

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No.....162/2006

R.A/C.P No.....

E.P/M.A No.....

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SECTION OFFICER (Judl.)

Malita
24/10/17

(See Rule 11A)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 162/06
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) Ranjit Sankar Das

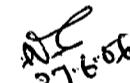
Respondent(s) U.O.T. Items

Advocate for the Applicant(s) Mr. B. Chakrabarty
Mr. S. Chakrabarty

Advocate for the Respondent(s) C.A. S.

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed/C. F. for Rs. 50/- deposited vide IPO/ED No. 266324643 Dated 27.6.06	28.06.2006	Heard learned counsel for the parties. The application is disposed of in terms of the order passed in separate sheets. No Order as to costs.

Dy. Registrar

  Vice-Chairman

  mb
Slops received without
envelops.



18.7.06

 Copy of the order
has been sent to the
Office for issuing
the same to the applicant
as well as to the Dr.
C.G.S.C. for the record.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

162 of 2006

O.A. No.

28.06.2006

DATE OF DECISION

Sri R.S. Das Applicant/s

Mr B. Chakrabarty & Mr S. Chakrabarty Advocate for the
..... Applicant/s.

- Versus -

Union of India & Others Respondent/s

Mr G. Baishya, Sr. C.G.S.C. Advocate for the
..... Respondents

CORAM

HON'BLE MR.K.V.SACHIDANANDAN, VICE-CHAIRMAN

1. Whether reporters of local newspapers may be allowed to see the Judgment ?	Yes/No
2. Whether to be referred to the Reporter or not ?	Yes/No
3. Whether to be forwarded for including in the Digest Being complied at Jodhpur Bench ?	Yes/No
4. Whether their Lordships wish to see the fair copy of the Judgment ?	Yes/No

Vice-Chairman

28/6/06

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 162 of 2006.

Date of Order: This the 28th day of June 2006.

The Hon'ble Sri K.V. Sachidanandan, Vice-Chairman.

Sri Ranjit Sankar Das
Son of Late Sailaja Sankar Das
Resident of L.D. Sarma Road,
Tezpur, Assam.

...Applicant

By Advocates Mr . Chakrabarty and Mr S. Chakrabarty.

- Versus -

1. Union of India, Represented by the Secretary, Ministry of Defence, Government of India, New Delhi.
2. The Engineer-in-Chief (Engineering Branch), MES, Kashmir House, New Delhi - 110 011.
3. The Chief Engineer, MES, Eastern Command, Fort William, Kolkata - 21.
4. The Garrison Engineer, MES, Air Force, P.O. - Salonibari, Tezpur, District - Sonitpur, Assam.

... Respondents.

By Advocate Mr Baishya, Sr. C.G.S.C.

ORDER (ORAL)

K.V. SACHIDANANDAN, (V.C.)

The applicant retired on 31.01.2006 as Junior Engineer from the respondent department. It is averred in the O.A. that in the year 1998, he was promoted to the post of Junior Engineer and taking into account the total period of service, he is entitled to get 2nd

financial upgradation under the Assured Career Progression Scheme before his retirement. He submitted representation before the respondent praying for upgradation of his pay scale under the Assured Career Progression Scheme and in response to the representation of the applicant, the Respondent No. 3 vide letter dated 16.10.2001 intimated the applicant that his case for financial upgradation could not be considered as he is lacking in the departmental examination. It is further averred in the application that subsequently before his retirement, he passed the departmental examination and therefore, he is entitled to get financial upgradation. He submitted representation on 17.05.2005, which is not yet answered. Aggrieved by the said action of the Respondents, he has filed this application seeking the following reliefs: -

"In the premises aforesaid, it is, therefore, prayed that your Lordships may be pleased to admit this application, issued notices to the respondents to show cause as to why the letter/order dated 24.12.2004 (Annexure - III) shall not be set aside and illegal and as to why the applicant should not be given the benefit of the second financial upgradation as per Assured Career Progression Scheme as formulated by the respondent, call for the entire records of the case and after hearing the parties, be pleased to allow the petition issuing direction to the respondents to pay all the benefits of the second financial upgradation to the applicant as per Assured career Progression Scheme and or pass such further order/orders as Your Lordships may deem fit and proper."

2. Heard Mr. B. Chakrabarty, learned counsel for the applicant and Mr. G. Baishya, learned Sr. C.G.S.C. for the respondents.
3. Learned counsel for the applicant submitted that he will be satisfied if a direction is given to the applicant to file a fresh

comprehensive representation and also to the respondents to dispose of the same within a time frame. Learned counsel for the respondents submitted that it will suffice the ends of justice.

