

FORM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :
ORDERSHEET

1. ORIGINAL APPLICATION No : -----/ 2009
2. Transfer Application No : -----/2009 in O.A. No.-----
3. Misc. Petition No : -----/2009 in O.A. No.-----
4. Contempt Petition No : -----/2009 in O.A. No.-----
5. Review Application No : 3-----/2009 in O.A. No. 1/2004
6. Execution Petition No : -----/2009 in O.A. No.-----

Applicant (S) : Union of India Mops.

Respondent (S) : Sri P.K. Biswas Mops.

Advocate for the : Mr. M. U. Ahmed, Addl. CGSC.
{Applicant (S)}

Advocate for the : Mr. M. Chandra, Mr. S. Nath,
{Respondent (S)} Mr. G. N. Chakraborty or Mr. S. Choudhury.

Notes of the Registry	Date	Order of the Tribunal
<p>This Review Application No. 3/2009 filed by the Union of India Mops. through Mr. M. U. Ahmed, Addl. CGSC. on 2.7.09 with some defects. Rectified the defects of the Affidavit on 30.9.09 by the Addl. CGSC. Pin code & Address of Applicants 1, 3 and Respondent No. 1 and 2 are not given. Copy not served to the Advocate for the Applicant, (O.A. 1/2004) and copy for the Respondents not filed. Laid before the Bench for favour of order.</p> <p><u>9/10/09</u> Section Officer(S). <u>9/10/09</u> K. Das Send copies of this order to the Applicant and the Respondents</p>	<p>12.10.2009</p>	<p>O.A.No.1 of 2004 was disposed of on 20th May 2009 by a Division Bench consisting of Hon'ble Mr. Manoranjan Mohanty, Vice Chairman of CAT/Guwahati Bench and Hon'ble Mr.N.D.Dayal, Member (A) of CAT/PB.</p> <p>2. By way of filing the present Review Application No. 3 of 2009, the Respondents have sought review of the aforesaid order dated 20.05.2009.</p> <p>3. The aforesaid order dated 20.05.2009 was drawn by Hon'ble N.D.Dayal, Member(A) and, in the said premises, records (of this R.A. and connected O. A. No. 1 of 2004) be sent to Hon'ble Mr.N.D.Dayal, Member(A) of Principal Bench of this Tribunal.</p> <p>4. Applicants are directed to serve a copy of the R.A. No.3 of 2009 on Mrs. U. Dutta, learned Counsel for the Original Applicant by 16th of October 2009.</p> <p>5. Send copies of this order to the Applicant and the Respondents in the address given in the R.A.</p> <p style="text-align: right;">(M.R.Mohanty) Vice-Chairman</p>

(M.K.Chaturvedi)
Member (A)

2

15/10/09

Copy of Order dtd
12/10/09 send to
the D/section for
issuing to the
Applicant & Respts
by post.

~~Don~~
15/10/09

D/No. _____

Dtd. _____

Flag 'A' is received from the
CAT/Jabalpur Bench.

This is regarding review of the
order dt. 20.5.2009 passed in OA 01/2004
in the Coram of the Hon'ble Mr. M.R.
Mohanty, VC and Hon'ble Mr. N D Dyal,
MLA.

The Review sought by the ~~app~~
Respondent has been dismissed
on circulation vide order dt.
28th Oct / 30th Nov, 2009 at Flag 'X'.

The order therefore, may be
communicated to the all concerned
accordingly.

Submitted in pursuance of order of flag 'A'.

Hon'ble ML5)

by
8/12/09
CO.

Copy of the
order to issue
to all concerned on
directed 8/12/09 H.M.L.)
by
8/12/09

4

Only two copies of the Review Application filed by the Union of India were through Mr. M. U. Ahmed, Addl. CGSC on 2.7.2009 with a prayer for recalling the order dated 20.5.2009 passed by the Division Bench of this Hon'ble Tribunal constituted by Hon'ble Shri M.R. Mohanty, Vice-Chairman and Hon'ble Shri N.D. Dayal, Member (Adm) in OA No. 1 of 2004. But due to some defects this Review Application could not place before the Hon'ble Vice-Chairman for His Lordship's kind orders on circulation. The defects have been removed partly to-day by Mr. M. U. Ahmed, Addl. CGSC. except the Pin Code of Applicants No. 3 and respondents No 1 & 7.

However, we may perhaps place the Review Application before the Hon'ble Vice-Chairman for His Lordship's kind order in circulation.

Submitted for favour & orders.

H.S.
30/9/09

Deputy Registrar.

Laid before Hon'ble VC. for kind perusal the R.A. is placed for kind circulation and order.

H. J. J. J.
30.9.09

Hon'ble VC.

Let this Case on 09/10/09
for orders.

07/10/09

Mr. M. U. Ahmed in
an accommodation on
09/10/09. Let it
on 12/10/09

By Insured Speed Post

No.VC/PS/09/1792 -

केन्द्रीय प्रशासनिक अधिकरण

CENTRAL ADMINISTRATIVE TRIBUNAL

जबलपुर न्यायपीठ, जबलपुर

JABALPUR BENCH, JABALPUR

फोन / Phone : (O) 2620787
फोन / Phone : (O) 2623803
फैक्स / FAX : (0761) 2678497
ग्राम : सेन्ट्रल ट्रिब
GRAM : CENTADTRIB
केरज कॉम्प्लेक्स, 15 साउथ सिविल
लाईन्स, जबलपुर (म.प्र.) - 482001

Jabalpur, November 30. 2009



7546
8 DEC 2009

The Registrar,
Central Administrative Tribunal,
Guwahati Bench,
Rajgarh Road, Bhangagarh,
Guwahati-781 005
Tel Nos. 0361-2529294 & 2529148

Ref. RA No.03/2009 in OA-01/2004 of Guwahati Bench.

Sir,

I have been directed to return herewith Part 'A' files of Review Application No.03/2009 and OA No.01/2004 of CAT Guwahati Bench, along with the order passed in said RA, duly signed by Hon'ble Vice Chairman & Hon'ble Administrative Member.

