

Original Application No. 386/2007

This the ^{15th} day of September, 2008

HON'BLE SHRI M. KANTHAIAH, MEMBER (J)

HON'BLE DR. A.K. MISHRA, MEMBER (A)

Smt. Gurmeet Srivastava, aged about 54 years (Nurse (N..R.) wife of Sri Narendra Nath Nurse (NR) P&T Dispensary III Mahanagar, Lucknow, r/o A-III/224, Sector H, Aliganj, Lucknow.

Applicant

By Advocate: Sri R.S. Gupta

Versus

1. Union of India through the Secretary, Department of Post, Dak Bhawan, New Delhi.
2. Chief Post Master General, U.P., Lucknow.
3. The Chief Medical Officer I/c Postal Dispensary III, Mahanagar, Lucknow.

Respondents

By Advocate; Sri S.N. Mishra

ORDER

BY HON'BLE DR. A.K. MISHRA, MEMBER (A)

The present application is for a direction to the respondents to take into account the services rendered by the applicant in the State Govt. of U.P. for the purpose of allowing the financial upgradation as provided under the Assured Career Progressive (ACP) Scheme.


2. The applicant worked as a Nurse in the District Hospital, Faizabad from 31.10.1975 to 16.7.1981. Thereafter on being selected, she joined as a Nurse in the Postal dispensary, Lucknow w.e.f. 17.7.1981. As per ACP scheme, 1991, an employee of the Central Govt. is entitled to get the first financial upgradation after completion of 12 years and the second financial upgradation after completion of 24 years of service. She was given the 2nd upgradation on 16.7.2005 when she completed 24 years of service in the Central Govt. Her previous experience, as a state govt. employee was not taken into consideration.



3. The applicant cited the order of this Tribunal dated 27.5.2004 in O.A. No. 301/2002 (D.D. Joshi Vs. UOI and others) in which the past services of the applicant therein was taken into consideration for granting to 2nd financial upgradation. In that case, the applicant was working in the Central Govt. before he was declared as surplus. Therefore, his past services in the central Govt. was taken into consideration following the directions of this Tribunal. The facts in the present case are slightly different. Here the applicant was working in a State Govt. and she started afresh under the Central Govt. In order to give a finding about the period of service which should count towards eligibility for ACP one has to examine the scheme itself.

4. The ACP scheme for Central Govt. Civilian employees was introduced in the O.M. No.35034/1/97-Estt (D) dated 9th August, 1999 of the Ministry of Personnel, Public Grievances and Pensions. Paragraphs 3.1 and 3.2 of the Scheme are relevant for our purpose. These are extracted below:-

"3.1 While in respect of these categories also promotion shall continue to be duly earned, it is proposed to adopt the ACP scheme on a modified form to mitigate hardship in cases of acute stagnation either in a cadre or in an isolated post. Keeping in view all relevant factors, it has therefore, been decided to grant two financial upgradation (as recommended by the Fifth Central Pay Commission and also in accordance with the Agreed Settlement dated September, 11, 1997 (in relating to Group 'C' and 'D' employees) entered into with the Staff side of the National Council (JCM) under the ACP Scheme to Group 'B','C' and 'D' employees on completion of 12 years and 24 years (subject to condition no. 4 in Annexure 1) of regular service respectively. Isolated posts in Group 'A', 'B' 'C' and 'D' categories which have no promotional avenues shall also qualify for similar benefits on the pattern indicated

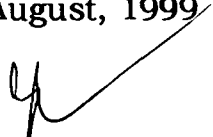


above. Certain categories of employees such as casual employees (including those with temporary status), ad-hoc and contract employees shall not qualify for benefits under the aforesaid scheme. Grant of financial upgradation under the ACP scheme shall however, be subject to the conditions mentioned in Annexure -I.

3.2 'Regular Service' for the purpose of the ACP scheme shall be interpreted to mean the eligibility service counted for regular promotion in terms of relevant Recruitment/Service Rules."

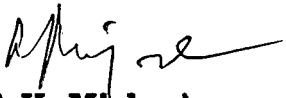
5. Paragraph 3.2 defines 'Regular Service' as the service which is counted towards eligibility for regular promotion in the relevant recruitment/service rules. In other words, an employee must render 12/24 years of regular service which otherwise would count towards regular promotions in his own cadre in order to be eligible for the assured promotion. The required service for regular promotion in a cadre means the number of years put in by an employee in the cadre concerned of the Central Govt. The service of an employee with a foreign employer such as a State Govt. does not count towards experience of regular service in the Central Govt. As such, the service of the applicant in the P&T Department of the Central Govt. only would qualify for eligibility under the ACP scheme.


6. The counsel for the applicant placed before us some of the provisions of the Financial Rules relating to the service which qualify for pension. Needless to say here that the service of the applicant in the U.P. Govt. has been allowed by the respondents to qualify for the purpose of pensionary benefits vide Annexure no.2, but this fact itself does not bring her within the scope of regular service as defined in the aforesaid O.M. dated 9th August, 1999 of the DOP&T. Therefore, we do



not find any infirmity in the order of the respondents by not giving her the 2nd financial upgradation w.e.f. 31.10.99 as claimed in this application but allowing it from 16.7.2005 when she completed 24 years of service in the Central Government.

7. In the result, Original Application is dismissed without any order as to costs.


(Dr. A.K. Mishra)
MEMBER (A)
Hls/-
15/09/08


(M. Kanthaiah)
MEMBER (J)
15-09-08