

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 70/2003

R.A/C.P No.

E.P/M.A No. 49/2004

1. Orders Sheet. O.A. 70/03 Pg. 1 to 3 *order pg 1 to 3 disposed 01/06/04*
2. Judgment/Order dtd. 25/03/2004 Pg. 1 to 2 *disposed*
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 70/2003 Pg. 1 to 43
5. E.P/M.P. 49/2004 Pg. 1 to 5
6. R.A/C.P. Pg. to
7. W.S. Respondents No. 1, 2, 3, 4, 5, 8, 6 Pg. 1 to 8
8. Rejoinder Pg. to
9. Reply Pg. to
10. Any other Papers Pg. to
11. Memo of Appearance
12. Additional Affidavit
13. Written Arguments
14. Amendment Reply by Respondents
15. Amendment Reply filed by the Applicant
16. Counter Reply

SECTION OFFICER (Judl.)

(RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 70/03

Misc. Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant (s) J. Raw

- Vs. -

Respondent (s) h.o.t. law

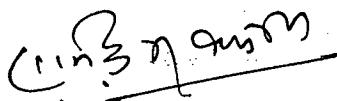
Advocate / for the applicant (s) S. Chakrabarty

Advocate for the respondent (s) CASL

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in time. Condonation Petition is filed / not filed C.F. for Rs. 50/- filed v/s IPO/BP No. 26602819 Dated 3.4.03	9.4.2003	Heard Mr. S. Chakrabarty, learned counsel for the applicant. The application is admitted. Call for the records. List on 7.5.2003 for orders.
<i>Done By. Registrar P.W.</i>		<i>Vice-Chairman</i>
<i>Concurred in by Respondent No 1 by Regd. AID</i>	7.5.2003	Present: The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. S. Biswas, Member (A). Mr. A.K. Chowdhury, learned Addl. C.G.S.C. for the respondents prays for time for filing written statement. Prayer is allowed. List again on 6.6.03 for written statement.
<i>Service report are still awaited</i>	<i>6.5.03</i>	<i>S. Biswas Member</i> <i>Vice-Chairman</i>

6.6.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. R.K. Upadhyay, Member (A).

Put up again on 7.7.2003 to enable the respondents to file written statement. This order is passed on the prayer of Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents.



Member

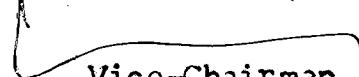


Vice-Chairman

mb

7.7.2003

Put up the matter on 11.8.2003 enabling the respondents to file written statement as prayed for by Mr.A.K.Choudhuri, learned Addl.C.G.S.C.



Vice-Chairman

bb

11.8.2003

Put up again on 16.9.2003 to enable the respondents to file written statement.



Vice-Chairman

mb

16.9.2003 Present : The Hon'ble Sri K.V. Prahaladan, Member (A).

List the matter again on 28.10.2003 for filing written statement.

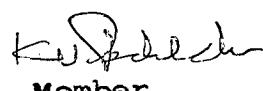


Member

mb

28.10.2003

Written statement has been filed. The case may now be listed for hearing. List the case on 2.12.2003 for hearing. The applicant may file rejoinder, if any, within two weeks from today.



Member

bb



Vice-Chairman

23.12.2003 Present : The Hon'ble Mr. Justice B. Panigrahi, Vice-Chairman.

The Hon'ble Mr. K.V. Prahla-
dan, Member (A).

No. Rejoinder has
been filed.

Mo
24.2.03.

Granted two weeks time to file
rejoinder. Let the matter appear in
the next available Division Bench for
hearing.

K. Prahla-
dan
Member

B
Vice-Chairman

mb

25.2.2004 Present: The Hon'ble Sri Shanker Raju,
Judicial Member.

The Hon'ble Sri K.V. Prahla-
dan, Administrative Member.

Heard learned counsel for the
parties. ~~Maxing concluded~~ Judgment

The O.A. is disposed of for the
reasons passed in separate sheets.

K. Prahla-
dan
Member (A)

J
Member (J)

pg

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A. No. 111 70/2003.

DATE OF DECISION 25-02-2004.

.....Sri Jagga Rao.....APPLICANT(S).

.....Sri S. Chakrabarty.....ADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

.....U.O.I. & Ors.RESPONDENT(S)

Sri A.K. Choudhury, Addl. C.G.S.C.ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. SHANKER RAJU, JUDICIAL MEMBER.

THE HON'BLE MR. K.V. PRAHLADAN, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Member (J).

✓
CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 70 of 2003.

Date of Order : This the 25th Day of February, 2004.

The Hon'ble Sri Shanker Raju, Judicial Member.

The Hon'ble Sri K.V.Prahladan, Administrative Member.

Sri Jogga Rao,
C/O G.E.Missamari,
P.O.Missamari,
Dist. Sonitpur, Assam

...Applicant

By Advocate Sri S.Chakraborty.

- Versus -

1. Union of India,
represented by the Secretary to the
Government of India,
Ministry of Defence, New Delhi.

2. Director Establishment,
Department of Personnel and Training,
North Block, New Delhi-1.

3. Chief Engineer,
Head Quarter Eastern Command,
Fort William, Koltaka-21.

4. Engineer-in-Chief,
Army Headquarters,
New Delhi.

5. Commander Works Engineer (CWE)
(Tezpur) Dist. Sonitpur, Assam.

6. Garrison Engineer,
MES Missamari, P.O. Missamari,
District-Sonitpur, Assam

...Respondents.

By Advocate Sri A.K.Choudhuri, Addl.C.G.S.C.

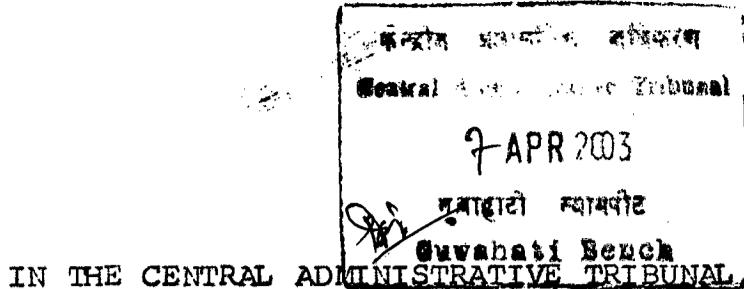
O R D E R (ORAL)

SHANKER RAJU, JUDICIAL MEMBER,

Heard Sri S.Chakraborty, learned counsel appearing for the applicant and Sri A.K.Choudhuri, learned Addl.C.G.S.C for the respondents. After hearing the parties as the respondents vide Annexure-B, a letter dated 4.4.2002 implemented the ACP scheme insofar as the second financial upgradation of the applicant is concerned upgraded ~~to~~ ^W the scale ~~to~~ ^W Rs.2750-4400/- the O.A. stands disposed of. The respondents are accordingly directed to implement the same within a period of two months from the date of receipt copy of this order by granting all consequential benefits to the applicant as per the ACP scheme.


(K.V.Prahladan)
Administrative Member


(Shanker Raju)
Judicial Member



Filed by:
Sunan Chakraborty
Advocate

GUWAHATI, BENCH

O.A.No. 70 /2003

Sri Jogga Rao

.. Applicant

-Versus-

Union of India & Ors.

.. Respondents

LIST OR DATES - SYNOPSIS OF THE CASE :

1. The applicant a MES employee working in the office of Garrison Engineer, Missamari as Gardener. He was initially appointed and posted as gardener in ESD Panagarh, West Bengal in 1973.
2. 14.1.76 Applicant was transferred to Garrison Engineer's Office, Missamari. Annexure-A (Order of Transfer) Pg - 14
3. 6.7.81 The applicant appeared in the Trade Test for promotion to the post of mate and he passed that test. Annexure-B (result of Trade Tests declared on 6.7.81) Pg - 16
4. The applicant has not been promoted inspite of clearing the trade test. Those employees who qualified along with him were promoted to

Contd... 2

the next higher post. He worked with an expectation that his case would be considered for promotion as he had cleared the trade test and also on the verbal assurance of the respondent authority.

5. 9.8.99 The Govt. of India ,Department of personnel and Training introduced a Scheme called Assured Career Progression Scheme(ACP) Scheme vide office memorandum No. 35034/1/97-Estt(D) dtd.9.8.99 . The purpose of the Scheme is to grant two financial upgradations to all group ('B', 'C' & 'D') Central Govt.Civilian employees on Completion of 12 years and 24 years of regular service respectively.

6. The applicant has not been promoted even once in his entire service career. Under the ACP Scheme an employee is provided two financial upgradation and not regular promotion, hence it has no relation with vacancies. The first upgradation under ACP Scheme is on completion of 12 years regular service and the Second upgradation is on Completion of 12 years from first upgradation. As per the ACP Scheme the

Annexure-C

Pg - 18

applicant is entitled to two financial upgradation as he completed 24 yrs of regular service without promotion. The respondents even ^eprived the applicant from his due entitlement of two financial upgradation. Under the ACP Scheme an employee will be financially ~~ly~~ upgraded on completion of 12 & 24 Years of Service or from 9.8.99 which ever is later.

7. 10.2.2000 Some Departments faced difficulties Annexure-A
in implementing the ACP Scheme and Pg- 27
sought clarifications. The Deptt of
personnel & Training examined the doubts
raised and clarified by their office
Memorandum No. 35034(1)/97-Estt(D) dtd.
10.2.2000. In Sl.No.17 it is clarified
that an employee if he completes 24 years
of regular service without regular promo-
tion he would be given two upgradation
and in doing ~~it~~ so his pay shall be first
fixed in the immediate higher scale and
then to the next higher Scale. Thus the
applicant who is presently in the Scale
of Rs 2550-3200/-i.e. Sl is entitled to be
first upgraded to scale Rs. 2650-3540/-i.e.S2
and then to Scale Rs 2650-4000/-i.e. S3. The
applicant completed more than 24 years of
regular service on the date of issuance of
the ACP Scheme and as such he is entitled
to be upgraded from 9.8.99.

-3-

8. 22.1.2001 The applicant approached the CWE Solmara and submitted a representation.

Annexure-E

Pg-40

9. 14.6.02 Pleader's notice served on Garrison Engineer.

Annexure-F

Pg-42

10. The applicant was entitled to promotion to the post of mate as he passed the trade test on 6.7.81. That promotion was denied to him without any reason or cause. Even the financial upgradation as per the ACP Scheme has not been provided to the applicant. He is subject to hostile discrimination and exploitation due to his poor economic condition and ignorance of law.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O.A.NO. 70 /2003

Sri Jogga Rao : APPLICANT

-Vs-

The Union of India & Ors.: RESPONDENTS

I N D E X

<u>Sl.No.</u>	<u>Particulars</u>	<u>Page</u>
1.	Petition	1 to 12
2.	Verification	13
3.	Annexure-A	14 - 15
4.	Annexure-B	16 - 17
5.	Annexure-C	18 - 26
6.	Annexure-D	27 - 39
7.	Annexure-E	40 - 41
8.	Annexure-F	42 - 43

Filed by

Human Chakrabarty
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O.A.No. 70 /2003

PARTICULARS OF THE APPLICANT :-

Sri Jegga Rao

Son of B.Jaggaya

C/o G.E.Missamari

P.O. Missamari,

District-Sonitpur, Assam.