(Encls: As above)

Yours faithfully,

(R.K. Vishwakarma)

PS to Hon'ble Vice Chairman

Copy to PS to Hon'ble Shri N.D.Dayal, AM Central Administrative Tribunal, Principal Bench, 61/35 Copernicus Marg, New Delhi-110 001, for information w.r.t. her letter no.CAT/RA3/09/M(A)2009 dated 29.10.2009.

No.63/2001/Jud/7270

20.10.2009

To

The Principal Registrar
Central Administrative Tribunal
61/35, Copernicus Lane
New Delhi- 110001.

Sub: R.A. No. 3/2009 (O.A. 1 of 2004)
(Union of India & Ors. -Vs- P.K. Biswas & Ors.) circulation __ rcg.

Sir,

I am directed to forward herewith a copy of the order dated 12.10.2009 passed in R.A. 3 of 2009 arising out from the Judgment and order dated 20.05.2009 passed in O.A. 1 of 2004 by the Hon'ble Mr. M.R. Mohanty, Vice-Chairman and Hon'ble Mr. N.D. Dayal, Member (A). The aforesaid order dated 20.05.2009 was drawn by Hon'ble Mr. N.D. Dayal, Member (A).

You are therefore, requested to kindly placed the matter before the Hon'ble Mr. N.D. Dayal, Member (A) for perusal an order and return the same after obtaining comments thereon. The Hon'ble Mr. M.R. Mohanty, Vice-Chairman has already been transferred to Jabalpur Bench hence the matter may be send to the Jabalpur Bench at the earliest as possible.

Yours Faithfully,

Encl: As above.

(J.N. SHARMA)
DEPUTY REGISTRAR



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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Review Application No. 3 /2009.

Arising out of Original Application No. 01 of 2004

Union of India & Others_

Applicants

-Vs-


Sri P.K. Biswas & Ors.

Respondents

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Filed by

 2/7/09

M.U. Ahmed

Addl. C.G.S.C

Central Administrative Tribunal
Guwahati Bench.

8

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

2 JUL 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Review Application No. 3 of 2009

Arising out of O.A.. NO.01/2004

T. K. K. K.

टी. काब्लियन, ए. र. ले. से.
सहायक निदेशक
कार्या, र. ले. नि. गुवाहाटी
T. K. K. K., IDAS
Asstt. Controller
Office of the CDA, Guwahati

IN THE MATTER OF :

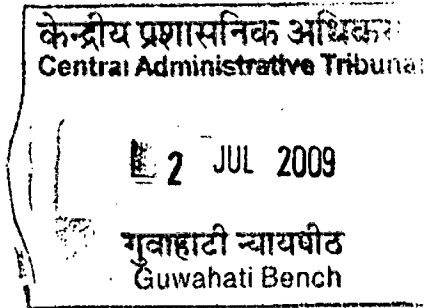
1. Union of India represented by
The Secretary, Ministry of Defence,
New Delhi.
 2. The Controller General of Defence
Accounts, R.K. Puram, West Block-V
New Delhi-66.
 3. The Principal Controller of Defence
Accounts (Air Force), 107 Rajpur Road,
Dehradun.
 4. Controller of Defence Accounts,
Udayan Vihar, Narengi, Guwahati-171.
 5. The Director (Establishment)
Deptt. of Personal & Training,
Govt. of India,
Ministry of Personnel, Public Grievances &
Pensions, New Delhi.
- ..Petitioner/ Respondents

-Vs-

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. Rahima Kharfittai
O/O the PAO (ORS)
58 GTC, Shillong-7.
4. Smt Utpala Pramanik
O/O the PAO (ORS)
58 GTC, Shillong-7
5. Mrs Sanghamitra Das Choudhury
O/o the CDA Guwahati
Udayan Vihar, Narengi
Guwahati, PIN 781026.
6. Mrs Anita Das,
O/O the PAO (ORS)
58 GTC, Shillong-7
7. Mrs Maya Sen,
O/O the ALAO,
Supply Depot, Sikhar

... Opposite/ Applicant
Party

-AND-

IN THE MATTER OF :

An application under Section 22(3)(f) of the Central Administrative Tribunal Act, 1985 and Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987 for Review of the order dated 20.5.09 passed in O.A.01/2004 by the Hon'ble Tribunal.

The application of the above named petitioner/ Respondents

Most respectfully sheweth :

1. That the applicant craves to state that the Defence Accounts Department, headed by the Controller General of Defence Accounts, is a department under Ministry of Defence, Government of India. The respondents in the instant review application are employees of the Defence Accounts Department working as Senior Auditors. The instructions issued in relation to pay and allowances, promotion etc. by the Department of Personnel and Training, Govt. of India are applicable to the employees of the applicant's organisation.
2. That 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/Department.
3. The applicant granted benefit under Assured Career Progression (ACP) Scheme to its employees as per Condition-6 of Annexure-1 to DOPT's OM No.35034/1/97-Estt (D) dated 09.08.1999 and the para 16 of clarifications issued by DOPT vide O.M.No.F.No. 35034/1/97-Estt. (D) (Vol-IV) dated 10.02.2000.

Dr. T. K. Das
T. K. Das, IAS
Asst. Controller
Guwahati

Copy of DOPT O.M. dated 09.08.1999 is annexed herewith as Annexure A and copy of the DOPT O.M. dated 10.02.2000 is annexed herewith as Annexure B.

4. That challenging the decision of the Department, the respondent filed an Original Application 01/2004 before Hon'ble CAT Bench Guwahati. Hon'ble Tribunal vide its order dated 20.05.2009 directed the applicant of the instant Review Application to consider the prayer of the respondent and grant the benefit under ACP Scheme. The judgment of the Hon'ble Tribunal is based on the clarification No. (xix) of the main feature of the Assured Career Progression Scheme annexed at Page 29 of the O.A which is not a part of any of the Office Memorandum issued by the DOPT and the same is, in fact, a self drafted summary of the main features of the scheme prepared by the respondents.

Original Application No.1/2004 submitted by the respondent is annexed herewith as Annexure-C and the order of the Hon'ble Tribunal dated 20.05.2009 in O.A.01/2004 is annexed herewith as Annexure-D.

5. That para 16 of DOPT OM No. F.No.35034/1/97-Estt dated 10.02.2000 clearly stipulates that as per the scheme (Condition 6) all promotion norms 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.

