

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

RA-3/09 order sheet → 1

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O.A/T.A No. 1/2004

R.A/C.P No. 3/2009

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SECTION OFFICER (Judl.)

FROM No. 4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No:- 01 / 04

Misc Petition No:

Contempt Petition No:

Review Application No:

Name of the Applicant(s): Pulak K. Biswas & Ors.

Name of the Respondant(s): N.O.I & Ors.

Advocate for the Applicant:- M. Chanda, S. Nath, B.N. Chakraborty

Advocate for the Respondant: All case M. M. Ahmed S. Chandling

Notes of the Registry

date

Order of the Tribunal

10.9.04.

Present: Hon'ble Mr. Justice
R.K. Batta, Vice-Chairman.
Hon'ble Mr. K.V. Prahladan,
Administrative Member.

Heard Mr. M. Chanda learned
counsel for the applicant and
Mr. A. Deb Roy, Sr. C.G.S.C. for
the Respondents.

Application is admitted.
Issue notice on the Respondents.
Returnable by four weeks.

List on 3.11.04 for
orders.

Member

Vice-Chairman

1m

3-11-04.

Present: Hon'ble Mr. Justice R.K.
Batta, Vice-Chairman
Hon'ble Mr. K.V. Prahladan, Admini
strative Member.

Mr. A. Chakraborty, learned
counsel for the applicant is
present. Mr. A. Deb Roy, Sr. C.G.S.C.

contd/-

1163874817
29.12.03

11/10/04
11/10/04

Defective due to not submit
the cost fee of Rs. 5.00 in the
vakalatnama.

11/10/04

Defect removed, May be
listed for admission.

11/10/04

N

O.A. 1/2004

3.11.04. . . seeks 8 weeks time to file written statement. Stand over to 6th January, 2005 for filing written statement.

Order dt. 10/9/04 & Notice sent to D/Section for issuing to resp. Nos. 1 to 5 by regd. A/D post.

[Signature]
Member.

[Signature]
Vice-Chairman

lm

6.12.2004
Shillong

Mr.M.Ghanda, learned counsel for the applicants and Mr.A.Deb Roy, learned Sr.C.G.S.C. for respondents are present.

Learned Sr.C.G.S.C. seeks further eight weeks time to file written statement. His request is granted. Stand over to 9.2.2005.

[Signature]
Member

[Signature]
Vice-Chairman

bb

9.2.2005 present: The Hon'ble Mr.M.K.Gupta, Member (J).

The Hon'ble Mr.K.V.Prahladan, Member(A).

None appears for the parties. Reply has not been filed. Adjourned for filing reply to 4.3.2005.

[Signature]
Member(A).

[Signature]
Member (J)

bb

4.3.2005 present: The Hon'ble Mr.Justice G. Sivaraman, Vice-Chairman.

The Hon'ble Mr.K.V.Prahladan, Member (A).

Respondents have filed reply. Learned counsel for the applicant requests for time to file rejoinder. post on 24.3.2005

[Signature]
Member

[Signature]
Vice-Chairman

bb

- 2.11.04
- 1) A/D not received back from the respondents.
- 2) W/S has not been filed.

Notice duly served on resp. No. 5
9/11/04

- 3-12-04
- 1) Notice duly served on 2-12-05
- 2) No. W/S has been filed.
- 3) S/A awarded.

8-9-05
No. W/S has been filed.

9.3.05
W/S submitted by the respondents.

23-8-05
W/S has been filed.

Notes of the Registry	Date	Order of the Tribunal
<p>9-5-05</p> <p>No rejoinder has been filed.</p> <p><i>da</i></p>	10.05.2005	<p>Mr. M. Chanda, learned counsel for the applicant seeks adjournment. Post on 3.6.2005.</p> <p><i>K. B. B. B.</i> Member</p> <p><i>G. V. V. V.</i> Vice-Chairman</p>
<p>6.6.05</p> <p>Rejoinder submitted by the Applicant.</p> <p><i>da</i></p>	<p>mb</p> <p>3.6.05</p> <p>lm</p> <p>5.7.2005</p>	<p>At the request of learned counsel for the parties case is adjourned to 5.7.05.</p> <p><i>K. B. B. B.</i> Member</p> <p><i>G. V. V. V.</i> Vice-Chairman</p> <p>Post on 17.8.2005 for hearing.</p> <p><i>G. V. V. V.</i> Vice-Chairman</p>
<p>The Case is ready for hearing as regard W/s and rejoinder.</p>	<p>mb</p> <p>18.8.05</p> <p>lm</p> <p>8.3.2006</p>	<p>Due to paucity of time case is adjourned to next available Division Bench.</p> <p><i>K. B. B. B.</i> Member</p> <p><i>G. V. V. V.</i> Vice-Chairman</p> <p>Due to personal inconvenience of Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. is not present. Case is adjourned for two weeks.</p> <p><i>G. V. V. V.</i> Vice-Chairman (J)</p> <p><i>h. h.</i> Vice-Chairman (A)</p>
<p><i>da</i></p> <p>4.7.05</p> <p>The case is ready for hearing.</p> <p><i>da</i></p> <p>5.1.06.</p> <p>Case is ready for hearing.</p> <p><i>da</i></p> <p>7.3.06</p>	<p>bb</p>	

O.A.1/2004

7.8.2006 Mr.G.Baishya, learned Sr.C.G.S.C. submits that he is appearing in the matter in stead of late A.K.Chauhdury and he wants to study and submits the case and hence he seeks for some time. Let it be done.

post before the next Division Bench.

Member (A)

Vice-Chairman

bb

26.2.07 Post the matter on 1.3.07.

Member

Vice-Chairman

lm

The case is ready. 1.3.07
for hearing.

Counsel for the applicant prays for adjournment.

post before next Division Bench.

7.4.08.

Member

Vice-Chairman

pg

08.04.2008 On the prayer of learned counsel appearing for both the parties, call this matter on 21.05.2008.

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

08.04.2008

On the prayer of learned counsel appearing for both the parties, call this matter on 21.05.2008.

The case is ready for hearing.

19.5.08.

lm

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

21.05.2008

Mrs U. Dutta, appearing for the Counsel for the applicant, seeks an adjournment on the ground of sickness of Mr M. Chanda. Mr M.U. Ahmed, learned Addl. Standing Counsel for the Union of India, undertakes to file his appearance memo in this case in course of the day.

Dt. 21.5.08

Pl send copies of this order to the Applicant and to the Respondents

21/5/08

Order dt. 21/5/08 send to D/Section for issuing to applicant and resp. by post.

(Case) 21/6/08. 71/NO-2663 to 2668
Dt. 4/6/08

The case is ready for hearing.

20.6.08

The case is ready for hearing.

23.7.08

nkm

23.06.08

Mr M. Chanda, learned counsel appearing for the Applicant and Mr M.U.Ahmed, learned Addl. Standing counsel for the Union of India are present.

Call this matter on 24.07.2008 before Division Bench.

(Khushiram)
Member (A)

(M.R. Mohanty)
Vice-Chairman

(M.R. Mohanty)
Vice-Chairman

24.07.2008

Mr. M. Chanda, learned counsel

appearing for the Applicant is sick. On the prayer of Mrs. U. Dutta, Advocate ^(made) in presence of Mr. M. U. Ahmed, learned Addl. Standing Counsel), call this matter on 6th August, 2008 for hearing.

The case is ready for hearing.

Ms
4.08.08

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

lm

05.08.2008

This matter (pertaining to ACP claims) be called before the Division Bench on 16.09.2008.

The case is ready for hearing.

Ms
15.9.08.

Learned Counsel for the Parties take notice of the next date of hearing.

(M.R. Mohanty)
Vice-Chairman

nkm

The case is ready for hearing.

Ms
14.11.08.

16.09.2008

On the prayer of learned counsel appearing for both the parties, call this matter on 17.11.2008 for hearing.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

lm

17.11.2008

Call this matter on

02.12.2008.

The case is ready for hearing.

Ms
1-12-08

(S.N. Shukla)
Member(A)

(M.R. Mohanty)
Vice-Chairman

pg

O.A NO. 01/2004

02.12.2008

Call this matter on 02.02.2009 for

hearing.

(S.N. Shukla)
Member (A)

(M.R. Mohanty)
Vice-Chairman

nkm

The case is ready
for hearing.

2.2.09 Bench is not available.
List on 17-3-09.

2.2.09.

CO.

Uttam Day

17.03.2009

Mr.M.Chanda for the Applicant and
Mr.M.U.Ahmed for the Respondents.

19/3/09

List this case on 24.03.2009 for hearing.

(A.K.Gaur)
Member (J)

/bb/

24.03.2009

Court work suspended due to sad
demise of Hon'ble Justice Guman Mal Lodha
(former Chief Justice of Gauhati High Court)
and, accordingly, call this matter on
26.03.2009 for hearing.

By Order


bm
Court Officer

/pb/

4 O.A.1/2004

26.03.2009

At the request of learned counsel for the counsel the case is adjourned to be taken up on 14.05.2009.


(Khushiram)
Member (A)


(A.K. Gaur)
Member (J)

/bb/

14.05.2009

Call this matter on 27.05.2009

for hearing.

M.R. Mohanty
Vice-Chairman

lm

The case is ready
for hearing.

15.5.09

20.05.2009

Heard learned counsel for the parties.

For the reasons recorded separately, this O.A. stands disposed of.

(N.D. Dayal)
Member(A)

(M.R. Mohanty)
Vice-Chairman

14.05.2009

Call this matter on 20.05.2009 for

lm

hearing.


M.R. Mohanty
Vice-Chairman

lm

20.05.2009

Heard learned counsel for the parties.

For the reasons recorded separately, this O.A. stands disposed of.


(N.D. Dayal)
Member(A)


(M.R. Mohanty)
Vice-Chairman

lm

Received copy to
Respondent 27.4
15.5.09
G. D. Sharma
Director, Govt
CDA, Guwahati-781

Order dated 20.5.09
sent to Section for
issuing to the applicant
& Respondent by post.
Issued vide Memo
No.
Dated

10

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 1 of 2004

DATE OF DECISION : 20.05.2009

Mr.Pulak Kr. Biswas & Ors.

.....Applicant/s

Mr.M.Chanda, Mr.S.Nath,

..... Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

Mr.M.U.Ahmed, Addl.Standing Counsel

..... Advocate for the
Respondents

CORAM

THE HON'BLE MR.MANORANJAN MOHANTY, VICE-CHAIRMAN

THE HON'BLE MR. N.D. DAYAL, ADMINISTRATIVE MEMBER

1. Whether reporters of local newspapers may be allowed to see the Judgment? Yes/No

2. Whether to be referred to the Reporter or not? Yes/No

3. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No

Member

Vice-Chairman

11

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :**

Original Application No.01 of 2004

Date of Order : This, the 20th May, 2009

HON'BLE MR. M.R. MOHANTY, VICE-CHAIRMAN

HON'BLE MR. N. D. DAYAL, MEMBER (ADMINISTRATIVE)

1. Shri Pulak Kr. Biswas
O/o- Local Audit Officer (LAO)
AIR Force, Shillong.
2. Shri Himadri Bhattacharjee
O/o- The PAO (ORS)
Assam Regimental Centre
Meghalaya, Shillong- 7.
3. Rahina Kharfittai
O/o- The PAO (ORS)
58 GTC
Meghalaya, Shillong- 7.
4. Smti Utpala Pramanik
O/o- The PAO (ORS)
58 GTC
Meghalaya, Shillong- 7.
5. Mrs. Sanghamitra Das Choudhury
O/o- The CDA
Udayan Vihar, Narengi
Guwahati, PIN- 781 026.
6. Mrs. Anita Das
O/o- The PAO
58 GTC
Meghalaya, Shillong- 7.
7. Mrs. Maya Sen
O/o- The ALAO
Supply Depot, Silchar.

(All are working as Senior Auditors in their respective
places shown above, under the Defence Accounts
Department)

..... Applicants

(By Advocates : M. Chanda, S. Nath, S.N. Chakraborty and .Choudhury)

7

-Versus-

1. **The Union of India**
Represented by the Secretary
to the Government of India
Ministry of Defence
New Delhi.
2. **The Controller General**
Defence Accounts
West Block-V
R.K. Puram
New Delhi.
3. **The Controller of Defence Accounts**
AIR Force, 107
Rajpur Road
Dehradun.
4. **The Controller of Defence Accounts**
Udayan Vihar
Narengi, Guwahati
PIN- 781 026.
5. **The Director (Establishment)**
Dept. of Personal and Training
Govt. of India
Ministry of Personal
Public Grievances and Pensions
New Delhi.

..... Respondents

(By Advocate : Mr. M.U. Ahmed, Addl. CGSC)

ORDER (ORAL)
20.05.2009

N.D.DAYAL: MEMBER (A):

Heard Mr.M.Chanda, learned counsel appearing for the Applicant
and Mr.M.U.Ahmed, learned Addl. Standing Counsel for the Government
of India.

4

The Applicants joined service as Auditor by direct recruitment and were promoted as Senior Auditors.

2. Mr. M. Chanda, learned counsel for the Applicants, after some presentation of arguments on behalf of their case, submitted that the relief claimed may be confined to the benefit of clarification under serial (xix) of the main features of the Assured Career Progression Scheme annexed at page 29 of the O.A. which reads as under:-

"(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."

3. The counsel for the Applicant has drawn our attention to Para 4.5. of the O.A., where the date of completion of 24 years of regular service has been mentioned in respect of the 7(seven) Applicants. It is pointed out that all Applicants, except the Applicant No.2, have completed 24 years of regular service before 09.08.1999, the date of introduction of Assured Career Progression Scheme and as such under this clarification they are to be given 2nd ACP benefits directly without reference to the promotional norms.

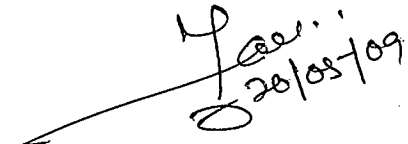
4. Therefore, the Applicants 1 and 3 to 7 would be satisfied if the Respondents are asked to consider grant of the second ACP on completion of 24 years of service to them accordingly. In respect of Applicant No.2, it is prayed that liberty may be granted to approach the Respondents by a representation for appropriate relief in accordance with the law. The learned counsel for the Respondents submits that the Scheme/Rules would have to be looked into in the context of the claim laid on behalf of the Applicants regarding applicability of the clarification

to their case as projected by the learned counsel for the Applicants. If the Courts directs, the Respondents would consider such prayer and take a decision in the matter within a reasonable period of time.

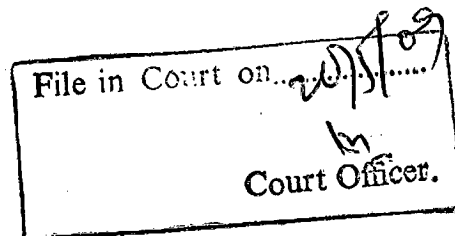
5. Let, the Respondents therefore, consider the prayer of the Applicants as noted above and pass appropriate orders within a period of three months. Liberty is granted to Applicant No.2 to prefer a representation within a period of one month which shall be considered and the Applicant informed of decision taken within two months thereafter. O.A. disposed of. No costs.



(N.D.DAYAL)
ADMINISTRATIVE MEMBE


(MANORANJAN MOHANTY)
VICE-CHAIRMAN

LM



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O. A. No. 01 /2004

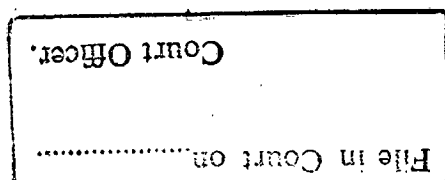
Shri Pulak Kr. Biswas & Ors

-Vs-

Union of India and Others.

LIST OF DATES

- 30.03.1971 to 05.06.1976- Applicants were appointed to the post of Auditor (direct recruit) on different dates under the Controller of Defence Accounts. (Para- 4.3 of OA)
- 11.04.1987- All the applicants were promoted to the post of Sr. Auditor.
- 30.03.1995- Applicant No. 7 completed 24 years of regular service.
- 16.11.1996- Applicant No. 3 completed 24 years of regular service.
- 10.04.1997- Applicant No. 4 completed 24 years of regular service.
- 17.11.1997- Applicant No. 1 completed 24 years of regular service.
- 19.11.1997- Applicant No. 6 completed 24 years of regular service.
- 01.07.1999- Applicant No. 5 completed 24 years of regular service.
- 09.08.1999- Govt. of India, D.O.P.T issued Assured Career Progression (for short ACP) Scheme making provision for financial upgradation to the central Govt. civilian employees on completion of 12/24 years of regular service. (Annexure- I, page- 21)
- 01.09.1999- Dy. CGDA vide his letter dated 01.09.99 addressed to the Respondent No. 3 stated that Screening Committee will scrutinize the relevant service records, ACR dossiers, disciplinary/penalty proceedings, if any, minutely to assess the fitness or otherwise of an employee for grant of financial up gradation. (Annexure- XII, page- 61)
- 10.02.2000- Respondent No. 5 issued some clarification regarding implementation of ACP Scheme. As per the said clarification all promotion norms have to be fulfilled for upgradation under the scheme. (Annexure- II, page- 30)
- 05.06.2000- Applicant No. 2 completed 24 years of regular service.
- 07.07.2000- Govt. of India, DOPT issued clarificatory O.M on the ACP scheme. As per the said O.M qualifying of the departmental examination for the purpose of second financial upgradation under the ACP scheme was held to be criteria for the Sr. Auditors. (Annexure- III Series, page-24)



15
Filed by the applicant
through U. Bhatta, advocate
on 20.05.09

- 09.08.2000- Office of Respondent No. 2 on the basis of O.M dated 07.07.2000 issued clarification for grant of ACP scheme.
(Annexure- III series, page- 34)
- 14.03.2001- Office of the Accountant General (A&E), Meghalaya granted second financial up gradation under ACPS to 6 employees from the date of their completion of 24 years regular service without any departmental examination/test vide.
(Annexure- XIII, page- 68)
- 10.04.2001- Applicant No. 1 submitted representation agitating against the imposition of rider i.e. departmental/skill test for the purpose of granting benefit under the ACP scheme.
(Annexure- IV, page- 39)
- 25.04.2001- Respondent No. 3 issued impugned order, stating that individuals who have not qualified in the departmental examination namely SAS Part I/SAS Part II or examination for Supervisor (Accounts) in addition to completion of 24 years of regular service etc. shall not be eligible for financial upgradation under the ACP Scheme.
(Annexure- V, page- 42)
- 02.07.2001- Applicant No. 1 submitted another representation against the impugned order dated 25.04.2001.
(Annexure- VI, page- 43)
- 10.07.2001- Respondent No. 3 rejected the claim of applicant No. 1.
(Annexure- VII, page- 44)
- 07.03.2002- Respondent No. 3 issued one notification for departmental examination for the posts of Supervisor (Accounts).
(Annexure- VIII, page- 45)
- 29.04.2002- Departmental examination was held in terms of letter dated 07.03.2002.
- 28.05.2002- On the basis of departmental examination held on 29.04.02 altogether 133 direct recruit Auditors were promoted to the post of Sr. Auditors.
(Annexure- IX, page- 49)
- 15.03.2003- Applicant No. 1 submitted representation to the respondent No. 2 against the departmental examination held on 29.04.02.
(Annexure- X, page- 58)
- 09/10.04.2003- Respondent No. 3 rejected plea of the applicants.
(Annexure- XI, page- 60)
- 16.06.2003- Applicant No. 1 got one Lawyers' notice to the respondent No. 2, 3 and Secretary to the Govt. of India, Ministry of Public grievance for protection rights of the applicant for getting benefit of ACP scheme.
- 17.07.2003- Respondent No. 3 rejected claim of the applicant for grant of ACP benefit.
- 05.02.2004- Ministry of Defence clarified that the employees who had completed 12/24 years of service after 09.08.1999, but before conducting the 1st trade test may be granted 1st financial upgradation under ACP scheme, subject to fulfillment of all other conditions prescribed for

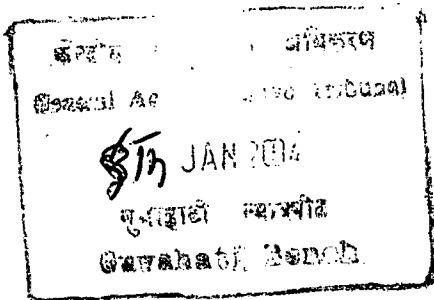
grant of ACP, from the date of their completion of 12/24 years of service instead of the date of passing of the trade test, in the first time as a one time measure.

