

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.NO. 32 OF 2007

Thursday, this the 16th day of October, 2008.

CORAM:

**HON'BLE Mr. GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE Dr. K.S.SUGATHAN, ADMINISTRATIVE MEMBER**

1. P.Baladevan Nair
Wireman, Central Electrical Division,
CPWD (Electrical)
Trivandrum - 12
Residing at Madayil Veedu T/C 19/1392,
Thamalam, Trivandrum - 12
2. N.Bhoominadan
Wireman, Central Electrical Division,
CPWD (Electrical), Cochin
Residing at Qrs.No.12, MET Quarters, Vallumal Palam
Palluruthy, Kochi - 6
3. N.Vijayakumaran Nair
Wireman, Trivandrum Central Electrical Division
CPWD (Electrical), Trivandrum
Residing at Deepalayam, Pattathil Kara
Thonakkal P.O. Trivandrum - 17
4. K.V..Francis Xavier
Wireman, Kochi Central Electrical Division,
CPWD (Electrical), Cochin - 37
Residing at Kannothe House
Vennala P.O Sowhrda Nagar, Kochi - 28
5. K.A.John
Wireman, Kochi Central Electrical Division,
CPWD (Electrical), Cochin - 37
Residing at 1/423 A, Koyikaranparambil, Kakkad P.O
Thudiyoor, Kochi
6. K.T.Sebastian
Wireman, Kochi Central Electrical Division,
CPWD (Electrical), Cochin - 3
Residing at Kannatt House
Fr.Mulavarikal Road, Konthuruthy
Thevara P.O. Kochi - 13
7. C.J.Francis Xavier
Wireman, Kochi Central Electrical Division,
CPWD (Electrical), Cochin - 37
Residing at Chennat House
Palluruthy OP.O. Kochi - 06

8. M.K.John
Wireman, Kochi Central Electrical Division,
CPWD (Electrical), Cochin - 37
Residing at Maiakal House
Perumanoor P.O. Kochi - 15
 9. V.J.Antony
Wireman, Kochi Central Electrical Division,
CPWD (Electrical), Cochin - 37
Residing at Valappilly House
Sreekala Road, Vennala P.O. Kochi - 02
 10. S.A.Sathar
Operator, Kochi Central Electrical Division,
CPWD (Electrical), Cochin
Residing at 6/1444, Pudukkadparamb House
Matacherry, Kochi - 2
 11. V.P.George
Operator, Kochi Central Electrical Division,
CPWD (Electrical), Cochin
Residing at 27/2636 A, Vadakkedath
Yuvajana Samaj Road
Kadavanthara P.O.Kochi - 20
 12. Chacko David
Wireman, Trivandrum Central Electrical Division,
CPWD (Electrical), Trivandrum
Residing at Puthussery Thadathil
Near Govt.School, Poomkulam
Vellayani P.O.Trivandrum - 22
- Applicants

(By Advocate Mr. T.R.Rajesh)

V.

1. Union of India represented by its Secretary,
Ministry of Urban Development
EW II Section, Financial Division,
Nirman Bhavan, New Delhi
 2. The Additional Director General
CPWD Southern Zone I G.P.O. A Illrd Avenue
Rajaji Bhavan, Basant Nagar,
Chennai - 600 090
 3. The Superintendent Engineer (Electrical)
BCEC/CPWD, GPOA Complex,
Koramangala, Kendriya Sadan,
Bangalore - 560 034
- Respondents

(By Advocate Mr. Varghese P.Thomas)


The application having been heard on 16.10.2008, the Tribunal on the same day delivered the following:



ORDER**HON'BLE Mr. GEORGE PARACKEN, JUDICIAL MEMBER**

The applicants herein, except the 12th applicant, entered service as Electrical Khalasis on different dates during the period from 06.11.69 to 1.09.73. The 12th applicant entered service as Wireman by direct recruitment. The applicants 1 to 9 have been promoted as Assistant Wireman on different dates in the scale of pay of Rs.950-1500 (revised to Rs.3050-4950). The applicants 10 & 11 were promoted as Assistant Operators in 1987 in the same scale. The posts of Assistant Wireman and Assistant Operator were originally categorised as semi-skilled. By the Arbitration Award dated 31.01.1988 the posts of Assistant Wireman and Assistant Operator were merged bringing all of them under the skilled category in the scale of Rs.950-1500. The aforesaid Award was given retrospective effect from 01.01.73. As a result of the said Award all the applicants herein also have become skilled category in the scale of pay of Rs.950-1500 with effect from their respective dates of promotion in the Assistant category.