6. Accordingly, our department granted the pay scale of Rs.6500-10500/- to the individuals having basic pay of Rs.5500-9000/- after qualifying the departmental test i.e SAS (Subordinate Accounts Service) Part-I or Supervisory Accounts Examination.

7. That this petition has been made bona fide and for proper adjudication of the matter.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

2 JUL 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

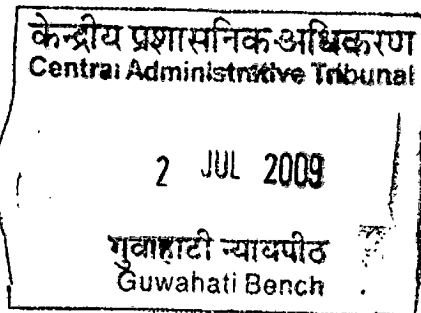
डी. कविलन, भा.र.से.से.
सहायक निदेशक
कार्या. र.से.नि.गुवाहाटी

8. That if the Hon'ble Tribunal does not consider this application and recalls the order dated 20.5.2009, the petitioners would suffer irreparable loss and injuries which may amount to miscarriage of justice.

In the premises aforesaid, it is therefore, prayed that your Lordship would be pleased to issue notice to the Opposite parties, call for the records and after hearing the parties and perusing the records, may further be pleased to recall the order dated 20.05.2009 passed in O.a.01/2004 and fix the matter for hearing and may pass such further or other order/s that your Lordship may deem fit and proper.

-AND-

For this act of kindness your petitioner shall ever pray.



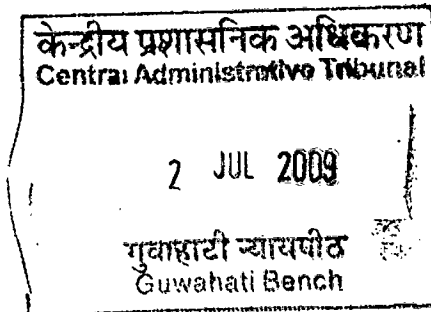
Dr. Babbar

टी. कबिलन, भा.र.से.से.
सहायक निर्यक्त
पु. 1 से वि. गुवाहाटी

AFFIDAVIT

I Shri T. Kabilan.....aged about 29 years son of Mk. S. T. Arasu.....at present working as
Assistant Controller of defense Accounts, at
Controller of Defense Accounts Guwahati.....
 who is one of the applicant in the present review application and hence competent to sign this Affidavit do hereby solemnly affirm and state that the statements made in Paragraphs 1, 2, 5, 6, 7, 8 are true to my knowledge and belied, those made in paragraph 3, 4, being matter of records, are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this affidavit on this 2nd day of July, 2009 at Guwahati.....



T. Kabilan

टी. काबिलन, भा.र.ले.से.
 सहायक निबंधक
 कार्या, र.ले.नि., गुवाहाटी
 T. Kabilan, IDAS
 Asstt. Controller
 Office of the CDA, Guwahati

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

Government of India

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

North Block, New Delhi 110001

August 9, 1999

OFFICE MEMORANDUM**Subject:- THE ASSURED CAREER PROGRESSION SCHEME FOR
THE CENTRAL GOVERNMENT CIVILIAN EMPLOYEES.**

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

2. GROUP 'A' CENTRAL SERVICES

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

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

3.1 While in respect of these categories also promotion shall continue to be duly earned, it is proposed to adopt the ACP Scheme in a modified form to mitigate hardship in cases of acute stagnation either in a cadre or in an isolated post. Keeping in view all relevant factors, it has, therefore, been decided to grant two financial upgradations [as recommended by the Fifth Central Pay Commission and also in accordance with the Agreed Settlement dated September 11, 1997 (in relation to Group 'C' and 'D' employees) entered into with the Staff Side of the National Council (JCM)] under the ACP Scheme to Group 'B', 'C' and 'D' employees on completion of 12 years and 24 years (subject to condition no.4 in Annexure-I) of regular service respectively. Isolated posts in Group 'A', 'B', 'C' and 'D' categories which have no promotional avenues shall also qualify for similar benefits on the pattern indicated above. Certain categories of employees such as casual employees (including those with temporary status), ad-hoc and contract employees shall not qualify for benefits under the aforesaid Scheme. Grant of financial upgradations under the ACP Scheme shall, however, be subject to the conditions mentioned in Annexure-I.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

....2/-

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गुवाहाटी न्यायपीठ
Guwahati Bench140-1/87(CM)-3
12/3/99

'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**

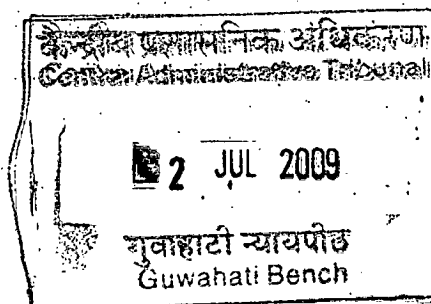
6.1 A departmental Screening Committee shall be constituted for the purpose of processing the cases for grant of benefits under the ACP Scheme.

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.

.....3/-



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

....4/-

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

2 JUL 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

**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;

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

2 JUL 2009

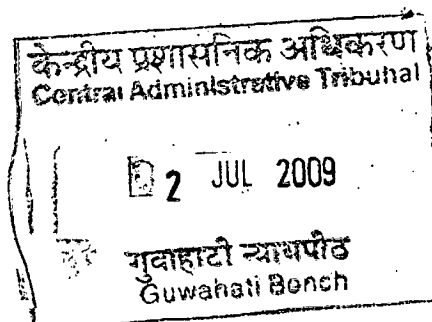
गुवाहाटी न्यायपीठ
Guwahati Bench

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;



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.

Sd/-
(K.K. JHA)

Director(Establishment).

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Central Administrative Tribunal

2 JUL 2009

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Guwahati Bench

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

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Central Administrative Tribunal

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Guwahati Bench

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

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Central Administrative Tribunal

2 JUL 2009

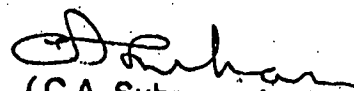
गुवाहाटी न्यायपीठ
Guwahati Bench

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)
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 INDIAE 25140

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 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.