(Annexure-B of rejoinder, page- 10)

30.03.2004- C.G.D.A, Guwahati forwarded the letter dated 05.02.04.

(Annexure-A to the rejoinder, page- 9)

In view of the above relaxation in the matter of passing of the trade test, the applicants being civilian employees under the Ministry of Defence entitled to similar benefit.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

O. A. NO. 01 / 2004

Shri Pulak Kr. Biswas & Others.

... Applicants

-Versus-

Union of India & Others

... Respondents.

Lists of dates and synopsis of the case

Date

Synopsis of particulars in the application

- 17.11.1973- Applicant No.1 initially appointed as direct recruitee Auditor. Similarly the other six applicants also joined in the same cadre on different dates during the period from 30.03.1971 to 05.06.1976.
- 01.04.1987- All the applicants were promoted to the Cadre of Senior Auditors..
- 17.11.1997- Applicant No.1 completed 24 years of regular service in the respondent department. Similarly the other six applicants also completed their 24 years of regular service on different dates during the period from 30.03.1995 to 05.06.2000.
- 09.08.1999- Govt. of India, DOPT introduced one Assured Career Progression Scheme(for short ACPS) making provisions for granting two nos. of financial upgradation on completion of 12 years and 24 years of regular service to those central Govt. Civilian employees who cannot get regular promotion through normal avenues due to stagnation or due to non-availability of promotional avenues. (Annexure-I)
- 10.02.2000- The DOPT, Govt. of India issued one impugned clarification stating that passing of departmental examination/tests is a pre-condition for grant of Financial upgradations under the ACP Scheme(as stated in para 4.7 in the application) which is contrary to the provisions of the scheme.

(Annexure-II)

Pulak Kumar Biswas

- 07.07.2000- The respondent department also issued one notification in the same line on the basis of DOPT letter 10.02.2000 as stated above making the passing of departmental exam/test mandatory for grant of financial up gradation to their employees under the ACPS. (Annexure-III series)
- 14.03.2001- The Accountant General (A&F), Meghalaya granted second financial upgradation to 6 of their employees under ACP Scheme without any departmental examination/test. (Annexure-XIII)
- 10.04.2001- Applicant No.1 submitted representation agitating the imposition of the illegal pre-condition of passing departmental examination/tests as stated above. The other applicants also made similar objections immediately after the issuance of the impugned instructions dated 10.02.2000 and submitted applications praying for grant of second financial up gradation in terms of ACPS since they completed their 24 years of regular service as envisaged under the Scheme and got entitled for their second financial up gradation. (Annexure-IV)
- 25.04.2001- Respondent No.3 rejected the application of applicant No.1 vide his impugned letter dated 25.04.01 informing that those who have not qualified in the departmental examination namely SAS Part I/SAS Part II or examination of Supervisors (Accounts) in addition to completion of 24 years regular service shall not be eligible for financial up gradation under the ACPS. Prayers of the other applicants were also rejected on the same plea. (Annexure-V)
- 02.07.2001- Applicant No.1 again submitted representation rebutting the contention of the Respondent No.3 but again rejected vide letter dated 10.07.2001. (Annexure-VI & VII)
- 07.03.2002- Respondents issued one letter notifying that a departmental examination for the posts of Supervisors (Accounts) would be held on 29.04.2002 in the respondent department. (Annexure-VIII)
- 29.04.2002- Departmental examination stated above was held.

This being contrary to the provisions of ACP Scheme, the applicants did not appear in the said examination.

- 15.03.2003- Applicant No.1 again submitted a representation against the illegal departmental examination which was rejected by the Respondents vide impugned letter dated 9/10.04.2003. (Annexure-X & XI)
- 16.06.2003- One Lawyer's Notice was served on the respondents urging upon them to give due relief to the applicants but respondents maintained the same contention aforesaid and informed accordingly vide reply dated 17.07.2003.

Hence this O.A before this Hon'ble Tribunal.

PRAYERS

8. Under the facts and circumstances of the case as stated above, the applicants most respectfully and earnestly pray for the Hon'ble Tribunal be pleased to grant the following reliefs:-
- 8.1 That the impugned order No. AN-II/4348/S/A/ACP-VIII dated 09.04.2003 and No.AN-II/4348/SA/ACP-V dated 25.04.2001 and the O.M.No.35034/1/97-Estt (D)(Vol. IV) dated 10.02.2000 issued by the Respondents be declared illegal and quashed.
- 8.2 That the respondents be directed to grant the second financial up gradation to the applicants under the ACP Scheme w.e.f their respective dates of completion of 24 years regular service with arrear and all other consequential service benefits without any departmental examination/tests.
- 8.3 Costs of the application.
- 8.4 Any other relief(s) which the applicants are entitled to as the Hon'ble Tribunal may deem fit and proper.
9. Interim order prayed for :
- During pendency of this application, the applicants pray for the following relief: -
- 9.1 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicants and providing relief to them as prayed for.

Pulak Kumar Bishwan

21
Filed by the applicant -
through Subrata XPS -
Advocate.
05.1.2004.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An Application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O. A. No. 1 /2004
Sri Pulak Kr Biswas & Others : Applicants.
- Versus -
Union of India & Others : Respondents.

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Date: 5.1.04.

Filed by

Subrata XPS.
Advocate

Pulak Kumar Biswas

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An Application under Section 19 of the Administrative
Tribunals Act, 1985)

O. A. No. 1 /2004

BETWEEN

- 1) Shri Pulak Kr. Biswas,
O/O- Local Audit Officer (LAO)
AIR Force, Shillong.
- 2) Shri Himadri Bhattacharjee,
O/O- The PAO (ORS),
Assam Regimental Centre, Shillong-7.
- 3) Rahina Kharfittai,
O/O- The PAO (ORS)
58 GTC, Shillong-7.
- 4) Smti Utpala Pramanik,
O/O- The PAO (ORS)
58 GTC, Shillong-7
- 5) Mrs. Sanghamitra Das Choudhury,
O/O- The CDA.
Udayan Vihar,
Narengi, Guwahati.
- 6) Mrs. Anita Das,
O/O- The PAO,
58 GTC, Shillong-7.
- 7) Mrs. Maya Sen,
O/O- The ALAO,
Supply Depot, Silchar.

Pulak Kumar Biswas

(All are working as Senior Auditors in their respective places shown above, under the Defence Accounts Department)

...Applicants

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India, Ministry of Defence,
New Delhi.
2. The Controller General,
Defence Accounts, West Block-V,
R.K.Puram
New Delhi.
3. The Controller of Defence Accounts
AIR Force, 107, Rajpur Road,
Dehradun.
4. The Controller of Defence Accounts
Udayan Vihar,
Narengi, Guwahati.
5. The Director (Establishment)
Deptt. Of Personal and Training,
Govt. of India,
Ministry of Personal, Public Grievances and Pensions,
New Delhi.

...Respondents.

DETAILS OF THE APPLICATION

1. Particulars of order(s) against which this application is made.

This application is made against the impugned orders bearing No. AN-II/4348/S/A/ACP-VIII dated 09.04.2003 and No. AN-II/4348/SA/ACP-V dated 25.04.2001

Pulak Kumar Bhatia

issued by the office of the Respondent No.3 and the Office Memorandum No.35034/1/97-Estt (D)(Vol.IV) dated 10.02.2000 issued by the Respondent No.5 whereby the benefit of Financial upgradations under the Assured Career Progression Scheme (for short ACP Scheme) framed by the Govt. of India have been denied to the applicants on the illegal plea of non-qualifying the departmental examination which is not a requirement under the Scheme.

2. Jurisdiction of the Tribunal.

The applicants declare that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation.

The applicants further declare that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case.

4.1 That the applicants are the citizens of India and as such they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That the grievances and interest of all the applicants stated in this application being common and the reliefs sought for are also common, the applicants pray for

Pulak Kumar Biswas

permission of this Hon'ble Tribunal to move this application jointly in a single application under Sec 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1985.

4.3 That the applicants were initially appointed as direct recruitee Auditors on different dates under the respondent department and subsequently were promoted to the post of Senior Auditors as per normal avenues of promotion. Their respective dates of initial appointment and dates of promotion are indicated below;

Name of applicants	Date of initial appointment	Date of Promotion as Sr.Auditors.
1.P.K.Biswas (Applicant No.1)	17.11.1973	01.04.1987
2.H.Bhattacharjee (Applicant No.2)	05.06.1976	01.04.1987
3.R.Kharfittai (Applicant No.3)	16.11.1972	01.04.1987
4.Smti. U.Pramanik (Applicant No.4)	10.04.1973	01.04.1987
5.Mrs.S.Das Choudhury (Applicant No.5)	01.07.1975	01.04.1987
6.Mrs.Anita Das (Applicant No.6)	19.11.1973	01.04.1987
7.Mrs.Maya Sen (Applicant No.7)	30.03.1971	01.04.1987

4.4 That pursuant to the recommendations of the Fifth Central Pay Commission, the Government of India, Ministry of Personal, Public Grievances and pensions, Department of Personnel and Training vide its Office

Pulak Kumar Bhowmik

Memorandum No.35034/1/97-Estt (D) dated 09.08.1999 introduced one Assured Career Progression (for short ACP) Scheme making provisions for financial upgradation of the Central Government civilian employees on completion of 12 years and 24 years of service as a 'safety net' in order to provide relief against the hardships caused to such employees due to stagnation. As per the said scheme, the central Government civilian employees who do not get any regular promotion due to stagnation or the categories of employees for whom there is no promotional avenues, such employees will be granted two financial upgradations on completion of 12 years and 24 years (subject to conditions) of regular service during the entire tenure of their service.

(Copy of the Scheme dated 09.08.1999 is annexed hereto as Annexure-I.)

- 4.5 That the applicants having been promoted once to the grade of Sr. Auditors subsequently got stagnated and did not get any further promotion under the regular promotional avenues. As such, they were entitled to get second financial upgradation under the aforesaid ACP scheme on completion of their 24 years of regular service. The respective dates on which they completed their 24 years of regular service and got entitled for second financial upgradation are indicated below; -

Pulak Kumar Sharma

Name of the applicants	Date of completion of 24 years of Service
1) P.K. Biswas (Applicant no.1)	17.11.1997
2) H. Bhattacharjee (Applicant no.2)	05.06.2000
3) R. Kharfittai (Applicant no.3)	16.11.1996
4) Smti. U. Pramanik (Applicant no.4)	10.04.1997
5) Mrs.S.DasChoudhury (Applicant no.5)	01.07.1999
6) Mrs. Anita Das (Applicant no.6)	19.11.1997
7) Mrs. Maya Sen (Applicant no.7)	30.03.1995

As provided under the ACP scheme, the applicants were due for second financial upgradation as shown above since they have completed their 24 years of regular services under the respondents and attained eligibility thereof, w.e.f. the date of introduction of the ACP Scheme i.e. from 09.08.1999.

4.6 That it is stated that following the introduction of the ACP Scheme in 1999, the applicants approached the Respondents for grant of second financial upgradation to them in terms of the provisions of the ACP Scheme since they had been stagnating in the post of Sr. Auditor for a long time.

4.7 That thereafter, the Respondent no.5, Deptt. of Personal and Training, Govt. of India, in response to certain queries made by some Ministries/Departments, issued some clarification regarding implementation of ACP Scheme under its impugned O.M.No.35034/1/97-Estt(D)(Vol. IV) dated 10.02.2000. In the said O.M, the clarifications given interalia under Sl.No.16 against condition No.6 of the ACP Scheme, runs as follows-

Palak Kumar Biswas

“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”

It is pertinent to mention here that the above clarification is a misconstruction and misinterpretation of the Condition No.6 of the ACP Scheme and contrary to the provisions of the scheme for the reasons stated in later paragraphs of this application.

(Extract copy of the impugned O.M dated 10.02.2000 is annexed hereto as Annexure-II.)

- 4.8 That relying on the impugned clarifications quoted in para 4.7 above, the respondent No.2 i.e. Controller General of Defence Accounts eventually issued one departmental notification bearing No. illegible dated 07.07.2000, circulated by the Respondent No.3 vide his office order No.22 dated 09.08.2000 whereby the same contention i.e. qualifying the departmental examination for the purpose of second financial upgradation under ACP Scheme was held to be a criteria for the Sr. Auditors and thus just echoed the contention of Respondent No.5 in the most mechanical manner.

(Copy of the notification dated 07.07.2000 and Office order dated 09.08.2000 are annexed hereto as Annexure- III Series.)

Pulek Kumar Bhatnagar

4.9 That following the impugned clarifications stated above, the applicants submitted representations agitating against the imposition of rider i.e. departmental/skill test for the purpose of granting benefit under ACP Scheme which is in fact not required under the scheme except in case of Group 'D' employees only as mentioned under Condition No.6 of the Scheme. One such representation submitted by the Applicant No.1 on 10.04.2001 is enclosed herewith as an illustration.

(Copy of the representation dated 10.04.2001 is annexed hereto as Annexure-IV.)

4.10 That in reply to the representation of Applicant No.1 aforesaid, the Respondent No.3 referring to the impugned O.M dated 10.02.2000 stated in para 4.7 above and acting on the clarification thereof communicated vide his impugned letter No.AN/II/4348/SA/ACP-V dated 25.04.2001 that the individuals who have not qualified in the departmental examinations namely SAS Part I/SAS Part II or examination for Supervisor (Accounts) in addition to completion of 24 years regular service etc. shall not be eligible for financial upgradation under the ACP Scheme.

(Copy of the impugned letter dated 25.04.2001 is annexed hereto as Annexure-V.)

4.11 That the Applicant No.1 thereafter submitted another representation on 02.07.2001 against the impugned letter dated 25.04.2001 aforesaid reiterating his

Pulak Kumar Bhatnagar

prayer for financial upgradation under ACP Scheme but the Respondent No.3 again replied on the same line as above vide his letter No. AN/II/4348/SA/ACP-V dated 10.07.2001 and rejected his claim.

(Copy of the representation dated 02.07.2001 and letter dated 10.07.2001 are annexed hereto as Annexure-VI and VII respectively.)

4.12 That thereafter vide letter No.AN/II/115/SUP/4/02-I dated 07.03.2002 issued by the Respondent No.3 one departmental examination for the posts of Supervisor (Accounts) in Defence Accounts Department was held on 29.04.2002 in an arbitrary manner. In the said letter dated 07.03.2002, it was mentioned that second financial upgradation under ACP Scheme would be available only to such candidates who qualify in the above stated examination subject to other conditions mentioned in the D.O.P.T's instructions on the subject, which is contrary to the provisions of the ACP Scheme. The examination was held without having proper approval of the C & AG of India or the rule making authority i.e. Government of India. The applicants however did not appear in the said examination since it was understandably meant for the vacancy based regular promotions to the post of Supervisor (Accounts) only, and it was contrary to the provisions of ACP Scheme.

(Copy of the letter dated 07.03.2002 is annexed hereto as Annexure-VIII.)

Pulak Kumar Bhowmik

4.13 That on the basis of the departmental examination held on 29.04.2002 as stated above, 133 nos. of directly recruited Auditors were promoted to the grade of Sr. Auditors, and were granted second financial upgradation in the next higher scale of Rs. 5500-9000/- (now revised to Rs. 6500-10,500/-) under the ACP Scheme vide Confidential order No. AN/IC/727/Prom/Supvr. dated 28.05.2002 issued by the Respondent No.4.

(Copy of the Confidential order dated 28.05.2002 is annexed as Annexure-IX.)

4.14 That eventually the applicant No.1 submitted one more representation through proper channel to the Respondent No.2 on 15.03.2003 against the departmental examination held on 29.04.2002 and the subsequent upgradation of 133 Sr. Auditors. In reply the Respondent No.3 vide his impugned letter No. AN-II/4348/S/A/ACP-VIII dated 9/10.04.2003 informed that as the applicant did not appear in the departmental examination held on 29.04.2002, he is not entitled for grant of second financial upgradation under ACP Scheme.

(Copy of representation dated 15.03.2003 and impugned letter dated 9/10.04.2003 are annexed hereto as Annexure-X and XI respectively.)

4.15 That having failed to get any considerations in his favour, the applicant No.1 got one Lawyer's Notice issued on 16.06.2003 on respondent No.2,3 and Secretary to the Govt. of India, Ministry of Personnel, Public grievance and Pension, DOPT, calling upon the

Pulak Kumar Bhatnagar

respondent Notice receivers to protect the lawful right of the applicant in getting the benefits of ACP Scheme introduced by the Govt. of India under the different provisions of law. The Respondent No.3 vide his reply dated 17.07.2003 against the said Notice rejected the claim of the applicant under the same contentions as stated in the preceding paras.

4.16 That the applicants most humbly beg to state that for granting financial upgradation under ACP Scheme, only following things are required; -

- (a) The official must have completed 12 years of regular service for first upgradation and 24 years of service for 2nd upgradation, if he has not got any regular promotion.
- (b) If such official has got one regular promotion then he will be eligible for 1st upgradation after completion of 24 years of service, and
- (c) One screening Committee constituted for this purpose shall assess the suitability of the candidate for grant of benefit under ACP Scheme.

As regards the assessment by the Screening Committee, the particular parameters have also been spelt out clearly under para 2(vii) of the letter No.AN/XI/11054/ACP dated 01.09.1999 of the Respondent No.2 which runs as follows; -

"2(vii)-Fulfillment of normal promotion norms for promotions from one grade to the other as per extent orders i.e. analysis of ACRs for last 3

Pulak Kumar Biswas

years in respect of Group 'C&D' employees and ACRs for last five years in respect of Group B employees, their integrity, seniority cum fitness in case of Group D employees, disciplinary penalty proceedings as per the provisions of CCS (CCA) Rules 1965 etc. to assess their fitness or otherwise, as observed by the DPC, shall be ensured for grant of financial up gradation under the ACP Scheme."

This has again been clarified under para 4.2 of the said letter dated 01.09.1999, which is quoted below; -

"4.2- The Screening Committee will scrutinize the relevant service records, ACR dossiers, disciplinary/penalty proceedings, if any, minutely to assess the fitness or otherwise of an employee for grant of financial up gradation."

It is pertinent to mention here that nowhere in the above quoted clarifications the requirement of qualifying departmental/skill test have been mentioned for grant of financial up gradation.

(Copy of the letter dated 01.09.1999 is annexed hereto as Annexure-XII.)

4.17 That the Respondent No.5 by his clarification on the matter in his impugned letter dated 10.02.2000 (Annexure-II) imposed an additional rider i.e.

Palak Kumar Brijwal

departmental/skill test for grant of financial up gradation under the ACP Scheme making a clear departure from the scheme and violating the provisions thereto which eventually created illegal impediments on the matter. The contention of the Respondent No.5 aforesaid is based on his misconstruction and misinterpretation of condition No.6 of the ACP Scheme wherein it has been specifically mentioned that qualifying in the departmental examination, benchmark, seniority-cum-fitness etc. are required for Group D employees. But this has been misconstrued/misinterpreted by Respondent No.5 and has been wrongly and illegally given effect in case of the applicants in the instant case also who are not Group D employees.

4.18 That while all other Central Govt. Departments have implemented the ACPS in case of their employees without asking for any departmental examination/skill Test, it is only in the respondent department that an additional requirement of such test have been imposed in utter violation of the provisions of the scheme. It is relevant to mention here that in the Office of the Accountant General (A&E), Meghalaya 6 employees have been granted second financial up gradation under ACPS w.e.f the date of their completion of 24 years regular service without any departmental examination/test vide order No.297 dated 14.03.2001.

(Copy of the order dated 14.03.2001 is annexed hereto as Annexure-XIII.)

Pulak Kumar Bhowan

4.19. That the provisions of departmental examination/test etc. are meant for vacancy based regular promotions only processed through normal DPC, which is not the case in case of ACPS. The financial up gradation under ACPS has no relation with vacancy nor it is processed through normal course i.e. DPC. But imposition of a rider in the form of Departmental examination/test for ACPS by the respondent department and that too without due approval and authority of Government amounts to not only the violation of the Scheme but totally frustrates the very spirit of such an incentive-based Scheme which has not been done by other Central Govt. departments.