PARTICULARS OF THE RESPONDENTS :-

1. Union of India

Represented by the Secretary to
the Govt. of India, Ministry of
Defence, New Delhi.

2. Director Establishment

Department of Personnel and Training
North Block, New Delhi- 110001

3. Chief Engineer

Head Quarter Eastern Command
Fort William, Kolkata- 21.

4. Engineer in Chief,

Army Head Quarters
New Delhi -

Filed by
Human Chakrabarty
Advocate.

13 - 50 of 8000

-2-

13

5. Commander Works Engineer (CWE)
(Tezpur) Dist. Sonitpur, Assam.

6. Garrison Engineer,
MES Missamari, P.O. Missamari
District-Sonitpur, Assam.

1. PARTICULARS FOR WHICH THIS APPLICATION IS MADE :-

Not promoting the applicant to the post of mate inspite of clearing the trade X test held in this regard as well as not implementing the ~~new~~ ACP Scheme introduced vide office memorandum dtd. 9.8.99.

2. JURISDICTION OF THE TRIBUNAL :-

This application is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :-

This application is within the period of limitation as prescribed under the provisions of Administrative Tribunal Act.

4. FACTS OF THE CASE :-

(i) That the applicant is a civilian in Military Engineering Services (MES) under the Ministry of Defence, Govt. of India. He is a citizen of India and at present posted as gardener under the

Contd...3

-3-

Garrison Engineer Missamari, Assam.

7.3.1
1983 ✓
1.2.3

(ii) That the applicant originally hails from Andhra Pradesh. He was initially appointed and posted as gardener at ESD Panagarh, N West Bengal in the year, 1973. Thereafter, he was transferred to ~~60~~ GE Missamari in the year 1976 vide order of Transfer/posting dtd. 14.1.76. Since then he is rendering ~~to~~ his duties at GE Missamari honestly and diligently to the satisfaction of all concerned. His identification number is 265298.

A copy of the order of transfer/posting dtd. 14.1.76 is annexed hereto as Annexure-A.

(iii) That the applicant states that the next higher post is of mate. In the year 1981 a trade ~~of~~ test was held ~~one~~ for promotion to that post and the applicant appeared in said trade test. He duly passed the test and was keeping a legitimate expectation that he would be promoted to the post of mate. But his legitimate expectation has been frustrated as he has not been promoted till today.

A copy of ~~the~~ an extract of the results of the trade tests for various posts as declared on 6.7.81 is annexed as Annexure-B.

Contd..4

15
B - To g a P a o

(iv) That the applicant states that those who qualified in the trade test along with him have already been promoted to the next higher post, but he has been left alone and still continuing in the post of gardener. The respondents have not assigned any reason for not promoting him inspite of clearing the trade A test held in this regard.

(v) That the applicant is a poor man working as gardener and not aware of the legal procedure required for enforcement of his legal rights. He worked with an expectation that his case would be considered for promotion as he had cleared the trade test and also on the assurance of the respondent authority whom he met personally and requested verbally.

(vi) That the applicant states that the respondents did not act fairly and failed to keep their assurance to promote the applicant pursuant to result of the trade test held in Feb. 1981. On the other hand those persons who qualified in the trade test along with applicant and even in subsequent years have also been promoted. The applicant has been treated discriminately by the respondents.

(vii) That the applicant states that in the year 1999

the fifth central Pay Commission in its report made certain recommendations to deal with the problem of genuine stagnation and hardship faced by the employees due to lack of adequate promotional avenues. A Scheme called Assured Career Progression (ACP) scheme was recommended. The Govt. of India, department of personnel and Training introduced the Scheme for all central Govt. Civilian employees in all Ministries/ Departments vide office memorandum No. 35034/1/ 97-Estt(D) Dtd. 9.8.99 . This scheme was made applicable of Group 'B', 'C' & 'D' posts. The purpose of this scheme is to grant two financial upgradations to group 'B', 'C' & 'D' employees on Completion of 12 years and 24 years of regular service respectively.

A copy of the office Memorandum dtd. 9.8.99 is annexed as Annexure-C.

VIII) That according to the ACP Scheme a departmental Screening Committee should be constituted for the purpose of processing the cases for grant of benefits under the Scheme. The screening committee so constituted should meet twice in a year i.e. in the first week of January, and July for advance processing of the cases. Thus cases maturing during April-September, of a particular year should be taken up for Consideration in the screening

Committee meeting in the first week of January.

Cases maturing during October-March should be taken up in the Screening committee meeting in July. The said office memorandum made it clear that the first screening committee should be constituted within One month from the issuance of the instructions to consider cases that had already matured or would have matured upto 31.3.2000.

ix) That the applicant states that the under the ACP Scheme an employee is provided with financial upgradation and not regular promotion and as such it has no relation with vacancies. The first financial upgradation under the ACP Scheme shall be allowed after 12 years of regular service and the second upgradation after 12 years of regular ~~xx~~ service from the date of first financial upgradation. The Scheme furthermore made it clear that two financial upgradations would be available only if no regular promotion during the prescribed period (12 and 24 years) had been availed by an employee. Financial benefits under the ACP Scheme should be granted from the date of Completion of the eligibility period prescribed under the ACP Scheme should be granted from the date of completion of the eligibility period prescribed under the ACP Scheme or from the date of issue of the office memorandum which ever is later. The applicant herein states that he has not been given any promotion in his entire service career and as such he is entitled to two financial upgradation as per the ACP Scheme. Even

that has been denied to him by the respondents.

X) That the applicant states that various Ministries/ Departments faced difficulties in implementing the ACP Scheme and sought clarifications on various issues. The doubts raised by various quarters were duly examined by the Department of personnel and Training and point wise clarifications were made by the department vide office memorandum No. 35034/1/97-Estt(D) (Vol-iv) dtd. 10.2.2000 In this office memorandum it has been stated that if an employee puts 24 years of regular service without any regular promotion ~~then~~ he shall be allowed two upgradations. His pay shall first be fixed in the immediate higher scale first and then to the next higher scale. Thus the applicant who is presently in the scale of Rs. 2550-3200 i.e. S-1 is entitled to be first upgraded and to the Scale of Rs. 2610-3540 i.e. S-2/then to ~~as~~ Scale of Rs. 2650-4000 i.e. S-3. Since the applicant completed 24 years of regular service on the date of issuance of the office memorandum dtd. 9.8.99, he is entitled to be upgraded from that date.

A copy of the office memorandum dtd. 10.2.2000
is annexed as Annexure-D.

XII). That the applicant states that the inaction on the part of the GE Missamari Compelled him to approach the CCE solmara. A representation was submitted before ~~to~~ him narrating the facts and circumstances and the discriminate action which deprived him from promotion.

A copy of the representation is annexed as Annexure-E.

xii) That the applicant states that inspite of the representation he received no communication from the respondents and nothing has been done to consider his case for promotion. Finding no ~~XXXXXX~~ alternative he served a pleader's notice to the G.E. Missamari on 14.6.02. By the said notice the G.E. Missamari was apprised of the facts of the case of the applicant and his due selection in the trade test entitling him for promotion to the post of mate and was asked to initiate process for the applicant's promotion. In the event of his failure to take necessary action, the applicant would approach the appropriate court of law for redressal of his grievance.

A copy of the Lawyer's notice dtd. 14.6.02 is annexed hereto as Annexure-F.

xiii) That the applicant states that it would not be out of place to mention and show that he has always been a victim of severe discrimination at the hands of the respondents. Though the applicant was posted at G.E. Missamari on being transferred from ESD Panagarh in 1976, but he ~~was~~ was denied ~~with~~ the Special Duty allowance which he ~~was~~ was entitled to ~~from~~ from the date the allowance was granted to all Central Govt. employees by the Govt. of India. Ministry of Finance. He then had to approach this Hon'ble Tribunal for a

B. Togar Rao

relief which was granted to him by this Hon'ble Tribunal vide order dtd. 10.1.03 passed in O.A. No. 241/02.

(xiv) That the applicant states that he was entitled to promotion on clearing the trade ~~xxx~~ test held in Feb .1981, but he was not given promotion by the authorities for reasons best known to them. Even his long tenure of 30 years of service deserve a promotion as it is the rule of law that in the service career of a person he should be awarded with atleast one promotion. The respondents have denied the applicant his due entitlement without any just cause or reasons. The applicant has no other alternative, but to prefer this application which is fit enough for this Hon'ble Tribunal to exercise its jurisdiction to pass appropriate direction to the respondents to promote the applicant to the next higher post.

5.

GROUNDS WITH LEGAL PROVISIONS :-

Being aggrieved by the action of the respondents the applicant prefers this application on the following grounds :-

(A) That the applicant was denied promotion inspite of clearing the trade test held in ~~1981~~ this regard, other ~~simihary~~ situated persons were promoted, but he was left out alone. The respondents act arbitrarily and the applicant was subject to hostile discrimination.

(B) That the applicant on passing the trade test was keeping a legitimate expectation that the respondents would promote him to the post of mate. But his legitimate expectation has been frustrated due to the indifferent attitude of the respondents who failed to exercise their duties in accordance with law and denied promotion to the applicant for no reason legally tenable.

(C) That the ~~xxxxxx~~ very intention of holding departmental trade test is to select the competent persons to promote to the next higher post within a reasonable time. The applicant being selected for promotion was deprived of his legitimate right to promotion in an arbitrary and whimsical manner and he has not been promoted till date although he was fit enough for promotion. The action of the respondents is legally untenable in as much as it violates the principles enshrined under Art. 14 & 16 of the Constitution of India.

(D) That except the applicant other persons who ~~were~~ were selected in the trade test had already been promoted to the next higher posts. Even those who ~~were~~ passed the trade test in subsequent years have also been promoted. But the applicant has been discriminated in total violation of the procedure established by law.

(E) That it is well established that an employee should be given at least one promotion in his service career. In the instant case the applicant in his 30 years of service has not been promoted although he was eligible for promotion and passed the required trade test long time back. The respondents have not acted fairly and deprived the applicant from his due promotion without any just cause or reason.

(F) That the applicant has been dealt with discriminately in his entire service career. The respondents taking advantage of his poor economic conditions and ignorance of law has dictated his terms of employment according to their sweet will and exploited him in the most unfair manner.

(G) That the applicant was entitled for promotion but he was denied. Even his case for financial upgradation as per the ACP Scheme 1999 was not considered. He completed more than 24 years of regular service without any promotion and as such he is entitled to two financial upgradation. The respondents violated all norms and procedure to deprive the applicant from his due entitlements.

(H) That in any view of the matter the applicant is entitled to promotion and deserve due consideration for such.

6. DETAILS OF REMEDY EXHAUSTED :-

The applicant states that representations and pleader's notice were served upon the respondents, but till date nothing has been done.