.....7/-

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Central Administrative Tribunal

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सहायक न्यायधीश

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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Central Administrative Tribunal

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Guwahati Bench

Annexure - C

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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. 01 /2004

Sri Pulak Kr Biswas & Others : Applicants.

- Versus -

Union of India & Others : Respondents.

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Filed by

Date:

Advocate

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Central Administrative Tribunal

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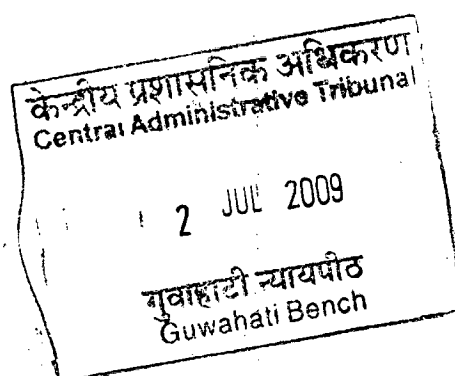
**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI**

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

O. A. No. _____/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 ALAQ,
Supply Depot, Silchar.



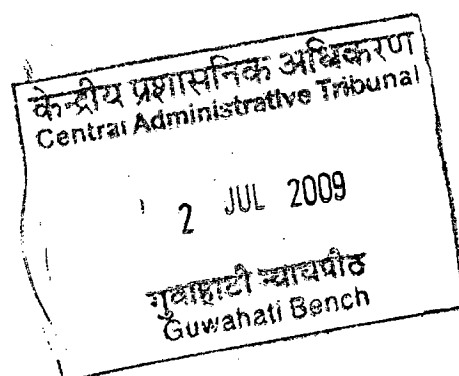
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(All are working as Senior Auditors in their respective places shown above, under the Defence Accounts Department)

...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.

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Guwahati Bench

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

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

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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; -

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Muhati Bench

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. Das Choudhury (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 inter alia under Sl.No.16 against condition No.6 of the ACP Scheme, runs as follows-

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"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.**)

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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

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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.)

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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

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

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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.

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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.)

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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

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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

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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

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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

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.

3. Costs of the application.

3.4 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.

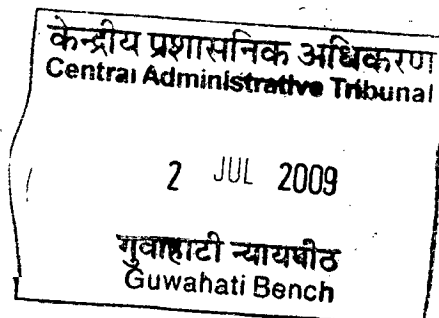
This application is filed through Advocates.

11. Particulars of the I.P.O.

- i) I. P. O. No. :
- ii) Date of Issue :
- iii) Issued from :
- iv) Payable at :

12. List of enclosures.

As given in the index.



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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.

MOST IMMEDIATE 38.

ANNEXURE - I

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

North Block, New Delhi 110001
August 9, 1999

OFFICE MEMORANDUM

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

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

2. GROUP 'A' CENTRAL SERVICES

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

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

3.1 While in respect of these categories also promotion shall continue to be duly earned, it is proposed to adopt the ACP Scheme in a modified form to mitigate hardship in cases of acute stagnation either in a cadre or in an isolated post. Keeping in view all relevant factors, it has, therefore, been decided to grant two financial upgradations [as recommended by the Fifth Central Pay Commission and also in accordance with the Agreed Settlement dated September 11, 1997 (in relation to Group 'C' and 'D' employees) entered into with the Staff Side of the National Council (JCM)] under the ACP Scheme to Group 'B', 'C' and 'D' employees on completion of 12 years and 24 years (subject to condition no.4 in Annexure-I) of regular service respectively. Isolated posts in Group 'A', 'B', 'C' and 'D' categories which have no promotional avenues shall also qualify for similar benefits on the pattern indicated above. Certain categories of employees such as casual employees (including those with temporary status), ad-hoc and contract employees shall not qualify for benefits under the aforesaid Scheme. Grant of financial upgradations under the ACP Scheme shall, however, be subject to the conditions mentioned in Annexure-I.

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140-A/87(CA)-D
12/3/99

'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.

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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 involve.

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

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 officers. 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.

[Signature]

(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

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**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;

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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 scales, 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;

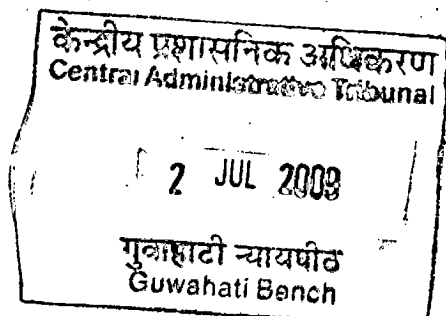
13. Existing time-bound promotion schemes, including in-situ promotion scheme, in various Ministries/Departments may, as per choice, continue to be operational for the concerned categories of employees. However, these schemes, shall not run concurrently with the ACP Scheme. The Administrative Ministry/Department -- 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).



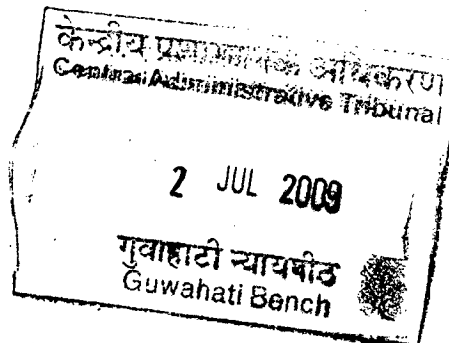
ANNEXURE I

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



MAIN FEATURES OF THE ASSURED CAREER PROGRESSION SCHEME

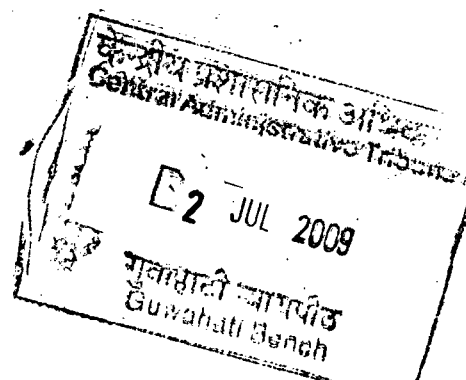
The main features of the Assured Career Progression Scheme are:-

- (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.
- W. (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.

