

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 175/05.....

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUJARATI BENCH.

ORDER SHEET

Original Application No. 125/05

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicant(S): Soram Desai

Respondant(S): H. O. I. Jais

Advocate for the Applicant(S): A. K. Rao, H. Wapeng

Advocate for the Respondant(S): Case

Notes of the Registry	Date	Order of the Tribunal
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Application is in form
is filed/C.F. for Rs. 20/-
deposited vide IP No. 206/124545
Dated 29-6-05

4.7.2005

Heard learned counsel for the parties. The application is disposed of in terms of the order passed in separate sheets at the admission stage itself.

Neer
Dy. Registrar

NS
29/6/05

mb

V. V. V.
Vice-Chairman

Steps taken with
envelops.

Pat

Received copy
G. B. Desai
12/7/05

14.7.05

Copy of the order
sent over to the
advocates for the
parties.

3

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A./No. 175/2005

DATE OF DECISION 4.7.2005.

Sonam TseringAPPLICANT(S)

Mr. A.K. Roy, Mr. L. Wapang.ADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

Union of India & Ors.RESPONDENT(S)

Mr. G. Baishya, Sr. C.G.S.C.ADVOCATE FOR THE
RESPONDENT(S).

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

THE HON'BLE MR.

1. Whether Reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the Reporter or not ?
 3. Whether their Lordships wish to see the fair copy of the Judgment ?
 4. Whether the judgment is to be circulated to the other benches ?
- Judgment delivered by Hon'ble Vice-Chairman.

G. Sivarajan
ms

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 175/2005

Date of Order : This the 4th day of July, 2005.

The Hon'ble Sri Justice G. Sivarajan, Vice-Chairman.

Sri Sonam Tsering
Special Field Asstt. (GD)
Special Bureau - Tawang
P.O. - Tawang.
Dist. - Tawang (Arunachal Pradesh).

... Applicant

By Advocates Mr. A.K. Roy, Mr. L. Wapang.

- Versus -

1. Union of India,
Represented by the Secretary,
Ministry of Finance, New Delhi.
2. Under Secretary (Pers-V)
Cabinet Secretariat, New Delhi.
3. Director (Pers)
Government of India,
Cabinet Secretariat, New Delhi.
4. Deputy Commissioner,
Special Bureau, Tezpur,
Dist. - Sonitpur (Assam).

... Respondents.

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

ORDER (ORAL)**SIVARAJAN. I. (V.C.)**

The applicant is at present working as Special Field Assistant (SFA in short) (General Duty) at Tawang under the 4th respondent. The grievance of the applicant is that though the Screening Committee for SFA (GD) held on 01.10.1999 to find out the eligible employees for financial upgradation to the scale of pay of Rs. 4000-100-6000/- as per the "Assured Career Progression" (ACP in short) Scheme, had found the applicant eligible for grant of ACP he has not so far been granted financial upgradation based on the said decision. The applicant has produced Office Order No. 609/Pers.12/99 dated 27.10.1999 (Annexure - A) which shows that the applicant's name appeared at item No. 5. It is also seen that the applicant is found eligible for grant of ACP since 09.08.1999.

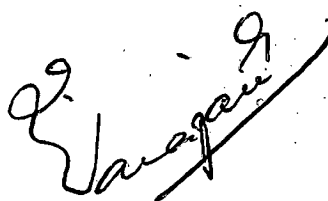
2. Mr. A.K. Roy, learned counsel for the applicant submits that since the respondents did not grant ACP to the applicant pursuant to the Annexure - A, he made representation dated 01.06.2002 (Annexure - B) before the Joint Secretary, Cabinet Secretariat, New Delhi but so far no orders have been passed in favour of the applicant. Counsel further pointed out that though the applicant had sent a copy of Annexure - A pursuant to the communications dated 11.04.2003 and 08.08.2003 still no orders have been passed in favour of the applicant. Counsel further submits that the applicant made a further representation dated 28.04.2005 (Annexure - E) to the 4th Respondent also.