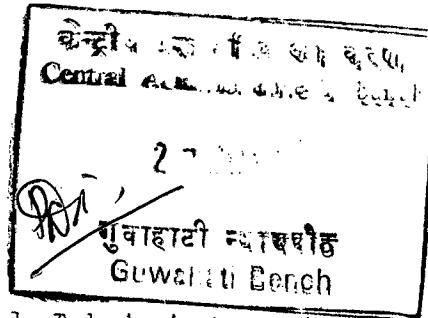
4. Therefore, this Court directs the applicant to file a fresh comprehensive representation within a period of two weeks from today. On receipt of the same, the Respondents No. 3 or any other competent authority shall consider and dispose of the representation with a speaking order and communicate the same to the applicant within a period of two months thereafter.

The O.A. is disposed of at the admission stage itself as above. No order as to costs.



(K.V. SACHIDANANDAN)
VICE-CHAIRMAN

/mb/



In the Central Administrative Tribunal

Guwahati Bench : Guwahati

Original application No. 162 / 2006

Sri Ranjit Sankar Das.....Applicant

VERSUS

Union of India and Ors.Respondents

Synopsis

The applicant while in service made an application for his 2nd pay up gradation under the ACP scheme and was intimated that for him the passing of departmental Examination is required to get the benefit. At the fag end of his service , the applicant sat for and passed departmental examination to avail the pay benefits and made an application and by impugned letter/ order he was intimated that the 2nd payupgradation is available only for Degree holder , Civil Engineers, meaning thereby , the applicant is not entitled for the same not being a degree holder. Hence , this application after preferring representation, which was not disposed off.

Filed by

Santam Chakraborty

Advocate

.... List of dates.

Ret. 31-1-06
1998 J.R.
Ap:

6

List of dates

1.12.1969: The applicant was appointed as Sub overseer in the MES.

1998 : The applicant was promoted to the post of Junior Engineer, civil.

09.08.1999: ACP scheme was formulated.

Applicant made application for 2nd pay upgradation.

16.10.2001: Respondent no. 3 intimated that for getting 2nd pay upgradation , the applicant has to pass Departmental Examiation (**Annexure -I**)

Applicant sat in the departmental examiation and passed the same and made an application for 2nd pay upgradation under the AC scheme.

24.12.2004 : Respondent no. 3 intimated that 2nd pay upgradation is available only for the degree holder civil enginerrs as per Govt. Of India leatter dated 23.1.2002. (**Annexure II**)

17.5.2005 : The applicant filed a representation before the authorities. (**Annexure -III**)

Filed by
Santanu Chakraborty
Advocate

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In the Central Administrative Tribunal

Guwahati Bench : Guwahati

Original application No. 162 / 2006

Sri Ranjit Sankar Das.....Applicant

VERSUS

Union of India and Ors.Respondents

I N D E X

PARTICULARS

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Filed by

Santann Chakraborty

Advocate



Filed by
The Applicant
Through:-
Santome Chakrabarty
Advocate
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Ranjit-Sankar Das

In the Central Administrative Tribunal

Guwahati Bench :Guwahati

(An application under Sec.19 of the Administrative
Tribunal Act, 1985)

Original application No. 162/06

1. Sri Ranjit Sankar Das
Son of Late Sailaja Sankar Das,
Resident of L.D. Sarma Road,
Tezpur. Assam.

Applicant

VERSUS

1. Union of India, Represented by the Secretary, Ministry of Defence , Govt. Of India. New Delhi.
2. The Engineer - In - Chief (Engineering Branch), MES, Kashmir House, New Delhi-110011.
3. The Chief Engineer, MES, Eastern Command, Fort William , Kolkata-21.

4. The Garrison Engineer, MES, Air Force, P.O Salonibari, Tezpur, District Sonitpur, Assam.

Respondents

1. Particulars of the orders against which the application is made.

i. Letter No. 131841/ACP/MES/167/Engrs/EID dated 24.12.2004. issued by the respondent no. 3 intimating that 2nd Assured Career progression Scheme is available only to the Degree holder Junior Engineers and therefore not applicable to the applicant, not being a Degree holder.

ii Non Consideration of the representation dated 17.5.2005 filed by the applicant praying for benefit of 2nd Assured Career Progression Scheme .