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Central Administrative Tribunal

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- (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

निष्ठा अधिकारी
Central Administrative Tribunal

2 JUL 2009


गवामाटी न्यायधीन

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-Est(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)
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 INDIWE 25/10/2000

केंद्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

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 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.

Point of doubt	Clarification
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 fulfilment 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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केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

2 JUL 2009

OFFICE OF THE CONTROLLER OF DEFENCE ACCOUNTS(AIR FORCE)
RAJPUR ROAD, DEHRADUN-248001 (UP)
OFFICE ORDER NO. 22 DATED 9-8-2000

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)

Distribution:-

1. The C.G.D.A. New Delhi-110066
2. The Pr.CDA(P) Allahabad
3. The JT.C.D.A.(AF) Nagpur .
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(VISHAMBER SINGH)
SR. ACCOUNTS OFFICER (ADMIN)

SSR/1

Central Administrative Tribunal

2 JUL 2009

52/5

CONFIDENTIAL

O/O THE CGDA
N. Delhi

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

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'

Peons ,Mali, Chowkidar,
Farash, Safaiwala & Bhisties

CRITERIA

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 .

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Guwahati Bench

GROUP 'C'

CLERKS

Clerk post is in the normal line of promotion for Record Clerks. But passing of Departmental test for Clerks post is prescribed in the Recruitment Rules. Therefore, such of 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 line 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' and 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

प्राथमिक अधिकारी
Administrative Team

completed 12/24 years of service, are to be considered for benefit of financial upgradation in the scale of pay applicable to the post of Staff Car Driver-II, subject to the condition that they have qualified in Practical Trade Test as 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 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 31-3-2001.

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

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

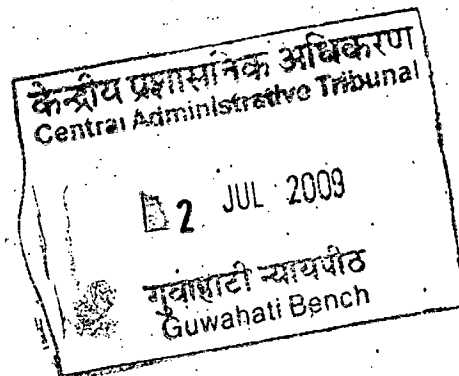
It is also stated that while forwarding the adjudication reports of the eligible Senior Auditors an attested copy of the extract of the entry made in their service book showing the particulars of their passing the SAS Part-I examination may also be enclosed.

Please ack. receipt .

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

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

SSR | 1



From: P.K. BISWAS, SR. AUDITOR,
OFFICE OF THE LAO (A.F.)
SHILLONG.
Dt. 10-04-2001.

58

63

The P.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-1) 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.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

2 JUL 2009

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Guwahati Bench

(2)

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 up to March-2000.

Scheme to be operational w.e.f. 9/8/1999.

(iv) 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.

(v) 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 SAS Part-II examination and have completed 24 years of service, and waiting in 'Q' for promotion to S.O.(A) 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

Contd.... P/3

(3)

negative way by debarring most of the senior staff
become 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.D.A.),
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 (C.G.D.A.)
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.A.S.-Part-2 has not yet been
recognised by the Govt. as a qualification
for promotion or any other kind of financial
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 A.C.P. 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 (Deptt.
of Personnel & Training) New Delhi vide their
letter dt. 9-8-1999. (Copy of the order published
by the A.G. Meghalaya 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.

(P. K. BISWAS)

Central Administrative Tribunal
2 JUL 2009
गुवाहाटी बेंच
Guwahati Bench

REGISTERED

ANNEXURE-V

58

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

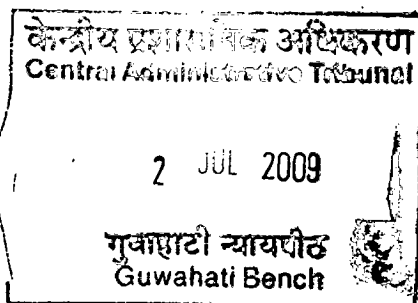
THE L.A.O. (AF)
SHILLONG .

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

24/4,

CGDA (AF)

Extra Duty.

A.C.P. Scheme for Central Government
Civilian employees.Reference: - M.O. NO. AM/11/4348/SA/ACP-V dt. 25/10/01.
x

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 addressee 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 demoralised 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, 5/10/08
The 2nd July 2001.

(P. K. BISWAS) SA. 83/3252

केन्द्रीय प्रशासनिक उच्च न्यायालय
Central Administrative Tribunal

2 JUL 2003

न्यायाधीश
J. N. B. B. B.

RECORDED

NO. AN/II/4348/SA/ACP-V.
OFFICE OF THE C.D.A. (AF).
107, RAJPUK ROAD, DEHRADUN.
DATED: 10-07-2001

P.K. Biswas

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

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

2 JUL 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

FEED 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

C.D.A.(AF) NAGPUR
OFFICES (INCLUDING
AREA)
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 .

Date day	Time	Paper
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:-

- 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 .
- 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, New Delhi Patna, Pune 'A' (SC), Pune 'B' (O), Port blair, Pathankot, Roorkee.

Shill

Control Administration Tribunal

2 2003

गुवाहाटी न्यायपीठ
Guwahati Bench

-2-

Guwahati, Vishapatnam & Willing-ton
 candidates are appearing in the exam-
 ination at the nearest to his/her duty point,
 may be made by the PCDA/CDA for consid-

General category candidates would be
 required to secure 50 marks (in both parts put together)
 out of 100 Marks. There will be no
 relaxation of standards in the case of
 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 exam-
 ination 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

(VISHAMBER SINGH)
 SR ACCOUNTS OFFICER (ADMIN)

केन्द्रीय प्रशासनिक अधिकरण
 Central Administrative Tribunal

2 JUL 2009

गुवाहाटी न्यायपीठ
 Guwahati Bench

SUBJECT COVERED

- 3 -

General Principles and Procedure of Accounts and Audit
(including general organisation of the Armed Forces)
Introduction to Govt Accounts and Audit
Appendix 'A' to the Defence Service Estimates .

