

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA

O.A. No. 38 of 2006

Date of order : 21st NOV. 2008

C O R A M

Hon'ble Ms. Sadhna Srivastava, Member (J)
 Hon'ble Shri Amit Kushari, Member [A]

Yogendra Kumar Sinha, S/o Late Ishwari Prasad, r/o Mohalla – Jai Prakash Nagar, Road No. 1, Gwalbigha, P.O. Head Post Office Gaya, P.S. Civil Lines, Gaya.

....Applicant

By Advocate : Shri R.H. Prasad

Vs.

1. The Union of India through the Secretary, Ministry of Defence, New Delhi.
2. The Controller General of Defence Accounts, West Block, R.K. Puram, Sector – 1, New Delhi.
3. The Controller of Defence Accounts, Patna.
4. Accounts Officer [AN – IC Section], Office of Controller of Defence Accounts, Patna.
5. Accounts Officer, AN – VII Section, Office of Controller of Defence Accounts, Patna.
6. Accounts Officer In-charge, PAO [ORS], Army Service Corps [Animal Transport], Gaya.
7. The Director [Establishment] Ministry of Personnel, Public Grievances and Pension [Deptt. Of Personnel and Training] North Block, New Delhi.

....Respondents

By Advocate : Shri M.D. Dwivedi.

O R D E R

S. Srivastava, M (J):- The grievance raised by the applicant is that he has been granted 2nd financial up-gradation from 29.04.02. His claim is for grant of the same with effect from 09.08.1999.

2. The facts are that the applicant was appointed as Auditor on 24.09.1965 in the office of Controller of Defence Accounts, Patna. He was promoted as Senior Auditor with effect from 01.04.1987. The ACP scheme was introduced as a result of recommendation of 5th Pay Commission with effect from 09.08.1999 to deal with the problem of stagnation and hardship faced by the employees due to lack of adequate promotional avenue. However, the ACP scheme laid down clearly [condition No. 6] that the grant of financial up-gradation was subject to fulfillment of normal promotion norms i.e., benchmark or departmental examination etc. The applicant in order to earn next promotion to the post of Supervisor Accounts had to pass the Supervisor Acctt. / SAS Pt.I examination. The same condition was applicable to earn financial up-gradation. The applicant passed the said examination on 29.4.2002. Therefore, he was granted the financial up-gradation from the said date.

3. The respondents have urged in their written statement filed on 7.9.2006 and also in their reply dated 18.7.2007 to the rejoinder of the applicant that SAS Pt I examination was held in November, 1999, September, 2000 and September, 2001, but the applicant did not appear in either of these examination while his colleagues working in the same office i.e., Sub-office , Gaya had availed the opportunity to appear in these examinations. The respondents have also pleaded that according to the instructions issued by the DOPT [Annexure 2 and 7] the employees who qualified the trade test in first attempt after 9.8.99 were allowed the benefit of ACP from 09.08.99 only and not from the date of

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passing trade test. However, those who failed in the trade test held earlier than 09.08.99 or did not appear in the trade test at all held after 09.08.99 were to be granted financial up-gradation only from the date of passing the trade test.

4. Heard learned counsel for the parties.

5. It is an admitted fact that three departmental examinations were held in between 09.08.99 and 29.04.02. it is also not disputed that the applicant did not appear in the departmental examinations held in November, 99, September, 2000 and September, 2001. The plea raised by him is that no information was given to him about the said three departmental examinations. The respondents, on the other hand, have pleaded that the notice for examination was ^{to widely} ~~widely~~ circulated. The respondents have also pleaded that the fellow employees of the applicant working in the same small office i.e., Sub Office, Gaya had availed the chance to appear in the examinations held in November, 99 & September, 2001. it is an established practice that the notice for examination is not communicated to all the eligible candidates individually. It is only put on the notice board. In fact, such information never remains a secret. Such information always becomes matter of general talk and discussion. The fact that Gaya Sub-Office is a small office and the employees working in that office had availed the opportunity makes us believe the plea of the respondents that it was widely circulated. This is also a fact that the instant OA has been filed after about three years of retirement of the applicant. Thus, it appears to be an after thought. It is most likely that the applicant had knowledge of the instructions



issued by the DOPT regarding grant of financial up-gradation on the basis of having passed the trade test. Thus, in view of the above facts and circumstances, we are of the opinion that this application is without any merit.

6. Accordingly, the OA is dismissed without any order as to the costs.



[Amit Kushari] M [A]

/cbs/



[Sadhna Srivastava] M [J]