2. Jurisdiction of the Hon'ble Tribunal. :

The applicant declares that the subject matter of the order against which they want redressal, is within the jurisdiction of this tribunal.

3. Limitation. :

The applicant further declares that the application is within the limitation prescribed under section 21 of the Administration Tribunal, Act, 1985.



4.

Facts of the case :

a. That the applicant passed HSLC examination and also passed part- I of the Diploma course in civil engineering.

b. That the applicant joined in the services of MES under the Ministry of Defence , Government of India, on 1.12.1969 after being duly appointed to the post of Sub-Overseer in the year 1969 . Subsequently, after serving as sub- overseer, the applicant was given promotion to the rank of Supdt Border & Roads,Gde-II (re-designated as Junior Engineer, (Civil)in the year 1998 ,in which rank the applicant served till his retirement on attainig the age of super-annuation on 31.1.2006 when he was posted in the office of the respondent no. 4.

c. That to deal with the problem of geneuine stagnation in service faced by the employees of the Central Goverment Civilian Employees for lack of promotional avenues, the Govermetn accepted and implemented Assured Career Progresion Scheme (in short the scheme) w.e.f 9.8.1999 as per recomendation of the Fifth Pay Commision, with certain modification. Under the scheme, it is provided that two financial upgradations of the next higher posts shall be given to the employees on completion of 12 years and 24 years of regular service. Under the scheme, if the incumbant earn any numbers of regular promtion , that would be setoff with the financial upgradation under the scheme. The grant of financial ugradation under the scheme is subject to certain conditions mentioned in the scheme.

d. That during the whole service career of the applicant, the applicant has been given promotion only

A handwritten signature consisting of the number '6' and a stylized flourish.

once as stated above and taking into account the total period of service, the applicant was entitled to the 2nd financial up-gradation of his pay scale of the next higher rank as per the scheme, w.e.f 9.8.99, since the applicant had already completed his 24 years of services prior to 9.8.99.

e. That however, the case of the applicant was not considered for his due 2nd financial upgradation and as such, the applicant filed a representation before the respondent praying for his up-gradation of pay scale under the ACP Scheme and in response to the representation of the applicant the respondent no.3, by his letter No. 81427/737/EID dated 16.10.2001, intimated that the Head Quarter, Eastern Command, Engineering Branch issued letter No 131841/ACP/1127/Engrs/ EID dated 3.10.2001, stating that the representation of the applicant had been examined by the Head Quarter and that his case for second financial up gradation could not be considered in view of the fact that the applicant had not cleared departmental examination.

A copy of the letter dated 16.10.2001 is annexed herewith and marked as Annexure -I.

f. That the applicant states that at that stage when he was communicated the letter dated 16.10.2001 he was at the fag end of his service career when he was too old to pass out departmental examination. However, since the applicant was made to understand that for the second up-gradation in the scale under the scheme, he was required to pass the departmental examination, he put in his entire endeavour in the departmental examination. The applicant states that he sat in the examination with his colleagues who were very much junior to him in service. The applicant

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passed the part-I of the departmental examination in January/2003 and thereafter he passed part -II of the departmental examination in January/2004.

g. That Immediately thereafter the applicant duly intimated the respondent no. 3 the fact of his passing of the departmental examination by letter dated 20.5.2004, wherein, he also mentioned that his retirement was due in January 2006 and made a request to grant him the second financial up- gradation at an early date. The letter dated 20.5.2004 was duly forwarded to the Head Quarter .

h. That thereafter to the great shock and surprise of the applicant, by letter no. 131841/ACP/JEs/167/ Engrs/EID dated 24.12.2004 issued by the office of the respondent no.3 it was intimated that the second up- gradation to the next pay scale under the ACP scheme is available only for Degree holder Junior Engineers and therefore the applicant was not eligible for the 2nd financial up-gradation as sought for by him, not being a degree holder Junior Engineer. In the said letter it was mentioned that the same was issued pursuant to the letter issued by the Government Of India, vide No. 85610/ACP/47/47/Supdts/CSCC/236/D (works) dated 23.1.2002 which was also enclosed with the letter dated 24.12.04.

A copy of the letter dated 24.12.2004 with enclosure is annexed herewith and marked as Annexure -II.

i. That the applicant begs to state that after passing the departmental examination in accordance with the letter dated 16.10.2001 (Annexure - II) , the applicant was eligible to get his 2nd financial up gradation .