Part I & II
Defence Audit Code
Defence Accounts Code

Part B: Codes and Manuals concerning Army, Air Force, Navy
and Factories

ARMY

- OM Part II (Vol I)
- Army Local Audit Manual-Part-I
- OM Part-IX & X
- OM Part-IV
- OM Part VIII

AIR FORCE

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

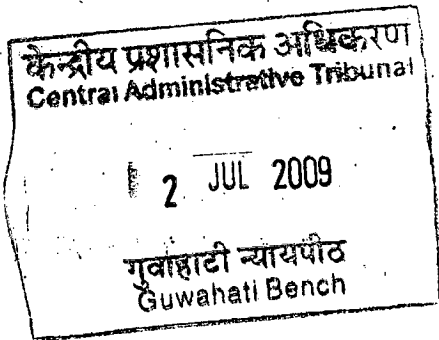
NAVY

- 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 .



PROFORMA

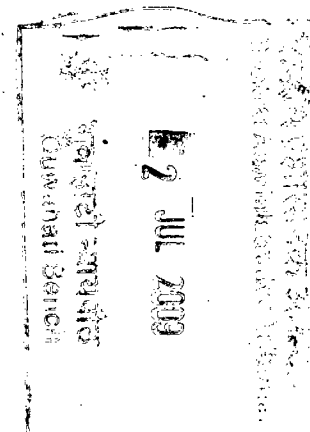
PARTICULARS OF THE INTENDING CANDIDATES FOR SUPERVISORY (ACCOUNTS) GRADE EXAMINATION
TO BE HELD IN 04/2002

Grade & A/C NO. of the candidates	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)
2.	3.	4.	5.	6.

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

Signature

7. 8.



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, Bhaluknara
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 EF
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, 'M' 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

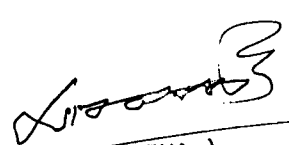
on under the ACP scheme
00 175-9000 to such of
ed to Sr. Auditors grade
qualified in the Supvr
per Annex 'A' to this

10 of DOPT's memo dt.9.
be obtained from
office/section duly

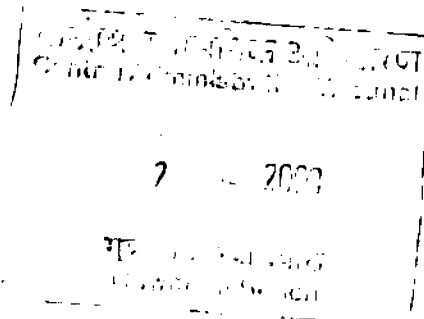
of pay of Rs.5500-175-
and shall neither
change in the existing
position or seniority position

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.


(A.B. SHARMA)
Sr. Accounts Officer (AM)

Encl: Annex 'A'
Annex 'B'



to CDA Guwahati Circular NO.AN/IC/727/Prom

Sl. No.	MC No.	Date from which Second Financial upgradation under ACP given	Scale of pay to which upgraded	Office where serving
1.	Barjo, SA	29.04.2002	Rs.5500-175-9000	M.O. CDA, Guwahati
2.	Kishan Mon, SA/8310184	- do -	- do -	PAO(ORs) 58 GTC Shillong
3.	B. B. Hasarika, SA	- do -	- do -	AAO GE 868 EWS C/O 99 APO
4.	P. Hasarika, SA	- do -	- do -	ALAO SD, Bhalukmara
5.	L. Nath, SA	- do -	- do -	- do -
6.	K.C. Mandal, SA	- do -	- do -	LAO(A) Jorhat
7.	R.K. Das, SA	- do -	- do -	AAO BSO, Tezpur
8.	Mrs. S. Choudhury, SA	- do -	- do -	- do -
9.	Shri R. Borthakur, SA	- do -	- do -	ALAO FSD Panitola
10.	J.K. Gohain, SA	- do -	- do -	- do -
11.	A.S. Ansari, SA	- do -	- do -	ALAO 482 Coy ASC(Sup) C/O 99 APO
12.	P.C. Dutta, SA	- do -	- do -	- do -
13.	T. Das, SA	- do -	- do -	- do -
14.	G.R. Deb, SA	- do -	- do -	M.O. CDA Guwahati
15.	Rajnath Ram, SA	- do -	- do -	AAO GE Dinjan
16.	R.P. Sharma, SA	- do -	- do -	PAO(ORs) 58 GTC Shillong
17.	M.R. Deka, SA	- do -	- do -	- do -
18.	M.N. Joshi, SA	- do -	- do -	- do -
19.	A. Ramgsiang, SA	- do -	- do -	AAO GE (AF) Shillong
20.	Mrs. M. Gohain, SA	- do -	- do -	- do -
21.	T. Lyngdoh, SA	- do -	- do -	- do -
22.	F. Nongbri, SA	- do -	- do -	- do -

केन्द्रीय प्रशासनिक अधिकरण
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2 JUL 2009
गुवाहाटी बेंच
Guwahati Bench

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iv

Contd. P-3

2 JUL 2009

गुजराती नाथपीठ
Gujarati Nath

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 APO
67. " B.P. Biswas, SA 8313400	- do -	- do -	AAO GE Narangi
68. " G.C. Das, SA 8313493	- do -	- do -	AAO GE Silchar
69. Mrs. M.R. Bhattacharjee, SA/8306340	- do -	- do -	- do -
70. Shri D.R. Singh, SA 8285922	- do -	- do -	M.O. CDA, Guwahati
71. " W. Daimari, SA 8313399	- do -	- 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 -

