

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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FORM NO. 4.
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 184/05

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicant(S): T. M. Handberg

Respondant(S): U. O. I. Iers

Advocate for the Applicant(S): Adil Ahmed

Advocate for the Respondant(S): Adil. Case A-K Chudley

Notes of the Registry	Date	Order of the Tribunal
Application is filed/C.F. I. r. s. 10, deposited vide P.C. BD No. <u>200/1333/05</u> Dated <u>10.6.05</u>	11.7.05.	Judgment delivered in open Court. Kept in separate sheets. Application is disposed of. No costs.
<u>Im</u> Dy. Registrar		<u>Member</u> Member
		<u>Vice-Chairman</u> Vice-Chairman

21/7/05
21/7/05

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

O.A. No. 184 of 2005.

DATE OF DECISION: 11.07.05

Thang Mang Hartlong

APPLICANT

Mr.A.Ahmed

**ADVOCATE FOR THE
APPLICANT(S)**

- VERSUS -

U.O.I & Others

RESPONDENT(S)

Mr A.K.Choudhuri ,Addl.CGSC

**ADVOCATE FOR THE
RESPONDENT(S)**

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

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

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

Judgment delivered by Hon'ble Vice-Chairman.

G. Sivarajan

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.184 of 2005.

Date of Order: This the 11th Day of July, 2005.

HON'BLE MR.JUSTICE G.SIVARAJAN, VICE-CHAIRMAN.
HON'BLE MR.K.V.PRAHLADAN, ADMINISTRATIVE MEMBER.

Thang Mang Hartlong
Superintendent of Central Excise.
Central Excise
Range-1,
Office of the Deputy Commissioner,
Central Excise, Guwahati Division-1,
Bhangagarh,
Guwahati-5

Applicant.

By Advocate Mr.A.Ahmed.

-Versus-

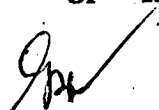
1. The Union of India, represented by the Secretary to the Government of India , Ministry of Finance, Department of Revenue, North Block, New Delhi
2. The Chief Commissioner of Central Excise (Shillong Zone), CRESCENS BUILDING M.G.Road, Shillong-793001.
3. The Commissioner, Central Excise, Morello Compound, Shillong-793001.
4. The Additional Commissioner, Central Excise (P&V), Customs and Central Excise, Shillong- 1

By Advocate Mr.A.K.Choudhury, Addl.CGSC.

ORDER(ORAL)

, SIVARAJAN, J. (V.C):

The applicant is presently working as Superintendent of Central Excise, in the office of the Deputy Commissioner, Central Excise, Guwahati Division. He has filed this application for direction to the respondents to fix appropriate date of second financial upgradation of the applicant i.e. on 5.01.2002 instead of 22.11.2003 under the Assured Career Progression(ACP) Scheme issued by the Government of India, Ministry of Personnel, Public Grievances and

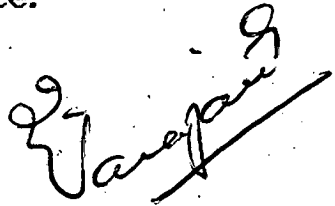


Pensions(DOP&T). Other consequential reliefs are also sought for by the applicant.

2. We have heard Mr.A.Ahmed learned counsel for the applicant and Mr.A.K.Chaudhuri, learned Addl.C.G.S.C. for the Respondents. We are of the view that this application can be disposed of at the Admission stage itself since the applicant's representation dated 17.1.05 (Annexure G) is now pending consideration before the 3rd Respondent. Though approximately six months time is lapsed, the 3rd Respondent have not given any reply to the applicant. The grievance of the applicant is that the Respondent have wrongly fixed the date of second financial upgradation of the applicant as 22.11.2003 instead of 05.01.2002. In the circumstances this O.A. is disposed of at the Admission stage itself by directing the 3rd Respondent to dispose of the representation dated 17.1.05 (Annexure G) and pass a reasoned order within a period of three months from the date of receipt of this order.

3. Application is disposed of as above. The applicant will produce this order before the 3rd Respondent for compliance.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(G.SIVARAJAN)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 184 /2005

Sri T. M. Hartlong

... Applicant


- Versus -

The Union of India & Ors

... Respondents.

- I N D E X -

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Filed By

(ADIL AHMED)
ADVOCATE

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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 184 /2005

Thang Mang Hartlong

... Applicant

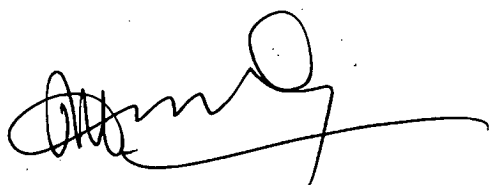
-Versus -

The Union of India & Ors

... Respondents.