However, by the impugned order dated 24.12.2004 the claim of the applicant was turned down by the authorities on the ground that as per the Government of India letter dated 23.1.2002 (Annexure - III) the 2nd financial up gradation is available only to the Degree/ Diploma holder Junior Engineers and he was not entitled for his claim of 2nd financial up gradation.

j. That it appears that the impugned order dated 24.12.2004 was issued based on the Govt. of India letter dated 23.1.2002 enclosed therewith. From the letter, it appears that the same was issued only as regards adjustment of pay scale of the incumbents under the Time Bound Pay Promotion Scheme (which was implemented earlier to mitigate the grievance of stagnation in the service) with the pay scale under the adoption of Assured Career progression Scheme in respect of erstwhile Supdts B/R and E/M Gde 1s and Gde IIIs (re-designated as Junior Engineer (Civil) (E/M)). The chart enclosed with the letter dated 23.1.2002 shows only as to how the scale of pay is to be adjusted. The applicant states that, the letter does not in any manner lay down or clarifies any eligibility criteria for grant of 2nd financial up gradation to the incumbents. The plain reading of the entire letter does not substantiate in any manner that the incumbent not possessing Degree in Civil Engineering do not qualify for his 2nd financial up gradation. The applicant states that the authority, while issuing the impugned order dated 24.12.2004, misread the letter dated 23.1.2002 and arrived at an erroneous finding as to the non eligibility of the applicant for the 2nd financial up gradation. The applicant states that he is entitled for his 2nd financial up gradation as per the scheme which is denied by the authorities illegally.



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k. That the applicant begs to state that being highly prejudiced by the above action of the authority in unduly rejecting the claim , the applicant filed a representation on 17.5.2005 before the respondent incorporating the whole fact and the said representation was duly received by the respondent. However, till date, the representation of the applicant has not yet been considered.During the pendency of the representation of the applicant , the applicant retired from the services of the respondent on 31.1.2006 on attaining the age of super annuation.

A copy of the representation dated 17.5.2005 is annexed herewith and marked as Annexure - III.

5. Grounds for relief with legal provisions

i. For that on the basis of the letter dated 16.10.01 (Annexure-II) issued by the authorities the applicant passed the departmental examination with the legitimate expectation that he could be granted 2nd pay up gradation and in view of this the authorities are barred by the principle of Promissory Estoppel in denying the entitlement of the applicant on the ground that the applicant would not get 2nd pay up gradation in as much as he has no degree/diploma in Civil Engineering and as such the impugned order dated 24.12.04 is not maintainable in law and the applicant is entitled for his 2nd financial up gradation and for its consequential benefits.

ii. For that the letter dated 24.12.2004 it would appear that same has been issued on the misreading of the letter dated 23.1.02 in as much as the letter dated 23.1.02



has nothing to do with the grant of 2nd pay up gradation and it is only as regard adjustment of scale of pay under A.C.P scheme with that of Time Bound Pay Promotion Scheme which was granted earlier.

iii. For that the applicant submits that 'after passing the departmental examination he is eligible for being promoted to the next higher post and he is also entitled for the second pay up gradation and its consequential benefits from the date of his passing departmental examination which is being illegally denied by the authorities.

iv. For that Since, the applicant has been duly promoted to the rank of Junior Engineer as per seniority and adhering the service Rules, the action of the authority in categorising the Junior Engineers in two categories as degree holders and non degree holders and discriminating the non degree holders in granting ACP scheme is not based on any intelligible differentia and such discrimination is in fact contra to the object sought to be achieved by the beneficial scheme of ACP, which basically tries to remedy the hardship of the situation of long stagnation in service without promotions. Therefore, at any rate such discriminations between degree holders and non degree holders at the same rank, only for depriving from ACP scheme, is not sustainable in law and is unreasonable and arbitrary on the face of it.

v. For that only on the basis of letter dated 16.10.2001, The applicant sat in the departmental examination, with a great expectation that he would be given the financial upgradation after clearing the departmental examination ,as reflected in the letter dated

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16.10.2001 issued by the respondent No.3 and accordingly the applicant cleared the departmental examination in his old age, only to avail the benefit under the ACP scheme and now the action of the authorities in rejecting the prayer of the applicant on the ground of not having degree in Civil Engineering is highly unreasonable and improper on the part of the authority. The applicant begs to state that after passing the departmental examination on the basis of the intimation by letter dated 16.10.2001, he has a legitimate expectation to get the second financial up-gradation in the pay scale and the denial of the same is illegal.