3. I have also heard Mr. G. Baishya, learned Sr. C.G.S.C. for the respondents. If as a matter of fact, the applicant was found eligible for grant of ACP as seen from the order dated 27.10.1999

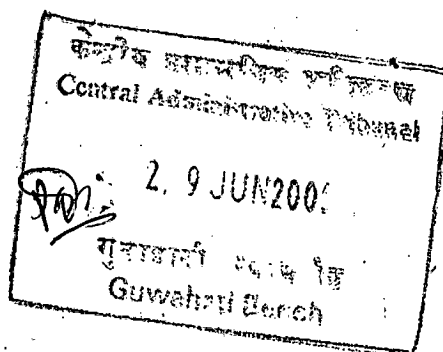


(Annexure - A) it is not clear as to why the respondents have not granted ACP to the applicant. The applicant, infact, pointed out the same and requested for grant of ACP. Though the respondents have sought for certain clarifications and documents no final decision has been taken in the matter. Though the applicant has produced certain documents it is not clear from the same as to why the applicant was not granted benefit of Annexure - A. Having regard to the fact that more than 6 years have elapsed since the order dated 27.10.1999, I direct the applicant to make a detailed representation explaining the situation and also containing proper answers to Annexures - C and D memorandums within a period of one month from today before the 2nd respondent. If any such representation is filed as directed hereinabove by the applicant, the 2nd respondent will dispose of the same by a speaking order in accordance with law within four months thereafter and communicate the decision to the applicant.

The A.O. is disposed of as above at the admission stage itself. The applicant will produce this order before the 2nd respondent for compliance.


(G. SIVARAJAN)
VICE CHAIRMAN

/mb/



Dist- Tawang(A.P.)

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

Original Application No. 175/05

Sonam Tsering.

Applicant.

- Vs -

Union of India & Ors.

Respondents.

LIST OF DATES

Sl.	Dates	Particulars	Para	Annexure	Page
1	1.10.99	Screening committee held to find out eligible SFAs for financial upgradation under Assured Career Progression Scheme.	4(ii)		2
2	27.10.99	Office order in which the name of applicant was placed at Sl. No.5 for financial upgradation under the scheme.	4(ii)	A	2-3
3	1.6.2002	Applicant representation requesting to extend the benefit under ACP scheme.	4(iii)	B	3
4	11.4.03	Respondent memorandum informing that decision regarding grant of ACP scheme benefit I under correspondence with Hqrs. and was asked to send a photocopy of office order dated 27.10.99	4(iv)	C	4
5	27.7.03	Applicant send a photocopy of office order dated 27.10.99 alongwith representation.	4(v)		4
6	8.8.03	Respondent memorandum informing that the decision regarding grant of ACP scheme to non-matric is under examination.	4(v)	D	4
7	28.4.05	Applicant submitted one reminder stating that the same benefits has been granted to other non-matric staff.	4(vi)	E	4-5

Dist- Tawang(A.P.)

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

[An application under Section 19 of the
Administrative Tribunal Act, 1985]

Original Application No. of 2005

Sonam Tsering.

.....Applicant.

- Vs -

The Union of India and Ors.

....Respondents.

I N D E X

<u>Sl.No.</u>	<u>Particulars</u>	<u>Annexure</u>	<u>Page No.</u>
1.	Original Application		1 - 8
2.	Verification		9
3.	Annexure -A		10 - 11
4.	Annexure -B		12
5.	Annexure -C		13
6.	Annexure -D		14
7.	Annexure -E		15

For use in the Office

Signature
Date:

Dist- Tawang(A.P.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

[An application under Section 19 of the
Administrative Tribunal Act, 1985]

Original Application No. of 2005

- BETWEEN -

Shri Sonam Tsering.

Special Field Asstt (GD)

Special Bureau- Tawang.

P.O- Tawang,

Dist-Tawang (Arunachal Pradesh).

....Applicant.

1. Union of India,

Represented by the Secretary,

Ministry of Finance, New Delhi.

2. Under Secretary (Pers-V)

Cabinet Secretariat, New Delhi.

3. Director (Pers),

Government of India,

Cabinet Secretariat, New Delhi.

4. Deputy Commissioner,

Special Bureau, Tezpur,

Dist-Sonitpur (Assam).

.....Respondents.

Sonam Tsering

9
Filed by the applicant
through : L. N. Das
Advocate
29/10/05

I. PARTICULARS OF THE ORDER(S) AGAINST WHICH APPLICATION IS DIRECTED -

This application is directed against the action of the Respondents in non-giving Assured Career Progression (ACP) Scheme benefits to the applicant inspite of approval of competent authority for financial upgradation.

2) JURISDICTION:

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

3) LIMITATION

The applicant also declares that the present application is within the limitation period as has been prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4) FACTS OF THE CASE

i) That the applicant at present working as Special Field Asstt. (in short SFA) (General Duty) at Tawang under the Deputy Commissioner, Special Bureau, Tezpur.

ii) That the applicant states that the Govt. of India introduced a scheme namely 'Assured Career Progression Scheme' (in short ACP scheme) to extend certain financial benefits to the Central

Souam Tsering

Government Employees by way of financial upgradation to the higher scale of pay. As per the scheme, screening committee for SFA(GD) was held on 1.10.99 to find the eligible employees for financial upgradation to the scale of pay of Rs. 4000-100-6000/-. In the said screening committee, the name of the applicant was also considered and found eligible for upgradation and hence his name was included at sl. No. 5 in the office order No. 8/1/99 pers. 12/17526 dated 27.10.99.