7. MATTER NOT PENDING BEFORE ANY COURT/TRIBUNAL :-

The applicant declare that no application has been filed before any other Court or Tribunal for adjudication of this case.

8. RELIEF SOUGHT :-

The applicant, therefore, prays that this Hon'ble Tribunal may be pleased to :-

1. Direct the respondents to promote the applicant to the post of mate with retrospective effect or in the alternative provide two financial upgradation as per ACP Scheme dtd. 9.8.99 with retrospective effect.
2. Any further or other order/orders as this Hon'ble Tribunal may deem fit and proper.

9. INTERIM RELIEF PRAYED FOR :-

The applicant does not pray for any interim relief at this stage.

10. PARTICULARS OF I.P.O.:-

I.P.O. Number	:-	7G 607819
Date of issue	:-	3.4.03
To whom payable	:-	Dy. Registrar, CAT
Payable at	:-	Guwahati

11. DOCUMENTS :-

Detailed particulars of the documents are indicated in the Index.

Verification..13

VERIFICATION

I, Sri B.Jogga Rao, son of B.Jaggaya, aged about 48 years, working in the office of Garrison Engineer Missamari, P.O. Missamari, Dist. Sonitpur, Assam, do hereby verify that the statements made in paragraphs 4 [i, iv, v, vi, xi, xiii, xiv] are true to my knowledge and belief and that made in paragraphs 4 [ii, iii, vii, viii ix, x, xii] are true to my information derived from records.

I sign this a verification on this the 2nd
March
day of ~~2003~~ 2003 at Guwahati.

B. Jogga Rao

Annexure-A

No. 499/EIC(1).

ENGINEERS STORES DEPOT

PANAGAR : TO AR

BURDWAN

14 Jan 1976

To,

MES NIA.

Sri B.J. Rao, Gardener

Through.

POSTINGS / TRANSFERS : SUBORDINATES

1. You are hereby transferred on permanent duty to MISSAMARI interest of State.

Authority : Chief Engineer Eastern Command

Calcutta letter No.C-131500/3/88/

Engrs/ BIG(2) dt. 03 Jan.76

2. You will be relieved of your duties in this office on 31 Jan 75(A/N) and will report for duty to your new duty station after availing usual joining time to take.

3. Advance of TA/Pay may be had on application.

4. You will submit the following before leaving the station :-

a. Security/Installation Pass#.

b. Clearance certificate from

i) Canteen (ii) Co-operative stores

iii) Librarian (iv) I/c Sub-Divn regarding handing/taking over of quarter with furniture and fittings (if in occupation of Govt. Qr.)

Contd...2

Attested by
S. Chakrabarty
Advocate

-2-

c) Departure report.

5. It may please be noted that your pay for the month of Feb.76 will be claimed by your new office only after you have reported arrived for duty there.

Sd/- Illegible,

Copy to :- CE EC Calcutta Officer

GE MISSAMARI. 1. Sri S.Jogga Rao has been paid upto Jan.76 details of pay and allowances of the individual are given before

a. Pay 199/-

b. DA 89/- Addl. DA 66,

c. CEA

d.

DEDUCTIONS :

GP Fund A/c No.

PLI A/c No.

Recovery of rend etc.

Income Tax.

Group

Security Social

2. He has availed CL for day for the year 1976. He has availed no restriated holiday during this year.

3. His date of birth is.

4. He has been paid address as under pay

88 TA.

Annexure- B

PART II ORDER SRL NO. 27 DATED 06 JUL.81 PAGE NO. 4 of 8

1.	2	3	4	5	6
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Part III Contd.

TRADE TEST

11. 265292	Shri Abdul Jabbar	Chow	Appeared T/T for MPA held on Feb.81 and declared failed.
12. 265148	Shri TN DAHAL	Chow	Appeared T/T for MPA held on Feb.81 and declared passed.
13. 232325	Shri Ganga Thakur	Chow	Appeared T/T MPA for Mate held on Feb.81 and declared passed.
14. 265298	Shri BJ Rao	Gardener	

Authy for item # Nos. 11 to 14 above- SWE Tezpur letter

No.1193/1369/EIC(2) dated 08 Jul. 81.

(Part-III ends with Srl. No.14)

Sd/- Illegible

(HP PAUL)

BSO

for GE MISSAMARI

Distribution :- Normal

PART-IV(a)

TRADE TEST

15. 232739	Shri Sitab Rai	Elect	Appeared in the Trade Test of EB held on Feb.81 and declared passed.
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Contd..2

attested by
S. Chakrabarty
Advocate

-2-

(Authy:- CWE Tezpur letter No.1193/1373/EIC(2) dated
17 Jul.81)

16. NYA Shri W/MAN
Pt
Appeared trade Test
for Electrician held on
Feb. 81 and declared
passed.

(Authy:- CWE Tezpur letter No. 1193/1369/EIC(2) dated
Jul.81)

(Part II (a) ends with Srl. No.16).

Sd/- Illegible
(HP Paul)
BSO
for GE Missamari

Distribution :- Normal.

MOST IMMEDIATE

- 98 -

ANNEXURE - 2

No. 35034/1/97-Estt(D)
Government of India
Ministry of Personnel, Public Grievances and Pensions
D.P.T. (Department of Personnel and Training)

North Block, New Delhi 110001

August 9, 1999

OFFICE MEMORANDUM

Subject: THE ASSURED CAREER PROGRESSION SCHEME FOR
THE CENTRAL GOVERNMENT CIVILIAN EMPLOYEES.

The Fifth Central Pay Commission in its Report has made certain recommendations relating to the Assured Career Progression (ACP) Scheme for the Central Government civilian employees in all Ministries/Departments. The ACP Scheme needs to be viewed as a 'Safety Net' to deal with the problem of genuine stagnation and hardship faced by the employees due to lack of adequate promotional avenues. Accordingly, after careful consideration it has been decided by the Government to introduce the ACP Scheme recommended by the Fifth Central Pay Commission with certain modifications as indicated hereunder:-

2. GROUP 'A' CENTRAL SERVICES

2.1. In respect of Group 'A' Central services (Technical/Non-Technical), no financial upgradation under the Scheme is being proposed for the reason that promotion in their case must be earned. Hence, it has been decided that there shall be no benefits under the ACP Scheme for Group 'A' Central services (Technical/Non-Technical). Cadre Controlling Authorities in their case would, however, continue to improve the promotion prospects in organisations/cadres on functional grounds by way of organisational study, cadre review, etc. as per prescribed norms.

3. GROUP 'B', 'C' AND 'D' SERVICES/POSTS AND ISOLATED
POSTS IN GROUP 'A', 'B', 'C' AND 'D' CATEGORIES

3.1. While in respect of these categories also promotion shall continue to be duly earned, it is proposed to adopt the ACP Scheme in 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 upgradations [as recommended by the Fifth Central Pay Commission and also in accordance with the Agreed Settlement dated September 11, 1997 (in relation 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-I) 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 upgradations under the ACP Scheme shall, however, be subject to the conditions mentioned in Annexure-I.

....2/

Attested by
S. Chakraborty
Advocate

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

4. Introduction of the ACP Scheme should, however, in no case affect the normal (regular) promotional avenues available on the basis of vacancies. Attempts needed to improve promotion prospects in organisations/cadres on functional grounds by way of organisational study, cadre reviews, etc as per prescribed norms should not be given up on the ground that the ACP Scheme has been introduced.

5. Vacancy based regular promotions, as distinct from financial upgradation under the ACP Scheme, shall continue to be granted after due screening by a regular Departmental Promotion Committee as per relevant rules/guidelines.

6. SCREENING COMMITTEE

6.1 A departmental Screening Committee shall be constituted for the purpose of processing the cases for grant of benefits under the ACP Scheme.

6.2 The composition of the Screening Committee shall be the same as that of the DPC prescribed under the relevant Recruitment/Service Rules for regular promotion to the higher grade to which financial upgradation is to be granted. However, in cases where DPC as per the prescribed rules is headed by the Chairman/Member of the UPSC, the Screening Committee under the ACP Scheme shall, instead, be headed by the Secretary or an officer of equivalent rank of the concerned Ministry/Department. In respect of isolated posts, the composition of the Screening Committee (with modification as noted above, if required) shall be the same as that of the DPC for promotion to analogous grade in that Ministry/Department.

6.3 In order to prevent operation of the ACP Scheme from resulting into undue strain on the administrative machinery, the Screening Committee shall follow a time-schedule and meet twice in a financial year - preferably in the first week of January and July for advance processing of the cases. Accordingly, cases maturing during the first-half (April-September) of a particular financial year for grant of benefits under the ACP Scheme shall be taken up for consideration by the Screening Committee meeting in the first week of January of the previous financial year. Similarly, the Screening Committee meeting in the first week of July of any financial year shall process the cases that would be maturing during the second-half (October-March) of the same financial year. For example, the Screening Committee meeting in the first week of January, 1999 would process the cases that would attain maturity during the period April 1, 1999 to September 30, 1999 and the Screening Committee meeting in the first week of July, 1999 would process the cases that would mature during the period October 1, 1999 to March 31, 2000.

6.4 To make the Scheme operational, the Cadre Controlling Authorities shall constitute the first Screening Committee of the current financial year within a month from the date of issue of these instructions to consider the cases that have already matured or would be maturing upto March 31, 2000 for grant of benefits under the ACP Scheme. The next Screening Committee shall be constituted as per the time-schedule suggested above.

Ministries/Departments are advised to explore the possibility of effecting savings so as to minimise the additional financial commitment that introduction of the ACP Scheme may entail.

8. The ACP Scheme shall become operational from the date of issue of this Office Memorandum.

9. In so far as persons serving in the Indian Audit and Accounts Departments are concerned, these orders issue after consultation with the Comptroller and Auditor General of India.

10. The Fifth Central Pay Commission in paragraph 52.15 of its Report has also separately recommended a "Dynamic Assured Career Progression Mechanism" for different streams of doctors. It has been decided that the said recommendation may be considered separately by the administrative Ministry concerned in consultation with the Department of Personnel and Training and the Department of Expenditure.

11. Any interpretation/clarification of doubt as to the scope and meaning of the provisions of the ACP Scheme shall be given by the Department of Personnel and Training (Establishment-D).