6. Details of remedies exhausted.

The applicant filed a representation before the authorities claiming his 2nd financial up gradation under the ACP scheme but of no avail.

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

The applicant further declare that he have not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court or any other authority or any other Bench of the Tribunal, nor any such application, writ petition or suit is pending before any of them.

8. Relief sought for

In the premises aforesaid, it is, therefore, prayed that Your Lordships may be pleased to admit this application, issued notices to the respondents to show cause as to why the



letter/order dated 24.12.2004 (Annexure-II) shall not be set aside as illegal and as to why the applicant should not be given the benefit of the second financial up gradation as per Assured Career Progression Scheme as formulated by the respondent , call for the entire records of the case and after hearing the parties , be pleased to allow the petition issuing direction to the respondents to pay all the benefits of the second financial up-gradation to the applicant as per Assured career Progression Scheme and or pass such further order / orders as Your Lordships may deem fit and proper .

And for this act of kindness the applicants, as in duty bound, shall ever pray.

9. Particulars of bank draft/postal order in respect of the application fee

(i) I.P.O. No. 269 324643

(ii) Date 27.6.06

(iii) Issued by Guwahati Post Office

(iv) Payable at Guwahati.

10. List of enclosures.

As stated in the INDEX



VERIFICATION

I, Shri Ranjit Sankar Das, son of Late Sailaja Sankar Das, aged about 60 years, retired central Govt. servant, resident of Tezpur in the district of Sonitpur, Assam, do hereby verify that the statements made in paragraphs Nos. 164,5----- are true to my personal Knowledge ; those made in paragraph nos 6,7,8----- are matters of record and the statements made in paragraph nos. 10,8,9----- are believed to be true on legal advice and I have not suppressed no material fact.

And I sign this verification on this 27 th day of June / 2006, at Guwahati.

Place: Guwahati

Date 27.6.06

Ranjit Sankar Das

Tele: AF/2358

-13-

HQ Chief Engineer (AF)
Shillong Zone
Elephant Falls Camp
Nonglyen Post
Shillong- 793 009

81427/ACP/737/ED

Annexure I

Oct 2001

GE (I)(AF) Tezpur

FWD OF APPLICATION M.S-232943 SHRI
RS DAS, JE (CIV)

1. Ref this HQ letter No 81427/ACP/TUE/ED dated 03 SEP 2001.

2. As intimated by HQ eastern Comd Engrs Branch vide letter No 131841/ACP/1127/Engrs/ED dt 03 Oct 2001 that the representation of M.S-232943 Shri RS Das, JE (Civ) dt 13 Aug 2001 in connection with grant of 2nd financial upgradation has been examined at the HQ with reference to relevant instructions. The effective date of ACP is 09.08.99 as such 2nd financial upgradation on completion of 24 years in respect of suboverseer is subject to passing departmental examination. Since Shri RS Das, JE (Civ) though has completed 24 years service, his case for 2nd financial upgradation could not be considered as he is lacking in Departmental Examination.



(DC Das).
AO-I
SO-III (Pers)
for Chief Engineer (AF)

SL (113, 216 (a) 274)
FL

Certified to be true copy

Q.
Advocate

274

Tele No. 2222-2527

Chief Engineer
HQ, Eastern Command
Fort William
Kolkata-700021

131841/ACP/JEs/167/Engrs/EID

24, Dec, 2004

GE(AF) Tezpur
P.O. Salonibari
Distt : Sonitpur (Assam)

DEPARTMENTAL SCREENING COMMITTEE FOR GRANT OF ACP :
SUBORDINATE

1. Ref your letter No. 1624/AF/ACP/769/EID dated 10Dec, 2004 addressed to CWE (AF) Jorhat with a copy to this HQ.
2. In this connection it is intimated that as per Govt. of India, Min of Defence letter No. 85610/ACP/47/Supdts/CSCC/236/D (Works) dated 23 Jan, 2002, Diploma Engineer recruited as erstwhile Supdt B&R/E&M Gde II (re-designated as JEs) or recruited as JEs in the scale of Rs 5,000-150-8,000/, are eligible for first financial up gradation in the scale of Rs 6,500-10,500/- . As per above Govt. order only Degree holder JEs are eligible for grant of 2nd ACP.
3. Since MES/232943 Shri R.S Das, JE (Civ) was appointed as Sub overseer and subsequently promoted to JE (Civil) , which is counted as Ist up gradation to hi,. He is not eligible for further up gradation under ACP scheme as per Govt. order mentioned above.
4. However, if he has passed Diploma in Civil Engineering, please forward copy of Final Diploma certificate for taking up the case with higher HQ for decision.