LIST OF DATES/EVENTS

- 05.01.1978 The applicant has joined as Central Excise Inspector (Direct Recruits) at Gorahpur Division under the Allahabad Commissionerate.
- 22.11.1979 The applicant was transferred to Shillong Commissionerate as Inspector of Central Excise (Direct Recruits) from Gorahpur Division.
- 09.08.1999 The Government of India, Department of Personnel and Training launched ACP Scheme to the Central Government Civilian employees to mitigate hardship in pursuance of the recommendation of the Vth Central Pay Commission.
- 04.01.2002 The applicant completed 24 years of service after obtaining promotion to the post of Superintendent.
- 15.01.2002 The applicant submitted representation before the Respondent No. 4 i.e., the Additional Commissioner (P&V) requesting financial upgradation under the ACP Scheme.
- 06.06.2002 The Respondent No. 4 informed the applicant that as per the departmental seniority list the applicant has joined in the department as Inspector (Direct Recruit) on 22.11.1979. Hence, the applicant's case for granting financial upgradation under the ACP Scheme will be considered in due course.
- 19.06.2002 The applicant submitted reply to the letter dated 06.06.2002 stating that his date of joining in the department is 05.01.1978.
- 10.06.2002 The Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, Government of India clarified certain points regarding grant of ACP Scheme.
- 14.06.2004 The applicant was on medical leave from 14.06.2004 to 27.09.2004 due to knee joint operation at Down Town Hospital.
- 28.06.2004 The Respondent No. 4 vide letter dated 28.06.2004 granted the benefits of second financial upgradation in the pay scale of Rs. 8,000-13,500/- to the applicant as per the ACP Scheme with effect from 22.11.2003.



27.09.2004 The applicant joined in the office after slight recovery and he got the letter dated 28.06.2004 regarding his second financial upgradation under ACP Scheme.

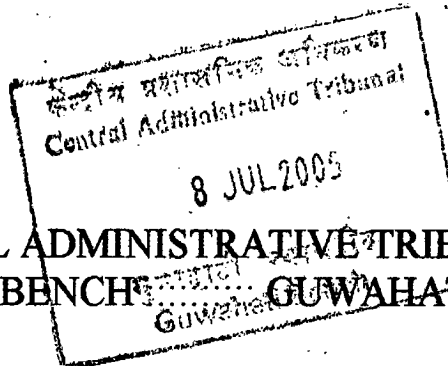
17.01.2005 The applicant submitted representation before the Respondent No. 3 for re-fixation of date of effect of his second financial upgradation under the ACP Scheme.

But till date the Respondents have not taken any steps in this matter. Hence, the applicant has approached this Tribunal for seeking justice in this matter.



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

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



Filed by
Shri T. M. Hartlong
Applicant
Thang Mang Hartlong
(As per Memo)
Advocate

ORIGINAL APPLICATION NO. 184 OF 2005.

BETWEEN

Thang Mang Hartlong
Superintendent of Central Excise
Central Excise Range - I, Office of the
Deputy Commissioner, Central Excise
Guwahati Division - I, Bhangagarh,
Guwahati - 5.

...Applicant

- AND -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. The Chief Commissioner of Central Excise (Shillong Zone), CRESCENS BUILDING, M.G. Road, Shillong - 793 001.
3. The Commissioner, Central Excise, Morello Compound, Shillong - 793 001.
4. The Additional Commissioner, Central Excise (P & V), Customs and Central Excise, Shillong - 1.

... Respondents

1. DETAILS OF THE APPLICATION/PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:

The Application is made for wrong fixation of second financial upgradation of the applicant as on 22.11.2003 instead of 05.01.2002 under Assured Career Progression (ACP) Scheme issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personal and Training) by the Respondents.

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the instant application is within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION:

The applicant further declares that the subject matter of the instant application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act 1985.

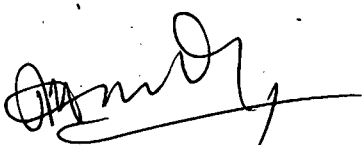
4. FACTS OF THE CASE:

Facts of the case in brief are given below:

4.1 That your humble applicant is a citizen of India and as such he is entitled to all rights and privileges guaranteed under the Constitution of India. He is now aged about 50 years.

4.2 That your applicant begs to state that he has joined as Central Excise Inspector (Direct Recruit) on 05.01.1978 at Gorahpur Division under Allahabad Commissionerate and later on he was transferred to Shillong Commissionerate and joined at Shillong on 22.11.1979 as Inspector of Central Excise (Direct Recruit) in the same pay scale.

4.3 That your applicant begs to state that the Fifth Central Pay Commission recommended inter alia for an Assured Career Progression (ACP) Scheme as a "Safety net" for those Central Government Civilian employees who are stagnated due to lack of adequate promotional avenues. Pursuant to the recommendation of the CPC, the Govt. of India, vide its Office Memorandum No.35034/1/97-Estt (D) dated 09-08-1999 issued by the Department of Personal and Training (DOPT) launched an ACP Scheme with certain modifications for the Central Government Civilian employees to mitigate hardships in cases of acute or in an isolated post. As per the said ACP Scheme the Group "B", "C" and "D" employees are entitled to be granted to financial up gradations on completion of 12 years and 24 years of regular service irrespective of availability of posts/vacancies. The detailed Scheme and the conditions thereto have been circulated by the DOPT vide its said O.M. dated 09-08-1999.



Annexure-A is the photocopy of ACP Scheme vide Office Memorandum dated 09th August 1998.