4.20 That by framing the ACP Scheme, the Govt. has introduced a statutory provision of financial upgradation for the employees who are stagnated due to non availability of regular promotion and as such it has become a condition of service. But the respondent department, by their simple executive order has superseded the dictate of a statute, which is not permissible under law, and as such it is arbitrary, unjust, unfair, malafide, illegal, and opposed to law.

4.21 That the applicants most humbly beg to submit that due to non-consideration for grant of second financial upgradation under the ACPS, the applicants have been facing great financial losses. Finding no other alternative, the applicants are approaching this Hon'ble Tribunal for protection of their rights and

Pulak Kumar Bhowmik

interests and it is a fit case for the Hon'ble Tribunal to interfere with and protect the rights and interest of the applicants, directing the respondents to grant financial up gradation to the applicants under the ACP Scheme w.e.f their respective dates on which they completed 24 years of regular service with all consequential benefits including arrear etc.

4.22 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

5.1 For that, the Govt. of India framed rules under the ACP Scheme which provides that the civilian employees of the Central Govt. departments who do not get any promotion through their normal avenues due to stagnation or those who do not have any normal promotional avenues shall be given two financial up gradations in their whole tenure of service on completion of 12 years and 24 years of regular service.

5.2 For that, the applicants in the instant case have completed their 24 years of regular service in the respondent department and as such they have acquired a valuable right for their second financial up gradation in terms of the ACP Scheme.

5.3 For that, all the departments including the office of the C & AG of India have been granting financial up gradations to their employees w.e.f the date of their

Pratik Kumar Bhatnagar

completion of 12 years and 24 years of regular service in terms of the ACP Scheme without any departmental examination/test.

- 5.4 For that, the respondent department has imposed the passing of departmental examination/test as a pre-condition for granting financial up gradations to it's employees under the ACP Scheme which is contrary to the provisions of the Scheme.
- 5.5 For that, the denial of granting second financial up gradation to these applicants by the respondent department on the ground of non-qualifying the departmental examination/test is superfluous, illegal, arbitrary, malafide, unjust, unfair, capricious and contrary to the provisions of the Scheme.
- 5.6 For that, the respondent department by imposing a rider of departmental examination/test as a requisite for financial up gradations has violated the statutory provision under the Scheme by a simple executive order and that too without any proper approval or authority of the Government which is impermissible and bad in law.
- 5.7 For that, the provisions made under the ACP Scheme are the conditions of service framed by the rule making authority which cannot be altered or superseded by any individual department of Government.
- 5.8 For that, due to non-granting of second financial up gradation to the applicants which they are legitimately

Pulak Kumar Bhatia

entitled to, the applicants have been suffering great financial losses.

5.9 For that, the applicants have submitted representations time and again and even got Lawyer's Notice served on the respondents for grant of their second up gradation w.e.f the date of their completion of 24 years of regular service but denied illegally in spite of clear provisions under the ACP Scheme.

5.10 For that, the passing of departmental examination/test etc. are the pre-requisites for vacancy based regular promotions and not for financial up gradations (excepting for Group D employees only) under the ACP Scheme which is an independent scheme introduced as a measure of safety-net for stagnating employees and as such intermingling of the same strikes at the very root of the ACP Scheme and frustrates the whole purpose of the Scheme.

6. Details of remedies exhausted.

That the applicants state that they have exhausted all the remedies available to them including even serving of Lawyer's notice on the respondents and there is no other alternative and efficacious remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The applicants further declare that they had not previously filed any application, Writ Petition or Suit

Pulak Kumar Bhatnagar

before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicants humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

- 8.1 That the impugned order No. AN-II/4348/S/A/ACP-VIII dated 09.04.2003 and No. AN-II/4348/SA/ACP-V dated 25.04.2001 and the O.M.No.35034/1/97-Estt (D)(Vol. IV) dated 10.02.2000 issued by the Respondents be declared illegal and quashed.
- 8.2 That the respondents be directed to grant the second financial up gradation to the applicants under the ACP Scheme w.e.f their respective dates of completion of 24 years regular service with arrear and all other consequential service benefits without any departmental examination/tests.

Pulak Kumar Bhatnagar

8.3 Costs of the application.

8.4 Any other relief(s) to which the applicants are entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicants pray for the following relief: -

9.1 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicants and providing relief to them as prayed for.

10.
This application is filed through Advocates.

11. Particulars of the I.P.O.

i)	I. P. O. No.	:	11 G 387487
ii)	Date of Issue	:	29.12.03
iii)	Issued from	:	G.P.O. Gwahati
iv)	Payable at	:	G.P.O. Gwahati

12. List of enclosures.

As given in the index.

Pulak Kumar Bhuras

VERIFICATION

I, Shri Pulak Kumar Biswas, S/o-Late N.K. Biswas, aged about 53 years, presently working as Senior Auditor in the Office of Local Audit Office, Air Force, Shillong, one of the applicants in the instant application, duly authorized by the other applicants to verify the statements made in this application and to sign this verification. Accordingly, I declare that the statements made in paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice which I believe to be true. I have not suppressed any material fact.

And I sign this verification on this the 4th day of January, 2004.

Pulak Kumar Biswas

MOST IMMEDIATE

No.35034/1/97-Estt(D)

Government of India

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

ANNEXURE-I

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/-

14.0-1/87(CM-2)
12/3/99

Approved
Delhi
Advocate
on 4.1.05.

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

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/
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

**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;

....5/-

*A. K. Singh
Advocate
04.1.09*

7. 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 (standard/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;

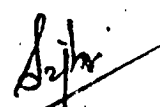
8. The financial upgradation under the ACP Scheme shall be purely personal to the employee and shall have no relevance to his seniority position. As such, there shall be no additional financial upgradation for the senior employee on the ground that the junior employee in the grade has got higher pay-scale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

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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).

ANNEXURE-I

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	2550-55-2660-60-3200
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	14300-400-18300

*Attested
by
Secretary
01.1.04*

MAIN FEATURES OF THE ASSURED CAREER PROGRESSION SCHEME

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

- (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. ✓

Assured
For Adv. Advocate
04.07.01

- (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.

ANNEXURE-II

F.No.350/ 4/1/97-Estt(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

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/rectified 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

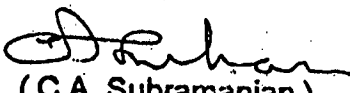
Attested
Sd/-
Advocate
04.1.04

52
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.35034/1/97-Estt(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/Admn.
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)
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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, INDWE 2540 12

Meeta
Sanjiv
6.1.04

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 10 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 Rule.	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.	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?	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.

18.	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>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.III(B)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>
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OFFICE OF THE CONTROLLER OF DEFENCE ACCOUNTS (AIR FORCE)
107, RAJPUR ROAD, DEHRADUN-248001 (UP)
PART I OFFICE ORDER NO. 22 DATED 9-8-2000

55
ANNEXURE-III (Series)

SUBJECT : THE ACP SCHEME FOR CENTRAL GOVERNMENT CIVILIAN
EMPLOYEES CLARIFICATIONS REGARDING .

C.G.D.A. New Delhi letter No. AN/XI/
1185/ACP dated 7-7-2000 is reproduced as an Annexure to this
Office Order for information guidance and necessary
action .

(P.L.NEGI)
DY.C.D.A. (ADMIN)

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(VISHAMBER SINGH)
SR. ACCOUNTS OFFICER (ADMIN)

SSR/1

*Approved
for
Advocate
th. 1. 04*

CONFIDENTIAL

NO. AN/XI/11051/ACP
~~OFFICE OF THE C.D.A.,~~
~~107, RAJFUR ROAD, DELHARADUN.~~
DATED: 07-07-2000

To,

ALL Pr.CsDA/PCoFA(Fys)
ALL THE CsDA
THE JT.CDA(Funds), MEERUT

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

REFERENCE: This office circular letter Nos.:-

- 1) AN/XI/11051/ACP dated 01-9-2000
- 2) AN/XI/11051/ACP dated 18-1-2000
- 3) AN/XI/11051/ACP dated 17-2-2000
- 4) AN/XI/11051/ACP dated 7-6-2000

CsDA are aware that various clarifications/instructions received from the Ministry were already circulated to them for compliance .

2. Few Cs.D.A. have raised some points of doubt and also sought for some clarifications on this subject in regard to adoption of ~~criteria~~ for adjudication of the eligible staff and the periodicity of holding the DPC/Scrutiny by the Screening Committee etc .

3. To make the matter clear, the following points are brought out for information and guidance :-

GROUP 'D'

CRITERIA

Peons ,Mali, Chowkidar,
Farash, Safaiwala & Bhisties

Daftry post is in the normal line of promotion to Peon's post, for which no departmental test has been prescribed in the Recruitment Rules for Daftry. Therefore all the eligible Peons having put in 12/24 years of regular service but not promoted to Daftry's grade are to be considered for financial upgradation under ACP Scheme in the scale of Pay applicable to Daftry's post. Similarly, the Mali, Chowkidar Farash, Safaiwala & Bhisties etc are also eligible for financial upgradation in the next higher scale of pay of Rs 2610-Rs 3540 provided they have completed 12/24 years of service but have not been promoted to next higher grade .

RECORD CLERKS

Clerk post is in the normal line of promotion to Record Clerks. But passing of Departmental test for Clerks post has been prescribed in the Recruitment Rules. Therefore, such of those Record Clerks who have qualified in the Departmental test for the post of clerk and have not received 2 promotions in their service and have completed 12/24 years of service, and waiting in 'Q' to receive the promotion to Clerk's post are to be considered for financial upgradation in the scale of pay applicable to Clerk's post.

CLERKS

Directly recruited Clerks, who have not been promoted to the grade of Auditor, even after completion of 12/24 years of service are to be considered for financial upgradation in the pay scale, applicable to Auditors' grade, since no Departmental test has been prescribed in the Recruitment Rules for promotion to the Auditor's grade.

SENIOR AUDITORS

(a) Directly recruited Auditors who have been promoted to Senior Auditors grade and who have passed the Supervisor(A/Cs) Exam or SAS Part I Exam and have completed 24 years of service are to be considered for Second Financial upgradation in the scale of pay applicable to the post of Supervisor A/cs as they fulfill the criteria of passing the Departmental Exam of Supervisor(A/cs) or SAS Part I exam and have since passed SAS Part II examination and have completed 24 years of service, and waiting in 'Q' for promotion to SO(A)'s grade are also to be considered for second financial upgradation in the scale of pay applicable to the post of SO(A).

DEO 'A'

Directly recruited DEO 'A' who have not been promoted to the grade of DEO 'B' despite their completion of 12 years of service in that grade are to be considered for first financial upgradation in the Pay scale applicable to DEO 'B' which post is in the next line of promotion of DEO 'A' for which no Departmental examination is prescribed.

DEO 'B'

DEO 'B' who have not been promoted to the grade of DEO 'C' despite their completion of 24 years of service in that grade, are to be considered for the second financial upgradation in the pay scale of DEO 'C' which post is in the next line of promotion for DEO 'B' for which no Departmental examination is prescribed.

STAFF CAR DRIVERS
(ORDINARY GRADE)

Staff Car Drivers(Ordinary Grade) who have not been promoted to next grade i.e. Staff Car Driver-Grade-II and who

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and have completed 12/24 years of service, are to be considered for the benefit of financial upgradation in the scale of applicable to the post of Staff Car Driver-II, subject to condition that they have qualified in Practical Trade Test prescribed in the Recruitment Rules.

HINDI TRANSLATOR GRADE-II

Directly recruited Hindi Translators Grade-II who have not been promoted to Hindi Translator, Grade-I despite their completion of 12 years of service in that grade are to be considered for 1st financial upgradation in the pay scale applicable to Hindi Translator, Grade-I which post is in the normal line of promotion to this category and no Departmental Examination is prescribed.

HINDI TRANSLATOR GRADE-I

Hindi Translators, Grade-I, who have completed 24 years of service and have not been promoted to the grade of Hindi Officer so far, are to be considered for second financial upgradation in the pay scale of Hindi Officer which post is in the normal line of promotion to this category and no departmental Examination is prescribed.

TIME SCHEDULE

4. PERIODICITY OF HOLDING OF SCREENING COMMITTEE DPC FOR CONSIDERATION OF FINANCIAL UPGRADATIONS UNDER ACP SCHEME

The Screening Committee is required to meet twice in a financial year preferably in the first week of January and July for advance processing of the cases. As per paragraph 6.4 of the DOPT OM dated 9-8-99, the first screening committee was to be set up within a month from the date of issue of the OM dated 9-8-99 to consider the cases that had already matured or were to mature upto 31-3-2000 for grant of benefits under ACP Scheme. The next screening committee was required to meet in the first week of January 2000 to process in advance the cases maturing for benefits under the ACP Scheme during the period from 1-4-2000 to 30-9-2000.

5. Similarly the third Screening Committee may meet in the first week of July 2000 to process in advance the cases maturing for benefits under the ACP Scheme during the period from 1-10-2000 to 31-3-2000.

6. Controllers who have not so far taken any action for processing the cases which were maturing from 1-4-2000 to 30-9-2000 are requested to take action immediately to process the eligible cases and forward the Screening Committee's reports immediately. It may also be ensured that there are no left over cases to be considered for such of those eligible staff whose benefits were to be considered between 9-8-99 to 31-3-2000. Cases of the above nature, if not considered so far due to one reason or other, may now be considered by the Screening Committee and the reports sent to this HQ's office immediately. A certificate to this effect that the

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are no cases pending for consideration of financial upgradation under ACP, in whose cases the benefits were to be given between 9-8-99 to 31-3-2000 may be furnished.

7. It is also stated that while forwarding the adjudication reports of the eligible Senior Auditors an Attested copy of the extract of the entry made in their service book showing the particulars of their passing the SAS Part-I examination may also be enclosed.

Please ack. receipt .

DY.C.G.D.A. (AT) has seen..

XX SD XX
(N.SANTHANAM)
FOR C.G.D.A.

SSR:1

Handwritten:
M. S. R.
Advocate
4.1.05

From: P.K. BISWAS, SR. AUDITOR,
OFFICE OF THE L.A.O (A.F)
SHILLONG.

Dt. 10-04-2001.

To
The F.A.(D.S)
Ministry Of Finance (Defence)
Central Secretariate.
New Delhi

ANNEXURE - IV

(Through Proper Channel)

Subj:- A.C.P. Scheme for Central Government Civilian Employees.

Respected Sir,

I beg your apology for submission of this representation to implore upon your honour for redressal of the facts of the case.

In this context a reference is hereby made to Govt. of India, Ministry of Personnel, Public Grievances and Pensions (Dept. of Personnel Training) O.M. NO. 35034/1/97 Estt. (D) dt. 9-8-1999, circulated vide Ministry of Defence I.D. NO. 11(6)/98/D (Civ-I) dt. 12-08-1999, under which A.C.P. Scheme has been introduced by the Govt. to deal with the problem of genuine stagnation and hardship faced by the Govt employees due to lack of adequate promotional avenues.

The main features of the assured career progression (A.C.P) Scheme are as under:-

- (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 A.C.P. 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 employee not found fit due to departmental proceedings etc., this would have consequential effect on the second upgradation.
- (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 A.C.P. 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 Committee (Same as DSCs) to process cases.

Attested
for
Signature
04.1.04

- (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 March - 2000.
- (xi) Scheme to be operational w.e.f. 9/8/1999.
- (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.

Sir, I am a central Govt servant, employed in Defence Accounts Department in the year 1973 as Auditor and I have already rendered more than 24 years service in my grade and received only one promotion as Senior Auditor. I was due for the second financial upgradation as per the aforesaid scheme w.e.f. the date of issue of the aforesaid memorandum. But under the influence of the departmental policy I have been deprived of the benefit of the A.C.P. Scheme.

So far as the clarification of eligibility for second upgradation in my grade (Senior Auditor) by the C.G.D.A. New Delhi is concerned, vide Their No. A.O./XI/11051/ACP dt. 7-7-2000, it is as under:-

" Directly recruited Auditors who have been promoted to Senior Auditor grade and who have passed the Supervisor (A/c) Exam or SAS Part-I Exam and have completed 24 years of service are to be considered for second financial upgradation in the scale of pay applicable to the post of Supervisor A/c as they fulfill the criteria of passing the Departmental Exam of Supervisor (A/c) or SAS Part-I Exam and since passed S.A.S. Part-II examination and have completed 24 years of service, and waiting in 'Q' for promotion to S.O.(A)'s grade are also to be considered for second financial upgradation in the scale of pay applicable to the post of S.O.(A) "

Whereas such clarification does not appear to have been made in the original letter of the A.C.P. Scheme.

The significance of such clarification by the department (C.G.D.A, New Delhi) has defeated the very purpose of the Govt letter and resulted in a

Could.....P/3

negative way by debarring most of the senior staff like me and superseded by the junior staff in the same grade.

I being one of the victims of the policy implemented by the departmental Authority (C.G.DA), beg to draw your kind attention to the fact stated above and request your honour to kindly intervene into the matter and your judicious directives may kindly be issued in this regard.

Sir, having been deprived from the benefit of the scheme introduced by the Govt, I have doubt on the following points. These aspects may also kindly be taken into account while examining the fact of the case -

1. Is the departmental authority (CGDA) competent enough to supersede Govt of India by elongating the criteria for financial upgradation?
2. Is departmental authority at liberty to include clause other than that of which fixed by the Govt of India in the original scheme?
3. Passing of S.O.S.-Part-1 has not yet been recognised by the Govt. as a qualification for promotion or any other kind of special benefit in the grade of Senior Auditor, Auditor.

Hence it is not understood as to how the same has been accepted as a qualification or made criteria for granting financial upgradation after introduction of ACP scheme only.

4. As to how the A.C.P. Scheme has been implemented by the C.G. in his department and granted the benefit to his staff eligible as per condition fixed by the Govt. of India, Min. of Personnel, Public Grievances and Pension (Dept. of Personnel & Training) New Delhi vide their letter dt. 9-8-1999. (Copy of the order published by the A.G. Mayhalaya bearing NO. 297 dt. 14/3/2001 is enclosed)

In view of the facts stated above your intervention and necessary adjudication on the matter would be gratefully acknowledged.

Yours faithfully.

REGISTERED

ANNEXURE - V

NO. AN/II/4348/SA/ACP-V
OFFICE OF THE C.D.A. (AF),
107, RAJPUR ROAD, DEHRADUN.
DATED: 25-04-2001

TO,


THE L.A.O. (AF)
SHILLONG .


A.C.P. SCHEME FOR CENTRAL GOVERNMENT CIVILIAN
EMPLOYEES SHRI R.K. BISWAS SR. AUDITOR A/C NO.
8313252 .

REFERENCE: Your No. LA/SHG/1/Vol XVI dated 10-4-2001 .

In this connection it has already been clarified by the C.G.D.A., New Delhi that such of those cases for financial upgradation in the next higher scale of pay under ACP Scheme have been cleared who were (i) Directly recruited Auditors (ii) Promoted to Sr. Auditors (iii) Completed 24 years of service in DAD and (iv) qualified in the departmental examination of supervisor (A)/SAS Part I SAS Part II, in conformity with the clarification given under point of doubt No. 16 vide DOPT OM No. 35034/1/97/Estt(D) dated 10-2-2000. In other words, the individuals who have not qualified in the above mentioned departmental examination, but have qualified the other conditions as mentioned above are however not eligible for consideration for financial upgradation under the ACP Scheme .

2. The individual may please be informed accordingly.


(P.L. NEGI)
DY. C.D.A. (ADMIN)


24/4,

*Attested
Advocate
24.1.04*

To The CDA (AF)
Dehra Dun.

Subj: ACP Scheme for Central Government
Civilian employees.

Reference: - M.O. NO. AK/11/4348/SA/ACP-V dt. 25/6/01.

Respected Sir,

In connection with my representation dt. 10/4/2001 addressed to FA(DS), Ministry of Finance (Refence) I am to state that I am well aware of the clarification by the CGDA, New Delhi and because of this clarification I represented my case to the Ministry. But from the reply of the M.O. vide no. cited under reference it is not clear as to whether my representation has been forwarded to the concerned addresses or not.