Copy of the office order dated 27.10.99 is annexed herewith as Annexure-A.

iii) That the applicant states that as per that scheme, option was called for from him and accordingly he gave his option to avail the benefit under the scheme. In spite of his option and though his name was included in office order of eligible candidates, he was not given the benefit for a long time and hence he submitted one representation on 1.6.2002. But that representation failed to draw the attentions of the authority.

Copy of the representation dated 1.6.2002 is annexed herewith as Annexure-B.

Sonam Kising

iv) That after the said representation dated 1.6.2002, the applicant was informed vide memorandum dated 11.4.2003, that the decision regarding grant of ACP is under correspondence with Hqrs, New Delhi. He was also asked to send a photocopy of O.O No.609/pers. 12/99 issued under endorsement No. 8/1/99-Pers. 12-17526 dated 27.10.99 to the respondent No.4.

Copy of the Memorandum dated 11.4.2003 is annexed herewith as Annexure-C.

v) That the applicant states that after receiving the said memorandum dated 11.4.2003 on 23.4.2003, he send a photocopy of the said order along with representation on 27.7.2003. After the said representation dated 27.7.2003, the applicant was informed vide memorandum dated 8.8.2003 that the decision regarding grant of ACP benefit to non-matric SEAS/EAS(GD) is under examination in consultation with DP&T and further communication would be made after receipt of reply from the concerned authority.

Copy of the memorandum dated 8.8.2003 is annexed herewith as Annexure-D.

vi) That the applicants states that after the said memorandum dated 8.8.2003, the respondents

Souam Tsering

respondent the applicant approached this Hon'ble Tribunal by filing this application on the following grounds amongst others -

5) G R O U N D S

- i). For that the action of the respondent in non-granting of benefit of the ACP scheme to the applicant after a lapse of more than five years after he got selected by the screening committee is in violation of Article 14 and 16 of the Constitution of India and hence the same is not tenable in the eye of law.
- ii) For that as the applicant has been declared as eligible as per the scheme and placed at sl. No.5 in the Office order dated 27.11.99 (Annexure-A) for financial upgradation and as the applicant opted the benefit under the scheme, the respondent cannot deny the same without following the settled procedure.
- iii) For that the respondent are extending the same benefit under the ACP scheme to the similarly placed employees, so they can not legally deny same to the applicant.
- iv) For that the action of the respondents is arbitrary and whimsical and hence the same is not maintainable in the eye of law.

Suman Bering

- v) For that the action of the respondent is against the principle of natural justice and Administrative fair play.
- vi) For that the action of the respondent is not maintainable in the eye of law inasmuch as the same is against all cannons of law.

6) DETAIL OF REMEDIES EXHUSTED -

The applicant states that he has availed all the remedies as stated in paragraphs 4 of this application but failed to get justice and hence there is no other alternative remedy available to him other than to approach this Hon'ble Tribunal.

7) MATTER NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT.

The applicant further declares that he has not filed any application or writ petition or suit regarding this matter before any Court or any other bench of this Hon'ble Tribunal nor any such petition or suit is pending before any of them.

8) RELIEF SOUGHT FOR

Under the facts and circumstances stated above the applicant prays for the following reliefs:-

- i) To direct the respondent authority to extend the benefit under ACP scheme to the applicant by

Sonam Bsering

upgrading him to the scale of pay of Rs. 4000-100-6000/- as per office order dated 27.11.99 (Annexure-A) w.e.f. the date on which other non-matric employees were given.

- ii) Any other order or orders as your Lordships may deem fit and proper.
- iii) Cost of application.

9) INTERIM RELIEF PRAYED FOR -

Under the fact and circumstances sated above the applicant does not pray any interim relief at this stage.

10)

11. PARTICULARS OF I.P.O. :

- a) IPO No. 206 134545
- b) Date of Issue - 29/6/05
- c) Payable at - Guwahati

11) LIST OF ENCLOSERS :

As stated in Index.