4.4 That your applicant begs to state that he is entitled to grant of benefit of the ACP Scheme on completion of his 24 years of service on 04.01.2002 as he has obtained only one promotion i.e., to the post of Superintendent of Central Excise. Accordingly, he filed a representation on 15.01.2002 before the Respondent No. 4 i.e., the Additional Commissioner (P & V), Customs and Central Excise, Shillong. The Additional Commissioner (P&V), the Respondent No. 4 vide his letter No. C. No. II(3)2/CON/2000/745 dated 06.06.2002 informed the applicant that as per departmental seniority list the applicant has joined in the department as Inspector (Direct Recruit) on 22.11.1979. Hence, his case for granting benefits under ACP Scheme will be considered in due course. After receiving the said letter from the respondent No. 4 your applicant immediately submitted his reply on 19.06.2002 stating that his date of joining in the department is 05.01.1978 and he was transferred to Shillong Commissionerate in the same pay scale from Allahabad Commissionerate. As such, his date of joining in the department should be counted as 05.01.1978.

Annexure - B is the photocopy of the representation dated 15.01.2002.

Annexure - C is the photocopy of the letter C. No. II(3)2/CON/2000/745 dated 06.06.2002.

Annexure - D is the photocopy of the reply dated 19.06.2002 submitted by the applicant.

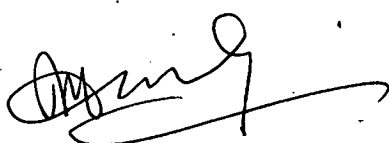
4.5 That your applicant begs to state that the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), Government of India vide their Office Memorandum F. No. 35034/1/97-Estt(i)(Vol. IV) dated 10.02.2000 clarified certain points regarding grant of ACP Scheme. In the Office Memorandum Sl. No. 4 regarding point of doubt in a case where a person is appointed to a post on transfer (absorption) basis from another post whether 12 years and 24 years of service for the purpose of ACPs will count from the initial appointment or otherwise. The Government of India clarified the position and stated that "The benefits under ACPs are limited to higher pay scale and do not



confer designation, duties and responsibilities of the higher post. Hence, the basic criterion to allow the higher pay scale under ACPS should be whether a person is working in the same pay scale for the prescribed period of 12/24 years. Consequently, so long as a person is in the same pay scale during the period in question, it is immaterial whether he has been holding different posts in the same pay scale. As Such, if a Government servant has been appointed to another post in the same pay scale either as a direct recruit or on absorption (transfer) basis or first on deputation basis and later on absorbed (on transfer basis), it should not make any difference for the purpose of ACPS so long he is the same pay scale. In other words, past promotion as well as past regular service in the same pay scale, even if it was on different posts for which appointment was made by different methods like direct recruitment, absorption (transfer)/deputation, or at different places should be take into account for computing the prescribed period of service for the purpose of ACPS. Also, in case of absorption (transfer)/deputation, in the aforesaid situations, promotions are earned in the previous/present organizations, together with the past regular service shall also count for the purpose of ACPS. However, if the appointment is made to higher pay scale either as on direct recruitment or on absorption (transfer) basis or first on deputation basis and later on absorbed (on transfer basis), such appointment shall be treated as direct recruitment and past service/promotion shall not count for benefits under ACPS."

Annexure - E is the photocopy of Office Memorandum F. No. 35034/1/97-Estt(i)(Vol. IV) dated 10.02.2000.

4.6 That your applicant begs to state that the Respondent No. 4 vide his letter C. No. II(24)1/ET.I/2004/17927-55 dated 28.06.2004 granted the benefits of second financial upgradation in the pay scale of Rs. 8,000 - 13,500/- to the applicant as per ACP Scheme with effect from 22.11.2003. It is to be stated that your applicant was on medical leave from 14.06.2004 to 27.09.2004 due to his knee joint operation at Down Town Hospital, Guwahati. After slight recovery, he joined in his office on 27.09.2004. Then the applicant received said letter dated 28.06.2004 regarding granting of second financial upgradation under the ACP Scheme.



Annexure - F is the photocopy of the letter C. No. II(24)1/ET.I/2004/17927-55 dated 28.06.2004 issued by the Respondent No. 4.

4.7 That your applicant begs to state that on 17.01.2005 he filed a representation before the Respondent No. 3 i.e., the Commissioner, Central Excise, Shillong for re-fixation of his second financial upgradation under the ACP Scheme as per his initial date of joining in the post of Inspector of Central Excise, (OG) Direct Recruittee i.e., on 05.01.1978. But till today the Respondents did not take any steps in this matter, as such, he has compelled to approach this Hon'ble Tribunal for seeking justice in this matter.

Annexure - G is the photocopy of the representation dated 17.01.2005 submitted by the applicant before the Respondent No. 3.

4.8 That your applicant begs to state that he was appointed on 05.01.1978 as Inspector of Central Excise (Direct Recruittee) at Gorahpur, under Allahabad Commissionerate and he was transferred to Shillong Commissionerate with the same pay scale as Inspector (O.G.) Direct Recruittee without any break in his service. He is entitled for benefit of second financial upgradation in his pay scale under ACP Scheme. The Government of India, Ministry of Personnel and Public Grievances and Pension (Department of Personnel and Training) has also clarified in their letter dated 10.02.2000 that if a Government servant has been appointed to another post in the same pay scale either a direct recruit or on absorption (transfer) basis or first on deputation basis later on absorbed (on transfer basis) it should not make any difference for the purpose of ACPS so long as he is in the same pay scale. As such, the action of the Respondents granting ACP with effect from 22.11.2003 instead of 05.01.2002 arbitrary, unjust, unfair, illegal, discriminatory and violative of the principle of natural justice and doctrine of equality.