Sd/-
Illegible
(Kalyani Deshpande)
Capt, SO3 (Pers)
For Chief Engineer.

Copy to:-

CWE(AF) Jorhat - For information and similar action as above wrt GE(AF) Tezpur letter quoted at Para 1 above.

certified to be true copy

8

Advocate

85610/ACP/47/SUPDTS/CSCC/236/D(Works)

Government of India

Ministry of Defence

New Delhi

The 23 , Jan 2002

To,

The Engineer -In - Chief
Engineer -In - Chief's Branch
Army Headquarters
Kashmir House
New Delhi-110011

Subject: ADOPTION OF ASSURED CAREER PROGRESSION SCHEME
FOR THE CENTRAL GOVT EMPLOYEES IN RESPECT OF SUPDTS
B&R/E&M/SAs (REDESIGNATED AS JEs)

Sir,

I am directed to refer to DOP&T OM no. 35034/1/97-ACP dated 09 Aug 99, introducing the Assured Career Progression Scheme for the Central Government Civilian Employees. Condition 13 of Annexure 1 of the DOP&T OM stipulates that the existing time bound pay promotion scheme shall not run concurrently with the ACP scheme. The administrative Ministries have been given the option to choose between the two scheme i.e. the existing time bound pay promotion scheme or the ACP scheme, which has to be adopted in its totality.

2. A scheme of granting two higher pay scales on completion of certain number of years was introduced in respect of Supdts B&R/E&M/SA Gde1 & Gde II of MES (since re-designated as JEs) vide this Ministry letter No. PC-90237/4603/EIC(Legal)/1993/D(works) dated 25 April 1996 consequent to CAT Bangalore Judgement in various O.As, to bring them at par with the JEs of CPWD in the matter of time bound pay promotion . This scheme envisaged grant of pay scale of Rs 5,500-9,000/- (revised) on completion of 5 years of service to SUPDTs

from entry grade of Rs 5,000/-8,000(revised), with effect from 01.01.1986 and pay scale of Rs 6,500 - 10,000 (revised) on completion of 15 years of service, with effect from 01.01.1991, subject to fitness in respect of Diploma Engineers, Degree Engineers, directly recruited as Supdt B&R/E&M/SA Gde I in the equivalent pay scale of Rs 5,000 - 9,000, were granted one time bound single pay promotion in the pay scale of Rs 6,500 - 10,500 (revised) after completion of 10 years of service , subject to fitness with effect from 01.01.1991vide Ministry of Defence letter No. 85605.RR/B&R I & II/CSCC/3040/D(Works) dated 31 July 98.

3. In view of the above and in view of the fact that the new ACP scheme introduced by DOP&T vide OM dated (AUG 99, is more beneficial to JEs of MES, I am directed to convey the sanction of the Department for adoption and introduction of the said ACP scheme , involving pay up gradations after 12 and 24 years of regular service respectively , as applicable , as per terms and condition laid in the said scheme in respect of JEs (civil) , JEs (E&M) and JEs (QS&C) of MES, with effect 09 Aug 99.

4. The new ACP scheme in respect of JEs (civil) and JEs (E&M) shall be adopted in the manner and with effect from dates as indicated in Appendix "A" attached to this letter. For JEs (QS&C), the manner and the effective date of adoption of new ACP scheme are as per Appendix "B" attached with this letter.

5. Simultaneously the existing time bound pay promotion scheme introduced under this Ministry letter no. PC-90237/4603/EIC(Legal)/1993/D(Works) dated 25 April 96 and 85605/RR/B&R GdeI &GdeII/CSCC/3040/D(Works) dated 31 July 98, shall cease to be operative with effect from 09 Aug,99. in respect of the concerned categories.

6. With the adoption of ACPS, the posted of AE 9civil) Grade I, AE (E&M0 Grade I and AE (QS&C) Grade I in the pay scale of Rs

7,500-12,000 created under Ministry of Defence No 85401/16/VCPC/3/CSCC/173/D(Works) dated 19 Jan2000, also simultaneously stand cancelled.

7. The other terms and condition of ACP Scheme and the procedure to be followed, shall be as laid down in DOP&T OM dated 09 Aug, 99. Also while implementing the scheme DOP&T clarificatory instructions circulated vide OM No. 35034/1/97-Estt(D)/VOL IV dated 10.2.2000 and OM of even No dated 18July 2001, shall be kept in view.