12. All Ministries/Departments may give wide circulation to these instructions for guidance of all concerned and also take immediate steps to implement the Scheme keeping in view the ground situation obtaining in services/cadres/ posts within their administrative jurisdiction;

13. Hindi version would follow.

✓
(K.K. JHA)

Director(Establishment)

To

1. All Ministries/Departments of the Government of India
2. President's Secretariat/Vice President's Secretariat/Prime Minister's Office/
3. Supreme Court/Rajya Sabha Secretariat/Lok Sabha Secretariat/Cabinet Secretariat/
4. UPSC/CVC/C&AG/Central Administrative Tribunal(Principal Bench), New Delhi
5. All attached/subordinate offices of the Ministry of Personnel, Public Grievances and Pensions
6. Secretary, National Commission for Minorities
7. Secretary, National Commission for Scheduled Castes/Scheduled Tribes
8. Secretary, Staff Side, National Council (JCM), 13-C, Ferozeshah Road, New Delhi
9. All Staff Side Members of the National Council (JCM)
- Establishment (D) Section - 1000 copies

CONDITIONS FOR GRANT OF BENEFITS
UNDER THE ACP SCHEME

1. The ACP Scheme envisages merely placement in the higher pay-scale/grant of financial benefits (through financial upgradation) only to the Government servant concerned on personal basis and shall, therefore, neither amount to functional/regular promotion nor would require creation of new posts for the purpose;
2. The highest pay-scale upto which the financial upgradation under the Scheme shall be available will be Rs.14,300-18,300. Beyond this level, there shall be no financial upgradation and higher posts shall be filled strictly on vacancy based promotions;
3. The financial benefits under the ACP Scheme shall be granted from the date of completion of the eligibility period prescribed under the ACP Scheme or from the date of issue of these instructions whichever is later;
4. The first financial upgradation under the ACP Scheme shall be allowed after 12 years of regular service and the second upgradation after 12 years of regular service from the date of the first financial upgradation subject to fulfillment of prescribed conditions. In other words, if the first upgradation gets postponed on account of the employee not found fit or due to departmental proceedings, etc this would have consequential effect on the second upgradation which would also get deferred accordingly;
- 5.1 Two financial upgradations under the ACP Scheme in the entire Government service career of an employee shall be counted against regular promotions (including in-situ promotion and fast-track promotion availed through limited departmental competitive examination) availed from the grade in which an employee was appointed as a direct recruit. This shall mean that two financial upgradations under the ACP Scheme shall be available only if no regular promotions during the prescribed periods (12 and 24 years) have been availed by an employee. If an employee has already got one regular promotion, he shall qualify for the second financial upgradation only on completion of 24 years of regular service under the ACP Scheme. In case two prior promotions on regular basis have already been received by an employee, no benefit under the ACP Scheme shall accrue to him;
- 5.2 Residency periods (regular service) for grant of benefits under the ACP Scheme shall be counted from the grade in which an employee was appointed as a direct recruit;
6. Fulfillment of normal promotion norms (bench-mark, departmental examination, seniority-cum-fitness in the case of Group 'D' employees, etc.) for grant of financial upgradations, performance of such duties as are entrusted to the employees together with retention of old designations, financial upgradations as personal to the incumbent for the stated purposes and restriction of the ACP Scheme for financial and certain other benefits (House Building Advance, allotment of Government accommodation, advances, etc) only without conferring any privileges related to higher status (e.g. invitation to ceremonial functions, deputation to higher posts, etc) shall be ensured for grant of benefits under the ACP Scheme;

Financial upgradation under the Scheme shall be given to the next higher grade in accordance with the existing hierarchy, in a cadre/category of posts without creating new posts, for the purpose. However, in case of isolated posts, in the absence of defined hierarchical grades, financial upgradation shall be given by the Ministries/Departments concerned in the immediately next higher (similar/common) pay-scales as indicated in Annexure-II which is in keeping with Part-A of the First Schedule annexed to the Notification dated September 30, 1997 of the Ministry of Finance (Department of Expenditure). For instance, incumbents of isolated posts in the pay-scale S-4, as indicated in Annexure-II, will be eligible for the proposed two financial upgradations only to the pay-scales S-5 and S-6. Financial upgradation on a dynamic basis (i.e. without having to create posts in the relevant scales of pay) has been recommended by the Fifth Central Pay Commission only for the incumbents of isolated posts which have no avenues of promotion at all. Since financial upgradations under the Scheme shall be personal to the incumbent of the isolated post, the same shall be filled at its original level (pay-scale) when vacated. Posts which are part of a well-defined cadre shall not qualify for the ACP Scheme on 'dynamic' basis. The ACP benefits in their case shall be granted conforming to the existing hierarchical structure only;

8. The financial upgradation under the ACP Scheme shall be purely personal to the employee and shall have no relevance to his seniority position. As such, there shall be no additional financial upgradation for the senior employee on the ground that the junior employee in the grade has got higher pay-scale under the ACP Scheme;

9. On upgradation under the ACP Scheme, pay of an employee shall be fixed under the provisions of FR 22(I) a(1) subject to a minimum financial benefit of Rs.100/- as per the Department of Personnel and Training Office Memorandum No.1/6/97-Pay.I dated July 5, 1999. The financial benefit allowed under the ACP Scheme shall be final and no pay-fixation benefit shall accrue at the time of regular promotion i.e. posting against a functional post in the higher grade;

10. Grant of higher pay-scale under the ACP Scheme shall be conditional to the fact that an employee, while accepting the said benefit, shall be deemed to have given his unqualified acceptance for regular promotion on occurrence of vacancy subsequently. In case he refuses to accept the higher post on regular promotion subsequently, he shall be subject to normal debarment for regular promotion as prescribed in the general instructions in this regard. However, as and when he accepts regular promotion thereafter, he shall become eligible for the second upgradation under the ACP Scheme only after he completes the required eligibility service/period under the ACP Scheme in that higher grade subject to the condition that the period for which he was debarred for regular promotion shall not count for the purpose. For example, if a person has got one financial upgradation after rendering 12 years of regular service and after 2 years therefrom if he refuses regular promotion and is consequently debarred for one year and subsequently he is promoted to the higher grade on regular basis after completion of 15 years (12+2+1) of regular service, he shall be eligible for consideration for the second upgradation under the ACP Scheme only after rendering ten more years in addition to two years of service already rendered by him after the first financial upgradation (2+10) in that higher grade i.e. after 25 years (12+2+1+10) of regular service because the debarment period of one year cannot be taken into account towards the required 12 years of regular service in that higher grade;

11. In the matter of disciplinary/penalty proceedings, grant of benefits under the ACP Scheme shall be subject to rules governing normal promotion. Such cases shall, therefore, be regulated under the provisions of relevant CCS(CCA) Rules, 1965 and instructions thereunder;

12. The proposed ACP Scheme contemplates merely placement on personal basis in the higher pay-scale/grant of financial benefits only, and shall not amount to actual/functional promotion of the employees concerned. Since orders regarding reservation in promotion are applicable only in the case of regular promotion, reservation orders/roster shall not apply to the ACP Scheme which shall extend its benefits uniformly to all eligible SC/ST employees also. However, at the time of regular/functional (actual) promotion, the Cadre Controlling Authorities shall ensure that all reservation orders are applied strictly;

13. Existing time-bound promotion schemes, including in-situ promotion scheme, in various Ministries/Departments may, as per choice, continue to be operational for the concerned categories of employees. However, these schemes shall not run concurrently with the ACP Scheme. The Administrative Ministry/Department -- not the employees -- shall have the option in the matter to choose between the two schemes, i.e. existing time-bound promotion scheme or the ACP Scheme, for various categories of employees. However, in case of switch-over from the existing time-bound promotion scheme to the ACP Scheme, all stipulations (viz. for promotion, redistribution of posts, upgradation involving higher functional duties, etc) made under the former (existing) scheme would cease to be operative. The ACP Scheme shall have to be adopted in its totality;

14. In case of an employee declared surplus in his/her organisation and in case of transfers including unilateral transfer on request, the regular service rendered by him/her in the previous organisation shall be counted along with his/her regular service in his/her new organisation for the purpose of giving financial upgradation under the Scheme; and

15. Subject to Condition No. 4 above, in cases where the employees have already completed 24 years of regular service, with or without a promotion, the second financial upgradation under the scheme shall be granted directly. Further, in order to rationalise unequal level of stagnation, benefit of surplus regular service (not taken into account for the first upgradation under the scheme) shall be given at the subsequent stage (second) of financial upgradation under the ACP Scheme as a one time measure. In other words, in respect of employees who have already rendered more than 12 years but less than 24 years of regular service, while the first financial upgradation shall be granted immediately, the surplus regular service beyond the first 12 years shall also be counted towards the next 12 years of regular service required for grant of the second financial upgradation and, consequently, they shall be considered for the second financial upgradation also as and when they complete 24 years of regular service without waiting for completion of 12 more years of regular service after the first financial upgradation already granted under the Scheme.


(K.K. JHA)
Director(Establishment)

STANDARD/COMMON PAY-SCALES

As per Part-A of the First Schedule Annexed to the Ministry of Finance
(Department of Expenditure) Gazette Notification dated September 30, 1997

[REFERENCE PARA 7 OF ANNEXURE I OF THIS OFFICE MEMORANDUM]

S.No.	Revised pay-scales (Rs)	
1.	S-1	2550-35-2660-60-3200
2.	S-2	2610-60-3150-65-3540
3.	S-3	2650-65-3300-70-4000
4.	S-4	2750-70-3800-75-4400
5.	S-5	3050-75-3950-80-4590
6.	S-6	3200-85-4900
7.	S-7	4000-100-6000
8.	S-8	4500-125-7000
9.	S-9	5000-150-8000
10.	S-10	5500-175-9000
11.	S-12	6500-200-10500
12.	S-13	7450-225-11500
13.	S-14	7500-250-12000
14.	S-15	8000-275-13500
15.	S-19	10000-325-15200
16.	S-21	12000-375-16500
17.	S-23	12000-375-18000
18.	S-24	14300-400-18200

MAIN FEATURES OF THE ASSURED CAREER PROGRESSION SCHEME

-25-

The main features of the Assured Career Progression Scheme are:-

36

- (i) It is financial upgradation, not promotion.
- (ii) It has no relation with vacancies.
- (iii) Normal (Regular) promotion on the basis of vacancies will continue to be granted as per relevant rules, when vacancies in higher grade arise.
- (iv) Cadre Review will not cease.
- (v) The benefit is on personal basis.
- (vi) Two financial upgradations under the ACP Scheme shall be available on completion of 12 years and 24 years of regular service respectively.
- (vii) If the first upgradation gets postponed on account of the employee not found fit due to Departmental proceedings etc. this would have consequential effect on the second upgradations.
- (viii) If an employee has already got one regular promotion, he shall qualify for the first financial upgradation on completion of 24 years of regular service under the ACP Scheme. In case two prior promotions on regular basis have already been received by an employee, no financial benefit under the scheme shall accrue to him.
- (ix) Departmental Screening Committees (same as DPCs) to process cases.
- (x) Screening to be held twice a year - Jan and Jul in advance. First screening to be done within one month of the issue of the order for cases maturing upto 31 March 2000.
- (xi) Scheme to be operational w.e.f. 09 Aug 99.

-26-

(xii) Upgradation to be given to the next higher grade in accordance with existing hierarchy in the Cadre. In case of isolated posts where there is no hierarchy, upgradation should be given in the next higher scale as per standard pay scales recommended by Fifth CPC.

(xiii) On financial upgradation, the concerned employee will continue to retain old designation and perform such duties as entrusted to the employee.

(xiv) The ACP Scheme will be restricted to financial and certain other benefits like House Building Advance, Allotment of Government Accommodation, Advances etc. only. This will not confer any privilege related to higher status e.g. deputation to higher posts etc.