4.9 That your applicant begs to state that the cause of action arises each and every day, every month for non-fixation of appropriate pay scale in favour of the applicant.

4.10 That your applicant submits that the Respondents have acted with a malafide intention only to deprive the applicant from his legitimate right.



4.11 That your applicant submits that the action of the Respondents is highly illegal, improper, and whimsical and also against the fair play of Administrative justice.

4.12 That your application submits that the Respondents have violated the fundamental rights of the applicant.

4.13 That this application is filed bonafide and for the interest of justice.

4. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1 For that, due to the above reasons narrated in detailed the action of the Respondents is prima facie illegal, malafide, arbitrary and without jurisdiction.

5.2 For that, the applicant acquired valuable rights for second financial up gradation under the ACP Scheme on 05.01.2002 instead of 22.11.2003 since he had completed the required 24 years of regular service as envisaged under the Scheme.

5.3 For that, the applicant is entitled for higher pay scale of Rs. 8,000-13,500/- with effect from 05.01.2002 as per ACP Scheme issued by the Govt. of India (DOPT). Hence the Respondents cannot deny the same benefit to the applicant without any cause or causes.

5.4 For that, the action of the respondents is arbitrary, malafide and discriminatory with an ill motive.

5.5 For that the Respondents have violated the Articles 14,16 & 21 of the Fundamental rights guaranteed under the Constitution of India.

5.6 For that, the respondents have not considered the original date of joining of the applicant in the post of Inspector of Central Excise i.e., on 05.01.1978 under the respondents. As such, the action of the Respondents is bad in the eye of law and also not maintainable in fact.

5.7 For that, due to non-consideration of his higher pay scale with effect from 05.01.2002, the applicant is suffering from great financial loss and also mental anxiety due to neglected attitude of the Respondents.



The applicant craves leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of this instant application.

6. DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious remedy available to the applicant except invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

That the applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other Court, authority, or any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that Your Lordships may be pleased to admit this application, call for the records, issue notices to the Respondents to show cause as to why the relief and/or relieves sought for by the applicant may not be granted and after hearing the parties may be pleased to direct the Respondents to give the following relieves.

8.1 The Hon'ble Tribunal may be pleased to direct the Respondents to fix the appropriate date of second financial upgradation of the applicant i.e., on 05.01.2002 instead of 22.11.2003 under Assured Career Progression (ACP) Scheme issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) by the Respondents.

8.2 The Hon'ble Tribunal may be pleased to direct the respondents to fix the higher pay scale of Rs. 8,000-13,500/- with effect from 05.01.2002 as per ACP Scheme issued by the Govt. of India, Ministry of Personnel, Public Grievances and Pension, Department of Personnel and Training.

8.3 To pass any other relief or relieves to which the applicant may be entitled and as may be deem fit and proper by this Hon'ble Tribunal.



8.4 To pay the cost of the application.

9. INTERIM ORDER PRAYED FOR:

At this stage applicant does not seek any interim relief but if the Hon'ble Tribunal may deem fit and proper may pass any such order/s.

10. Application is filed through Advocate.

11. Particulars of L.P.O.:

I.P.O. No.	: 206/183354
Date of Issue	: 10.6.05
Issued from	: Bunsahade
Payable at	: Bunsahade

12. LIST OF ENCLOSURES:

As stated in the index.

Verification



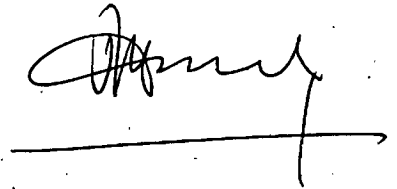
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VERIFICATION

I, Thang Mang Hartlong, Superintendent of Central Excise, Central Excise Range - I, Office of the Deputy Commissioner, Central Excise Guwahati Division - I, Bhangagarh, Guwahati - 5, do hereby solemnly verify that the statements made in paragraph nos. 4.1, 4.2, 4.8, 4.9 — — — are true to my knowledge, those made in paragraph nos. 4.3, 4.4, 4.5, 4.6, 4.7 — — — are being matters of record are true to my information derived therefrom which I believe to be true and the rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the day of 8th June, 2005 at Guwahati.



MOST IMMEDIATE

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

Government of India

ANNEXURE A

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

North Block, New Delhi 110001

August 9, 1999

OFFICE MEMORANDUMSubject: 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.

1. 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. Point of financial upgradations under the ACP Scheme shall, however, be subject to the conditions mentioned in Annexure-I.

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

4. Introduction of the ACP Scheme should, however, in no case affect the normal (regular) promotional avenues available on the basis of vacancies. Attempts needed to improve promotion prospects in organisations/cadres on functional grounds by way of organisational study, cadre revision, 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.

The composition of the Screening Committee shall be the same as that of the DPC constituted 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 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.

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 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 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 October 31, 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.

To make the Scheme operational, the Cadre Controlling Authorities shall constitute the Screening Committee of the current financial year within a month from the date of issue of 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.

12 - 20
3.2 Regular Service for the purpose of the ACP Scheme shall be interpreted to mean the eligibility service counted for regular promotion in terms of relevant Recruitment/Service Rules.