In fact, as a result of the policy adopted by the CGDA New Delhi, I have been superseded by so many junior staff in my grade even after rendering 28 yrs service in the department. Implementation of policy as such indicates that there will be no progression of career in the grade of Sr. Auditor, though the scheme itself has been named as "Assured Career Progression". The basic criteria to extend financial support to the senior staff has been totally defeated by implementing such policy by the C.G.D.A. and demoralized the sincerity and capability of the senior staff in this department.

However, so far as my representation is concerned, it was with the intention to exhaust the departmental channel only. As such the reply furnished by M.O. will be considered as the final reply of the departmental channel.

(Yours faithfully,

Dated, Shillong
The 2nd July 2001.

(P. R. BISWAS) SA. 83/3752

Accepted
for
Advent
11/10/01

REGISTERED

NO. AN/II/4348/SA/ACP-V
OFFICE OF THE C.D.A. (AF)
107, RAJPUR ROAD, DEHRADUN.
DATED: 18-07-2001

TO,

THE L.A.O. (AF)
SHILLONG

SUBJECT : THE A.C.P. SCHEME FOR CENTRAL GOVT CIVILIAN
EMPLOYEES. SHRI P.K. BISWAS SR. AUDITOR A/C NO.
8313252

Reference; Your No. LA/SHG/1/Vol XVI dated 2-7-2001 .

In view of the position clarified to
your office vide this office letter of even No. dated
25-4-2001 on the basis of clear instruction/orders received
from the C.G.D.A. the representation of the above named
individual is not being forwarded to HQrs office for
onward transmission to FA(DS) Min of Finance (DS) New Delhi.

He may be informed accordingly .

(P.L. NEGI)
DY. C.D.A. (ADMIN)

Attested
Advocate
01.1.01.

PEED POST REGISTERED
MEDIATE IMPORTANT CIRCULAR

NO. AN/II/115/SUP/4/02-I
 OFFICE OF THE C.D.A.(AF),
 107, RAJPUR ROAD, DEHRADUN.
 DATED: 7-03-2002

1. THE JT.C.D.A.(AF) NAGPUR
2. ALL SUB OFFICES(INCLUDING DELHI AREA)
3. ALL SECTIONS(MAIN OFFICE)

(A/AF)
 SHILLONG

SUBJECT : EXAMINATION FOR THE POSTS OF SUPERVISOR(ACCOUNTS) IN
 DAD TO BE HELD IN 4/2002

It has been decided to conduct the Supervisor(Accounts) grade examination for promotion to the grade of Supervisor(A/cs) as per the following schedule .

<u>Date day</u>	<u>Time</u>	<u>Paper</u>
29-4-2002	10 AM TO 11.40 AM	One paper objective type with multiple choice answers(Without Books)containing Part 'A' & Part 'B'

Part-'A' Common to all candidates

Part-'B' having specialised portion(i.e. Army/AF/Navy & Factory)

Part 'A' & each portion of Part 'B' will contain 25 objective type questions with multiple choice (FOUR) answers . Each question will carry two marks . Total marks for Part 'A' & 'B' will be 100 with each part carrying 50 marks . The candidates are expected to answer all questions in Part 'A' & all question in the selected portion of Part 'B' .

2. The following criteria has been decided to determine employees eligible to take the Supervisor(A/cs) grade examination:-

- a) All the Senior Auditor's/ in the pay scale of Rs 5000-8000 whose date of appointment/promotion in Auditor's grade/in the Pay scale of Rs 4000-6000) is upto and inclusive of 31-12-80 .
- b) Senior Auditors who have qualified in S.A.S. Part I examination need not apply for admission to this examination .

3. The examination will be conducted at Allahabad, Agra, Mumbai, Bangalore, Kolkata, Chennai, Chandigarh, Cochin, DehraDun, Guwahati, Jammu, Jalandhar, Jaipur, Kanpur, Lucknow, Meerut, Nagpur, Nasik, NewDelhi Patna, Pune 'A'(SC), Pune 'B'(O) , Port blair, Pathankot, Roorkee.

Shill

Attested
 By
 4.1.04

Shillong, Siliguri, Secunderabad, Vishapatnam & Willing-ton' provided minimum of 25 candidates are appearing in the examination at a centre other than the nearest to his/her duty point, special recommendation may be made by the PCDA/CDA for consideration of HQrs office .

4. It may be stated that General category candidates would be required to secure atleast 40 marks (in both parts put together) to pass the examination out of 100 Marks . There will be no separate minimum for each Part . In pursuance of the instructions contained in Govt of India, DP&AR OM No. F/36021/10/76-Estt(SCT) dated 21-1-77, regarding relaxation of standards in the case of SC/ST candidates in qualifying examinations, it has been decided by the CGDA to lower/relax the qualifying standards for the SC/ST candidates appearing in the above examination to 35 marks (in both the Parts put together). This may be brought to the notice of the SC, ST candidates .

5. The list of candidates in the prescribed proforma may please be forwarded to this office/section by 15-3-2002 positively.

6. It may also be brought to the notice of the candidates that Second Financial upgradation under the A.C.P. Scheme would be available only to such candidates who qualify in the above examination subject to other conditions mentioned in the D.O.P.Ts instructions on the subject .

Nil report is also required .

Please acknowledge receipt .

*In case where due to exceptional
circumstances a candidate
desires to appear in the exami-
nation*

B. Singh
(VISHAMBER SINGH)
SR ACCOUNTS OFFICER (ADMIN)

62
3

SYLLABUS/SUBJECT COVERED

Part-'A': General Principles and Procedure of Accounts and Audit
(including general organisation of the Armed Forces)

1. Introduction to Govt Accounts and Audit
2. Appendix 'A' to the Defence Service Estimates .
3. OM Part I & II
4. Defence Audit Code
5. Defence Accounts Code

PART-'B': Codes and Manuals concerning Army, Air Force, Navy
and Factories

ARMY

1. OM Part II (Vol I)
2. Army Local Audit Manual-Part-I
3. OM Part-IX & X
4. OM Part-IV
5. OM Part VIII

AIR FORCE

1. O.M. Part III
2. A.F. LOCAL AUDIT MANUAL

NAVY

1. OM Part VII
2. Naval Local Audit Manual

FACTORIES

1. O.M. Part-VI
2. Fy. Accounting Rules

* The candidates may chose any of the section in Part B
irrespective of the organisation in which they are serving .

- 4 -

PROFORMA

PARTICULARS OF THE INTENDING CANDIDATES FOR SUPERVISORY (ACCOUNTS) GRADE EXAMINATION
TO BE HELD IN 04/2002

SL No of the candidates	Name, Grade & A/C NO.	DATE OF becoming Auditor	Station & Office where serving	Nearest centre to the candid- ates duty point .	Particular Section of paper under Part 'B' in which the candid- ate opts to attempt (Army, Fys, AF & Navy)
1.	2.	3.	4.	5.	6.
-----	-----	-----	-----	-----	-----

Whether belongs to Reserved category, if so, please specify S/C OR S/T

Signature

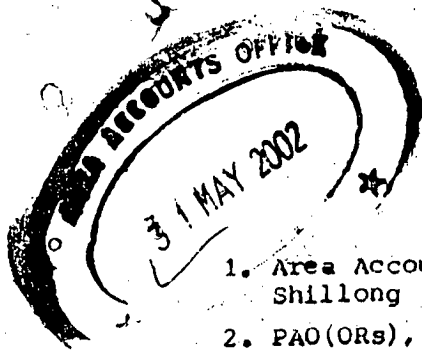
7.

8.

M. S. W.
Advocate
4.1.04

Confidential

NO. AN/IC/727/Prom/Supvr
Office of the CDA
Udayan Vihar, Narangi
Guwahati - 781 171
Dated 28.05.2002



1. Area Accounts Office
Shillong
2. PAO(ORs), 58 GTC
Shillong
3. PAO(ORs) ARC, Shillong
4. LAO(A), Jorhat
5. LAO(A) Silchar
6. LAO(A) Narangi
7. LAO(222 ABOD
C/O 99 APO
8. AAO GE 868 EWS
C/O 99 APO
9. ALAO SD, Bhalukmara
10. AAO BSO Tezpur
11. ALAO FSD, Panitola
12. ALAO 482 Coy ASC,
C/O 99 APO
13. AAO GE Dinjan
14. AAO GE(AF), Shillong
15. ALAO FSD, Rangiya
16. AAO GE 583 EP
C/O 99 APO
17. ALAO 313 Coy
C/O 99 APO
18. AAO GE Narangi
19. AAO GE Silchar
20. AAO BSO, Silchar
21. AAO GE(AF) Tezpur
22. ALAO SD Silchar
23. AAO BSO (AF) Jorhat
24. AAO GE Jorhat
25. AAO GE Shillong
26. ALAO SD, Shillong
27. AAO BSO, Shillong
28. ALAO SD, Shillong
29. Os i/c AN/I(B), AN/II, AN/III, AN/IV, AN/V
O & M Cell, A/Cs Sec., 'T' Sec., DDP Cell, Sec.
'E' Sec., SC Sec., Pay Tech, FA Sec. ORs Cell
(Main office).

Subject:- Grant of Second Financial upgradation under the ACP scheme to the Directly Recruited Auditors, who were promoted to the grade of Sr. Auditors.

Approval of the competent authority has been accorded

Contd.P/-2

Alfred
S. K. Advocate
4.1.04

- 2 -

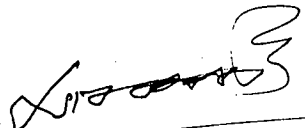
for grant of Second Financial upgradation under the ACP scheme in the next higher scale of pay of Rs.5500-175-9000 to such of those directly recruited Auditors, promoted to Sr. Auditors grade completed 24 years of service on 29.4.2002, qualified in the Supvr (A/Cs) exam held on 29.4.2002 and listed as per Annex 'A' to this circular.

2. An undertaking, as per condition 10 of DOPT's memo dt.9.8.99, specimen enclosed as Annex 'B', may please be obtained from the individuals concerned and forwarded to this office/section duly countersigned for publication of Pt-II O.O.

3. The placement in the higher scale of pay of Rs.5500-175-9000 under ACP Scheme is only on a personal basis and shall neither amount to financial/regular promotion nor change in the existing designation or seniority position.

4. The financial benefit shall be final and no fixation benefits would accrue at the time of regular promotion in the grade of Supvr(A/Cs) when given to them on their turn.

5. The individuals may exercise options for fixation of pay as per DP & T's NO.1.2.87-Estt/Pay-I dt.9.11.87 within one month of issue of this circular.


(R.B. SHARMA)

Sr. Accounts Officer (AN)

Encl: Annex 'A'
Annex 'B'

Annexure 'A' to CDA Guwahati Circular NO.AN/IC/727/Prom
/Supvr dt.28.05.2002.

Sl NO.	Name, grade & A/C NO.	Date from which ^{Second} financial upgradation under ACP given	Scale of pay to which upgraded	Office where serving
1	2	3	4	5
1.	Shri Ashok Barjo, SA 8306065	29.04.2002	Rs.5500- 175-9000	M.O. CDA, Guwahati
2.	Mrs. Riewspah Mon Tymthai, SA/8310184	- do -	- do -	PAO(ORs) 58 GTC Shillong
3.	Shri B.K. Hazarika, SA 8319018	- do -	- do -	AAO GE 868 EWS C/O 99 APO
4.	" P. Hazarika, SA 8302341	- do -	- do -	ALAO SD, Bhalukmara
5.	" L. Nath, SA 8302385	- do -	- do -	- do -
6.	" K.C. Mandal, SA 8302438	- do -	- do -	LAO(A) Jorhat
7.	" R.K. Das, SA 8313385	- do -	- do -	AAO BSO, Tezpur
8.	Mrs. S. Choudhury, SA 8313496	- do -	- do -	- do -
9.	Shri R. Borthakur, SA 8306562	- do -	- do -	ALAO FSD Panitola
10.	" J.K. Gohain, SA 8319016	- do -	- do -	- do -
11.	" A.S. Ansari, SA 8306328	- do -	- do -	ALAO 482 Coy ASC (Sup) C/O 99 APO
12.	" P.C. Dutta, SA 8306398	- do -	- do -	- do -
13.	" T. Das, SA 8313551	- do -	- do -	- do -
14.	" G.R. Deb, SA 8302414	- do -	- do -	M.O. CDA Guwahati
15.	" Rajnath Ram, SA 8319662	- do -	- do -	AAO GE Dinjan
16.	" R.P. Sharma, SA 8306406	- do -	- do -	PAO(ORs) 58 GTC Shillong
17.	" M.R. Deka, SA 8306573	- do -	- do -	- do -
18.	" M.N. Joshi, SA 8306407	- do -	- do -	- do -
19.	" A. Ramgsiang, SA 8302391	- do -	- do -	AAO GE (AF) Shillong
20.	Mrs. M. Gohain, SA 8306189	- do -	- do -	- do -
21.	" T. Lyngdoh, SA 8309054	- do -	- do -	- do -
22.	" F. Nongbri, SA 8306594	- do -	- do -	- do -

Attested
for
Advocate
4.1.04

- 2 -

1	2	3	4	5
23.	Mrs. M. Rynjon, SA 8306593	29.04.2002	Rs.5500- 175-9000	AAO GE (AF), Shillong
24.	Shri B.U. Laskar, SA 8306452	- do -	- do -	M.O. CDA Guwahati
25.	" K.C.N. Deb, SA 8302399	- do -	- do -	- do -
26.	" Mohan Baishya, SA 8313562	- do -	- do -	- do -
27.	" M.C. Das, SA 8306187	- do -	- do -	- do -
28.	Mrs. Uma Chakraborty, SA 8313380	- do -	- do -	- do -
29.	Shri K.P. Sharma, SA 8316804	- do -	- do -	- do -
30.	" N.C. Mandal, SA 8313561	- do -	- do -	- do -
31.	" B. Purkayastha, SA 8306520	- do -	- do -	- do -
32.	Mrs. Sabita Deb, SA 8310186	- do -	- do -	- do -
33.	" S.R. Chakraborty, SA 8306444	- do -	- do -	- do -
34.	" S. Deb, SA 8306458	- do -	- do -	- do -
35.	Shri Biswajit Das, SA 8313587	- do -	- do -	- do -
36.	Mrs. D. Sengupta, SA 8306243	- do -	- do -	- do -
37.	Shri D.P. Sharma, SA 8314422	- do -	- do -	ALAO FSD, Rangiya
38.	" D.C. Bhuyan, SA 8302387	- do -	- do -	- do -
39.	" Nageshwar Ram, SA 8306462	- do -	- do -	M.O. CDA, Guwahati
40.	" H.K. Gangopadhyay, SA 8306231	- do -	- do -	- do -
41.	" Sanjit Choudhury, SA 8313255	- do -	- do -	- do -
42.	" B.C. Kalita, SA 8313452	- do -	- do -	- do -
43.	" Rameshwar Singh, SA 8299785	- do -	- do -	- do -
44.	Mrs. B.B. Das, SA 8306403	- do -	- do -	- do -
45.	Shri Suprakash Choudhury SA/8313492	- do -	- do -	- do -
46.	" Syed Imran Rasul, SA 8306577	- do -	- do -	- do -
47.	" I.D. Singh, SA 8313602	- do -	- do -	- do -
48.	" Biswajit Deka, SA 8313366	- do -	- do -	- do -

Contd. P-3

Handwritten signature and date:
4.1.04

1	2	3	4	5
49.	Mrs. Namita Mishra, SA 8306522	29.04.2002	Rs.5500- 175-9000	M.O. CDA, Guwahati
50.	Shri Chandan Chakraborty SA/8313346	- do -	- do -	- do -
51.	" B.N. Sharma, SA 8306576	- do -	- do -	- do -
52.	" D.K. Banerjee, SA 8319690	- do -	- do -	- do -
53.	Mrs. J.P. Choudhury, SA 8313329	- do -	- do -	- do -
54.	Shri D.K. Dutta, SA 8302482	- do -	- do -	- do -
55.	Mrs. G. Aditya, SA 8313437	- do -	- do -	- do -
56.	Shri J. Das, SA 8306191	- do -	- do -	- do -
57.	" J. Ekka, SA 8308488	- do -	- do -	- do -
58.	" K.G. Dey, SA 8302412	- do -	- do -	- do -
59.	" U.S. Roy, SA 8313557	- do -	- do -	- do -
60.	" T.K. Choudhury, SA 8313336	- do -	- do -	- do -
61.	Mrs. S. Chakraborty, SA 8306337	- do -	- do -	- do -
62.	Shri T.L. Das, SA 8306129	- do -	- do -	- do -
63.	" B.K. Jha, SA 8319538	- do -	- do -	- do -
64.	" A. Gupta, SA 8306436	- do -	- do -	AAO GE 583 EP C/O 99 APO
65.	" B.K. Deb, SA 8313258	- do -	- do -	ALAO FSD Rangiya
66.	" D.K. Saikia, SA 8314388	- do -	- do -	ALAO 313 Coy(Sup) C/O 99
67.	" B.P. Biswas, SA 8313400	- do -	- do -	AAO G
68.	" G.C. Das, SA 8313493	- do -	- do -	AAO Silchar
69.	Mrs. M.R. Bhattacharjee, SA/8306340	- do -	- do -	
70.	Shri D.R. Singh, SA 8285922	- do -	- do -	M.O. CDA, Guwahati
71.	" W. Daimari, SA 8313399	- do -	- do -	
72.	Mrs. T. Dhar, SA 8306525	- do -	- do -	- do -
73.	" Sobha Deka, SA 8313369	- do -	- do -	- do -
74.	Shri M.P. Singh, SA 8294172	- do -	- do -	- do -
75.	" P.C. Deka, SA 8313401	- do -	- do -	- do -

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1	2	3	4	5
		29.04.2002	Rs.5500- M.O. CDA, 175-9000 Guwahati	
76.	Shri S. Acharjee, SA 8313552	- do -	- do -	AAO BSO, Silchar
77.	" J.D. Laskar, SA 8306442	- do -	- do -	- do -
78.	Mrs. B. Sen, SA 8313378	- do -	- do -	- do -
79.	" M. Choudhury, SA 8306342	- do -	- do -	M.O. CDA Guwahati
80.	" S. Gupta, SA 8306511	- do -	- do -	- do -
81.	" N. Das, SA 8306255	- do -	- do -	AAO GE (AF) Tezpur
82.	Shri B.C. Basumatary, SA 8313384	- do -	- do -	- do -
83.	" L.K. Prasad, SA 8319228	- do -	- do -	LAO(A), Silchar
84.	" Udayan Das, SA 8313558	- do -	- do -	M.O. CDA, Guwahati
85.	Mrs. N. Sharma, SA 8306514	- do -	- do -	- do -
86.	" Reba De, SA 8306524	- do -	- do -	LAO(A) Narangi
87.	Shri Upendra Ram SA 8306193	- do -	- do -	M.O. CDA Guwahati
88.	" A.K. Sharma, SA 8313457	- do -	- do -	AAO BSO, Silchar
89.	Mrs. D. Maitreyee, SA 8306433	- do -	- do -	- do -
90.	" M. Bhattacharjee, SA 8306446	- do -	- do -	- do -
91.	" A. Roy Choudhury, SA 8313565	- do -	- do -	M.O. CDA, Guwahati
92.	" M. Choudhury, SA 8310188	- do -	- do -	- do -
93.	Shri S.K. Roy, SA 8306118	- do -	- do -	22 APOD 99 APO
94.	" S.P. Paswan SA 8306043	- do -	- do -	Area of Control of Silchar
95.	" J.N. Das, SA 8306404	- do -	- do -	- do -
96.	" P.K. Banerjee, SA 8313578	- do -	- do -	- do -
97.	" N.K. Baruah, SA 8306400	- do -	- do -	AAO BSO (AF) Jorhat
98.	" J.N. Sharma, SA 8302384	- do -	- do -	- do -
99.	" N. Neog, SA 8302404	- do -	- do -	AAO GE, Jorhat
100.	" R.N. Prasad, SA 8306126	- do -	- do -	- do -
101.	Mrs. K. Paul, SA 8319277			


Contd.P/-5

I	2	3	4	5
102.	Mrs. S. Bhattacharjee, SA 8313251	29.04.2002	Rs.5500- 175-9000	M.O. CDA Guwahati
✓ 103.	" B.D. Thapa, SA 8306526	- do -	- do -	AAO GE, Shillong
✓ 104.	" Krishna Dey, SA 8306529	- do -	- do -	- do -
✓ 105.	" M. Swett, SA 8313347	- do -	- do -	ALAO SD, Shillong
✓ 106.	" V.R. Marbaniang, SA 8306595	- do -	- do -	- do -
✓ 107.	" T. Pariat, SA 8306186	- do -	- do -	AAO BSO, Shillong
✓ 108.	Mrs. N. Bhattacharjee, SA 8306399	- do -	- do -	- do -
✓ 109.	" P. Rynjah, SA 8306592	- do -	- do -	- do -
✓ 110.	Shri A. Kharimh, SA 8302389	- do -	- do -	Area Accounts office, Shillong
✓ 111.	Mrs. B. Giri, SA 8310954	- do -	- do -	- do -
✓ 112.	" S. Pahlom, SA 8309056	- do -	- do -	- do -
✓ 113.	" M. Syngkon, SA 8306309	- do -	- do -	- do -
✓ 114.	" C. Nongkhaw, SA 8306246	- do -	- do -	- do -
✓ 115.	Shri R.B. Singh, SA 8302106	- do -	- do -	- do -
✓ 116.	Smt. S. Dias, SA 8306506	- do -	- do -	- do -
✓ 117.	" M. Bareh, SA 8306447	- do -	- do -	- do -
✓ 118.	" S.S. Gupta, SA 8313573	- do -	- do -	- do -
✓ 119.	" M.W. Khongwir, SA 8313250	- do -	- do -	- do -
✓ 120.	" S. Roy Choudhury, SA 8306323	- do -	- do -	- do -
✓ 121.	" Aruna Paul, SA 8306445	- do -	- do -	- do -
✓ 122.	" Uma Bhattacharjee, SA 8314477	- do -	- do -	- do -
✓ 123.	Shri Surya Sen, SA 8319130	- do -	- do -	PAO(ORs) ARC Shillong
✓ 124.	" S. Choudhury, SA 8314389	- do -	- do -	- do -
✓ 125.	" D.K. Basumatary, SA 8315285	- do -	- do -	- do -
✓ 126.	" Tapan Nag, SA 8314396	- do -	- do -	- do -
✓ 127.	Mrs. Purabi Datta, SA 8319278	- do -	- do -	- do -
✓ 128.	" Urmila Choudhury, SA 8314493	- do -	- do -	- do -

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1	2	3	4	5
✓ 129. Shri D.P. Dam, SA 8313527	29.04.2002	Rs.5500- 175-9000	PAO(ORs) ARC Shillong	
✓ 130. Mrs. B. Mishra, SA 8306512	- do -	- do -	- do -	
✓ 131. Shri I. Hussain, SA 8306402	- do -	- do -	- do -	
✓ 132. Mrs. J. Marbaniang, SA 8306178	- do -	- do -	- do -	
✓ 133. " A. Choudhury, SA 8306245	- do -	- do -	ALAO SD, Shillong	

Total - 133 (One hundred thirty three) individuals.