(xv) On upgradation under ACP Scheme, pay of an employee shall be fixed under the provisions of FR 22(I)(a)(1) subject to a minimum financial benefit of Rs.100. The financial benefit allowed under the ACP Scheme shall be final and no fixation benefit will accrue at the time of regular promotion.

(xvi) In the matter of Disciplinary Penalty proceedings, grant of benefits under the ACP Scheme will be subject to rules governing normal promotion.

(xvii) Orders regarding reservation in promotion are not applicable to ACP Scheme.

(xviii) Existing In Situ Promotion Scheme will not run concurrently with the ACP Scheme.

(xix) In cases where employees have already completed 24 years of regular service with or without a promotion, second financial upgradation under the Scheme shall be granted directly.

F.No.35034/1/97-ESII(D)(Vol.IV)

Government of India

Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

New Delhi 110001

February 10, 2000

OFFICE MEMORANDUM

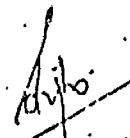
Subject:- ASSURED CAREER PROGRESSION SCHEME FOR THE CENTRAL GOVERNMENT CIVILIAN EMPLOYEES - CLARIFICATIONS REGARDING

1. The undersigned is directed to invite reference to the Department of Personnel and Training Office Memorandum of even number dated August 9, 1999 regarding the Assured Career Progression Scheme (ACPS). Consequent upon introduction of the Scheme, clarifications have been sought by various Ministries/Departments about certain issues in connection with implementation of the ACPS. The doubts raised by various quarters have been duly examined and point-wise clarifications have accordingly been indicated in the Annexure.

2. The ACP scheme should strictly be implemented in keeping with the Department of Personnel and Training Office Memorandum of even number dated August 9, 1999 read with the aforesaid clarifications (Annexure). Cases where the ACP Scheme has already been implemented shall be reviewed/recalculated if the same are not found to be in accordance with the scheme/clarifications.

3. All Ministries/Departments may give wide circulation to these clarificatory instructions for general guidance and appropriate action in the matter.

4. Hindi version would follow.


(K.K. JHA)

Director(Establishment)

To

1. All Ministries/Departments of the Government of India
2. President's Secretariat/Vice President's Secretariat/Prime Minister's Office/ Supreme Court/Rajya Sabha Secretariat/Lok Sabha Secretariat/Cabinet Secretariat/UPSC/CVC/C&AG/Central Administrative Tribunal(Principal Bench), New Delhi
3. All attached/subordinate offices of the Ministry of Personnel, Public Grievances and Pensions
4. Secretary, National Commission for Minorities
5. Secretary, National Commission for Scheduled Castes/Scheduled Tribes
6. Secretary, Staff Side, National Council (JCM), 13-C, Ferozeshah Road, New Delhi
7. All Staff Side Members of the National Council (JCM)
8. Establishment (D) Section - 1000 copies

....2/-

attested by
S. Chakrabarty
Advocate

MOST IMMEDIATE

MINISTRY OF DEFENCE
D(Civ.I)

Subject: Assured Career Progression Scheme for the Central Government
Civilian Employees.- Clarifications regarding

In continuation of Ministry of Defence I.D.note No.11(6)/98/D(Civ.I) dt.12.8.99 on the above subject, a copy of Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training's O.M. No.35034/1/07-E01(D)(Vol.IV) dt.10.2.2000 clarifying various points on the application of ACP Scheme is sent herewith for information and guidance.


(C. A. Subramanian)
Deputy Secretary
15.2.2000

G/Org 4(Civ)(d)	DGNCC/Pers@	DGDE/Admin.
Air HQrs/PC-5	DGAFMS/DG-2B	DGAQA
NHQ/CP Dte.	O.F.B. Calcutta	DGQ/Admin-7B
R&D/DOP	DPR	O/o CAO.

MOD I.D.No.11(6)/98/D(Civ.I) dt.15.2.2000.

Copy to:

D (Appts.); D (Fy.II), D (R&D), D (GS-III); D (QS); D (Q&C); D (JCM); D (AG);
D (N-II) D (Air-III) DFA (AG) D (Works) D (O-II)

The CGDA All CDAs All Sr. Dy.DADS, The DGADS; The Asstt. Audit Officers(Defence Services) Kirkee, Kanpur; Bangalore And Allahabad. The Director of Accounts (Postal) APS Section Nagpur-440001.

DFA (AG) DFA(Navy) DFA(AF) DFA(Budget-II)
AFA (DP-I) CCA Factory, Calcutta

OFCell, Chief Canteen Officer/QMG Br., OC Defence Security Troops Room No.4 H Block; Air HQrs/JDPC AG/PS-3A; AG/PS-3B; AG/Budget; E-in-C's Br./CSCC; E-In-C Br. EIB; HVF Cell; Addl.DGOF Kanpur; DGQA/Admin-14; RS-24; Coast Guard HQrs/National Stadium, New Delhi; AD/DGQA(Coord); General Secretary/AIDEF, 70 Market Road, Kirkee, Pune-411003. General Secretary, INDWF, 25/19, KarachiKhana, Kanpur-208001. Chairman, CAT, Faridkot House, Copernicus Marg New Delhi.

ANNEXURE

[Reference:-Office Memorandum No. 35034/1/97-Estt(D)(Vol.IV) dated 10.2.2000]

S.No.	Point of doubt	Clarification
1.	<p>Two posts carrying different pay scales constituting two rungs in a hierarchy, have now been placed in the same pay-scale as a result of rationalisation of pay-scales. This has resulted into change in the hierarchy in as much as two posts which constituted feeder and promotion grades in the pre-merged scenario have become one grade. The position may be clarified further by way of the following illustration: prior to the implementation of the Fifth Central Pay Commission recommendation, two categories of posts were in the pay-scales of Rs.1200-1800 and Rs.1320-2040, respectively; the latter being promotion post for the former. Both the posts have now been placed in the pay-scale of Rs.4000-6000. How the benefits of the ACP Scheme is to be allowed in such cases?</p>	<p>Since the benefits of upgradation under ACP Scheme (ACPS) are to be allowed in the existing hierarchy, the mobility under ACPS shall be in the hierarchy existing after merger of pay-scales by ignoring the promotion. An employee who got promoted from lower pay-scale to higher pay-scale as a result of promotion before merger of pay-scales shall be entitled for upgradation under ACPS ignoring the said promotion as otherwise he would be placed in a disadvantageous position vis-à-vis the fresh entrant in the merged grade.</p>
2.	<p>Some employees have been allowed selection grade/in-situ promotions though these grades are not a part of the defined hierarchy. Whether this is to be considered as promotion for the purpose of ACPS? Also, what will be the situation if selection grade has been allowed in lieu of higher pay-scale?</p>	<p>Mobility under ACPS is to be allowed in the 'existing hierarchy'. As such, if any selection grade/in-situ promotion has been allowed to employees which is not a part of the hierarchy, it shall not be counted as promotion for the purpose of ACPS. For illustration sake, junior engineers of CPWD appointed in the grade Rs.5000-8000/- are allowed the scale of Rs.5500-9000/- on completion of five years of regular service and the scale of Rs.6,500-10,500/- on completion of fifteen years of regular service. The scale of Rs.5500-9000/- is not a part of the defined hierarchy for them. In such cases, the pay-scale which is not a part of the hierarchy may be treated to have been withdrawn. However, fall in pay resulting out of this shall be protected by granting personal pay in the aforesaid direct entry grade to be adjusted against future increments. Moreover, as per Condition No.13 of ACPS, such existing (previous) schemes would be discontinued with the adoption of ACPS. However, in the case of common category of posts, the existing hierarchy in relation to a cadre would mean the restructured grades recommended by the Fifth Central Pay Commission.</p>

Q.No.	Point of doubt	Clarification
3.	<p>An isolated post of Jeep Driver in the pay-scale of Rs.3050-4590 has been allowed in-situ promotion in the grade of Rs.4000-6000, whereas as per Annexure-II of the O.M. dated 9.8.1999 next scale is Rs.3200-4900. What should be the grade allowed under ACPS? Similarly, Despatch Rider in the pre-revised pay-scale of Rs.950-1400 and staff car driver in the pre-revised scale of Rs.950-1500 have been allowed revised pay-scale of Rs.3050-4590. What should be the benefit under ACPS?</p>	<p>In such isolated cases option should be either to follow the promotion scheme as formulated, vide DoP&T O.M. No.22036/1/92-Estl(D) dated 30.11.1993, read with O.M. No.35034/3/97-Estl(D) dated 1.6.1998 or to grant benefits to the incumbents of such isolated post on a dynamic basis as per Condition No.7 of ACPS.</p>
4.	<p>In a case where a person is appointed to a post on transfer (absorption) basis from another post, whether 12 years and 24 years of service for the purpose of ACPS will count from the initial appointment or otherwise.</p>	<p>The benefits under ACPS are limited to higher pay scale and do not confer designation, duties and responsibilities of the higher post. Hence, the basic criterion to allow the higher pay scale under ACPS should be whether a person is working in the same pay scale for the prescribed period of 12/24 years. Consequently, so long as a person is in the same pay scale during the period in question, it is immaterial whether he has been holding different posts in the same pay scale. As such, if a Government servant has been appointed to another post in the same pay scale either as a direct recruit or on absorption (transfer) basis or first on deputation basis and later on absorbed (on transfer basis), it should not make any difference for the purpose of ACPS so long as he is in the same pay scale. In other words, past promotion as well as past regular service in the same pay scale, even if it was on different posts for which appointment was made by different methods like direct recruitment, absorption (transfer)/deputation, or at different places should be taken into account for computing the prescribed period of service for the purpose of ACPS. Also, in case of absorption (transfer)/deputation in the aforesaid situations, promotions earned in the previous/present organisations, together with the past regular service shall also count for the purpose of ACPS. However, if the appointment is made to higher pay-scale either as on direct recruitment or on absorption (transfer) basis or first on deputation basis and later on absorbed (on transfer basis), such appointment shall be treated as direct recruitment and past service/promotion shall not count for benefits under ACPS.</p>
5.	<p>Whether a Government servant, who is direct recruit in one grade and subsequently joins another post again as direct recruit, is eligible for first financial upgradation under ACPS after completion of 12 years of service counted from the first appointment or from the subsequent second appointment as direct recruit?</p>	
6.	<p>An employee appointed initially on deputation to a post gets absorbed subsequently, whether absorption may be termed as promotion or direct recruitment. What will be the case if an employee on deputation holds a post in the same pay-scale as that of the post held by him in the present cadre? Also, what will be the situation if he was holding a post in the parent cadre carrying a lower pay-scale?</p>	

S.No.	Point of doubt	Clarification
		Needless to say, in cases of transfer on administrative ground, involving only change of station within the same department, the service rendered in the same grade at two stations may count for ACPS, as such transfers are within the same organisation, ordered generally for administrative/personal considerations and the service rendered in the earlier station counts as eligibility service for promotion.
7.	Whether the instructions on ACPS are applicable to the employees working in the instrumentalities like autonomous/judicial/statutory bodies? Similarly, whether the orders are applicable to the employees working in industries governed by certified standing orders, Factories Act and Industrial Disputes Act, etc?	ACPS is applicable only to Central Government civilian employees and, as such, does not get automatically extended to autonomous/statutory bodies. A conscious decision in this regard shall have to be taken by the governing body/competent authority/organisation concerned. In relation to others, specific cases shall be examined in consultation with the Department of Personnel and Training.
8.	Appointment on the basis of limited departmental examination by which an employee joined a new service should be treated as promotion or not. For example, in case of Group-D employees appointed as LDCs or Grade-D stenographers appointed from amongst LDCs should be treated as direct recruits or not in the respective higher grades.	If the relevant Recruitment Rules provide for filling up of vacancies of Stenographers Grade 'D'/Junior Stenographers by direct recruitment, induction of LDCs to the aforesaid grade through Limited Departmental Competitive Examination may be treated as direct recruitment for the purpose of benefit under ACPS. However, in such cases, service rendered in a lower pay-scale shall not be counted for the purpose of benefit under ACPS. The case of Grade 'D' employees who become LDCs on the basis of departmental examination stand on different footing. In their case, relevant Recruitment Rules prescribe a promotion quota to be filled up on the basis of departmental examination. Therefore, such appointments shall be counted as promotion for the purpose of ACPS. In such situations, past regular service shall also be counted for further benefits, if any, under the Scheme.