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

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

6. SCREENING COMMITTEE

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

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

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

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

...3/-

Attested
[Signature]
Admin

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/-

Handwritten signature and initials
Advocate

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 (benchmark, 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 employee together with retention of old designations, financial upgradations as personal to the incumbent for the stated purposes and retention of the ACP Scheme for financial and certain other benefits (House Building Advance, allotment of Government accommodation, advances, etc) only without conferring any privilege 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;

Attested
by
[Signature]
Asstt

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(1) n(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 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;

....6/-

Attorial
Sd/-
Adm. Secy

11. In the matter of disciplinary/penal 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 the quantum 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, 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)

.....71-

Adm
Adm

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 Per
2.	S-2 2610-60-3150-65-3540 De
3.	S-3 2650-65-3300-70-1000
4.	S-4 2750-70-3800-75-4400
5.	S-5 3050-75-3950-110-4590 De
6.	S-6 3200-85-4900
7.	S-7 4000-100-6000 U.P.A
8.	S-8 4500-125-7000
9.	S-9 5000-150-8000
10.	S-10 5500-175-9000 P.A
11.	S-12 6500-200-10500 P.S/O
12.	S-13 7450-225-11500
13.	S-14 7500-250-12000
14.	S-15 8000-275-13500
15.	S-19 10000-325-15200 U.S.
16.	S-21 12000-375-16500 D.S.
17.	S-23 12000-375-18000
18.	S-24 14300-400-18300 De

Attn
Sd/-
Asstt

2260
60
30260

To,

The Additional Commissioner (P&V),
Customs and Central Excise,
Shillong.

26
- 18 -
ANNEXURE-B

Subject: A.C.P.S benefit.

Sir,

I have the honour to state that as I have completed continuous service of 24 years on 04-01-2002 with only one promotion, I am eligible for being considered for availing the benefit of A.C.P.S w.e.f Jan/2002. I furnish below some particulars of my service for your kind perusal.

I joined this department as Inspector (D.R.) on 05-01-1978 at Gorakhpur Division under Allahabad Commissionerate. Later, on inter-Commissionerate transfer I joined at Shillong on 22-11-1979 as Inspector (D.R.) in the same pay scale. Thus, it is seen that I am eligible to avail this A.C.P.S benefit in terms of clarification contained in Sl. No. 4 of O.M. No.35034/1/97 Estt (D) Col. IV dated 10-02-2000 issued under your endorsement C No. II (24) I/ET-I/99/666-92 dated 30-3-2000. Therefore, this benefit may kindly be extended to me w.e.f Jan/2002.

Yours faithfully,

(Signature)
(T.M. Hartlang)

Superintendent,
Central Excise (Audit),
Guwahati.

(Signature)

13/1/02

(Signature)
1
Adm



19 -

27

ANNEXURE - C

GOVERNMENT OF INDIA
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
MORELLO COMPOUND, SHILLONG - 793 001

C.No.II(3)2/CON/2000/ 745

E 6 JUN 2002

Date:-

To.
Shri. T.M.Hartlong,
Superintendent (Audit),
Central Excise Division,
Guwahati - 781 005

Subject :- Assured Career Progression Scheme benefit. -- C/R

With reference to your letter dated Nil on the above subject as it is shown in the Departmental Seniority List that you have joined in the Department as Inspector (DR) on 22.11.1979, hence, your case for granting benefit under the ACP Scheme will be considered in due course.

(B. THAMAR)

ADDITIONAL COMMISSIONER (P&V)

AM
Jil
Sent

To

Guwahati, dated 19.06.2002.

ANNEXURE - B D

The Additional Commissioner (P&V)
Customs & Central Excise,
Shillong.

Subject:- Assured Career Progression Scheme benefit - C/R.

Sir,

With reference to your letter C.No.II(3)2/CON/2000/745 dated 06.06.2002 I am to submit as under.

The basic criterion to allow the higher pay scale under A.C.P. Scheme should be whether the person concerned is working in the same pay scale for the prescribed period of 12 / 24 years. It is immaterial if the Govt. servant has been appointed to another post in the same pay scale either as direct recruit or on transfer basis. It should not make any difference for the purpose of A.C.P. Scheme so long as he is in the same pay scale.

In this context I would like to state that I joined as Inspector(OG) direct recruit on 05.01.1978 in Allahabad Commissionerate and later, transferred to Shillong Commissionerate and joined on 22.11.1979 in the same pay scale as Inspector(OG) direct recruit without any break although I surrendered my seniority. In other words my seniority in Shillong Commissionerate was fixed with effect from my date of joining on 22.11.1979 as Inspector(OG) direct recruit. However, for the purpose of A.C.P.S. benefit which is limited to higher pay scale only without conferring higher designation and responsibilities my initial date of joining i.e. 05.01.1978 may be taken into account as my appointment in Shillong Commissionerate is purely on transfer basis in the same grade of Inspector(OG) direct recruit and in the same pay scale. It can be confirmed from my service records.

For your kind reference I enclosed herewith photo copy of Sl.No.4 of O.M.No.35034/1/79 G.Ot(D). Cal. IV dated 10.02.2000 issued under your order. C.No.II(24)1/ET-1/99/666 - 92 dated 30.03.2000.

Yours faithfully,

T. M. HARTLING 19.06.02

(T. M. HARTLING)
Superintendent
Central Excise (Audit)
GUWAHATI.