8. This issues with the concurrence of Ministry of Defence (Finance) vide their U.O. No. 235/F/WFL/02 dated 22.1.2002

Yours faithfully

Sd/ Illegible

(B.P.Sharma)

Deputy Secretary to Government of India

Copy to:

CGDA, New Delhi 02 copies signed in ink

CDA SC Pune, CDA NC C/o 56 APO, CDA CC Lucknow, CDA WC

Chandigarh, CDA EC Calcutta -2 copies each signed in ink

All AAO and CDA -20 copies.

DFA CAQ /PB - 2 copies E-In-C's Branch/CSCC - 30 copies

DFA/AG/PB - 2 copies, Def (fin/works-I)

D (W-II) CAQ /A-6.

Appendix 'A' to MOD letter No.
85610/AC/747/SUPDTS/CSCC/ 23 -/D/Works
dated 23 Jan 2002

Adoption of Assured Career Progression Scheme (ACPS) in lieu of Time Bound Pay Promotion Scheme
in respect of Erstwhile Supdts B/R & E/M Gde Is & Gde IIs, Redesignated as JEs (Civil) & JEIs (E&M)

Srl No.	Category	Present pay scale of entry grade post	First Financial upgradation		Second Financial upgradation		Remarks
			Scale of Pay	Effective Date	Scale of Pay	Effective Date	
1	2	3	4	5	6	7	8
1.	Diploma Engineer recruited as Erstwhile Supdts B/R & E/M Gde IIs (redesignated as JEIs) and promoted as AEs before 09 July '91	Rs 5000-15-8000	Not applicable	Not applicable	* Rs 10,000-325-15,200	09 Aug 99 or on completion of 24 years of regular service, whichever is later.	* As per note given in Schedule III of IDSE rules notified vice SRO 4-E dated 09 Jul 1991, Diploma Engineers promoted as AEs upto promulgation of these rules shall continue to be eligible for promotion to the post of Executive Engineers, which is the grade of 2 nd ACP for them.
2.	Degree Engineer directly recruited as erstwhile Supdt B/R & E/M Gde Is (redesignated as JEIs) already promoted as AEs or yet to be promoted	Rs 5500-175-200-10,500	09 Aug 99 or on completion of 12 years of regular service, whichever is later.	Rs 10,000-325-15,200	09 Aug 99 or on completion of 24 years of regular service, whichever is later.	② Those erstwhile Supdts Gde Is who received promotion on personal basis in this pay scale after 10 years, in terms of MOD letter No. 85603/RR/B&R I&II/CSCC/3040/ D- (Works) dt 31 July 98, shall continue to draw the same, as personal to them.	
3.	Incumbent recruited as #Rs 5000-15-8000 Erstwhile Supdts B/R/E&M Gde IIs (redesignated as JE) but possessing degree in Engineering or equivalent at the time of recruitment or have acquired the same during service	Rs 6,500-200-10,500	09 Aug 99 or on completion of 12 years of regular service, whichever is later.	Rs 10,000-325-15,200	09 Aug 99 or on completion of 24 years of regular service, whichever is later.	# Those erstwhile Supdt B/R/E&M Gde IIs, who have been placed in the pay scale of Rs 5500-9000 after completion of five years of regular service as per the old scheme, shall be brought back to the scale of Rs 5000-8000. Fall in pay shall be protected by granting personal pay in the scale of Rs 5000-8000, to be adjusted against future increments.	
4.	Diploma Engineer recruited as erstwhile Supdts B/R & E/M Gde IIs (redesignated as JEIs) or recruited as JEIs and promoted as AEs after 09 July 91 or yet to be promoted.	Rs 6500-200-10,500	09 Aug 99 or on completion of 12 years of regular service, whichever is later.				# Diploma Engineers, who have been placed in the pay scale of Rs 5500-9000 after completion of five years of regular service as per the old scheme, shall be brought back to the scale of Rs 5000-8000. Fall in pay shall be protected by granting personal pay in the scale of Rs 5000-8000, to be adjusted against future increments.

③ Diploma Engineers promoted as AEs after promulgation of IDSE rules as mentioned at remarks against item 1 above are not eligible for promotion to the post of Executive Engineers. Consequently they shall be eligible for grant of increments on the scale of Rs 10,000-15,200, only on acquisition of Diploma in Engineering or equivalent and on completion of 12 years of regular service on 09 Aug 99, whichever is later.

