leave and that the action on the part of the respondents in not granting the financial upgradation with effect from the due date is arbitrary, irrational and legally unsustainable. The representation submitted by the applicant requesting for grant of financial upgradation with effect from 9-8-1999 has been rejected by Annexure A-10 order dated 13-7-2001 on the ground that as the applicant was absent on 26-9-2000 her case could be considered only on 31-3-2001 and she has been granted the financial upgradation with effect from 9-8-2000 which is perfectly in order. The applicant has, therefore, filed this application seeking to set aside Annexure A7 and A-10 orders and praying for a declaration that she is entitled to be granted financial upgradation under the Assured Career Progression Scheme with effect from 9-8-1999 and for a direction to the 3rd respondent to grant financial upgradation under the Assured Career Progression Scheme with effect from that date instead of 9-8-2000 as granted.

2. Respondents in their reply statement seek to justify the impugned orders on the ground that as a matter of practice those who are not present on the date of interview are considered only next year and the applicant having not appeared for the interview held on 26-9-2000 on account of her own personal reasons, her case was considered in the next meeting and the financial upgradation under the Assured Career Progression Scheme has been granted to her with effect from 9-8-2000 which is perfectly in order.

3. The applicant has filed a rejoinder in which she has appended Annexure A-11 which shows that the communication calling upon the applicant to appear for the interview on

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26-9-2000 was received in the office of the Deputy Director only on 25-9-2000 and that the Deputy Director had requested that the interview in her case be postponed to a date after 23rd October, 2000 on which date she would return from leave.

4. We have gone through the materials placed on record and have heard Shri George Varghese, learned counsel of the applicant and Shri C.N.Radhakrishnan, learned counsel of the respondents.

5. Respondents have no case that on 9-8-1999 the applicant was either ineligible or unsuitable for the financial upgradation. The fact that the applicant had completed the required length of service for being considered for financial upgradation as on 9-8-1999 is also not in dispute. There is no case that the applicant did not have a good record or service or that she did not fulfil all the norms for regular promotion in the due date. The sole reason why the financial upgradation has not been granted to the applicant with effect from the due date is that the applicant was not present for the interview which was scheduled to be held on 26-9-2000. Admittedly, the applicant had been away in United States as per duly granted leave by the competent authority and she had not been informed that she might have to appear for the interview during the leave period, failing which her case for financial upgradation under the Assured Career Progression Scheme would be deferred. The communication calling upon the applicant to appear for the interview scheduled to be held on 26-9-2000 was received in the office of the Deputy Director itself only on 25-9-2000 and the Deputy Director had intimated by Annexure A-11 his inability to correspond with the applicant and ask the applicant to be present on that date. The Deputy Director had also requested that the interview in the case of the applicant be postponed to

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a date after 23rd October, 2000. For the reason that she was away on granted leave and also for the reason that she had not been intimated of the date of interview well in advance, the applicant could not be present for the interview. It cannot be said that the absence of the applicant on 26-9-2000 for the interview was on account of any of her fault or reason within her control. For want of information she could not reach for the interview. Secondly, we have not been shown that there is any rule or instruction which prescribes that for the grant of financial upgradation under the Scheme a personal interview is a must. Even for regular promotion officers on deputation are being considered by their parent department along with their juniors on the basis of service records. The service records of the applicant were available with the respondents, while she was away in United States and her case for financial upgradation could have been considered by the Committee on the basis of those records. Although it is stated that as a matter of practice those who are not present on the date of interview are considered only next year, whether that practice is a mandatory one is not substantiated either by pleadings or by any document. However, since the applicant has been subsequently interviewed and since the respondents have no case that as on 9-8-1999 there was anything in her record of service which stood in the way of the applicant being granted the financial upgradation, we are of the considered view that the respondents should have acted gracefully to grant her financial upgradation with effect from the due date, viz. 9-8-1999. The action on the part of the respondents to put off the benefit of ACP in the case of the applicant by one year appears to be against the spirit of the Scheme.

6. In the light of what is stated above, we allow the Original Application and direct the respondents to grant the

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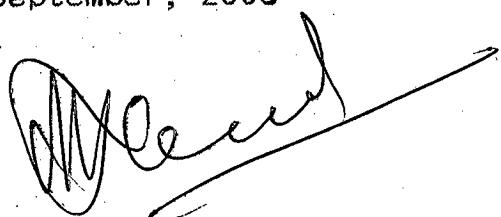
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applicant financial upgradation with effect from 9-8-1999 and to make available to her the financial benefits flowing therefrom within a period of two months from the date of receipt of a copy of this order. There is no order as to costs.

Tuesday, this the 16th day of September, 2003



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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