S.No	Point of doubt	Clarification
9.	<p>A merged pre-revised pay-scale of Rs.775-1150/- was allowed to Group-D employees as a result of an agreement with the Staff Side in the National Council of JCM. Those Group-D employees drawing Rs.1030/- (pre-revised) or above as basic pay have been allowed S-3 (revised) (Rs.2650-4000/-) and those drawing less have been allowed S-2 (revised) (Rs.2610-3540/-). The replacement scales of Rs.2610-3540/- and Rs.2650-4000 should be treated as one. Since S-4 (revised) (Rs.2750-4400/-) does not operate in the Central Secretariat, Group 'D' employees should be given second upgradation in S-5 i.e. Rs.3050-4590/-.</p>	<p>The issue of demerger of the integrated pay-scale of Rs.775-1150/- is already under consideration of the National anomaly Committee. It has not been agreed either to treat the promotion to S-2 and S-3 as one or for merging the pay-scales. As the merger of the pay-scales earlier was as a result of an agreement only with a view to provide certain relief to the stagnating employees, it cannot, in itself, be the ground for allowing additional benefits. As such, an employee inducted in S-1 and now placed in S-2 shall be allowed one more upgradation i.e. in S-3 under ACPS. An employee inducted in S-1 and now placed in S-3 shall not be allowed any further upgradation as he has already availed of two financial upgradations.</p>
10.	<p>For isolated posts; the scale of pay for ACPS as recommended by the Pay Commission may be implemented and not the standard/ common pay-scales indicated vide Annexure-II of the Office Memorandum dated August 9, 1999.</p>	<p>For isolated posts, the scales of pay for ACPS shall be the same as those applicable for similar posts in the same Ministry/ Department/Cadre except where the Pay Commission has recommended specific pay-scales for mobility under ACPS. Such specific cases may be examined by respective Ministries/ Departments in consultation with the Department of Personnel and Training. In the case of remaining isolated posts, the pay-scales contained in Annexure-II of the Office Memorandum dated August 9, 1999 (ACPS) shall apply.</p>
11.	<p>In the case of an employee appointed on ad-hoc basis and who is subsequently regularised, the ad-hoc service is counted towards increment. Whether the ad-hoc service may be counted for the ACPS also?</p>	<p>No. In terms of para 3.2 of the Office Memorandum dated August 9, 1999 (ACPS), only regular service which counts for the purpose of regular promotion in terms of relevant Recruitment/Service Rules shall count for the purpose of upgradation under ACPS.</p>
12.	<p>When an employee in Group-C scale is given financial upgradation in Group-B scale, whether it shall have the approval of the authority competent to appoint persons in the upgraded scale.</p>	<p>While the Scheme provides for only financial upgradations to an individual and not the upgradation of the post held by him, the classification of the post held by the officer should be with reference to the scale of pay of the post held by Government servant on regular basis and not with reference to the higher scale of pay granted to the Government servant on upgradation under ACPS. However, upgradation under ACPS may be allowed with the approval of the authority competent to make an appointment in the upgraded scales/grades.</p>

S.No.	Point of doubt	Clarification
13.	Whether ex-servicemen who have been re-employed after giving relaxation in age and educational qualifications prescribed in relevant Recruitment/Service Rules for particular post as direct recruit are to be allowed ACP benefits on completion of 12/24 years of service after re-employment in civilian post?	Yes. The ACPS is meant for the Central Government civilian employees. As such, ex-servicemen, re-employed as civilian employee, shall be entitled for upgradation under the Scheme on completion of 12/24 years of service after direct recruitment in the civil employment. Also, such category of persons would already be drawing pension on the basis of their service in the armed forces.
14.	An employee gets first promotion after 20 years of regular service. In terms of relevant Recruitment/Service Rules, required eligibility service is 8 years for the next promotion, whether upgradation under ACPS is to be allowed on completion of 24 years of service from direct recruitment i.e four years after the first promotion or on completion of 8 years of regular service after first promotion as per the Recruitment Rules.	Upgradations under the scheme are to be allowed on completion of 12/24 years of service counted from direct entry in the Government employment. If an employee gets first regular promotion on completion of 20 years of service, he will be entitled to second financial upgradation under ACPS on completion of 4 years of service after such first regular promotion, though the Recruitment/Service Rules prescribe higher length of regular service in the grade for next promotion.
15.	An employee who may have completed 29 years of service shall be entitled for two upgradations directly along with other employee who may have completed 24 years of service. This would create an anomaly in as much as 5 years of service of the former would get neutralised. Therefore, the upgradation could be allowed notionally from the date of completion of 12/24 years of regular service and actual financial benefit could be given from the date of meeting of the Screening Committee.	Since the Assured Career Progression Scheme can have only prospective application, it is not permissible to allow notional benefit with retrospective effect. This would not lead to anomaly in as much as an employee having longer years of service may get his pay fixed at a higher/same stage vis-à-vis an employee having lesser length of service.
16.	The relevant Recruitment/Service Rules prescribe departmental examination/skill test for vacancy based promotion. However, this need not be insisted for upgradation under ACPS.	As per the scheme (Condition No.6), all promotion norms have to be fulfilled for upgradation under the Scheme. As such, no upgradation shall be allowed if an employee fails to qualify departmental/skill test prescribed for the purpose of regular promotion.

S.No.	Point of doubt	Clarification
17.	<p>An employee who has completed 24 years of service is to be allowed two upgradations directly. What will be the mode of fixation of pay of the employee?</p>	<p>The following illustration shall clarify the doubt: An incumbent in the pay-scale of Rs.4000-6000/- (S-7) has put in 24 years of regular service without a regular promotion. The incumbent shall be allowed two upgradations, i.e., to S-8 and S-9. His pay shall first be fixed in S-8 and then in S-9. Pay fixation directly from S-7 to S-9 shall not be allowed.</p>
18.	<p>If special pay has been allowed in lieu of separate pay-scale, whether this should be treated as promotion for the purpose of ACPS and also whether the special pay is to be taken into account while fixing the pay under ACPS?</p>	<p>Special pay allowed shall not be counted as promotion for the purpose of ACPS. Also, the special pay drawn in the lower post, in lieu of a higher pay-scale shall be taken into account for fixation of pay under ACPS subject to the fulfillment of the following conditions as laid down vide Ministry of Finance (Office) Memorandum No.6(1)-E.111(1)65) dated 25.2.1965, re-produced as Government's decision No.32 under Appendix-8 of FR/SR(Part-1) (Thirteenth Edition):-</p> <p>(i) The special pay in the lower post should have been granted in lieu of separate higher scale (i.e., special pay granted to Steno-typist, Clerk-in-charge, etc.)</p> <p>(ii) If the special pay has been drawn in the lower post continuously for a minimum period of three years on the date of promotion, the pay in the higher post will be fixed under the normal rules, treating the special pay as part of the basic pay. In other cases, the pay in the time-scale of the higher post will be fixed under the normal rules, with reference to the basic pay drawn in the lower post (excluding the special pay); where this results in drop in emoluments the difference between the pay so fixed and the pay plus special pay drawn in the lower post will be allowed in the form of personal pay to be absorbed in future increases of pay.</p> <p>(iii) In both kinds of cases referred to in clause (ii) above, it should be certified that, but for the promotion, the Government servant would have continued to draw the special pay in the lower post.</p>

(19) Point of doubt

Based on the categorisation of Libraries, Ministry of Finance vide Office Memorandum No. 19(1)/IC/86 dated 24th July, 1990 have prescribed the following pay-scales for posts in libraries:-

Post	Pay-scales (pre-revised)	Pay-scales (revised)
Library and Information Assistant	1400-2600	5000-8000
Sr. Library and Information Assistant	1640-2900	5500-9000
Assistant Library and Information Officer	2000-3500	6500-10500
Library and Information Officer	3000-4500	10000-15200
Director (Library and Information)	4500-5700	14300-18300

In number of cases, depending on the work etc, there are only first two categories of posts in a library. What should be the channel for upward mobility under ACPS of the library staff in such cases?

Clarification

In order to secure uniformity in the upward mobility of the library staff under the ACPS, it has been decided to adopt the aforesaid pay-scales prescribed by the Ministry of Finance subject to the terms and conditions prescribed by them. Posts in the library, if held in different nomenclatures, may, as such, also be re-designated as per the said orders of the Ministry of Finance. However, grant of higher pay-scale under ACPS will, as per Condition No.6, not result in change in the designation etc of the beneficiary.

S.No.	Point of doubt	Clarification
20.	On upgradation under ACPS, pay of an employee shall be fixed under the provisions of FR 22(1)(a)(i). Whether an option for fixation of pay in the higher grade based on the date of increment may also be allowed?	Yes. The financial benefit allowed under ACPS shall be final and no pay fixation benefit shall accrue at the time of regular promotion. In other words, upgradation under ACPS shall be treated on par with regular promotion in so far as pay-fixation is concerned. Therefore, the option of pay-fixation in the next higher grade based on the date of increment may be allowed.

