

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 291/2007

R.A/C.P No.

E.P/M.A No.

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SECTION OFFICER (Judl.)

Kanta
10/10/17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

1. Original Application No. 281/07
2. M/s. Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) ... Natuban Nanda ... VS Union of India & Ors

Advocate for the Applicants... Bikram Choudhury

Advocate for the Respondent(s): Sr.C.G.B. Baishya

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed/C. F. for Rs. 50/- d. deposited vide (POWD No. <u>824042639</u> Dated <u>19.9.07</u>	<u>26.10.2007</u>	Mr.B.Choudhury, learned counsel for the Applicant submitted that in the earlier O.A. No.106/2007 vide order dated 07.05.2007 this Tribunal directed the Respondents to dispose of the representation of the Applicant by passing speaking orders within three months from the date of receipt of the representation but the communication received in this regard at Annexure-XI dated 22.08.2007 does not mention any specific reason for rejection of the representation. The Applicant is retiring on 31.10.2007. Learned counsel prayed for admission of the case and issuance of the notice of the Respondents.
<u>Registrar</u> <u>D/C</u>		Mr.G.Baishya, learned Sr. Standing counsel represented the Union of India.
<u>Petitioner's</u> copy for Notice notices are not received with envelope order taken given for Service copy.		Considering the issue involved the O.A. is admitted. Issue notice to the Respondents. Post on 10.12.2007.
<u>D/C</u>		Meanwhile, retiral benefits of the Applicant will be subject to the outcome of the case.

Khushiram
(Khushiram
Member)

Notice & order sent to
D/Section for issuing
to R- 1 to 5 by regd.
A/D post.

From 11/10/07 D/No-1302 to 1306
Dt: 15/11/07

⑪ Service report
awarded.

23
7.12.07.

Notice duly served
on R-5.

Copy
14/12/07

W/S not filed.

23
8.1.08.

/bb/

23
(Gautam Ray)
Member (A)

23
(M.R.Mohanty)
Vice-Chairman

09.01.2008

No written statement has been filed in this case by the Respondents as yet. Mr.G.Baishya, learned Sr. Standing counsel for the Union of India seeks more time to file written statement.

W/S not filed.

23
21.2.08.

/bb/

23
(Khushiram)
Member (A)

23
(M.R.Mohanty)
Vice-Chairman

22.02.2008

Mr. B. Choudhury, learned counsel appearing for the Applicant and Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Respondents are present.

W/S not filed.

23
14.3.08.

lm:

Call this matter on 17.03.2008.

23
(Khushiram)
Member (A)

17.03.2008 Written statement has not been filed as yet in this case by the Respondents.

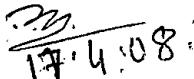
Call this matter on 21.04.2008 awaiting written statement from the Respondents.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

W/S not filed.

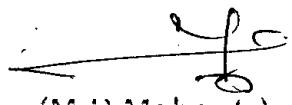
im


17.4.08

21.04.2008 Mr. B. Choudhury, learned counsel appearing for the Applicant is present. The case was admitted on 26.10.07. Despite adjournments granted to the Respondents on 09.01.2008, 22.02.2008 and 17.03.2008, no written statement has yet been filed by the Respondents in this case. Last chance is given to the Respondents to file counter/written statement by 30.05.2008; failing which this case shall be heard ex parte, against the Respondents.

Send copies of this order to the Respondents in the address given in the O.A.

Call this matter on 30.05.2008.


(M.R. Mohanty)
Vice-Chairman

Order dt. 21/04/08
Send to D/Section
for issuing to resp.
max - 1 to 5 day post.

im

Copy 108. D/No. 1856 to 1860
24/4/08

DT = 25/4/08

29.5-08
No add. rec'd.

6

PTO

30.5.2008 Mr.B.Choudhury, learned counsel appearing for the Applicant and Mr.G.Baishya, learned Sr. Standing counsel appearing on behalf of the Respondents are present.

3.6.08

~~W.S. filed by
the Respondents,
copy served.~~

Qb:

Call this matter for hearing on 24.07.2008. Rejoinder, if any, shall be filed by the Applicant in the meantime.


(Khushiram)
Member (A)

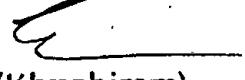
~~Rejoinder not
filed.~~

24.07.2008

None appears for either of the parties.

23.7.08

Call this matter on 06.08.2008.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

~~Rejoinder not
filed.~~

05.08.2008

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

~~Rejoinder not
filed.~~

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

15.9.08

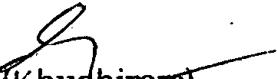

- (M.R. Mohanty)
Vice-Chairman

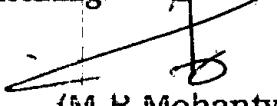
nkm
n.m. Mohanty
Vice-Chairman

~~Rejoinder not
filed.~~

16.09.2008 On the prayer of learned counsel appearing for both the parties, call this matter on 17.11.2008 for hearing.

lm


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

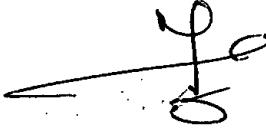
14.11.08

5
O.A.281/07

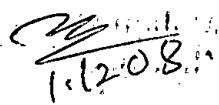
17.11.2008 Call this matter on

02.12.2008.