(R.N. BORA)
Asstt. Accounts Officer(AN)

*Affected
Sant.
Advocate
4.1.84*

Annex'B' to CDA Guwahati NO.AN/IC/727/Prom/Supvr dt.28.5.01

UNDERTAKING

While accepting the higher pay under ACP scheme, I do hereby give my unqualified acceptance for regular promotion on occurrence of vacancy subsequently. In case I refuse to ~~accept~~ the higher post on regular promotion subsequently, I will be subject to normal debarment for regular promotion as prescribed in para 10 of condition for grant of benefit under ACP scheme in Annex-I of DOPT's memo dt.9/8/99.

Signature -

Name -

Designation -

A/C NO. -

Countersigned

LAO

A.O.

The C.G.D.A.
West Block, V.R.K. Puram
New Delhi
(Through Proper Channel)
Subj: Supervisor (Nk) Grade Examination
(Held in 4/2002)

Respected Sir,
With due apology, I beg to lay before
you the following few lines for your kind
perusal and necessary clarification on the matter
please. From initial circular of the 11.2.02
offer is understood that the above examination
was introduced for the purpose of promotion to
Supervisor (Nk) grade. The staff members who
have appeared in the examination and declared
successful in the examination held in 4/2002 are
given promotion w.e.f. the date of examination
i.e. 29/4/2002. As it would be seen from the
CDA, Guwahati Part II order publishing the
names of successful candidates (CDA Guwahati
Part II, SO. No. 364 of 30/10/02). Obviously the
directly recruited Senior Auditor of the
department, it should be treated as Second
Promotion in their service career.

As per the contents of D.O.P. OM No.
35036/1/97 E4(D) dt 28.10.97, the staff
members who are already in receipt of
two promotions need not be considered
for 2nd financial upgradation as no financial
benefit under the scheme shall accrue
to them. And it would be seen from the
above Part II order that the members having
promoted to Supervisor (Nk) grade have been
granted 2nd financial upgradation, which
seems to be in contravention to the rule of
the N.P. Scheme.

It is, therefore, requested that the matter
be

Attested
for
4.1.04

may kindly be looked into and the policy adopted
for the purpose may kindly be made clear
so far as such cases are concerned.

Sir, as I am holding of examination
for promotion to Superintendent (A.C.) Grade and
subsequently regarding 2nd financial
upgradation to other successful candidates
is nothing but deviation from the actual
purpose of introduction of A.C. scheme
rather than a policy of democratisation
and denial of benefit to a senior
staff.

I therefore request your honour
kindly to look into the matter and I may
be assured of this position please.

Thanking you Sir,

Yours faithfully

Dated Shillong

(Sd/-) Mr. S. M. M. (Sd/-) Mr. M. B. S. W. A. S.

Sp. Auditor.

11/6 82/3252

(Sd/-) Shillong



NO. AN-II/4348/S/A/ACP-VIII
Office of the CDA(AF)
107, Rajpur Road
Dehradun
Dt. 9 4.2003

To

The LAO(AF)
Shillong

P.K. Biswas

Sub:- SUPERVISOR (A/C) GRADE EXAMINATION HELD IN 4/02.

Ref:- Your memo NO.LA/SHG/ACP/1/181 dt.15.3.03.

Application dt. 15.3.03 in respect of
Shri P.K. Biswas S/A 8313252 received with your above cited
memo on the subject has been examined & following remarks
are offered:

1. Please refer to para 6 of this office important
circular NO. AN-II/115/Sup/4/02 -I dt.7.3.02 where in it
is clarified that the A.C.P would be available only
to such candidates who qualify in the above examination
subject to other conditions mentioned in the DEPTs
instructions on the subject.

2. As the individual did not appear in the above said
examination he is not entitled for grant of second
financial upgradation.

3. Please ensure that the contents of the circular are
kept in view before forwarding the such application to
HQrs office to avoid correspondance.

Accountant
(C.L. KHENTWAL)
SR. ACCOUNTS OFFICER (AN)

69
1

*Accepted
for
Advocate
U.I. Gu*

BY SPEED POST / Conf. cl.

का. लेखा नियंत्रक
Controller of Defence Accounts (CA)

1999

रामदीप हाउस, नई दिल्ली
Rachm House, New Delhi

Most Immediate

No AN/X/11051/ACP

Office of the CGDA,

West Block-V, R.K. Puram,

New Delhi - 60

Dated :- 1st September '99

The CDA (B & R)
New Delhi

Sub:- The assured career progression scheme for the Central Govt. Civilian Employees.

The Vth C.P.C. in its report made certain recommendations relating to assured career progression (ACP) scheme for Central Govt. Civilian Employees in all Ministries/Departments. The said scheme has now been accepted by the Govt. with certain modification vide the Govt. of India, Min. of Personnel, Public Grievances and Pension (Deptt. of Personnel & Trg.) O.M. No. 35024/1/97-Estt-(D) dated 9th August 99 (Copy enclosed).

Salient features of the ACP scheme-

2. Broad details of the ACP scheme have been given in the above mentioned OM dated 9.8.99. However the salient features of the scheme as also the parameters to be observed for its implementation in the Department are as under:-

(i) The financial benefits under the ACP scheme will be granted from the date of completion of the eligibility period prescribed under the scheme or from the date of issue of these instructions i.e. 9-8-1999 whichever is later.

(ii) Two financial up-gradations under the ACP shall be available to group 'B' 'C' and 'D' employees, if no regular promotions have been availed during the prescribed periods in their grade, on completion of 12 years and 24 years of

Attestd
Rachm
Advocate
4.1.04

regular service respectively. The first financial up-gradation under the scheme shall be allowed after 12 years of regular service and second up-gradation after 12 years of regular service from the date of first financial up-gradation subject to the fulfillment of prescribed conditions. The ACP scheme does not cover Group 'A' i.e. IDAS officers in the Deptt in terms of para 2.1 of DOPT's OM dated 9-3-99.

- (iii) In case the first up-gradation gets postponed on account of employee not found fit or due to departmental proceedings etc., the same would have consequential effect on the second up-gradation and the same would also get deferred accordingly.
- (iv) Regular service for the purpose of ACP scheme is interpreted to mean the eligibility service counted for regular promotion in terms of relevant service/recruitment rules. Further the regular service for the grant of benefit under this scheme shall be counted from the grade in which an employee was appointed as direct recruit.
- (v) Two financial up-gradations under the said scheme in the entire Govt. service career of an employee shall be counted against regular promotions including in situ promotion (granted in terms of Min. of Fin. Deptt. of Exprd. OM No. 10/1/13-11/88 dated 13th Sep'91) and fast track promotions available through limited departmental competitive examinations, from the grade in which the employee was appointed as direct recruit. Briefly, two financial up-gradations are assured in the Govt. service career under the scheme. If an employee has already got one promotion, he/she will qualify for second financial up-gradation only on completion of 24 years of regular service. In case an employee has completed 24 years of regular service without any promotions two financial up-gradation will be given as per provisions contained in para 4.5.1 and 15 of Annexure I of above mentioned OM dated 9-8-99. In case two promotions have already been received by an employee, no benefit under scheme shall accrue to him/her.

vacancy based regular promotion, as distinct from financial up-gradation under the ACP scheme, shall continue to be granted after due screening by regular D.P.C. as per relevant rules/regulations. The introduction of the ACP scheme in no case, affect the normal (regular) promotional avenues

(vii) * Fulfillment of normal promotion norms for promotions from one grade to the other, as per extant orders i.e. analysis of ACIs for last 3 years in respect of Group 'C' & 'D' employees and ACRs for last five years in respect of Gp 'B' employees, their integrity, seniority cum fitness in case of Gp 'D' employees disciplinary/ penalty proceedings as per the provisions of CCS(CCA) Rules 1965 etc to assess their fitness or otherwise, as observed by a DPC, shall be ensured for grant of financial up-gradation under the ACP scheme.

(viii) The financial up-gradation under the said scheme shall be given to the next higher grade in accordance with the existing hierarchy in a cadre/category of post without creating any new post for the purpose as laid down in para 7 of Annexure I and Annexure II to OM dated 9-8-1999.

(ix) The financial up-gradation under the scheme shall be purely personal to the employee for the stated purposes and restrictions of ACP scheme for financial and other benefits shall have no relevance to his seniority position, he/she will continue to hold the old designation and that the same will not amount to actual/functional promotion of the employee. There shall be no additional financial up-gradation for the senior employee on the ground that junior employee in the grade has got higher pay scale under the ACP scheme (Para 6, 7 & 8 of Annexure-I to OM dated 9-8-99 refer)

(x) Reservation orders/roster shall not apply to the ACP scheme in terms of para 12 of Annexure-I of DOPT's OM dt 9/8/99.

(xi) Under the ACP Scheme, the pay of an employee, on up-gradation, shall be fixed under the provisions of FR-22(1) a (1) subject to minimum financial benefit of Rs. 100/- as per DOPT OM No. 1/6197/Pay- dt 5/7/1999 as referred in para 9 of Annexure-I to OM dated 9-8-99. The financial benefit allowed

Under this scheme shall be final and no pay fixation benefit shall accrue at the time of regular promotion against a functional post in the higher grade.

(ii) Grant of higher pay scale under the ACP scheme shall be conditional on the fact that an employee, while accepting the said benefit, shall be deemed to have given his/her unqualified acceptance for regular promotion on occurrence of vacancy subsequently. In case he/she refuses to accept the regular promotion, it would entail forfeiture of the period of debarment towards the qualifying service for the next financial up-gradation in accordance with the provisions of para 10 of Annexure-I to OM Dated 9/8/99 referred to above.

(iii) The regular service of an employee in his/her previous organisation where he/she was declared surplus, shall be counted along with his/her regular service in the Department for the purpose of financial up-gradation under the scheme in terms of Para 14 of Annexure-I to DOPT's OM dt 9/8/99.

(iv) The ACP scheme has become operational w.e.f. 9/8/99 i.e. date of issue of DOPT's OM mentioned above.

Application of the ACP Scheme in DAD,

The deep analysis of the recruitment rules pertaining to Group 'B', 'C' and 'D' employees in the department and their mode of recruitment reveal that the benefit of the ACP Scheme will accrue to the following grades under the following groups

Group 'B'

Joint Officer

In case of direct recruitment.

Group 'C'

Senior Auditors

Directly recruited Auditors in the department and who did not receive promotion in the selection grade

Librarian/Information Assistant (if any)

In case of direct recruitment

5

The insitu promotion w.r.t. Govt. of India, Ministry of Finance, Department of Expenditure OM No. 10(1) E III/88 dated 13/9/91 has been given in respect of some of the marginally noted grades. Hence the same will have to be kept in view in implementing the ACP Scheme. In case, a Gp 'D' employee got his/her promotion first to Dastry's grade and then to Record Clerk, s/he will not be eligible for any financial up-gradation. So far as DAD is concerned the scheme of 'in situ' promotions introduced w.e.f 1-4-91 under the above referred OM shall cease to be operative w.e.f. 01-08-99.

Screening Committee

With a view to implement the ACP Scheme in the department it has been decided that a departmental screening committee may be constituted at your end for the purpose of processing the cases in respect of various groups of employees, as mentioned in para 3.3 above, for grant of financial upgradation as provided for in the same scheme. The composition of the screening committee shall be the same as that of the TTC prescribed under the relevant recruitment/Service Rules for regular promotion to the higher grade. The screening committee, so constituted, will consider the cases that have already been matured or would be maturing upto 31st March 2000 for grant of benefits under the scheme.

It has also been decided with reference to Para 5.3 and 6.4 of Department of Personnel and Training OM dt 9/8/99 that the controller may also constitute the next screening committee for smooth implementation of the ACP scheme in the department. A screening committee may meet twice in a financial year preferably in the first half, i.e. January and July for advance processing of the cases. Cases maturing during the second half (April to Sept.) of a particular financial year for grant of benefits under the

sa scheme shall be taken up for consideration by the screening committee meeting in the first week of Jan. 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 (Oct. to March) of the same financial year.

4. The screening committee will scrutinise the relevant service records, ACR dossiers, disciplinary/penalty, proceedings, if any, etc. minutely to assess the fitness or otherwise of an employee for grant of financial up-gradation.

4.3. As the basic parameter of the ACP Scheme is to ensure at least two financial up-gradations in the entire service career, screening committee will ensure with reference to the individual's service book etc. regarding the eligibility of Two/One financial up-gradations or otherwise with reference to promotion(s) already received by him/her, as noted in his/her service book. In case one promotion has been availed, the individual will be entitled for only one more financial up-gradation on completion of 24 years of service.

As the scheme is required to be introduced immediately, Controllers may require that the screening committees complete their work by 30th September '99. The complete details of the employees who have been recommended for financial up-gradation within the parameters of ACP Scheme by the screening committee will be furnished to the HQrs office by 10th October '99 in the proforma enclosed at Annexure.

The recommendations made by the screening committee before their transmission to HQrs office, are required to be put up to the Chief Controllers/Controllers for their acceptance. The cases of Hindi Officers and Sr. Auditor shall be sent to AN-II Section and AN-XI Section respectively, which deal with the promotions of the respective grades. The cases in respect of the other grades, Record Clerk and all the grades of group 'D' identified in para 3 above shall be sent to AN-XII Section, which deals with promotions of those grades. AN-II, AN-XI and AN-XII Sections will put up the cases for clearance/approval by the screening committee constituted in HQrs office.

5. A certificate will be endorsed by the screening committee at the end of the annexure A that the service books/ACRs dossiers have been examined by the

screening committee and that no facts relevant to the financial up-gradation, as recommended by them, have been omitted. It will also be certified that no case of illegal employee in that grade has been left.

When the controllers are aware, a in situ promotion scheme was introduced by the Government of India Ministry of Finance, Department of Expenditure OM No. 10(1)/F-11/88 dated 13-11-91 as circulated under our letter No. AN/CL/12409/G3 CSD dated 15th Aug '92. Various employees falling in Gp 'C' & 'D' in our Department have been involved in situ promotion. As this promotion will have to be taken into account for the implementation of the ACP Scheme, the screening committee must ensure that if any such in situ promotion has been granted, the same has been taken into account by them.

This may please be accorded "Top Priority" and the screening committee's report duly accepted by the Chief Controller/Controller must reach the Headquarters on or before due date, as mentioned above.

Please acknowledge receipt.

BY CCDA (AN)

For similar action in respect of Group 'B', 'C' & 'D' employees serving in the HQrs office

So far as the cases of H.Os are concerned.

So far as the cases of RCs and the group 'D' employees are concerned, as identified in para 3

BY CCDA (AN)

*Attested
By
Advocate
on 1.5.94*

OFFICE OF THE ACCOUNTANT GENERAL (AG) MEGHALAYA SHILLONG:

Estt-I(4) Order NO.297

Dated 14-3-2001

In pursuance of the govt. of Indian Ministry of personnel, public grievances and pensions (Department of Personnel and Training) New Delhi O.M. NO. 35034/1/97 Estt(D) dated 9-8-99, the following Group 'C' Officials (Senior Accountants) whose names are shown below and drawing pay in the Scale of Rs. 5000-150-8000/- of both the Offices of the AG (A&E) Assam Guwahati and the A.G (A&E) Meghalaya etc, Shillong, have been granted second financial upgradation in the higher scale of pay of Rs. 5500-175-9000/- under assured career progression scheme with effect from the date of their completion of 24 year of regular service as mentioned against their names.

Sl. NO.	Name of the Official & Designation	Office to which attached.	Effective date of ACPS.
1.	Smti. Sumitra (Das) Day, Sr. Acctt	O/o the AG (A&E) Megh., etc, Shillong	13-03-2001
2.	Smti. Sabita (Chakraborty) Bhattacharjee (II), Sr. Acctt.	- DO -	21-10-2000
3.	Shri Anadi Shankar, Choudhury, Sr. Acctt.	O/o the AG (A&E) Assam, Guwahati.	16-10-2000
4.	Smti. Anusua (Dutta) Gupta, Sr. Acctt.	- DO -	19-10-2000
5.	Smti. Nirupama Bhuiyan, Sr. Acctt.	- DO -	26-03-2001
6.	Shri Arup Ratan Dutta Sr. Acctt	- DO -	24-11-2000

2. The grant of financial benefits is subject to the following conditions.

(i) The ACP Scheme envisages merely placement in the higher pay Scale/grant of financial benefits (through financial upgradation) only to the Govt. servant concerned on personal basis and shall, therefore, neither amount to functional/regular promotion nor would require creation of new posts for the purpose.

(ii) The financial benefits under 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 the govt. of India O.M dated 9.8.99 whichever is later.

(iii) The financial upgradations under the ACP scheme in the entire relevant 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 availed only if no regular promotions during the prescribed periods;

(12 and 24 years) have been availed by an employee. If an employee has 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 promotion on regular basis have already been received by an employee, no benefit under the ACP Scheme shall accrue to him.

*Advised
By 1.1.01*

(iv) 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.

(v) Fulfilment 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 the 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 govt. 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.

(vi) Financial upgradation under the Scheme shall be given to the next higher grade in accordance with the existing hierarchy in a grade/category of posts without creating new posts for the purpose.

(vii) 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.

(viii) On upgradation under the ACP Scheme, pay of an employee shall be fixed under the provisions of F.R.22 (1)(a) (i) subject to a minimum financial benefit of Rs.100/- as per the Department of personnel and training Office Memorandum NO.1/6/97-Pay.1 dated 5-7-99. 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.