21.	In terms of DoP&T Office Memorandum No. 6(2)/23/77-Welfare dated 11th December, 1979, all posts in the canteen and tiffin room being run departmentally by the Government of India were treated posts in connection with the affairs of the Union. Subsequently, vide Office Memorandum No.12/3/92-Director[C] dated 16.9.92, canteen employees were declared as Central Government employees with effect from 1.10.1991. Whether canteen employees will be treated as Government employees with effect from 1.10.79 (the date from which they were declared as holders of civil posts) or with effect from 1.10.1991 for the purpose of granting of upgradations under ACPS?	The matter has been examined in consultation with Director(Canteen) and it has been decided that the benefits of ACPS shall be extended to the canteen employees by reckoning from the date of their initial appointment as direct recruit on regular basis as the crucial date for granting the 1st/2nd upgradations. Needless to say, upgradations shall be allowed only in those cases where promotions have not been made even after putting in 12/24 years of regular service counted in the manner indicated above.
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S.No.	Point of doubt.	Clarification
22.	<p>(a) Annexure-I of ACPS stipulates that if the first upgradation gets postponed on account of the employee not found fit or due to <u>departmental proceedings</u>, etc. this would have consequential effect on the second upgradation which would also get deferred accordingly. In other words, the employee, who has been denied the first financial upgradation (meaning withholding of this benefit) would again be penalised even after having completed 24 years of regular service. This certainly is a case of double jeopardy and should not be inflicted.</p> <p>(b) Annexure-I of ACPS unnecessarily provides for deferral of second financial upgradation by the period for which an employee is <u>debarred from regular promotion</u> in the higher grade. In other words, it connects the second upgradation under ACPS with regular promotion to the 1st ACP grade. This is quite unwarranted as the schemes of ACP and regular promotions are to run concurrently and parallel to each other and should, therefore, not be connected in the manner it has been done. This condition may, therefore, be withdrawn.</p>	<p>In regard to deferral of grant of ACP benefits, on account of disciplinary proceedings or refusal of promotion, it is mentioned that the ACPS in the matter has to follow the same pattern as that obtains in the case of regular promotion. The basic idea behind making this provision is that there shall be uniformity of treatment both in the case of ACPS and regular promotions. Moreover, the Government has already modified/moderated the Fifth Central Pay Commission recommendation that in case of refusal to accept regular promotion subsequently, the employee concerned should be reverted from the higher grade granted under ACPS. The Scheme adopted by the Government, as such, guards against this adverse effect and thereby has already brought about an improvement upon the Pay Commission recommendation in this regard.</p>
23.	<p>The administrative Ministry/Department, not the employees have been given option in the matter to choose between two schemes, i.e. existing time-bound promotion scheme or the ACP Scheme. It is suggested that the said option should be exercised by the administrative Ministry/Department after consulting the staff representatives in the forum of respective Departmental Councils.</p>	<p>The ACPS has been introduced after consulting all concerned including the Staff Side in the National Council of JCM and with the approval of the Cabinet. Hence, there is no need to associate the Staff Side while exercising the said preference by the administrative Ministry/Department concerned. However, their view point could be taken into account while exercising such preference. The Administration will, however, not be bound by it.</p>

S. No.	Point of doubt	Clarification
24.	<p>(a) Appointment in LDC grade from Group 'D' should not be treated as promotion because LDC is not in the direct line of promotion for Group 'D' employees. Two services are altogether different. No Group 'D' employee can be appointed/promoted to a Group 'C' post like LDC etc who does not possess the educational qualifications prescribed in the Recruitment Rules. The Group 'D' employees have to satisfy certain minimum standards of selection and only then they are eligible for appointment to Group 'C' posts like LDC. Besides, Government have already agreed in the case of P&T Department not to treat appointment/ promotion of Postman as Postal Clerk etc as promotion for the purpose of OTB. OTBP is given to such employees (Postman etc) after completing period of residency as Postal Clerk. The same decision may be made applicable to ACP as well.</p> <p>(b) A number of Group 'D' employees are appointed as Despatch Riders/Staff Car Drivers, Gestener Operators etc. Since these posts are not in the direct line of promotion for Group 'D' employees and are in the normal course meant to be filled by direct recruitment, such appointments should not be treated as promotion for ACPS.</p>	<p>(a) As already clarified in relation to item at S.No.8, in the existing arrangement, specified quota of LDC vacancies are filled by Group 'D' staff on the basis of Limited Departmental Competitive Examination. As such, post of LDC may be treated as promotion post under ACPS for Group 'D' staff.</p> <p>(b) The appointment of Group 'D' employees as Despatch Rider/Staff Car Driver is on transfer basis in a higher pay-scale. This point has already been clarified in relation to items at S.Nos.4, 5 and 6 above.</p>
25.	An employee may be given second upgradation under ACPS as soon as he completes 12 years of regular service from the date of his earlier promotion or as soon as he completes 24 years of regular service, whichever is earlier.	The periodicity of 12/24 years of regular service for grant of upgradations under ACPS cannot be relaxed. Grant of the first regular promotion prior to completion of 12 years of regular service from the direct entry grade shall have no bearing on the periodicity of the second upgradation under ACPS, which shall be granted only after completion of 24 years of regular service and only if the second regular promotion has not been earned in between.
26.	LDCs/UDCs in administrative offices of the Government of India are having overlapping duties as well as overlapping scales of pay. Both are inter-changeable. In fact, division in the duties is more artificial than real. Therefore, promotion of LDC to the post of UDC should not be treated as promotion for the purpose of ACPS.	Both the posts constitute two rungs in a hierarchy and, as such, promotion of LDCs as UDCs shall be treated as promotion for the purpose of ACPS. Moreover, ACPS is not designed to interfere with the existing cadre structure.

S.No.	Point of doubt	Clarification
27.	<p>The condition 8 of the Annexure-I of the DoP&T O.M. dated 9th August, 1999 operates very harshly against senior employees. It will give rise to serious anomalies in a situation where junior employee in a grade being direct recruit are given ACP upgradations on completing period of residency, claims of senior employees in the same grade and in the same department are ignored merely on the ground that they have already been promoted twice earlier. It would, as such, be very unfair to ignore the claim of seniors as that would lead to heart-burning and demoralisation.</p>	<p>The ACPS is to act as a 'safety net' to provide relief in cases of acute stagnation. The concept of "senior-junior" is quite alien to the idea behind the ACPS recommended by the Fifth Central Pay Commission which had also quite specifically recommended against it. Benefits granted under the Scheme are "personal" in nature, and in recognition of long hardships faced by stagnating employees. Moreover, it does not grant any status related benefits nor does it change the seniority position. Senior will continue to be senior even if his junior has earned upgradations under ACPS. Relief granted to Government servants facing stagnation/hardships, as visualised by ACPS, cannot provide a ground for claiming identical relief by others who are not similarly circumstanced.</p>
28.	<p>All retirement and other terminal benefits would be granted on the basis of actual pay drawn in the upgraded ACP scale and condition No.6 of Annexure-I to the effect that it would not confer any privileges related to higher status would not be invoked to deny the retirement/terminal benefits based on the actual pay drawn in 1st/2nd ACP grades at the time of retirement.</p>	<p>Yes. The retirement/ terminal benefits would be on the basis of upgraded pay-scale, if any, granted under ACPS.</p>
29.	<p>Whether the upgradations under ACPS are to be allowed to the employees who are on deputation in other organisations/on training/ on study leave?</p>	<p>It has been clarified vide Condition No.6 of ACPS that such upgradation shall not entitle for deputation to higher posts. Therefore, as a corollary, upgradation under ACPS shall be allowed, in respect of employees who are on deputation, only on notional basis, as otherwise such upgradation in the cadre may have bearing on the deputation pay of the official. However, an employee will get the actual benefit on the basis of such notional pay-fixation under ACPS with prospective effect only on repatriation. Similarly, since an employee draws leave salary while on leave, he will get similar treatment as allowed to a person on deputation. However, upgradation under ACPS may be allowed to an employee who is on training as he is on duty for all practical purposes.</p>

S.No.	Point of doubt	Clarification
30.	Whether the benefit of past service will be extended to temporary status employees after their regularisation?	No, the benefit of past service shall not be extended to temporary status employees after their regularisation for the purpose of ACPS.
31.	What is an isolated post for the purpose of the ACPS Scheme.	Isolated post is a stand alone post, having neither feeder grade nor promotional grade. As such, a post having no promotional grade but having a feeder grade and vice-versa shall not be treated as isolated post for the purpose of ACPS.
32.	Where the cadre/hierarchy is limited to two grades only, what should be the pay-scale for grant of second upgradation under ACPS?	<p>Such a cadre/hierarchy shall not fall in the isolated category as defined at S.No.31 above. Hence, the standard/common pay-scales mentioned in Annexure-II of the Office Memorandum dated 9.8.1999 shall not be applicable in such cases. Action in such cases may, therefore, be taken as per following clarification:</p> <p>(i) If such cadre/hierarchy exists in the Ministry/Department concerned, the second upgradation may be allowed in keeping with the pay-scale of an analogous grade of a cadre/post in the same Ministry/Department. However, if no such grade exists in the Ministry/Department concerned, comparison may be made with an analogous grade available in other Ministries/Departments.</p> <p>(ii) In the case of attached/subordinate offices, the second upgradation under ACPS may be given in keeping with the pay-scale of an analogous grade of a cadre/post of the concerned office. However, if no such cadre/post exists in the concerned office, comparison may be made with an analogous grade available in other attached/subordinate offices of the Ministry/Department concerned.</p>

[Signature]
K.K. JHA
DIRECTOR(Establishment)

Annexure-E

To,

C.W.E. Solmara
P.O. Solmara
Sonitpur.

Sub :- Regarding discrimination in promotion.

Date. Missamari.

Respected Sir,

With due respect and humble submission I beg to lay the following few lines for your kind perusal and necessary action.

1. That Sir, in the year 1973 ~~xx~~ I was appointed as Gardener and posted at ESD Panagarh. Thereafter in 1976 I was transferred and posted at G.E. Missamari. Since the day of my appointment. I have been rendering my duties sincerely and honestly to the satisfaction of all concerned.
2. That Sir, in the year 1981 I appeared in the trade test and passed the test. After passing the trade test I am entitled to get promotion to the next higher post of my promotional avenue. This post is post of mate. Persons who ~~xx~~ passed along with me have already been promoted to the higher posts. Even some persons who passed the trade tests in the subsequent years have also been promoted. But my case has not been considered till date. I have been discriminated arbitrarily.

Contd...2

Attested by
S. Chakraborty
Advocate

Therefore I most fervently request your honour kindly to consider my case and to take necessary steps for providing justice to me.

I shall ~~maxx~~ remain grateful to you for that act of your kindness.

Your's faithfully,

Date-22.9.2001
Missamari.

265298 MES
B.Jogga Rao
Gardener
C/o G.E.Missamari
P.O. Missamari
District-Sonitpur, (ASSAM)

(Copy to (for information and necessary action)

1. To,

The Garrison Engineer, Missamari
P.O. Missamari
District-Sonitpur,
Assam.

Sd/-Illegible
22.9.2001

2. To,

The Chief Engineer,
Eastern Command
Fort Willian
Calcutta-21.

3. To,

The Secretary, Ministry of Defence
New Delhi.

Dated - 14th June, 2002

NOTICE

To,

The Garrison Engineer,
M.E.S.Missamari,
P.O. Missamari,
District-Sonitpur, Assam.
Pin-784506.

Sir,

Under instruction from my client Sri B.Joga Rao, an employee of M.E.S., who is working under B.S.O. Missamari, P.O. Missamari in the District of Sonitpur, Assam, I hereby address the following notice to you.