Encl:- Two.

1129
25/6/02

Attn:
fil
Shanta

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

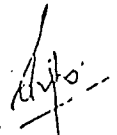
New Delhi 110001
February 10, 2000

OFFICE MEMORANDUM

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

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

.....2/-

Attn:-
Sl. 1
Source

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

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

.....3/-

Attested
Jil / Asante

S.No.	Point of doubt	Clarification
3.	An isolated post of Jeep Driver in the pay-scale of Rs.3050-4590 has been allowed in-situ promotion in the grade of Rs.4000-6000 whereas as per Annexure-II of the O.M. dated 9.8.1999 next scale is Rs.3200-4900. What should be the grade allowed under ACPS? Similarly, Despatch Rider in the pre-revised pay-scale of Rs.950-1400 and staff car driver in the pre-revised scale of Rs.950-1500 have been allowed revised pay-scale of Rs.3050-4590. What should be the benefit under ACPS?	In such isolated cases option should be either to follow the promotion scheme as formulated vide DoP&T O.M No.22036/192-Estt(D) dated 30.11.1993 read with O.M.No.35034/3/97-Estt(D) dated 1.6.1998 or to grant benefits to the incumbents of such isolated post on a dynamic basis as per Condition No.7 of ACPS.
4.	In a case where a person is appointed to a post on transfer (absorption) basis from another post, whether 12 years and 24 years of service for the purpose of ACPS will count from the initial appointment or otherwise.	The benefits under ACPS are limited to higher pay scale and do not confer designation, duties and responsibilities of the higher post. Hence, the basic criterion to allow the higher pay scale under ACPS should be whether a person is working in the same pay scale for the prescribed period of 12/24 years. Consequently, so long as a person is in the same pay scale during the period in question, it is immaterial whether he has been holding different posts in the same pay scale. As such, if a Government servant has been appointed to another post in the same pay scale either as a direct recruit or on absorption (transfer) basis or first on deputation basis and later on absorbed (on transfer basis), it should not make any difference for the purpose of ACPS so long as he is in the same pay scale. In other words, past promotion as well as past regular service in the same pay scale, even if it was on different posts for which appointment was made by different methods like direct recruitment, absorption, (transfer)/deputation, or at different places should be taken into account for computing the prescribed period of service for the purpose of ACPS. Also, in case of absorption (transfer)/deputation in the aforesaid situations, promotions earned in the previous/present organisations, together with the past regular service shall also count for the purpose of ACPS. However, if the appointment is made to higher pay-scale either as on direct recruitment or on absorption (transfer) basis or first on deputation basis and later on absorbed (on transfer basis), such appointment shall be treated as direct recruitment and past service/promotion shall not count for benefits under ACPS.
5.	Whether a Government servant, who is direct recruit in one grade and subsequently joins another post again as direct recruit, is eligible for first financial upgradation under ACPS after completion of 12 years of service counted from the first appointment or from the subsequent second appointment as direct recruit?	
6.	An employee appointed initially on deputation to a post gets absorbed subsequently, whether absorption may be termed as promotion or direct recruitment. What will be the case if an employee on deputation holds a post in the same pay-scale as that of the post held by him in the present cadre? Also, what will be the situation if he was holding a post in the parent cadre carrying a lower pay-scale?	

Attest
 Jil 1
 Asstt Secy

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

....5/-

Attest
JL /
Aswate

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

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Annex

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

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S.No.	Point of doubt	Clarification
17.	An employee who has completed 24 years of service is to be allowed two upgradations directly. What will be the mode of fixation of pay of the employee?	The following illustration shall clarify the doubt: An Incumbent in the pay-scale of Rs.4000-6000/- (S-7) has put in 24 years of regular service without a regular promotion. The Incumbent shall be allowed two upgradations i.e. to S-8 and S-9. His pay shall first be fixed in S-8 and then in S-9. Pay fixation directly from S-7 to S-9 shall not be allowed.
18.	If special pay has been allowed in lieu of separate pay-scale, whether this should be treated as promotion for the purpose of ACPS and also whether the special pay is to be taken into account while fixing the pay under ACPS?	<p>Special pay allowed shall not be counted as promotion for the purpose of ACPS. Also, the special pay drawn in the lower post, in lieu of a higher pay-scale shall be taken into account for fixation of pay under ACPS subject to the fulfillment of the following conditions as laid down vide Ministry of Finance Office Memorandum No.6(1)-B.II(B)65) dated 25.2.1965, re-produced as Government's decision No.32 under Appendix-B 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 increments 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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J.L. / Date