Sonow Tsering

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VERIFICATION

I, Shri Sonam Tsering, S/o. Lt. Sonam Plumtso, aged about 58 years, resident of Tawang, P.O. & Dist-Tawang Arunachal Pradesh, presently working as Special Field Asstt. (General Duty), Special Bureau, Tawang, do hereby verify that the statements made in paragraphs 1 to 12 of this application are true to my personal knowledge and the submission. I believe the same to be true as per legal advice and I have not suppressed any material fact of the case.

And I sign this verification on this the 26th day of June, 2005 at Guwahati.

Date - 26/6/05

Sonam Tsering
Signature

Place - Guwahati

Office Order No. 609/Pers. 12/99

Pursuant to implementing the Assured Career Progression Scheme for the Central Government employees as notified vide DP&T's OM No. 35034/1/97-Estt(D) dated 9.8.99, the Screening Committee for SFAs(GD) which met on 1.10.99 has found the following SFAs(GD) eligible for financial upgradation to the scale of pay of Rs. 4000-100-6000/-. The competent authority has approved the recommendations:-

Sr. No.	Name/ID No.	Date from which eligible
<u>Shillong Set up</u>		
1.	Basang Awalong, 13962-T	9.8.99
2.	M.L. Sharma, 13963-L	9.8.99
3.	Lato Melo, 13963-H	9.8.99
4.	Mange Ram Malik, 13514-N	9.8.99
5.	Sonam Tsering, 14003-J	9.8.99
6.	Tapak Bogia, 13969-L	9.8.99
7.	Tao Mosoi, 14000-T	9.8.99
8.	Longvam Singkam, 14005-K	9.8.99
9.	Pragin Gompu, 13994-C	9.8.99
10.	Dukpa Norbu, 13967-H	9.8.99
11.	G.B. Gurung, 13898-W	9.8.99
12.	B.C. Paul, 14174-C	9.8.99
13.	T.K. Sinha, 14184-L	9.8.99
14.	Thinglev Norbu, 14023-F	9.8.99
15.	L.D. Borthakur, 14086-G	9.8.99
16.	S.C. Talukder, 14071-F	9.8.99
17.	L.N. Sinoh, 13870-C	9.8.99
18.	Lairawna Lushai, 14092-M	9.8.99
19.	Thangzuva Lushai, 14093-C	9.8.99
20.	Rimawia Lushai, 14098-R	9.8.99
21.	B.G. Sanval, 14076-V	9.8.99
22.	G.L. Yadav, 13534-K	9.8.99
23.	Phurda Rinchin, 13995-N	9.8.99
24.	Narendra Mani Rai, 14195-K	9.8.99
25.	Brunoo Leocha, 13901-T	9.8.99
26.	Kishan Rai, 14144-V	9.8.99
27.	Brem Prakash Lama, 13900-G	9.8.99

2. The financial benefit allowed under this scheme shall be final and the pay shall not be revised on regular promotion to that higher grade already given under the scheme.

3. On financial upgradation under the scheme, the pay of the beneficiary shall be fixed under the provision of FR-22(I)a(i), subject to the minimum financial benefit of Rs. 100/-.

Attested

For
20/7/05

Adm. Secy

569
8/12/99

-12:-

4. The financial upgradation under the scheme being purely personal to the employee, there shall be no change in his/their existing designation/status, seniority in the grade and nature of duties.

5. He/They is/are deemed to have given his/their unqualified acceptance for regular promotion on occurrence of vacancy subsequently. In case he/they refuses to accept the higher post, on regular promotion subsequently, he/they shall become eligible for the second upgradation, if admissible only after he/they completes the required eligibility service/period from the date of such refusal.

6. This issues with the approval of Competent Authority.

(Signature)

(T.C. NARAYANAN)
DIRECTOR(PERS)

No.6/1/99-Pers.12
Government of India
Cabinet Secretariat
New Delhi, the: 27.10.99

17526

Shri. Saham Teering

He will have an option for fixation of pay as prescribed under FR-22(I)s(1). Option may be given within one month from the date of issue of this order. Option once exercised shall be final.
2. Director of Accounts, Cab. Secy. (SW), New Delhi.
3. Commissioner, SB Shillong.

Copy to:-

- 1. Increment File.
- 2. Service Book Seat (SB Shillong).
- 3. Personal File.
- 4. CDS Cell.
- 5. Q.D. Book.

(Signature)

(VINOD KUMAR)
UNDER SECRETARY(PERS-V)

No. 21177-20 (E.S.U) - 13466
S.B. Shillong.