1. That my client was appointed as Gardener and posted at ESD Panagarh in the year 1973. Thereafter, in the year 1976, he was transferred and posted at Missamari. Since the day of his initial appointment my client has been rendering his duties with sincerity and honesty.
2. That my client appeared in trade test in the year 1981 and passed the same. After passing the trade-test my client is entitled to get promotion to the next higher post of his promotional avenue. This post is post of Mate. All the persons who ~~also~~ passed the trade test along with my client had already been promoted to the higher posts. Even those who passed the trade test in the subsequent

Contd...2

Attested by
S. Chakraborty
Advocate

-2-

years had also been promoted. But my client has been discriminated in an arbitrary manner. He has been deprived of his legitimate right of promotion to the post of the male.

3. That under the aforementioned circumstances, I am instructed by my client to address to you that my client demands his due promotion. If the process for his promotion is not initiated within a period of 30 days from the date of receipt of this notice my client shall approach the appropriate Court of law for redressal of his grievance.

Yours faithfully,

(M.Kr.Saikia)
Advocate

25th SEP 2003

Guwahati Bench

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

GUWAHATI BENCH : GUWAHATI

In the matter of :-

OA NO. 70 OF 2003

Shri B Joga Rao Applicants

- Vs. -

Union of India & Ors. . . . Respondants

WRITTEN STATEMENTS FOR AND ON BEHALF OF RESPONDENTS Nos 1, 2, 3,

4, 5, & 6

I, Shri B Srinivasa Rao, Garrison Engineer, Missamari do hereby solemnly affirm and say as follows :-

1. That I am the Garrison Engineer, Missamari and as such fully acquainted with the facts and circumstances of the case. I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement the other contentions and statements may be deemed to have been denied. I authorised to file the written statement of behalf of all the respondents.

2. That with regard to the statements made in paragraph 4(i) of the application, the respondents beg to state that these are correct. The applicant was initially appointed as Gardener in ESD Panagarh, but the division which he is posted under ESD Panagarh doesn't known by this office.

Union of India & Ors
- Respondents
Shri B Srinivasa Rao
Guwahati Bench
25/9/03
Guwahati Bench

- 2 -

3. That which regard to the statements made in paragraph 4(ii) of the application, the respondent beg to state that that these are correct. The applicant was transferred to GE Missamari during 1976.
4. That with regard to the statement made in Paragraph 4(iii) of the application, the respondent beg to state that these are correct.
5. That with regard to the statement made in Paragraph 4(iv) of the application, the respondent beg to state that are not correct. As per records, no applicant was promoted who have passed Trade Test alongwith him. If this was happened the applicant should highlight the names of the applicants who have been promoted and authentic documents to be attached alongwith OA to prove the same. Hence this seems to be incorrect. As regards verbal assurance the applicant should clarify by whom the verbal assurance was given to him, when etc.
6. That with regard to the statement made in paragraph 4(v) of the application, the respondents beg to state that these are correct that only on page 18 it is mentioned that (grant of two financial upgradations (as recommended by the Fifth Central Pay Commission and also in accordance with the Agreed Settlement dated 11 Sep 1997 (To relation to Group "C" and "D" employees merged into with the staff side of 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-I of the OA)

of regular service respectively. But the condition given in last line at Para 3.1 has not been mentioned in the OA hence no comments with a request to verify the condition mentioned in Annexure-I. As per Para 15 of Annexure-I it is clearly mentioned that in cases where the employees have already completed 24 years of regular service, with or without a promotion, the second financial upgradation under the scheme shall be granted directly, hence the applicant has been granted second financial upgradation directly which seems to be correct. Second upgradation was granted to the individual vide HQ CEEC Kolkata No 131841/ACP/1377/Engrs/E1D dated 04 Apr 2002 attached as Annexure A

7. That with regard to the statement made in paragraph 4(vi) of the application, the respondents beg to state that are not correct. No employees can be promoted without any vacancy, as alleged by the applicant. Promotions should be given only as per the procedure laid down in R.R. He has not furnished the list of the persons to whom the promotions have been given etc without vacancies etc to support the claims. Moreover, the applicant has completed more than 24 years of service before issuing the Govt letter dt 09 Aug 99, as such as per the condition laid down in the said letter the applicant has been granted second financial upgradation which is in order. The authority for granting of second upgradation is given at Annexure B

8. That with regard to the statement made in paragraph 4(vii) of the application, the respondent beg to state that the present pay scale of the applicant is 2550-55-2660-60-3200. Now basic pay is Rs. 3380/- after 3rd Stagnation increment. As per policy issued the benefits granted to the applicant is in order hence no comments.

9. That with regard to the statement made in paragraph 4(viii) of the application, the respondents beg to state that the promotion is not being controlled by Garrison Engineer.
10. That with regard to the statement made in paragraph 4(ix) of the application, the respondent beg to state that are not correct. The applicant was granted ACP as per the policy issued by Govt of India vide letter dated 09 Aug 99.
11. That with regard to the statement made in paragraph 4(x) of the application, the respondent beg to state that though the applicant was passed trade test to Mate the promotion can be given depending upon position of vacancies only.. ACP scheme was granted to the applicant as per Govt letter dated 09 Aug 99 hence no ignorance of law has been happened.
12. That the respondents have no comments to the statement made in paragraph 4(xi) to 4(xiv) these being matter of records.
13. That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.

Deponent

Bilawal

5

VERIFICATION

I, Shri B Srinivasa Rao, presently working as Garrison Engineer Missamari, being duly authorised and competent to sign this verification, do hereby solemnly affirm and state that the statement made in Paragraphs 1 of the application are true to my knowledge and belief, those made in Paragraphs 2 to 13 being matter of record are true to my information derived there from and those made in the rest are humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 22nd day Sep 2003.

Declarant

Srinivasa

6 1/B Missamula

Annexure A

- 49 -

60

Tele : 222-2527

Purv. Kaman Mukhyalaya
HQ Eastern Command
Abhiyanta Shakha
Engineers Branch
Fort William, Kolkata 21

131841/4CP/ 1377 /Engrs/EID

04 Apr 2002

Chief Engineer
Kolkata Zone
Siliguri Zone
Shillong Zone
A/F Shillong Zone
Civ. Engg. Cell (OFC) Kolkata
R&D Picket Secunderabad

GRANT OF FINANCIAL UPGRADATION UNDER ACP
SCHEME FOR CENTRAL GOVT CIVILIAN EMPLOYEES

1. On the recommendation of Departmental Screening Committee
sanction of Chief Engineer is hereby accorded for placement in the
higher pay scale/grant of 1st/2nd financial upgradation on personal
basis on completion of 12/24 years of service in terms of LOPT letter
No. 35034/1/97-Estt (D) dt. 09 Aug 99 read in conjunction with ~~xxxx~~
subsequent amendment in respect of the following categories wef
date and pay scale as shown against their names :-

- a) Security Assistant Gde 'C' & 'L' - Appendix 'A'
- b) Telephone operator - Appendix 'B'
- c) Pharmacist - Appendix 'C'
- d) Cook - Appendix 'D'
- e) Head Searcher/Searcher - Appendix 'E'
- f) Gardener - Appendix 'F'
- g) Server - Appendix 'G'
- h) Matriculate Peons/Duftrys to LDC/six scale - Appendix 'H'

2. It should be ensured that they have not become ineligible
for ACP due to refusal of regular promotion. In this connection
AG's Branch, Army HQs letter No 15575/MP 4(Civ)(a) dated 20 Jul
2000 and 15575/MP 4(Civ)(a) dt 15 Dec 2000 also refers. This HQ
should be apprised of such cases to update our records.

3. Before placement on the upgraded pay scale, please ensure
that individuals are not involved in any disciplinary/SPE cases/
running penalty period and that there is nothing adverse against
the individuals to warrant withholding of financial upgradation.

184
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Contd... page 2/-

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4. Necessary casualty to this effect may please be notified in your next issue of P10's. Formation shown against the individuals may differ due to subsequent implementation of posting order which may be deemed to have been amended in such cases. Present formation will notify the casualty.

5. Individuals desirous to get their pay fixed after accrual of the increment in the lower scale/post may exercise option under the provisions of P 22(i)-a(1) within one month from the date of issue of this letter. It may be noted that financial benefits allowed under the ACP scheme shall be final and no pay fixation benefit shall accrue at the time of regular promotion ie posting against a functional post in the higher grade, para 9 of Annexure I to DOP&T letter No 35034/1/97-estt(D) dt 09-8-99 also refers.

6. The financial upgradation under the ACP scheme shall be purely personal to the employees and shall have no relevance to his seniority position. As such there shall be no additional financial upgradation for the senior employee on the ground that the junior employee in the grade is going to get higher pay scale under the ACP scheme vide para 8 of DOP&T (Annexure I) letter No 35034/1/97-estt(D) dt 09-8-99.

SD (0002)

(KLS Das)

SAO

SD-2 (Pers)

For Chief Engineer

Copy to :-

1. L-in-C's Br. Army HQ, New Delhi
2. CDA, Patna/Guwahati
3. ADO, Kolkata/Silicuri/Shillong
4. 114 CSW/CES/CE (I)

Internal

DTR, MR(C), MLIC(L) & E7 section.

Offered
PK
1/10/97
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B
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51

Appx 'F' to CESC Kolkata letter
No. 131841/CP/137/Engrs/LD
dated 04 Apr 2002

Sl No	MES No & date	Designation	Unit	Existing pay scale	Upgraded pay scale	Recommended for financial upgradation	Effective date of upgradation	Remarks
1	2	3	4	5	6	7	8	9
1.	263315 Sri ML Ram	Gardener	CEKZ	2550-55- Kolkata 2660-60-	2610-60-2910- 65-3300-70- 3200/- 4000/-	1st financial upgradation	09-8-99	
2.	263318 " Nakul Nayak	-do-	-do-	-do-	-do-	-do-	09-8-99	
3.	313953 " Agnu Ram	-do-	CESZ Shillong	-do-	-do-	-do-	09-8-99	
4.	247848 " Sahajan Ali	-do-	ESD KKA	-do-	-do-	-do-	06-11-99	
5.	247847 " Lal Nohan Das	-do-	-do-	-do-	-do-	-do-	09-5-2000	
6.	265298 " B Jaga Rao	-do-	GE Misa- mari	2610-60- 2910-65- 3300-70- 4000/-	2750-70-3800- 75-4400/-	2nd financial upgradation	09-8-99	
7.	213365 " D Gurunath	-do-	585EP	2550-55- 2660-60- 3200/-	2610-60-2910- 65-3300-70- 4000/-	1st financial upgradation	09-8-99	
8.	266076 " YB Thapa	-do-	CE Sili- guri zone	-do-	-do-	-do-	12-8-99	
9.	266059 " Prem Bahadur Chetry	-do-	-do-	-do-	-do-	-do-	09-8-99	
(Total nine only)								

S. Das 0209
(KLS Das.)