Contd.P/-4

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

7 JUL 2009

Central Branch

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

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

2 JUL 2009

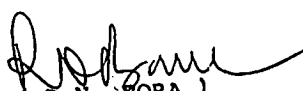
गुवाहाटी न्यायपीठ
Guwahati Bench

Contd. p/-6

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	3	4	5
Shri D.P. Dam, SA 8313527	29.04.2002	Rs.5500- PAO(ORs) ARC 175-9000 Shillong	
30. Mrs. B. Mishra, SA 8306512	- do -	- do -	- do -
31. Shri I. Hussain, SA 8306402	- do -	- do -	- do -
32. 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)

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

2 JUL 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

UNDERTAKING

While accepting the higher pay under ACP scheme, I hereby give my unqualified acceptance for regular promotion in preference 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

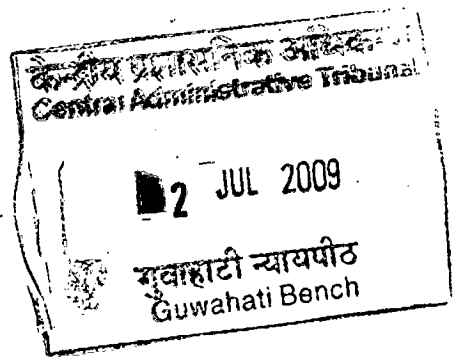
A.O.

केन्द्रीय प्रशासनिक अधिकरण
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गुवाहाटी न्यायपीठ
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ANNEXURE - X



Through Proper Channel)
Supervisor (Ake) Grade Examination
held on 4/2002

Respected Sir,
With due apology, I beg to lay before
you the following few lines for your kind
pardon and necessary clarification on the matter
please refer, from initial circular of the H.A.
Office, it was understood that the above examination
was introduced for the purpose of promotion to
Supervisor (Ake) grade. The staff members who
have appeared in the examination and declared
successful in the examination held on 4/2002 are
given promotion with the date of examination
i.e. 29/10/2002 as it would be seen from the
COA, Guwahati dated 11/10/2002 publishing the
names of successful candidates (COA, Guwahati
dated 11/10/2002 No. 364 of 30/10/02). Obviously the
person recruited as an Auditor of the
department, it should be treated as second
promotion in his service career.
As per the contents of D.O. No.
35034/1/02 dt 28.10.02, the
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.
Now it would be seen from the
above para. to order that the members having
promoted to Supervisor (Ake) grade have been
granted 2nd financial upgradation, which
seems to be in contravention to the rule of
the NCP scheme.
It is, therefore, requested that the matter
be

केन्द्रीय प्रशासनिक अधिकरण
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2 JUL 2009
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Guwahati Bench

Thanking you Sir,
Yours Faithfully

Sp. Audubon
1/2 82/3252

... ..
... ..
... ..
... ..
... ..

1. The first part of the document is a list of names and addresses, which appears to be a directory or a list of contacts. The names are written in a cursive script, and the addresses are listed below them. The list includes names such as "John A. Smith", "John B. Smith", "John C. Smith", "John D. Smith", "John E. Smith", "John F. Smith", "John G. Smith", "John H. Smith", "John I. Smith", "John J. Smith", "John K. Smith", "John L. Smith", "John M. Smith", "John N. Smith", "John O. Smith", "John P. Smith", "John Q. Smith", "John R. Smith", "John S. Smith", "John T. Smith", "John U. Smith", "John V. Smith", "John W. Smith", "John X. Smith", "John Y. Smith", and "John Z. Smith".

100-443887-100

NO. AN-II/4348/S/A/ACP-VIII
Office of the CDA (AF)
107, Rajpur Road
Dehradun
Dt. 6/4/2003

P.K. Biswas

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

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

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

2 JUL 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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/15/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 DQFTs 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 correspondence.

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

2 JUL 2009

(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

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 2-3-99.

- (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 instant promotion (granted in terms of Min. of Fin. Deptt. of Exprd. OM No. 10/1/E-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 2-8-99. In case two promotions have already been received by an employee, no benefit under scheme shall accrue to him/her.

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promotion, as distinct from financial up-gradation under the said scheme, shall continue to be granted after due screening by regular rules/regulations. The introduction of the ACP scheme shall not affect the normal (regular) promotional avenues.

The normal promotion norms for promotions from one grade to the next shall be as per extant orders i.e. analysis of ACRs for last 3 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 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 is 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. 1/61/97, Pay- dt 5/7/1999 as referred to in para 9 of Annexure-I to OM dated 9-8-99. The financial benefit allowed

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Bench

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

Higher pay scale under the ACP scheme shall be conditional on the fact that the employee, while accepting the said benefit, shall be deemed to have made 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 9/8/95.

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'

1. Indl 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

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गुजरात सरकार
Gujarat Sahakar

The insitu promotion w.r.t. Govt. of India, Ministry of Finance, Department of Expenditure OM No. 10(1) E III/88 dated 13/4/91 has been given in respect of some of the marginally lined 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 Dastri's grade and then to Record Clerk, s/he will not be eligible for any financial up-gradation. So far as IDAD 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.

गुजरात सरकार

(मुख्य)

सा. नि.

दास्त्रि

जारीकर्ता: पी. ए.

ऑफिस असिस्टेंट ऑपरेटर

(प्रोमोटेड फ्रॉम दायरिक्टली रीक्यूटेड दास्त्रि)

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 above, for grant of financial upgradation as provided for in the said scheme. The composition of the screening committee shall be the same as that of the 'LIC' 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 controllers may also constitute the next screening committee for smooth implementation of the ACP scheme in the department. This screening committee may meet twice in a financial year preferably in the first week of January and July for advance processing of the cases. Cases maturing during the period (April to Sept.) of a particular financial year for grant of benefits under the

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and 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 case 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, ACRs, disciplinary/penalty, proceedings, if any, etc. minutely to assess the fitness or otherwise of an employee for grant of financial up-gradation.

4.1. 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 ensure 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 HQs office by 10th October '99 in the proforma enclosed at Annexure

The recommendations made by the screening committee before their transmission to HQs 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 HQs office.

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

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and that no facts relevant to the financial up-gradation, or any other, have been omitted. It will also be certified that no case of promotion in that grade has been left.

The controllers are aware, a in situ promotion scheme was introduced by the Ministry of Finance, Department of Expenditure OM No. 'O(1)/E-10/88' dated 13-11-91 as circulated under our letter No. AN/CI/12409/G; C&D dated 19th Aug '92. Various employees falling in Gp 'C' & 'D' in our Department have been given 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 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 office by due date, as mentioned above.