To

1. The Engineer -In- Chief (Engr. Branch)

Kashmir House

New Delhi-110011.

2. The Chief Engineer,

Eastern Command

Fort William

Kolkata-21.

Reference:- A) Letter No 81427/737/EID dated 16.10.2001.

B) Letter No. 131841/ACP/MES/167/Engrs/EID
dated 24.12.2004.

Subject:- Representation for benefits under Assured
Career Progression Scheme.

Sir,

I respectfully beg to state that, I am in service of M.E.S for a long period of time with all my sincerity and devotion and at no point of time, there has been any blemish in my service record. However, at the fag end of my career, when I am reaching my age of superannuation from service, a grave prejudice is being caused to me in denying my due scale of pay illegally. Therefore, this representation.

I joined in the service of MES in the year 1969 as Sub-overseer. Subsequently, in due course of time, I was given promotion to the rank of B/R, Gde-II (re-designated as Junior Engineer, Civil) in the year 1996, in which rank I am serving at present.

I have been given promotion only once in my service career and taking in account my total period of service, I am entitled to financial up-gradation of my pay scale of the next higher rank as per, the Assured Career Progression (ACP) scheme formulated and adopted by the Govt. of India.

I, therefore, made a representation before the authority in due manner praying for my up-gradation of my pay scale under the ACP Scheme and by letter dated 16.10.2001 under reference, issued by the Chief Engineer, I was intimated that the Head Quarter, Eastern Command, Engineering Branch issued letter No 131841/ACP/1127/Engrs/EID dated 3.10.2001, stating that my representation had been examined by the Head Quarter and that my case for second financial up gradation

certified to be true copy

(Signature)

Advocate

could not be considered since I had not cleared departmental examination.

A copy of the letter dated 16.10.2001 is annexed herewith and marked as Annexure -I.

That I have grown old to pass out departmental examination at this stage of life. However, since, I understood that for my second up-gradation, in the scale under the scheme I must clear the departmental examination, I put in my all endeavour and sat in the departmental examination with my much junior colleagues. I passed out the part-I examination in January 2003 and part -II examination in January 2004. Immediately thereafter, I intimated the fact of my passing of the departmental by letter dated 20.5.2004, wherein, I also mentioned that my retirement is due in January 2006, with a request to grant me the second financial up-gradation at an early date. I understood that my representation was forwarded to the Head Quarter and to my great shock and surprise, now, I have been intimated by letter dated 24.12.2004, that the second up-gradation in the next pay scale under the ACP scheme is available only for Degree holder/ diploma holder Junior Engineers and therefore, I was not eligible for the financial up-gradation as sought for by me, not being a degree holder / diploma holder Junior Engineer.

A copy of the letter dated 2412.2004 is annexed herewith and marked as Annexure -II.

I am highly prejudiced by the above action of the authority in unduly rejecting my claim, which is not sustainable on the following counts:-

- I) That Since, I have been duly promoted to the rank of Junior Engineer as per seniority and adhering the service Rules, the action of the authority in categorising the Junior Engineers in two categories as degree/diploma holders and non degree/diploma holders and discriminating the non degree/diploma holders in granting ACP scheme is not based on any intelligible differentia and such discrimination is in fact contra to the object sought to be archived by the beneficial scheme of ACP, which basically tries to remedy a situation of long stagnation in service without promotion. Therefore, at any rate such discriminations between degree/ diploma holders and non degree / diploma holders at the same rank, only for

depriving from ACP scheme is not sustainable in law and is unreasonable and arbitrary on the face of it.

II). That only on the basis of letter dated 16.10.2001, I cleared my departmental examination in the year 2003 and 2004 at this age, only to avail the benefit under the ACP scheme and now, the action of the authorities in rejecting my prayer on the ground that I am not having degree or diploma, after I passed my departmental examination, is highly unreasonable and improper on the part of the authority. I beg to state that after passing the departmental examination on the basis of the intimation by letter dated 16.10.2001, I have a legitimate expectation to get the second financial up-gradation in the pay scale and the denial of the same is illegal.

I therefore, pray before you to kindly consider the above facts and circumstances in its due prospective and grant me the benefit of second financial up gradation under the ACP Scheme, failing which, irreparable loss and injury will be caused to me, which is not due at this fag end of my service career.

Yours faithfully

MES/232943
Sri Ranjit Shekhar Das
JE(Civil)

Ranji Pappu 17/11/2005