(19) Point of doubt

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

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

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

Clarification

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

S.No.	Point of doubt	Clarification
20.	On upgradation under ACPS, pay of an employee shall be fixed under the provisions of FR 22(1)a(1). Whether an option for fixation of pay in the higher grade based on the date of increment may also be allowed?	Yes. The financial benefit allowed under ACPS shall be final and no pay fixation benefit shall accrue at the time of regular promotion. In other words, upgradation under ACPS shall be treated on par with regular promotion in so far as pay-fixation is concerned. Therefore, the option of pay-fixation in the next higher grade based on the date of increment may be allowed.
21.	In terms of DoP&T Office Memorandum No. 6(2)/23/77-Welfare dated 11th December, 1979, all posts in the canteen and tiffin room being run departmentally by the Government of India were treated posts in connection with the affairs of the Union. Subsequently, vide Office Memorandum No.12/3/92-Director[C] dated 16.9.92, canteen employees were declared as Central Government employees with effect from 1.10.1991. Whether canteen employees will be treated as Government employees with effect from 1.10.79 (the date from which they were declared as holders of civil posts) or with effect from 1.10.1991 for the purpose of granting of up gradations under ACPS?	The matter has been examined in consultation with Director(Canteen) and it has been decided that the benefits of ACPS shall be extended to the canteen employees by reckoning from the date of their initial appointment as direct recruit on regular basis at the crucial date for granting the 1st/2nd upgradations. Needless to say, upgradations shall be allowed only in those cases where promotions have not been made even after putting in 12/24 years of regular service counted in the manner indicated above.

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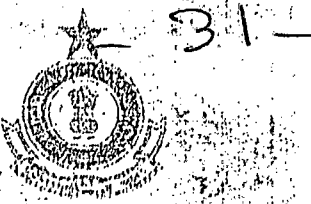
S.No.	Point of doubt	Clarification
22.	<p>(a) Annexure-I of ACPS stipulates that if the first upgradation gets postponed on account of the employee not found fit or due to departmental proceedings, etc, this would have consequential effect on the second upgradation which would also get deferred accordingly. In other words, the employee who has been denied the first financial upgradation (meaning withholding of this benefit) would again be penalised even after having completed 24 years of regular service. This certainly is a case of double jeopardy and should not be inflicted.</p> <p>(b) Annexure-I of ACPS unnecessarily provides for deferment of second financial upgradation by the period for which an employee is debarred from regular promotion in the higher grade. In other words, it connects the second upgradation under ACPS with regular promotion to the 1st ACP grade. This is quite unwarranted as the schemes of ACP and regular promotions are to run concurrently and parallel to each other and should, therefore, not be connected in the manner it has been done. This condition may, therefore, be withdrawn.</p>	<p>In regard to deferment of grant of ACP benefits on account of disciplinary proceedings or refusal of promotion, it is mentioned that the ACPS in the matter has to follow the same pattern as that obtaining in the case of regular promotion. The basic idea behind making this provision is that there shall be uniformity of treatment both in the case of ACPS and regular promotions. Moreover, the Government has already modified/moderated the Fifth Central Pay Commission recommendation that in case of refusal to accept regular promotion subsequently, the employee concerned should be reverted from the higher grade granted under ACPS. The Scheme adopted by the Government, as such, guards against this adverse effect and thereby has already brought about an improvement upon the Pay Commission recommendation in this regard.</p>
23.	<p>The administrative Ministry/Department, not the employees have been given option in the matter to choose between two schemes, i.e. existing time-bound promotion scheme or the ACP Scheme. It is suggested that the said option should be exercised by the administrative Ministry/Department after consulting the staff representatives in the forum of respective Departmental Councils.</p>	<p>The ACPS has been introduced after consulting all concerned including the Staff Side in the National Council of JCM and with the approval of the Cabinet. Hence, there is no need to associate the Staff Side while exercising the said preference by the administrative Ministry/Department concerned. However, their view point could be taken into account while exercising such preference. The Administration will, however, not be bound by it.</p>

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Amrita

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

Amir
Sd/-
Amir



ANNEXURE-F 39

COMMISSIONER OF CENTRAL EXCISE

MORELLO COMPOUND
M.G. ROAD, SHILLONG

Tel. 91-0364-2224751 / 2224030.

Fax. 91-0364-2223428 / 2226215.

E-Mail: cxashill@excise.nic.inESTABLISHMENT ORDER NO. 86/2004
DATED SHILLONG THE 24TH JUNE 2004

Subject : ACP Scheme in the case of Direct Recruit Gr. 'B' and Gr. 'C' officers working in the field formations under Central Board of Excise & Customs. - regarding

In pursuance of Board's letter F.No.A-32012/5/2002-Ad.II(A) dated 18th March, 2004, with the approval of Competent Authority, the under mentioned Superintendents of Central Excise & Customs are hereby granted 2nd Financial up-gradation under the ACP Scheme and are accordingly placed in the pay scale of Rs. 8,000-275-13,5000/- from the date(s) mentioned against each.

Sl.No.	Name S/Shri	Date from which 2 nd financial upgradation to be granted	Scale(s) of pay in which Financial Upgradation granted	Present place of posting.
01.	K.K. TANEJA	08.03.2003	Rs. 8,000-13,500/-	Dimapur Customs Division
02.	D. CHATTOPADHYAY	25.04.2003	Rs. 8,000-13,500/-	CBI, Kolkata
03.	CHALAI PAUZEL	06.03.2004	Rs. 8,000-13,500/-	Hqrs. Customs (P) Committee
04.	B.G. MONDAL	27.03.2003	Rs. 8,000-13,500/-	Dibrugarh C.Ex. Committee.
05.	SUDIP DEB	07.03.2004	Rs. 8,000-13,500/-	Tezpur C.Excise Division
06.	T.M. HARTLONG	22.11.2003	Rs. 8,000-13,500/-	Guwahati C.Excise Division

The Financial Up gradation granted to the above officials are subject to, inter-alia, the following conditions :-

1. The financial up-gradations will not result in change in the designation of the beneficiaries i.e., the financial benefits are granted with the retention of their old designations and the said financial up gradation shall not confer any privilege related to higher status.