Please acknowledge receipt.

Dy CGDA (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

Dy CCDA (AN)

केन्द्रीय प्रशासनिक अदालत
Central Administrative Tribunal
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Guwahati Bench

ACCOUNTANT GENERAL (AGE) MEGHALAYA ETC. SHILLONG:

No. 297

Dated 14-3-2001

Office of the govt. of Indian Ministry of personnel, public and pensions (Department of Personnel and Training) New Delhi 110011/97 Estt(D) dated 9-8-99, the following Group 'C' Senior Accountants whose names are shown below and drawing Scale of Rs. 5000-150-8000/- of both the Offices of the AG Assam Guwahati and the A.G (AGE) Meghalaya etc, Shillong, have granted second financial upgradation in the higher scale of Rs. 5500-175-9000/- under assured career progression scheme with effect from the date of their completion of 24 year of regular service mentioned against their names.

Name of the Official & Designation	Office to which attached.	Effective date of ACPs.
1. Smti Sumitra (Das) Dey, Sr. Acctt	O/o the AG (AGE) 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 (AGE) Assam, Guwahati.	16-10-2000
4. Smti Anusua (Dutta) Gupta, Sr. Acctt.	- DO -	19-10-2000
5. Smti Niropana 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 9.3.99 whichever is later.

(iii) The financial upgradations under the ACP Scheme in the entire 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 date in which an employee was appointed as a direct recruit. This shall mean that two financial upgradation under the ACP Scheme shall be availed only if no regular promotions during the specified 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.

प्रशासनिक अधिकारी
Central Administrative Tribunal

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vacancy periods (regular service) for grant of benefits under the ACP Scheme shall be counted from the grade in which the employee was appointed as a direct recruit. The fulfillment of normal promotion norms (bench mark, departmental seniority-cum-fitness in the case of group 'D' etc) for grant of financial upgradations, performance of duties as are entrusted to the employees together with the position of old designations, financial upgradations as personal and incumbent for the stated purposes and restriction of the 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 (2) (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.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 (I) (a) (1) within one month from the date of issue of order.

Sd/-

Sr. Deputy Accountant General (Admin)

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Central Administrative Tribunal

2 JUL 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Cont.... 3/-

Estt-I(M)/1-24/2000-2001/5530-91

Dated 14-3-2001

For information and necessary action to:-

Principal Director of Audit, I.P. Railway, Maligaon, Guwahati-11.

Admn)

Sr.AO(Admn] alongwith 15
copies A copy of the
may please be handed over
those Sr.Accountants of
Guwahati Office as shown in the
list.

Office of the A.G(A&E) Assam,
Haidamgaon, Beltola, Guwahati.29

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

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

6. P.AO(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.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

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गुवाहाटी न्यायपीठ
Guwahati Bench

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:**

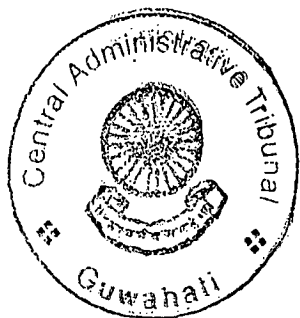
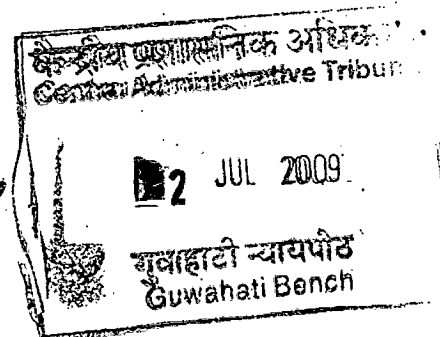
Original Application No.01 of 2004

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.



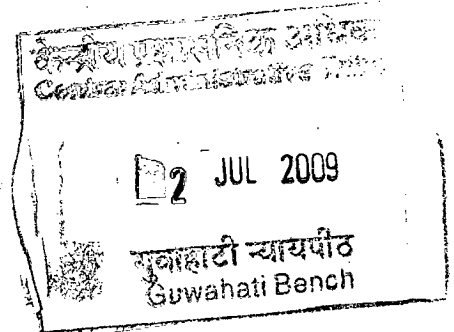
(All are working as Senior Auditors in their respective places shown above, under the Defence Accounts Department)

..... Applicants

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

-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

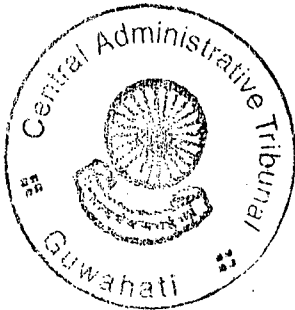
N.D.DAYAL: MEMBER (A):

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

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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

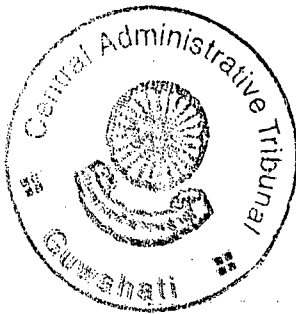
केन्द्रीय प्रशासनिक अर्ब
Central Administrative

2 JUL 2005

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Guwahati Bench

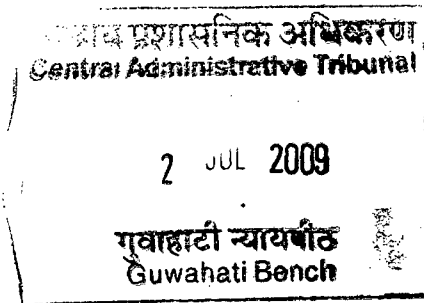
to their case as projected by the learned counsel for the Applicants. If the Courts directs, the Respondents would consider such prayer and take a decision in the matter within a reasonable period of time.

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.



LM

Sd/-
M.R.Mohanty
Vice-Chairman
Sd/-
N.D.Dayal
Member(A)



TRUE CO
प्रतिलिपि
अनुभाग अधिकारी
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench
गुवाहाटी/Guwahati

2/6/09