(ix) 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 the 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.

3. On their placement in the higher scale of pay under the ACP Scheme they are required to exercise option, if any, in terms of F.R.22 (1)(a)(1) within one month from the date of issue of order.

Sd/-

Sr. Deputy Accountant General (Admin)

Memo NO. Estt-I(M)/1-24/2000-2001/5580-91

DATE: 14-3-2001

Copy forwarded for information and necessary action to:-

1. The Principal Director of Audit, I. P. Railway, Haligaon, Guwahati-11.

2. The DAG(Admn)

Office of the A.G(A&E) Assam,
Haidangon, Daltola, Guwahati.29

3. The Sr.AO(Admn) alongwith 15
spare copies A copy of the
order may please be handed over
to those Sr.Accountants of
Guwahati Office as shown in the
list.

4. The private Secretary to the A.G(A&E), Meghalaya etc, Shillong.

5. The steno to the Sr.DAG(Admn), Shillong.

6. P.A.O(Local).

7. The AAO/Confidential cell(Local).

8. The SO/Estt-2 (M) section alongwith 5 spare copies.

9. The gradation list Group, pay fixation and service Book Group,
Budget Group of Estt-I(M) Section.

10. Office order Book.

11. persons concerned of Shillong Office only.

12. Notice Boards.

[Signature]
Establishment Officer.

[Signature]
Sd/-
Advocate
04.1.01

Central Administrative Tribunal

- 9 MAR 2004

GUWAHATI BENCH

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

O.A. No. 1 OF 2004

Shri P.K. Biswas and Others

Versus

Union of India and others

In the matter of :

Written statement submitted

by the respondents

The respondents beg to submit
a brief history of the case which
may be treated as a part of the
written statement.

(BRIEF HISTORY OF THE CASE)

Due to non granting of 2nd Financial upgradation under the ACP scheme, the applicants have filed the case in the Court of CAT Guwahati Bench. As the applicants have not passed/appeared in the requisite departmental examination held in 29.04.2002/passed SAS part I examination, therefore, the said benefit has not been granted to them as per standing Government orders on the subject.

PARAWISE COMMENTS :-

1. That with regard to the statement made in Para 1, of the application, the respondents beg to state that accepted partially being informal, but denial of benefits under ACP Scheme is not illegal as the same has been done in terms of condition No. 6 of Government of India, Ministry of Personnel, Public Grievances & Pension (DOPT)

*Union of India & or
- Respondents
through:- 92
Anup Kumar Jendhu
Addl. Central Govt. Standing Counsel
4/3/05
C. A. T.
Guwahati*

No.35034/1/97-Estt(D) dated 9/8/99, taking into account the clarification vide MOD(Fin) ID No. F.11(10)/C/2004(1250) dated 12/10/2004 in relation to a CAT case No. OA 23/2001 file by Shri B.K. Mistry and others Versus Union of India & Others (copy enclosed). It is stated that the ACP Scheme is 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. The benefit under the Scheme is not automatic merely on completion of specified length of service but subject to several conditions, e.g. Condition No.6 relates to fulfillment of all promotional norms. The benefit under the ACP Scheme are therefore only for those who are otherwise eligible for promotions in all respect and whole promotion is delayed due to inadequate promotional avenues and are thus stagnating. The basic objective is to allow the higher functional grade which an employee would have drawn had he been promoted, vacancy were to be available and hence those who are not eligible for promotion for non fulfillment of the provisions of the Recruitment Rules cannot be equated with those who are eligible for promotion in all respects but are stagnating due to lack of adequate vacancies in the promotional grade.

Copy of MOD (FIN) dated 12/10/2004 is annexed herewith and marked as Annexure 'A'

2. That with regard to Para 2, of the application the respondents beg to state that it is accepted being formal.
3. That with regard to the statement made in Para 3, of the application, the respondents beg to state that the application was not filed within the limitation under section 21 (I)(a) of Administrative Tribunal Act as the application has been made against the latest order

issued by PCDA(AF) Dehradun under no. AN.II/4348/S/A/ACP-VIII dated 9/4/03 and the date of application of the applicant is 12/10/2004. Thus, the case may therefore, be considered for dismissal.

4. That with regard to Para 4.1 of the application, the respondents beg to state that being formal needs no reply.

5. That with regard to the statement made in Para 4.2, the application, the respondents beg to state that applicant No.1 has applied to the CDA(AF) only who is respondent No.3, but not to the CGDA (Head of the Department) who is respondent No. 2. Applicants from sl. no. 2 to 7 (belong to CDA Guwahati organisation, who is Respondent No.4) have never applied for the redressal of their grievances to the Department. So, all of them have not availed of all the remedies available to them and also have not exhausted all the departmental channels for the redressal of their grievances. The application may, therefore, be considered for dismissal under Section 20 of Administrative Tribunal Act.

6. That with regard to Para 4.3 of the application, the respondents beg to state that being factual information needs no reply.

7. That with regard to Para 4.4 of the application, the respondents beg to state that being factual information needs no reply.

8. That with regard to the statement made in Para 4.5 of the application, the respondents beg to state that the applicants were due for second financial upgradation after completion of 24 years of service in the Department, but as they have not fulfilled the criteria of passing the departmental examination of Supervisor (Accounts) or

SAS Part I examination, they have not been given the benefit under the ACP Scheme.

9. That with regard to the statement made in Para 4.6. of the application, the respondents beg to state that following the introduction of the ACP Scheme in 1999, no applicant except at Sl. No.1, approached the concerned respondent for grant of second financial upgradation in terms of provisions of the ACP Scheme.

10. That with regard to the statement made in Para 4.7. of the application, the respondents beg to state that Department of Personnel and Training Government of India, in response to certain queries made by some Ministries/Departments, issued clarification regarding implementation of ACP Scheme, vide their OM F. No. 35034/1/97-Ests(D)/Vol. IV dated 10/2/2000 (copy enclosed).

According to clarification item no. 16 of the said OM, it reiterates that '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.

Copy of the OM dated 10/2/2000 is annexed hereto and marked as Annexure 'B'

Regarding sub Para (ii), it is further stated that ACP Scheme has been implemented correctly in its letter and spirit. Therefore, the contention made in Para 4.7 Sub Para (ii) is not agreed to.

11. That with regard to the statement made in Para 4.8. of the application, the respondents beg to state that on the basis of clarification quoted in Para 4.7 above, the Respondent No. 2, i.e. CGDA New Delhi, eventually issued one circular bearing No.

AN/XI/11051/ACP dated 7.7.2000 and respondents No. 3 & 4 acted accordingly.

12. That with regard to the statement made in 4.9. of the application, the respondents beg to state that the applicant No.1 is not under Respondent No.4. However, the contention that departmental / skill test for the purpose of granting benefit under the ACP Scheme for the employees except Group "D" is not correct, in terms of clarification issued by the Government of India letter dated 10.2.2000. No representation have been made by the other applicants viz. sl. no. 2 to 7.

13. That with regard to the statement made in Para 4.10, of the application, action has been taken by the respondents No. 2, 3, & 4, on the basis of the clarification issued vide Government of India, DOPT OM F. No. 35034/1/97-Ests (D)/Vol. IV dated 10/2/2000.

14. That with regard to Para 4.11 to 4.22 and 5.1 to 5.10, of the application, the respondents beg to offer no comments.

15. That with regard to the statement made in Para 6, of the application, the respondents beg to state that applicant at Sl. No.1, is working under PCDA(AF) Dehradun (Respondent No.3). As regard applicants at sl.2 to 7, it is submitted that they are working under the organisation of CDA Guwahati (Respondent No.4) but as per records held in this office they have not submitted any representation in this regard.

16. That with regard to Para 7, of the application, the respondents beg to state that being formal needs, no reply.

17. That it is pertinent to mention here that on similar grounds, an OA bearing No. 2196/2000 was filed by Shri Girish Chandra and others in the Honourable CAT, Principal Bench, New

Delhi and The Honourable Principal Bench dismissed the OA as it was found to be devoid of merit.

Copy of the judgement dated 3/7/2001, in OA 2196/2000 is annexed hereto and marked as Annexure "C".

18 That with regard to the statement made in Paras 8 and 9.1, of the application, the respondents beg to state that in view of the submissions made above, the applicant is not eligible to get any relief and the application be dismissed with cost.

Verification

VERIFICATION

I Pankaj Hazarika, ACDA, of CDA

Guwahati, do hereby verify that the statements made in paragraph 2, 4, 6, 7, 14, 16 & 18 of the written statement are true to my knowledge. Those made in paragraphs 1, 3, 5, 8 - 13, 15 & 17 being matter of records are true to my information derived there from which I believe to be true and those made in the rest are humble submissions before the Honourable Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 2nd day of March of 2005.

Deponent.

Pankaj

পঙ্কজ হাজারিকা, এ.স.সি.সি.

PANKAJ HAZARIKA, IDAS

এ.সি.সি.সি.

Asstt. Controller of Defence Accounts

কার্যালয়, রক্ষা লেখা নিয়ন্ত্রক, গুয়াহাটী

Office of the CDA, Guwahati

Subject: CAT Case No. OA/23/2001 - Filed by Shri B.K.Mistry & Others Vs. UOI & Others : CAT Letter No. Q/Judl./OA.23/07/2004 and CAT Order dated 15.07.2004.

Ref 'ce: CGDA's Office UO No. AN/XI/11051/ACP/BKM/CAT/Fys. dated 20.08.2004.

DOP&T has been consulted in the matter. It has been stated by DOP&T that the ACP Scheme has been devised to deal with the problem of genuine stagnation and hardship faced by the employees due to lack of adequate promotional avenues. The benefit under the ACP Scheme is not automatic merely on completion of specified length of service but is subject to several conditions, e.g. condition No. 6, relating to fulfillment of all promotional norms. The basic objective of the ACPS is to allow the higher promotional grade which an employee would have drawn had he been promoted if the vacancy were to be available and hence those who are not eligible for promotion for non-fulfillment of the provisions of the Recruitment Rules cannot be equated with those who are eligible for promotion in all respects but are stagnating due to lack of adequate vacancies in promotional grade. In this connection, a copy of their UO No. 4621/Estt.D/04 dated 22.09.2004, is enclosed.

2. The CGDA's Office is requested that the case may be defended in the Court keeping in view the elaborate and meticulous guidelines issued by the DOP&T as above.

DFA(C)

(T.JOSEPH)

AFA(C)

Dy. CGDA (AN)

(Projects)

MoD(Fin.) ID No. F.11(10)/C/2004 (1250) dated 12.10.2004.

urgent pl.

AC (AN)

Attested
Addl. C.G.S.C.

Reference preceding note.

A recent judgment of the CAT, Principal Bench, dated 17.8.2004 in respect of the case filed by Central Sectt Non-Gazetted Employees Union (OA 2699/2003) is placed below for reference. The judgment is self-explanatory. Copies of earlier orders of the CAT, Principal Bench in respect of OA No. 1342/02 Mahinder Pal Sharma vs. UOI & Ors and in the incase of OA No. 2196/00 dated 3.7.2001 titled Garish Chandra vs. UOI & Ors. cited in the CAT order above cited in the judgment are also placed on the file. The judgments speak for themselves and give the full rationale for prescribing the need for fulfillment of promotional norms (for grant of ACP Scheme). It is also relevant to mention that as stated in the preamble (opening para) of the Scheme, the ACP Scheme is to be viewed as 'safety net' to deal with the problem of the genuine stagnation and hardship faced by the employees due to lack of adequate promotional avenues. The benefit under the ACP Scheme is not automatic merely on completion of specified length of service. The benefit of the Scheme is subject to several conditions. The key condition is condition no. 6 relating to fulfillment of all promotional norms. The benefit is, therefore, only for those who are otherwise eligible for promotion in all respects but whose promotion is delayed due to inadequate promotional avenues and are thus stagnating on this count. Apart from condition no 6, There are some other provisions in the Scheme which would clearly indicate that the benefit of ACP Scheme ~~only~~ amounts to allowing the higher promotional grade which an employee had drawn had he been promoted if the vacancy were to be available and hence those who are not eligible for promotion for non-fulfillment of the provisions of the Recruitment Rules can not be equated with those who are eligible for promotion in all respects but are stagnating due to lack of adequate vacancies in promotional grade. For example, as per condition no. 7, benefit is allowed as per existing hierarchy. If persons not eligible for promotion were to be covered under ACPS, the Government could have considered allowing scales only as per standard pay structure in Annexure II of the O.M. dated 9.8.99 as in case of holders of isolated posts. Pay under ACPS is allowed in the same manner as would have been fixed if the officer had been promoted against a clear vacancy and there is no fresh pay fixation at the time of subsequent promotion. (Condition no 9) In other words, for limited purpose of pay fixation, benefit under ACP is same as would have been earned by the officer if he had been promoted. Such a provision could not have been made if those not eligible for promotion were to be allowed the ACP. Condition no. 10 says that grant of higher scale under ACP Scheme is 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

Contd../-

10 74 Vol

vacancy subsequently and if he refuses the regular promotion offered subsequently, the second ACP benefit is deferred to the extent of debarment period (Condition no. 10). This provision would have been worded differently if ineligible persons were to be considered for ACPS in next promotional grade. Hence, not just condition no. 6, the entire scheme, which has been formulated by Pay Commission in para 22.1 of its Report and accepted by the Government with some modifications, has been based on the underlying principle that employees covered under the Scheme are other wise eligible for promotion but stagnating due to lack of vacancies/promotional avenues. The Pay Commission had made extensive studies of various schemes prevalent in other State Governments before recommending the ACP Scheme. One of the basic feature of the Scheme proposed by the Pay Commission was as under: -

(i) Every employee, recruited in a particular grade/scale of pay shall be allowed to move to his respective and specified higher scales on completion of specified period of residency in the lower pay scale, subject to fulfillment of usual norms of promotion. If this involves passing of a trade or departmental test or acquisition of higher qualifications, that prerequisite would have to be fulfilled before the benefit of ACP is given

154 20/09

2. Hon'ble Division Bench of Supreme Court in a judgment reported in JT 2003 (9) SC 130 Government of West Bengal v Tarun K. Roy and Ors observed that Article 14 read with Art. 39 (d) of the Constitution of India envisage the doctrine of equal pay for equal work. The said doctrine however, does not contemplate only because the nature of the work is same, irrespective of an educational qualification or irrespective of their source of recruitment or other relevant considerations, the said doctrine would be automatically applied. The holders of a higher educational qualification can be treated as a separate class. Such classification, it is trite is reasonable. Employees performing the similar job but having different educational qualification, can, thus be treated differently. It was also held that the Question of violation of Article 14 of the Constitution of India on the part of the State would arise only if the persons are similarly placed. Equality clause contained in Article 14, in other words, will have no application where the persons are not similarly situated or when there is a valid classification based on a reasonable differentia. Doctrine of equal pay for equal work therefore is not attracted in the instant case. Another similar judgment has been cited by CAT in para 7 of the order dated 17th August 2004 in OA No. 2699/2003. There are many other judgments, which can be appropriately cited to distinguish them from the case eligible for promotion & increment who are not.

3. Ministry of Defence may keep the above in view for defending the matter when it is taken up by the Division bench of CAT, Jabalpur bench.

(Vijay Kumar)
Under Secretary
September 17, 2004

Director (E-I).

2 pages

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73
102

HE may kindly see pro-mote of
(K) from 4/1/04. The note
in the hand from the nature
of application granted under the
ACPI and various orders of CAI
in this regard. Dept. of Defence
Accounts may, perhaps, be advised
to defend the case accordingly.

3362/DIRECT/04
22/9

3457/JS(E)/04
22/9/04

J(E)

21.5.06
ALOK SAXENA
Director (E-1)
R Chandrasekhar

22nd Sept. 2004

DI(E)
VJ/

22.9.04

Min of Defence (Hr)

DEPT. U.C.N. 4621/Estt. 2104, dated 22/9/04

date
7/10/04

for
S.D.

DFACC may also please see before
CADA is advised accordingly.

11/10/04

1250/C/2004
RS-7/2/04

DEACC

M. C. Min
12/12

DEACC

Attested
Addl. G.G.S.O.

12

ANNEXURE

B

Aps

F.No.35034/I/97-Est(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/rectified 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

Attested
 Addl. G. S. C.

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.35034/1/97-Estt(D)(Vol.IV) dt.10.2.2000 clarifying various points on the application of ACP Scheme is sent herewith for information and guidance.

(Signature)
(C.A. Subramanian)
Deputy Secretary
15.2.2000

G/Org 4(Civ)(d)	DGNCC/Pers@	DGDE/Admn.
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 INDIAN 25/10/1999

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-a-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.

- 7 - 15

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Annan
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S.No.	Point of doubt	Clarification
17.	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?	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.

18.	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>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.III(B)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>
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....8/-

Attested

AK C. G. S. G.

....2/-

16
Annexure - C
CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

Faridkot House,
Cocoernicus Marg,
New Delhi-110001

Dated: 16/7/2001

99 70/7
1. Sh. E. J. Varghese, Counsel for the Applicant,
438, Lawyers Chamber Supreme Court, New Delhi.

2. Sh. H. K. Ganguni, Counsel for the Respondents,
CAT Bar Room, New Delhi.



Regn No. DA.2195/00...

87
Girish Chandra S. Das Applicant
Versus

U.D.J. A. Das Respondent
Sir,

I am directed to forward herewith a copy of Judgement/
order Dt. 3/7/2001.....passed by this Tribunal in the above
mentioned case for information and necessary action, if any.

Please acknowledge the receipt.

Yours faithfully,

(SECTION OFFICER)
JODL
FOR REGISTRAR

Encl: As above.

Attested
Audl. C. G. S. O.

17

VPS

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2196/2000

This the 3rd day of July, 2001

Hon'ble Mrs. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Mr. S.A.T. Rizvi, Member (Admn)

1. Girish Chandra, Senior Auditor,
O/o Principal Controller of Defence
Accounts, "G" Block,
New Delhi - 110011
2. N.K. Joshi, Senior Auditor,
O/o Principal Controller of Defence
Accounts, "G" Block, New Delhi-11
3. J.P. Jasra, Senior Auditor,
O/o Principal Controller of Defence
Accounts, "G" Block,
New Delhi : 110 011
4. D. Pandey, Senior Auditor,
O/o Principal Controller of Defence
Accounts, "G" Block,
New Delhi : 110 011
5. H.M. Sharma, Senior Auditor,
O/o Principal Controller of Defence
Accounts, "G" Block, New Delhi : 11
6. Laxmi Narayan, Senior Auditor,
O/o Principal Controller of Defence
Accounts, "G" Block,
New Delhi : 11
7. Smt. Geeta Nagpal, Senior Auditor,
O/o Principal Controller of Defence
Accounts, "G" Block, New Delhi:11
8. Smt. Kamlesh Rehani, Senior Auditor,
O/o Principal Controller of Defence
Accounts, "G" Block, New Delhi:11
9. Smt. Saroj Dongawar, Senior Auditor,
O/o Principal Controller of Defence
Accounts, "G" Block, New Delhi:11
10. Smt. Vijaya Arora, Senior Auditor,
O/o Principal Controller of Defence
Accounts, "G" Block, New Delhi:11
11. Smt. Shashi Bala, Senior Auditor,
O/o Principal Controller of Defence
Accounts, "G" Block, New Delhi:11
12. Shri Vijay Kumar Khindria, Senior Auditor,
O/o Principal Controller of Defence
Accounts, "G" Block, New Delhi:11

Applicants

(By Advocate : Shri E.J. Verghese)

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Versus.

Union of India.
Through The Secretary,
Ministry of Personnel, Public Grievances
& Pension (Department of Personnel &
Training), North Block,
New Delhi : 110 001

2. The Union of India,
Through The Secretary, Ministry of
Defence, South Block,
New Delhi - 110 011

3. The Controller General of Defence
Accounts, West Block V,
R.K. Puram, New Delhi : 110066

4. The Principal Controller of Defence
Accounts, Headquarters, "G" Block,
New Delhi: 110 011

.. Respondents
(By Advocate: Shri H.K. Gangwani)

O R D E R

By Hon'ble Shri S.A.L. Rizvi, Member (A) :

All the 12 applicants in this OA, who are Senior Auditors in the Defence Accounts Department (DAD) are aggrieved by their case for financial upgradation under the ACP Scheme not being considered favourably by the respondents in view of the clarification rendered on a point of doubt by the DOP&T vide their OM dated 10 February, 2000. The respondents seeks to contest the OA by filing a reply. A rejoinder has been filed by the applicants.