2-12-99

(Signature)

8/12

1. Comm. Secy. (SW) (E.S.U) Shillong
2. Comm. Secy. (SW) (E.S.U) Shillong
3. Comm. Secy. (SW) (E.S.U) Shillong
4. Comm. Secy. (SW) (E.S.U) Shillong
5. Comm. Secy. (SW) (E.S.U) Shillong
6. Comm. Secy. (SW) (E.S.U) Shillong
7. Comm. Secy. (SW) (E.S.U) Shillong
8. Comm. Secy. (SW) (E.S.U) Shillong
9. Comm. Secy. (SW) (E.S.U) Shillong
10. Comm. Secy. (SW) (E.S.U) Shillong

20066(01-21/ACC/02/17E10-99

(D. NATH)
ASST. COMMISSIONER

- 12 -

20

To,

The Joint Secretary(Pers),
Cabinet Secretariat,
Government of India,
NEW DELHI.

THROUGH PROPER CHANNEL

Sub:- Regarding benefits of Assured Career
Progression Scheme.

Sir,

Your kind attention is drawn to Office Order No.609/Pers.12/99 issued under endorsement No.8/1/99-Pers.12-17526 dated 27.11.99 conveying approval of recommendations of competent authority for the implementation of Assured Career Progression Scheme w.e.f. 9.8.99 to me.

2. It may be mentioned here that vide above mentioned order option asked from us which was sent accordingly. However, till date I have not been facilitated any benefit under scheme. Whereas others are enjoying financial benefits under the scheme.

3. It is requested to your kind honour that you may please look into the matter and benefits approved vide above memo. to me may be provided at an early date.

4. Hoping a favourable reply.

Thanking you.

Yours faithfully

[Signature]
(SONAM TSERING)
SFA(GD)

SB, TAWANG.

ID. NO. 14003J

NO 1/T09/ESTT(S)/99-313

dt: 3/6/02

Attested
[Signature]
26/6/02

Advocate

No. 174 (TWS)

22/4/2003

SECRET

NO. 2/1/99-TEZ (ESTT) - 5340
GOVT. OF INDIA
SPECIAL BUREAU
TEZPUR

Dated, the 11/4/03

MEMORANDUM

Reference your application dt. 1.6.02 addressed to JS(Pers) forwarded vide SR, Tawang memo No. 1/TWG/ESTT(5)/99-33 dt. 3.6.02 regarding benefits of ACP scheme.

2. Matter is under correspondence with Hqrs., New Delhi. In the meantime, you may send a photocopy of O.O. No. 609/Pers. 12/99 issued under endorsement No. 2/1/99-Pers. 12-17526 dt. 27.10.99 to this office at the earliest.

(GIRISH KAUL)
SECTION OFFICER

Shri Sonam Tsering, G.O. (DD)
Thro' Asst. Secy. Tawang.

22/4/03

Attested

26/6/03

Advocate.

Received
On 23/4/03

-14-

SECRET

NO.2/1/99-TEZ(ESTT)- 8613
GOVT. OF INDIA
SPECIAL BUREAU
TEZPUR

Dated, the 8/08/03

MEMORANDUM

Reference your application dated 27.07.03 addressed to JS(Pers), Hqrs., New Delhi regarding implementation of ACP Scheme.

2. In this connection observation of Hqrs. is as under :-

"As the decision regarding grant of ACP benefits to non-matric SFAs/FAs(GD) is under examination in consultation with DP&T and further communication will follow on receipt of reply DP&T."

(GIRISH KAUL)
SECTION OFFICER

✓ To
Shri Sonam Tsering, SFA(GD),
thro' ASC, SB, Tawang.

Attested

for
26/6/05

Advocate

2422-377-(FWS)
19/8/03

Sh Sonam
19/8/03

To

The Deputy Commissioner
Special Bureau
Govt. of India
TEZPUR

Sub:- Implementation of ACP Scheme

Sir,

Kindly refer to your letter No. 2/1/99-TEZ (Estt)-8613 dated 03.08.03 and related correspondence regarding Implementation of ACP scheme in favour of me.

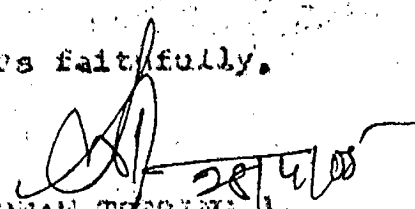
2. More than almost two years have lapsed since then, but I have not received any communication from you. I hereby request you to kindly look into the matter and necessary benefit due to me may be granted at the earliest. I would also like to mention here that the same benefit has been given to other under Matrik staffs ie SFA (M) etc.

Thanking you,

Place:- TAWANG

Dated :- 28.04.05

Yours faithfully,

()
SONAM TSERING
SFA (G/D)
S.M. TAWANG

Attested
for
26/6/05
Advocate