2. The financial up-gradation under the ACP Scheme shall be purely personal to the incumbents (officials) and shall not amount to actual functional promotions of the officials concerned. And it shall have no relevance to their inter-se seniority position, and as such, there shall be no additional financial up-gradation for the senior officials on the ground that the junior officials have got higher pay scale(s) under the ACP Scheme. The concept of "Senior-Junior" is quite alien to the idea behind the ACP Scheme.

3. Grant of higher pay -scale(s) under the ACP Scheme shall be conditional to the fact that the above officials, while accepting the aforesaid financial benefits, shall be deemed to have given their unqualified acceptance for promotion on occurrence of vacancy subsequently.

4. On their financial up-gradation under the ACP Scheme, which is in situ and which may not involve assumption of higher duties and responsibilities, as a special dispensation, their pay shall be fixed under F.P. 22(1)(a)(1) (old provision F.P. 22-C), subject to a minimum financial benefits of Rs. 100/- as per DCP's O.M. No. 1/6/97-Pay-I dated 5.7.1999.

5. The financial benefits allowed under the ACP Scheme shall be final and no further pay-fixation shall accrue to the above officials again at their subsequent regular promotion against the regular vacancy of functional post in the higher grade.

Option (exercisable within one month from the date of receipt of this order) for fixation of pay in the higher grade scale(s) based on the date of increment (i.e., on accrual of next increment) of the Incumbent is also allowable. Such option once exercised shall be treated as final.

Sd/-

(B. THAMAR)
ADDITIONAL COMMISSIONER (P&V)

Contd. P/2.

Attested
Jil
Aswate

28 JUL 2004

Copy forwarded for information & necessary action to:

1. Shri Angna Ram, Under Secretary AD.II (A), Govt. of India, Ministry of Finance, Deptt. of Revenue, North Block, New Delhi -2. Ministry's letter F.No. A.32012/5/2002-Ad.II(A) dated 18.03.2004 may please be referred to.
2. The Chief Commissioner of Central Excise(Shillong Zone), "CRESCENS BUILDING", M.G.Road, Shillong-793001.
3. The Commissioner of Central Excise, Dibrugarh.
4. The Commissioner, Customs(P) NER, Shillong.
5. The Additional Commissioner(P&V), Central Excise Commissionerate, Dibrugarh. Copy meant for the concerned officer is enclosed for delivery.
6. The Additional Commissioner, Customs (P) Commissionerate, N.E.R., Shillong. Copy meant for the concerned officer is enclosed for delivery.
7. The Additional Commissioner, Chief Commissioner's Unit (Shillong Zone), 'Crescens Building', M.G.Road, Shillong-793001.
8. The Joint Director, East Zone, CBI, 2nd MSO Bldg. Nizam Palace, 234/4 ASJ Bose Road, Kolkata. Copy meant for the concerned officer is enclosed for delivery.
9. The Dy./Asstt. Commissioner of Central Excise /Customs Division. Copy meant for the concerned officer is enclosed for delivery.
10. The CAO/PAO of Central Excise Commissionerate. Hqrs. Office, Shillong.
11. The Assistant Chief Accounts Officer(Accounts), Central Excise, Shillong/Dibrugarh. The Administrative Officer (Accounts), Customs(P) Commissionerate Hqrs. Office, Shillong.
12. Shri T. M. Hartlong, Superintendent, for compliance.
13. Accounts I & II/ET I & II/Confdl. Br./ VIG. Br. of Hqrs. Office, Shillong.
14. The General Secretary, Group 'B' Executive Officers' Association, Central Excise & Customs, Shillong.
15. Guard File.

(B. THAMAR)
24.6.04
ADDITIONAL COMMISSIONER (P&V)

Attch
Sl
Am to

- 33 -

ANNEXURE - G

To,
The Commissioner,
Central Excise, Shillong.

Subject:- ACP Scheme of Direct Recruit Gr. B and Gr. C Officers.

Sir,

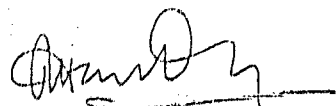
Kindly refer to Hqs ESTT. ORDER No. 86/2004 dated 24th June 2004 wherein I was granted 2nd Financial up-gradation under the ACP scheme w.e.f 22.11.2003.

In this connection, I would like to place before you once again that I joined this department as direct recruit Inspector (OG) on 05.01.1978 in Allahabad Commissionerate and later, transferred to Shillong Commissionerate and joined on 22.11.1979 without any break in service although I surrendered my seniority. In other words, my seniority in Shillong Commissionerate was fixed w.e.f my date of joining on 22.11.1979 as Inspector (OG) D.R. However, for the purpose of ACPs benefit my initial date of joining i.e. 05.01.1978 should have been taken into account as my appointment in Shillong Commissionerate was purely on transfer basis in the same grade and same pay scale.

I therefore, request you once again to look into my case and do the needful so that this benefit for which I am entitled is not denied. A photocopy of my earlier representation is enclosed for your kind perusal.

Encl- 1

Yours faithfully,



(T.M. Hartlong) 17.1.05

Superintendent
Central Excise, Guwahati

Attchd
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Amto