2. We have heard the learned counsel at length and have perused the material placed on record.

3. Briefly stated, the facts of the present case are the following.

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4. The applicants belong to the DAD which is one of the six organised Accounts Departments of the Government. Second financial upgradation, which the applicants also seek, has already been granted to Senior Auditors in the Audit Defence Services, Audit Economic and Service Ministries under the Civil Accounts and in the Office of Joint Secretary (Training) and Chief Administrative Officer in the Ministry of Defence. The Controller General of Defence Accounts, respondent No.3 herein, has also like-wise granted second financial upgradation to 7 Senior Auditors on completion of 24 years of service by his order of 25.4.1999. However, the said respondent has, according to the applicants, ignored their claim by way of discrimination. The applicants have already received one promotion from the post of Auditor to that of Senior Auditor. For this, the applicants had to pass a confirmatory test conducted by the Department. Their claim for second financial upgradation has been rejected on the ground that they have not passed the SAS Part-I/Part-II examinations.

5. In order to appreciate the facts and circumstances put forth by the applicants in the present OA, we would like to bring out in short the salient/relevant features of the ACP Scheme promulgated by the Government of India in the Ministry of Personnel, Public Grievances and Pension (Department of Personnel & Training) vide their Office Memorandum dated 9th August, 1999. The scheme has been devised in order to mitigate hardship in cases of acute stagnation either in a cadre or in an isolated post. The idea is to grant two financial upgradations on completion of 12 years and 24

years of regular service in accordance with the conditions stipulated in Annexure-1 to the aforesaid Office Memorandum dated 9th August, 1999. The said scheme will not affect the normal/regular promotional avenues available on the basis of vacancies. A Departmental Screening Committee is to be constituted for the purpose of processing the cases for grant of benefit under the aforesaid Scheme. Clarifications on matters of doubt having regard to the scope and meaning of the provisions of the aforesaid scheme are to be given by the DOP&T. The Scheme envisages mere placement in higher pay scales on personal basis and will, therefore, not amount to functional/regular promotion nor would the same require creation of new posts. Financial benefits under the Scheme are to be granted from the date of completion of the period of eligibility prescribed therein. The first financial upgradation under the 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 fulfilment 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., it would have consequential effect on the second upgradation which would also get deferred accordingly. Both the financial upgradations under the Scheme will be counted against regular promotions availed by an employee. This will imply that two financial upgradations will be available only if no regular promotions during the prescribed periods of 12 and 24 years have been availed by an employee. At the same

(5)

time, 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 Scheme. If an employee has already been promoted on regular basis twice during his service, the benefit under the said Scheme will not accrue to him. The conditions attached to the aforesaid Office Memorandum of 9th August, 1999 also lay down as under:

"6. Fulfilment 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 be 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." (emphasis supplied)

6. From the description of the salient/relevant features of the ACP Scheme brought out in the paragraph above, it would be seen that in the present case the applicants, having already gained one promotion by way of regular promotion are entitled at best and if at all to one financial upgradation under the Scheme which has been correctly termed by them as Second financial upgradation. However, the aforesaid upgradation can be allowed only upon fulfilment of normal promotion norms as laid down in condition No. 6 reproduced in para 5 above.

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7. Whether or not the requirement of departmental examination/skill test for vacancy based promotion will have to be met and insisted upon for financial upgradation under the ACP Scheme was also a subject matter of doubt raised by several Departments.

Accordingly the same was referred to the DOP&T for clarification. That Department, namely, DOP&T have examined all such matters referred to them and have issued a detailed O.M. on 10th February, 2000 clarifying the various issues raised for clarification in regard to the implementation of the ACP Scheme. A copy of the aforesaid Memorandum has been placed on the file at Annexure-11. The aforesaid point of doubt referred to that Department has been clarified as follows.

"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"

From the aforesaid, it is clear that financial upgradations can be allowed only if the concerned employee is otherwise qualified to hold or to be appointed to the next higher post, the pay grade of which he will get on financial upgradation. Thus the second upgradation, which the applicants seek in the present case, can be allowed to them only if they are found to be qualified for promotion to the level of Section Officer which is the next higher post after the post of Senior Auditor which they are holding at present. The learned counsel appearing on behalf of the applicants has admitted that in order to secure

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promotion to the level of S.O., the Senior Auditors are required to clear SAS-1/II examination. It is this examination which the applicants have admittedly not cleared. They are, therefore, not qualified yet to hold the post of S.O. or to be appointed to that post. The learned counsel appearing on behalf of the respondents thus correctly argued that in accordance with the Scheme the applicants could be placed in the pay grade of S.O. by way of second financial upgradation only after completing 12 years of regular service from the date/dates of their appointment as Senior Auditors subject only to clearing the aforesaid examination. For this purpose, according to him, the confirmatory test which the applicants have cleared prior to their regular promotion to the post of Senior Auditor will not do. For second financial upgradation, they are required to clear the aforesaid examination which Senior Auditors alone can take for promotion to the post of S.O.

8. After a careful consideration of the matter in the background of the salient/relevant features of the Scheme contained in para 5 above we are inclined to take the view that though as a rule the aforesaid NCP Scheme is designed to provide two financial upgradations to the generality of Government servants, the Government have, at the same time, thought it fit to lay down a few conditions in order to ensure that only those who are fit for promotion generally and in their turn are given the benefit of financial upgradation. In other words, the aforesaid Scheme is, in our view, so designed as to ensure that non-performers and the bad wood are not able to secure the benefit of financial upgradations.

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The Government servants do not have an absolute right to secure financial upgradations under the Scheme in question as a matter of course. That being so, we cannot find any fault with the clarification rendered by the respondents vide their O.M. of 10th February, 2000.

9. Before parting with this order, we would like to point out that the Application (MA No.2624/2000) filed by the applicants for joining together has not been properly filed in terms of the relevant rules. We find that the aforesaid MA has been verified by only one of the applicants, namely, Shri Girish Chandra, and even the names of the applicants have not been given in the body of the application. The same, according to us, is accordingly liable to be rejected, thus leaving only one applicant, namely, Shri Girish Chandra in the field. Be that as it may, for all the reasons we have brought out in the preceding paragraphs, the OA is found to be devoid of merit. The same is accordingly dismissed. There shall be no order as to costs.

(S.A.T. RIZVI)
MEMBER (A)

(MRS. LAKSHMI SWAMINATHAN)
VICE CHAIRMAN (J)

(pkf)

16/07/07
SECRETARY

- 6 JUN 2005

Shri Pulak Kumar Biswas and Others
Guwahati Bench

Filed by the Petitioner
Through Servo-it-Chatterjee
Advocate
on 3/6/05

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI**

In the matter of:

O.A No. 01/2004

Shri Pulak Kumar Biswas and Others.

-Vs-

Union of India and Others.

-And-

In the matter of:

Rejoinder submitted by the applicants in
reply to the written statements submitted by
the respondents.

The applicants abovenamed most humbly and respectfully begs to state as under: -

1. That the applicants categorically deny the statements made in Para 1 and 8 of the written statements and begs to submit that under the ACP scheme, it is the mere placement of the concerned employee in the next higher scale of pay by way of financial upgradation only which is not promotion to higher post whatsoever nor it involves any change in his duties or responsibilities that might require a higher qualification vis-à-vis passing of departmental examination is unwarranted under the scheme, more so because the very spirit of the ACP scheme is that it is welfare scheme.

This apart, nowhere in the scheme, even in its condition No. 6 which is in question, any mention has been made about departmental examination except in the case of Group "D" employees. On this rationale some of the Central Govt. organizations including even the office of the comptroller and Accountant General have granted second financial upgradation to their employees under the ACP scheme without any departmental examination/test as evident from

Annexure-VIII to this O.A. The eligibility criteria of an employee for the purpose of granting financial upgradation under the ACP scheme is only the residency period of service as prescribed in the scheme and such upgradation (since it is not a promotion as clearly spelt out in the scheme) can be granted by assessment of service records only which is done even in case of normal promotions in many cases. As such the clarifications given by the DOPT prescribing for departmental examination is not in consonance with the literal meaning of the expressed provisions of the scheme and frustrates the entire spirit and purpose of the scheme and all subsequent decisions made thereupon are bad in law.

2. That the applicants deny the statements made in para 3 of the written statements and begs to state that the instant original application has been filed on 05.01.2004 against the latest impugned letter dated 09.04.2003 and as such it is well within the period of limitation prescribed under Section-21 of the Administrative Tribunals Act, 1985.
3. That with regard to the statements made in paragraph 5 of the written statement, the applicant beg to state that since the cause of action and the relieves sought for in this application are common for all the applicants, so the applicants have filed this O.A jointly in terms of the provisions under section 4(5) (a) of the Central Administrative Tribunals Act, 1985, and as such the contentions of the Respondents are wrong and misconceived.
4. That with regard to the statements made in para 9 and 15 of the W/S, the applicant begs to state that all the applicants approached the Respondents authorities praying for their second financial upgradation under the ACP scheme. The Respondents have since rejected the prayer of applicant No. 1 in expressed terms, the same decision

applies for all the applicants and their alleged contention that other applicants did not approach makes no difference whatsoever since that would not have impugned action of the respondents or the character of the case whatsoever.

5. That the applicants categorically deny the statements made in para 10, 11 and 13 of the W/S on the grounds stated in para 1 hereinbefore and as such the provisions of the ACP Scheme have been misconstrued and wrongly applied/implemented in the instant case and the applicants have been denied the benefit of second financial upgradation as provided under the ACP Scheme, unjustly and illegally.
6. That the applicants categorically deny the statements made in para 12 of the W/S and beg to submit that the recruitment of departmental test has nowhere been envisaged in the ACP Scheme for grant of financial upgradation except in case of Group- 'D' employees as mentioned in condition No. 6 of the scheme. Many Central Govt. Organizations including the office of even the C & AG of India have granted second financial upgradation to their employees under the ACP Scheme on completion of their 24 years of service as prescribed under the scheme. The fitness of the concerned employee for this purpose have been determined on the basis of their service records only which could be done in the instant case also since the financial upgradation under the ACP Scheme is neither a promotion nor involves any charge in designation, duties and responsibilities but it is mere placement in the next higher scale on completion of the prescribed residency period of service, it does not necessitate any higher qualification or skill and as such the imposition of a rider in the manner of departmental examination for passing a higher qualification/ skill is not in conformity with the expressed provisions of the Scheme which frustrates the very purpose and spirit of the noble gesture of the Govt. in professing a safety-net and welfare measure

for the concerned employeess. The clarification dated 10.02.2000 of the DOPT, Govt of India as referred to by the Respondents is mis-interpretation and misconstruction of the expressed provisions of the scheme.

Further all the applicants approached the respondents for grant of their second financial upgradation under the ACP Scheme and since the application of the applicant No. 1 has been rejected by the Respondents, their statement that other applicants have not made representations is not sustainable as it does not shift the standing of the respondents or alters the character of the case which is evident from their impugned action on the representation of the applicant No.1

7. That with regard to the statements made in para 17 of the W/S, the applicants most respectfully beg to submit that in *Girish Chandra & Ors - Vs - Union of India & Ors* as referred to by the respondents, the Hon'ble Tribunal has only held that it could not find any fault with the clarification rendered by the respondents vide their O.M of 10th February 2000 and eventually dismissed the said O.A more on technical points i.e. procedural infirmities in filing the O.A. At the same time, the Hon'ble Tribunal observed in para 4 of the judgment that:-

"Second financial upgradation has already been granted to senior Auditors in the Audit Defence Services, Audit Economic Service Ministries under the Civil Accounts and in the office of joint secretary (Training)

and chief Administrative officer in the Ministry of Defence. The controller General of Defence Accounts has also likewise granted second financial upgradation to 7 senior Auditors on completion of 24 years of service by his order dated 25.04.1999". The only impediments for the Hon'ble Tribunal in allowing the aforesaid O.A was the clarification dated 10.02.2000 of the DOP

&T. It is relevant to mention here that the said clarification of the DOP &T is a misrepresentation and misconstruction of the expressed provisions of the ACP scheme and against the very spirit of the scheme as stated in the preceeding paragraphs hereinabove and as such bad in law.

It is evident from the observations made by the Hon'ble Tribunal as quoted above that a number of organizations granted the financial upgradation to their employees under the ACP scheme without any departmental examination which amply implies the theme and spirit which flows from the literal construction of the provisions of the scheme. As such a long wrong clarification by the DOP &T about the provision of the scheme in question herein, cannot form the basis for making a conclusion on the matter.

8. That the applicant denies the statements made in Para 18 of the written statement and begs to submit that in the facts and circumstances, the applicant is legitimately entitled to the relief's sought for in the application and the application deserves to be allowed with costs.
9. That your applicants further beg to say that in the event of passing of the departmental examination i.e. SAS examination the applicant in normal course would be entitled to normal promotion and the question of introduction of ACP scheme has no relevance. It is relevant to mention here that the benefit of ACP even granted by the respondents to the similarly situated employees who have cleared only SAS part I examination which cannot be accepted in one of the criteria for eligibility for promotion to the next higher grade i.e Section Officer (Account) as for example Sri N.Gupta, Sr. Auditor and Sri D.S.Kunwar, Sr. Auditor.

It is pertinent to mention here that even passing of the Supervisor Accounts Examination is meant for promotion to Supervisor grade only and therefore under any circumstances passing of supervisory accounts examination cannot be treated as eligibility criteria for grant of benefit under the ACP scheme.

10. That it is stated that Controller General of Defence, Accounts, Guwahati vide letter bearing no. Pt.I.O.O.No 127 dated 30.03.2004, the CDA has forwarded the Ministry of Defence clarificatory letter no. MOD.I.D.No.PC II 11 (5)/99 D(Civ.1) dated 05.02.2004, wherein it is stated that the employees who had completed 12/24 years of service after 09.08.1999, but before conducting the 1st trade test may be granted 1st financial upgradation under ACP scheme, subject to fulfillment of all other conditions prescribed for grant of ACP, from the date of their completion of 12/24 years of service instead of the date of passing of the trade test, in the first time as a one time measure. It is further stated that this clarification has been issued in connection with the DOPT.

In view of the above relaxation in the matter of passing of the trade test of the applicants being civilian employees under the Ministry of Defence entitled to similar benefit.

Therefore Hon'ble Tribunal be pleased to direct the respondents to consider the case of the applicant to grant the ACP benefit due to the applicant in the light of the clarification as indicated above.

Copies of the letter date 30.03.2004 and letter dated 05.02.2004 is enclosed as Annexure-A and B respectively.

11. It is further submitted that the condition of passing departmental examination for ACP benefit is further contrary to the judgment passed by the Hon'ble Supreme

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Court in the case of State of Tripura -Vs- K.K. Roy reported in 2004 (9) SCC, page 65. More particularly in para 7 of the judgment it is held that benefit of ACP must be given on the basis of length of service i.e. on completion of 12/24 years. The applicant also relied on the Judgment dated 07.01.2002 passed by the Ernakulam Bench in the case of V.E. Chandran and others -Vs- U.O.I and others reported in 2002 ATJ, page 47. This Hon'ble Tribunal in the judgment dated 10.09.2004 in the case of Md. A. Ali and Others -Vs- U.O.I and others in A no 64/2004 also held that condition imposing educational qualification for grant of ACP benefit is contrary to the basic object for ACP.

A copy of the judgment of the Supreme Court in the case of State of Tripura -vs- K.K.Roy and the judgment dated 10.09.2004 are enclosed as Annexure-C and D respectively.

In the facts and circumstances stated above the application is deserving to be allowed with cost.

VERIFICATION

I, Shri Pulak Kumar Biswas, S/o-Late N.K. Biswas, aged about 53 years, presently working as Senior Auditor in the Office of Local Audit Office, Air Force, Shillong, one of the applicants in the instant application, duly authorized by the other applicants to verify the statements made in this application and to sign this verification. Accordingly, I declare that the statements made in paragraph 1 to 11 are true to my knowledge which I believe to be true. I have not suppressed any material fact.

And I sign this verification on this the 3rd day of June, 2005.

Pulak Kumar Biswas

29/4

OFFICE OF THE CONTROLLER OF DEFENCE ACCOUNTS
UDAYAN VIHAR, GUWAHATI - 781171


Pt. I O.O. No. 127

Dated: 30/3/04

Subject: - Clarification regarding grant of ACP after passing the Trade Test.

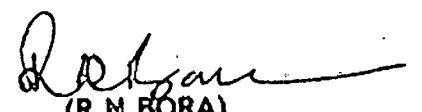
A copy of Govt. of India, Ministry of Defence D (Civ) letter No. PC II 11(5)/99/D (Civ) Dt.5/2/04 on the above subject is forwarded herewith for information and necessary action.

Please acknowledge receipt.


(A.N. GADE)
A.C.D.A.

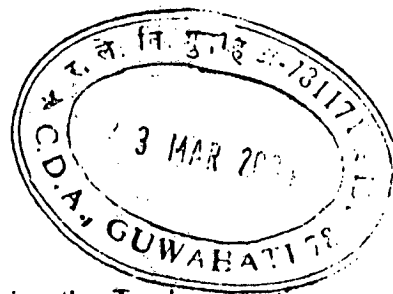
No. Pay/PMC/2297/Pen/Cir
Office of the CDA
Udayan Vihar, Narangi
Guwahati - 781171
Dated: 30/3/04

- Distribution: -**
1. All Sections in M.O.
 2. As per standard list.


(R.N. BORA)
ACCOUNTS OFFICER (PAY)

Approved
by
on 3/6/05

Ministry of Defence
D(Civ.)



Subject : Clarification regarding grant of ACP after passing the Trade Test.

Reference Clarification in consultation with DO&T issued vide MOD I.D. Note No. 11(6)/98/D(Civ.) dated 04.1.2002 on the above subject.

2. It is further clarified that the employees who had completed 12/24 years of service after 09.8.99 but before the date of conducting the first trade test may be granted financial upgradation under ACP Scheme, subject to fulfilment of all other conditions prescribed for grant of ACP, from the date of their completion of 12/24 years of service, instead of the date of passing of this trade test, in the first attempt as a one time measure.

(Based on DOP&T's advise vide their U.O. No. 3302/Estt-D/03 dated 27.11.03)

(R.B. Joshi)

Under Secretary to the Government of India

AG/MP-4(Civ)(d)	DGNCC/Pers(c)	DGDE/Admn.
Air HQrs/PC-5	DGAFMS/DG-2B	DGAQA
NHQ/CP Dte.	OFB, Kolkata	DGQA/Admin-7B
R&D/DOP	DPR	CAO(Coord).

MOD I.D.No.PC II 11(5)/99/D(Civ.I) dated 05 February 2004

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); Def (Fin/AG/PB); D (Works); D (G-II)

The CGDA All CsDA 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.

Dir(Fin/AG) DFA(Navy) DFA(AF) DFA(Budget-II)
AFA(OP-I) CCA(Fys), Kolkata

QFC Cell, 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.

A Medical
Society Chapel
on 3/6/05

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, S.No.-81,
Highinstone Road, Kirkee, Pune-411003. General Secretary, INDWF,
25/19, KarachiKhana, Kanpur-208001. General Secretary, AIDEF, No.2,
Valuvar Street, Rani Annanagar, Arumbaksm (PO), Chennai-600106;
Chairman, CAT, Faridkot Houst, Copernicus Marg New Delhi.
Bhartiya Pratiraksha Mazdoor Sangh, 185 Shanwar Peth, Pune -411 030

(2004) 9 Supreme Court Cases 65

(BEFORE V.N. KHARE, C.J. AND S.B. SINHA, J.)

STATE OF TRIPURA AND OTHERS

Appellants;

Versus

K.K. ROY

Respondent.