2. The Government of India introduced the Assured Career Progression Scheme for the regular work charged establishment staff also vide Directorate General of Works , Central Public Works Department O.M dated 21.05.2001. Accordingly, the applicants who have completed 24 years of service way back in 1997 itself have become eligible for grant of 2nd Financial Upgradation under the ACP Scheme with effect from 09.08.99, the date of implementation of ACP Scheme by the Government of India. They have made several representations in this regard but the

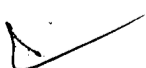


respondents have not so far granted them the benefits under ACP Scheme. Therefore, they have approached this Tribunal by filing this OA.

3. In the reply statement, the respondents have pointed out that the Government of India, DOPT, New Delhi vide O.M.No.35034/11/97-Estt (D) dated 09.08.99 stipulated the following conditions for grant of benefits under the ACP Scheme :-

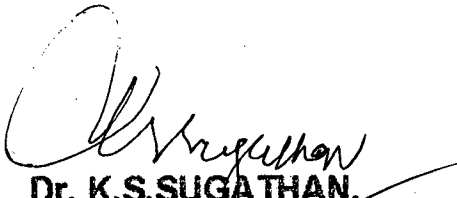
- "a, All promotion norms have to be fulfilled for upgradation under the scheme i.e
- (i) Every employee should possess the required qualification for promotion to the next higher grade and
 - (ii) He should also pass the departmental trade test, prescribed, if any, for promotion to the next higher grade."

According to them, the applicants 1 to 9 have not fulfilled the requisite qualifications as prescribed in the revised Recruitment Rules for the post of Electrician, Wireman etc. (Annexure R-1) As regards, applicants No.10 and 11 are concerned, since they have opted the stream of Operator, they have been granted the 2nd ACP benefits in the scale of pay of Rs.3200-85-4900 during the pendency of the OA, in terms of the Directorate General of Works, CPWD letter dated 17.08.2006 (Annexure A-13) issued in pursuance of the order of the Calcutta Bench of this Tribunal. The reason given by the respondents in not granting the benefits under ACP Scheme to Applicants 1 to 9 is that they do not possess the required Electrical Supervisory Certificate of competency and have not passed the trade test as required in the revised Recruitment Rules. The applicant No.12 is also equally placed as Applicants 1 to 9 and he was also denied the benefits of ACP Scheme for the same reason.



4. We have heard the learned counsel for both the parties. It is seen that the ACP AScheme has come into force on 09.08.99. On that date the applicants were governed by the pre-revised Recruitment Rules (Annexure A-1). The revised Recruitment Rules has come into force only in 2002. It is a well settled principle of law that the promotion of a government servant is to be governed by the Recruitment Rules as existing on the due date of his actual eligibility for promotion. Therefore, the eligibility of the Applicants for grant of the benefits under the ACP Scheme had to be considered by the Respondents in terms of the Annexure A-1 Recruitment Rules. In view of the above position, OA is **disposed of** with a direction to the respondents to consider the case of the applicants for grant of 2nd ACP in terms of the pre-revised Recruitment Rules (Annexure A-1). The aforesaid exercise shall be completed within a period of two months from the date of receipt of a copy of this order. The Respondents shall adhere to the aforesaid time schedule particularly in view of the fact that the applicants are at the fag end of their service and they will be soon retiring from service. There shall be no order as to costs.

Dated, the 16th October, 2008.


Dr. K.S.SUGATHAN,
ADMINISTRATIVE MEMBER


GEORGE PARACKEN
JUDICIAL MEMBER

VS