Civil Appeal No. 6253 of 1998[†], decided on December 12, 2003

A. Service Law — Promotion — Right to promotion — Held, promotion being a condition of service, avenues have to be provided therefor

B. Service Law — Promotion — Right to promotion — No avenue for promotion — Relief — Scheme of Assured Career Promotion not framed — Yet, taking into consideration the fact that the employee was appointed to a single-cadre post with no promotional avenues and keeping in view his educational qualifications, held, he was entitled to two higher grades, one upon expiry of twelve years from the date of joining service and the other on expiry of twenty-four years thereof — Failure on the part of the State to frame such a scheme when such schemes had been framed by other States on recommendations of the Pay Commission, deprecated

Council of Scientific and Industrial Research v. K.G.S. Bhatt, (1989) 4 SCC 635 : 1990 SCC (L&S) 45 : (1989) 11 ATC 880; *O.Z. Hussain (Dr) v. Union of India*, 1990 Supp SCC 688 : 1991 SCC (L&S) 649 : (1991) 16 ATC 521, considered and relied on

C. Service Law — Promotion — No avenue for promotion — Applicability of the principle of estoppel — Held, State cannot escape from its constitutional obligations and take a stand that the employee accepted the offer of appointment knowing well that there was no avenue for promotion — In such cases, principle of estoppel, inapplicable — Constitution of India, Arts. 16 & 14 and 12

D. Constitution of India — Art. 226 — Interference in service matters — Held, mandamus cannot be issued directing the State to grant pay scale equivalent to Grades I and II of the State Judicial Service — Service Law — Promotion — Right to promotion — Absence of avenue for promotion — Direction by the High Court to provide "graded scale" for promotion — Propriety of

The respondent employee, who held a Master's degree and a degree in Law, was appointed as Law Officer-cum-Draftsman in the Directorate of Cooperation, Government of Tripura in 1982, which was a single-cadre post with no promotional avenues. His several representations for upgrading the said post or in the alternative for providing two promotional avenues were not considered by the appellant State and hence he filed a writ petition seeking a specific direction to the appellant to provide at least two promotional avenues. The said contention was accepted by the High Court and by the impugned judgment the appellant State was directed to provide "the graded scale" with pay scale equivalent to Grade I and Grade II officer of the Tripura Judicial Service. Hence the present appeal by the appellant State.

[†] From the Judgment and Order dated 7-4-1997 of the Assam High Court at Gauhati in WA No. 10 of 1997

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Approved
by: h
3/6/05

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The appellant contended that the respondent did not have any legal right to be promoted to a higher post far less the right to get the scale of pay of Grade I officer of the Tripura Judicial Service.

Disposing of the appeal, the Supreme Court held as above.

P-M/7/29429/SL

Advocates who appeared in this case :

Navin Prakash, Anurag Sharma and Gopal Singh, Advocates, for the Appellants;

S.V. Deshpande, Advocate, for the Respondent.

Chronological list of cases cited

1. 1990 Supp SCC 688 : 1991 SCC (L&S) 649 : (1991) 16 ATC 521. *O.Z.*

Hussain (Dr) v. Union of India

on page(s) b

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2. (1989) 4 SCC 635 : 1990 SCC (L&S) 45 : (1989) 11 ATC 880. *Council of Scientific and Industrial Research v. K.G.S. Bhatt*

67a

The Judgment of the Court was delivered by

S.B. SINHA, J.*— Having been selected by the Tripura Public Service Commission, the respondent herein was appointed as Law Officer-cum-Draftsman in the Directorate of Cooperation, Government of Tripura. There was only one post in the same cadre and it had no promotional avenues. He filed a representation that his post be upgraded or two promotional avenues be provided to him. Several representations made by him having not received consideration at the hands of the appellants, the respondent herein filed a writ petition seeking for a specific direction upon the appellant herein to provide at least two promotional avenues. The said contention of the respondent was accepted by the High Court and by reason of its impugned judgment the appellant was directed to provide "the graded scale" to the respondent by providing three grades, the initial being Grade III which is the post of Law Officer-cum-Draftsman and thereafter Grade II and Grade I officer of the Tripura Judicial Service. It was further directed:

"The scale of pay of Grade II Law Officer-cum-Draftsman shall be same as Grade II officer of the Tripura Judicial Service. The scale of pay of Grade I Law Officer-cum-Draftsman shall be equal to the scale of pay of Grade I officer of the Tripura Judicial Service."

2. Questioning the said direction, the appellants are before us.

3. The learned counsel appearing on behalf of the appellant would submit that the High Court went wrong in issuing the aforementioned direction. The learned counsel would urge that the respondent herein did not have any legal right to be promoted to a higher post far less the right to get the scale of pay of Grade I officer of the Tripura Judicial Service. Such a direction by the High Court, the learned counsel would contend, is wholly without jurisdiction. The learned counsel, appearing on behalf of the respondent, however, has supported the said order.

4. Indisputably, the post of Law Officer-cum-Draftsman is a single-cadre post. It is also undisputed that there does not exist any promotional avenue therefor. The respondent is holder of a Master's degree as also a degree in Law. He was appointed in the year 1982. If the contention of the appellant is

* Ed.: Para 1 corrected vide Corrigendum No. F.3/Ed.B.J./4/2004 dated 15-1-2004

to be accepted, the respondent would be left without being promoted throughout his career. In almost an identical situation, a Bench of this Court in *Council of Scientific and Industrial Research v. K.G.S. Bharti*¹ held: (SCC pp. 638-39, para 9)

"It is often said and indeed, adroitly, an organisation public or private does not 'hire a hand' but engages or employs a whole man. The person is recruited by an organisation not just for a job, but for a whole career. One must, therefore, be given an opportunity to advance. This is the oldest and most important feature of the free enterprise system. The opportunity for advancement is a requirement for progress of any organisation. It is an incentive for personnel development as well. (See *Principles of Personnel Management*, Flipo, Edwin B., 4th Edn., p. 246.) Every management must provide realistic opportunities for promising employees to move upward. 'The organisation that fails to develop a satisfactory procedure for promotion is bound to pay a severe penalty in terms of administrative costs, misallocation of personnel, low morale, and ineffectual performance, among both non-managerial employees and their supervisors.' (See *Personnel Management*, Dr Uday Pareek, p. 277.) There cannot be any modern management much less any career planning, manpower development, management development etc. which is not related to a system of promotions."

5. The matter came up for consideration again in *O.Z. Hussain (Dr) v. Union of India*² wherein this Court in no uncertain terms laid down the law stating: (SCC pp. 691-92, para 7)

"Promotion is thus a normal incidence of service. There too is no justification why while similarly placed officers in other ministries would have the benefit of promotion, the non-medical 'A' Group scientists in the establishment of Director General of Health Services would be deprived of such advantage. In a welfare State, it is necessary that there should be an efficient public service and, therefore, it should have been the obligation of the Ministry of Health to attend to the representations of the Council and its members and provide promotional avenue for this category of officers."

6*. It is not a case where there existed an avenue for promotion. It is also not a case where the State intended to make amendments in the promotional policy. The appellant being a State within the meaning of Article 12 of the Constitution should have created promotional avenues for the respondent having regard to its constitutional obligations adumbrated in Articles 14 and 16 of the Constitution of India. Despite its constitutional obligations, the State cannot take a stand that as the respondent herein accepted the terms and conditions of the offer of appointment knowing fully well that there was no avenue for promotion, he cannot resile therefrom. It is not a case where the

¹ (1989) 4 SCC 635 : 1990 SCC (L&S) 45 : (1989) 11 ATC 880

² 1990 Supp SCC 688 : 1991 SCC (L&S) 649 : (1991) 16 ATC 521

* Ed.: Para 6 corrected vide Corrigendum No. F.3/Ed.B.J./4/2004 dated 15-1-2004

principles of estoppel or waiver should be applied having regard to the constitutional functions of the State. It is not disputed that the other States in India/Union of India having regard to the recommendations made in this behalf by the Pay Commission introduced the Scheme of Assured Career Promotion in terms whereof the incumbent of a post if not promoted within a period of 12 years is granted one higher scale of pay and another upon completion of 24 years if in the meanwhile he had not been promoted despite existence of promotional avenues. When questioned, the learned counsel appearing on behalf of the appellant, even could not point out that the State of Tripura has introduced such a scheme. We wonder as to why such a scheme was not introduced by the appellant like the other States in India, and what impeded it from doing so. Promotion being a condition of service and having regard to the requirements thereof as has been pointed out by this Court in the decisions referred to hereinbefore, it was expected that the appellant should have followed the said principle. ✓

7. We are, thus, of the opinion that the respondent herein is at least entitled to grant of two higher grades, one upon expiry of the period of 12 years from the date of his joining of the service and the other upon expiry of 24 years thereof.

8*. The learned counsel appearing for the appellant, is, however, correct in his submission that the High Court in exercise of its jurisdiction under Article 226 of the Constitution of India could not have issued a writ of or in the nature of mandamus directing the appellant herein to grant a scale of pay which would be equivalent to Grade II or Grade I of the judicial service of the State.

9. For the reasons aforementioned, we direct that the respondent herein be paid two promotions in the next higher scale of pay upon his completion of 12 years and 24 years in service. This appeal is disposed of with the aforementioned directions. No costs.

(2004) 9 Supreme Court Cases 68

(BEFORE S. RAJENDRA BABU AND RUMA PAL, JJ.)

BASIC SHIKSHA PARISHAD AND ANOTHER

Appellants;

Versus

SUGNA DEVI (SMT) AND OTHERS

Respondents.

Civil Appeal No. 3957 of 1998†, decided on December 12, 2003

A. Service Law — Appointment — Non-appointment/Denial of appointment/Right to appointment — Respondent employee, an Assistant Teacher not allowed to resume services after prolonged absence — No termination orders served either — Vide U.P. Basic Education Act, 1972, basic education taken over by the Basic Shiksha Parishad from the Zila

* Ed.: Para 8 corrected vide Corrigendum No. F.3/Ed.B.J./4/2004 dated 15-1-2004

† From the Judgment and Order dated 29-7-1997 of the Allahabad High Court in WP No. 8585 of 1986

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Original Application No.64 of 2004

Date of Order: This the 10th Day of September, 2004

HON'BLE MR. JUSTICE R.K. BATTA, VICE-CHAIRMAN

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

1. Md. Afsar Ali,
Chowkidar,

2. Sri Bhubaneswar Nath,
Chowkidar

Applicants.

(Both the applicant are working in the O/O Officer
Commanding, 307 Station Workshop, EME, C/o -99 APO
Satgaon, (Guwahati).
... Applicants.

By Advocate Mr. M. Chanda, Mr. G.N. Chakraborty, Mr. S. Nath
Mr. S. Choudhury.

1. Union of India

Through the Secretary to the
Government of India, Ministry of Defence,
New Delhi.

2. Director General of EME,
Master General of Ordinance Branch
Army Headquarters
DHO, P.O. New Delhi-11001

3. Officer Commanding
307 Station Workshop, EME,
C/o -99 APO, Satgaon,
Guwahati.

4. Shri P.K. Piplani,
Executive Engineer
DDME, Civ
O/O The DG O EME,
DHO, P.O. New Delhi-110011..... Respondents.

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

O R D E R

MR. JUSTICE R.K. BATTA (V.C.):

The petitioners were initially appointed on 1st
July, 1975 against the post of regular Mazdoor at Chang-
sari under 696 OMC (Ordinance Military Core) Depot. They

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A. Deb Roy
Advocate
on 3/6/05

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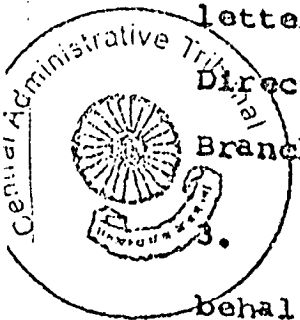
are appointed as Chowkidar in the month of April, 1981 and posted at Kalimpong in the District of Darjeeling under the Station Headquarter, Kalimpong and subsequently the applicants were transferred and posted at 307 Station Workshop, EME, C/o-99 APO, Guwahati in the month of May, 1993. While the applicants were working in the pay scale of Rs. 2550-55-3200, the Department of Personnel and Training, Government of India introduced the Assured Career Progression Scheme for the Central Government employees vide office Memorandum No.3503/4/1/97-Estt(D) dated 9.8.1999 wherein decision was taken, on the recommendation of the 5th Pay Commission, to grant financial upgradation to the Central Government employees after completion of 12 years of service and 24 years of service provided the employees did not get any promotional benefits during the said period. Pursuant to ACP Scheme, the applicants received the pay in the higher revised scale of Rs. 4000-100-6000/- since August, 1999. Subsequently the Director General EME, Army Headquarter, New Delhi issued letter No.15251/ACP/CP-D/EME Civ-3 dated 22.08.2003 whereby it was provided that the Chowkidars(Non Matric), who do not possess the requisite qualification for direct recruitment to the post of Leading Heading(Non-Tech), are not eligible for grant of second financial up-gradation in the pay scale of Rs. 4000-100-6000/- and their pay scale would be Rs. 3050-4590/- as per headquarter letter No.B/15198/ACP/Policy/EME Civ-2(6/51) dated 12.3.2003. It was therefore, ordered that the recovery of the overpayment be effected from the applicants who had been earlier given the pay scale of Rs. 4000-100-6000/-. By subsequent order dated 8.3.2004 the pay scale of the applicants which was further reduced to

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Rs. 2750-70-3800-75-4400/- has been rectified on the ground of oversight and the pay scale which has been finally granted to the applicants is Rs. 3050-75-3950-80-4590/-. The applicants challenge various order which are annexed as Annexures 2,3,5,6 and 7 to the application and seek quashing of the same with a direction to the Respondents that the applicants are entitled to continue in the pay scale of Rs. 4000-100-6000/- without the recovery.

2. The Respondents have filed their reply in which it is contended that the applicants are non-matriculate and they are not entitled to the up-gradation scale of Rs. 4000-100-6000/-, which scale is permissible only to Matriculate and the applicants are entitled to the scale of Rs. 3050-4590/-. This stand has been taken pursuant to letters dated 15th May, 2004 and 12th March, 2003 of Directorate General of EME, Master General of Ordinance Branch, Army Headquarters, New Delhi.



We have heard the learned counsel appearing on behalf of the parties. The learned counsel for the applicant has placed Division Bench Judgment of the Tribunal, Ernaculam Bench, in the case of V.E. Chandran and Ors. Vs. Union of India & Ors., 2002(2) A.T.J 47 and contended that there is absolutely no justification to make classification of matriculate and non-matriculate since the same is not only arbitrary, discriminatory and irrational but the same would defeat the very purposes of the scheme, which was formulated to give the benefits to the Central Government employees who had been stagnating for years together without any promotion. He also submits that the classification would defeat the purpose sought to be achieved by the scheme.

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Mr. A. Deb Roy, Sr. C.G.S.C. appearing on behalf of the respondents submits that the classification on the basis of Educational qualifications which are required for conferring notional promotion to higher post is justified and until and unless an employee fulfilled all requirements for the post, even such notional promotion conferring benefits of higher grade is not warranted. The applicants cannot be given the scale of Rs. 4000-6000/- which was inadvertently given and as such subsequently the pay was reduced on the basis of various orders of the Departments.

5. There is no dispute that the applicants have completed 24 years of regular service and they have not earned promotion during this period. This fact is clear from page 2 of the return filed by the Respondents, where it is stated that the applicants have completed 24 years regular service as on July, 1999. The respondents also do not dispute that the next post in hierarchy, in respect of Chowkidars, is leading hand (Non-Tech) in the pay scale of Rs. 4000-100-6000/-. This position is clear from para 4 of the return filed by the Respondents.

6. The only ground of controversy between the parties is whether the classification on the basis of Educational qualification that is matriculate and non-matriculate is justified. In this respect, our attention has been drawn to the Judgment of the Ernaculam Bench, in V.E. Chandran Vs. Union of India (Supra). In that case the controversy related to Sepoy's in Central Excise and Customs Department, wherein also, the next higher pay scale in hierarchy was denied to the applicant on the ground that he was not matriculate. It was noticed by Tribunal that the Sepoy's of Central Excise/Customs, Patna, Bangalore, Delhi and Calcutta commissionerates, who had completed 24 years of



service, had been granted the second financial up-gradation without insisting on the educational qualification, yet the applicant therein, who had been working in Kozhikode, but in the same department had been denied similar benefits. The Tribunal examined the scheme and came to the conclusion that there was no rational justification for the classification on the ground of Educational qualification. It was held that the next scale in the hierarchy could not be denied only on the basis of educational qualifications. In that matter ^{pursuant to} order dated 12th February, 2001, ^{of} Government of India, Ministry of Finance Department of Revenue, issued ^{was issued} the O.M. No.35034/2/2001(Estt.(D) dated 1.6.2001 making classification on the basis of Educational qualification required for the next scale in the hierarchy for financial ^{which} up-gradation ^{was} quashed.



At this stage, we would like to refer to office Memorandum No.35034/1/97-Estt(D) dated 9th August 1999 (Annexure 1) to the application which provides for grant of Assured Career Progression Scheme(herein referred as ACP Scheme) for Central Government employees. It is laid-down that 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. The Scheme was adopted on the recommendations of the 5th Pay Commission with certain modifications. In case of Group 'C' and 'D' employees paragraph 3.1 of the said scheme enjoins that the ACP scheme in modified form seeks to mitigate hardship in case of acute stagnation either in cadre or in an isolated post. On the recommendation of 5th Pay Commission, in

Case of Group 'C' and 'D' employees, the financial up-gradation was granted on completion of 12 years and 24 years (subject to condition No.4 in Annexure 1) of regular service respectively. Paragraph 4, dealing with conditions provides for first Financial up-gradation under the ACP Scheme after 12 years of regular service and the second up-gradation after 12 years of regular service from the date of the first financial up-gradation subject to fulfillment of prescribed conditions (emphasis supplied). It further provided that if the first up-gradation gets postponed on account of the employee not found fit due to departmental proceedings etc. this would have consequential effect on the second up-gradation which would also get deferred. Condition in para -6, has an important bearing on the issue involved in this application which reads as under:-

"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 up-gradations, performance of such duties as are entrusted to the employees together with retention of old designation, financial up-gradations 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." (Emphasis supplied).

From a reading of the conditions it is crystal clear that the only condition for up-gradation in case of Group 'D' employees is the seniority-cum-fitness whereas in case of other groups fulfillment of normal promotional norms that is (Bench-mark) departmental examination is insisted upon.

8. At this stage we would also like to refer to some of the salient features of this Scheme and the purpose of the

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name which was sought to be achieved. We have already noticed that the scheme is to be viewed as 'Safety Net' to deal with the problem of stagnation and hardship faced by employees due to lack of promotional avenues. In this connection we may refer ^{to} paras 1, 7 and 12 of conditions which provide that the financial up-gradation under the Scheme shall be given to the next higher grade in hierarchy in a cadre/category of posts without creating new posts for the purpose. Condition 12, contemplates that the placement on personal basis in the higher pay scale/grant of financial benefits only and shall not amount to actual/functional promotional of the employees concerned. Thus, the applicants would continue to work as Chowkidar and would not perform any duties of leading hand for which matriculation may be necessary. In this context, we are of the view that the artificial classification sought to be made by the department on the basis of educational qualification has neither nexus with the objective sought to be achieved nor intelligible differentia, but on the contrary it would defeat the very purpose of the ACP Scheme. It may also be noted that the scheme was framed by the Department of Ministry of Personnel, Public Grievances and Pensions, Government of India to give financial up-gradation. Directorate General of EME(H.Q.), without reference to Deptt. of Ministry of Personnel, Govt of India, could not introduce the educational qualification as condition for financial up-gradation by letter dated 12.3.2003 which also has ^{not} been placed by the Respondents before us. The only condition which could be insisted upon in case of Group 'D' employees as per condition No. 6, which is referred to above is seniority-cum-fitness. Introduction of Educational qualification is colourable



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exercise which is arbitrary, irrational, discriminatory and without any intelligible differential which would otherwise defeat the very purpose of the Scheme. We are also of the view that the Scheme has to be liberally construed in favour of employees, so that the benefits intended thereunder reach all employees who are stagnating for years together and did not get promotion.

9. In view of the above, we allow the application and set aside the impugned orders at Annexures 2, 3, 5, 6 & 7. The applicants are entitled to continue in the pay scale of Rs. 4000-100-6000/- and no recovery from them shall be made. The Respondents shall bear the costs of this application.

The application is allowed in aforesaid terms.



Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

Sanctioned to be true Copy
 सत्यामेव जयते

[Signature]
 17/9/04

Section Officer
 C.A.T. GUWAHATI BRANCH
 Guwahati-781005

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