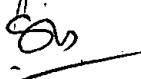

(S.N. Shukla)
Member(A)


(M.R. Mohanty)
Vice-Chairman

pg


1.12.08

02.12.2008 Call this matter on 02.02.2009 for
hearing.


(S.N. Shukla)
Member (A)


(M.R. Mohanty)
Vice-Chairman

nkmm

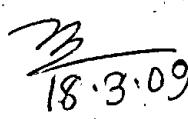
Rejoinder not
filed.

2.2.09 Bench is not available

List on 19.3.09

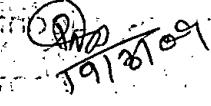

CO/

Rejoinder not
filed.


18.3.09

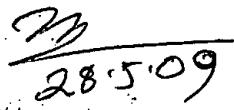
Khaishal

19.03.2009 Mr.S.Nath holding the brief of
Mr.B.Choudhury states that Mr. Choudhury has
personal difficulty and he is not in a position to
argue the matter and therefore prays for
adjournment. Mr.G.Baishya, Sr. Standing
counsel for the Respondents has no objection.
Case is adjourned.


List this case on 29.04.2009 for hearing.


(A.K.Gaur)
Member (J)

No Rejoinder filed.


28.5.09

/bb/

29.04.2009 Call this matter on 16.06.2009
for hearing:

(M.R.Mohanty)
Vice-Chairman

lm

16.06.2009 Call this matter on 7th August
2009 for hearing.

(M.R.Mohanty)
Vice-Chairman

7.08.2009 Call this matter for hearing on
16.09.2009.

(M.K.Chaturvedi) (M.R.Mohanty)
Member(A) Vice-Chairman

/lm/

16.09.2009 Call this matter on 23.10.2009.

(M.K.Chaturvedi)
Member (A)

23.10.2009 The learned counsel for Applicant
states that as per instructions this case has
been considered for grant of ACP for
which he has not received any specific
order so far. Learned counsel for the
Respondents states that he has to obtain
instructions in this regard.

List on 11.11.2009.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/lm/

O.A.No. 281/2007

8

11.11.2009

On the request of Mr B. Choudhury,

learned counsel for the applicant adjourned

to 17.11.2009.


(Madan Kumar Chaturvedi)

Member (A)


(Mukesh Kumar Gupta)

Member (J)

nkrm

O.A.No. 281/2007

6

11.11.2009 On the request of Mr B. Choudhury,
learned counsel for the applicant adjourned
to 17.11.2009.

(Madan Kumar Chaturvedi)

Member (A)

(Mukesh Kumar Gupta)

Member (J)

nkm

10

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.281 of 2009

Date of Order: This the 17th day of November 2009

The Hon'ble Shri Mukesh Kumar Gupta, Judicial Member

The Hon'ble Shri Madan Kumar Chaturvedi, Administrative Member

**Shri Natabar Nanda,
S/o Late Pranakrishna Nanda,
Resident of Quarter No.IV/D/09,
Aviation Research Centre, Doom Dooma,
P.O. Sukreting, District- Tinsukia,
Assam.**

.....**Applicant**

By Advocate Mr B. Choudhury

-versus-

1. **Union of India, represented by the
Cabinet/Special Secretary,
Department of Cabinet Affairs,
Bikaner House,
Shahjahan Road, New Delhi.**
2. **Director General of Security
Cabinet Secretariat, Block-V (East),
R.K. Puram, New Delhi.**
3. **Director (SR),
Cabinet Secretariat,
Bikaner House Annex,
Shahjahan Road, New Delhi-110066.**
4. **Director of Accounts
Cabinet Secretariat,
R.K. Puram, Level No.VII,
East Block X, Sector-I,
New Delhi-110066.**
5. **Deputy Director (Administration)
Aviation Research Centre, Doomdooma,
P.O. Sukreting, Dist.- Tinsukia,
Assam.****Respondents**

By Advocate Mrs M. Das, Sr. C.G.S.C.

.....

ORDER (ORAL)MUKESH KUMAR GUPTA, JUDICIAL MEMBER

Heard Mr. B. Choudhury, learned counsel for applicant and Mrs. M. Das, learned Sr. C.G.S.C. for respondents.

2. Natabar Nanda, in this application filed under Section 19 of Administrative Tribunals Act, 1985 seeks direction to respondents to grant benefits of ACP Scheme with consequential benefits. Respondents have produced communication dated 04.02.2009 as well as 09.02/2009 whereby approval of the Government to grant one time relaxation from passing Departmental Qualifying Examination for grant of said benefits has been conveyed in respect of ATC staff who qualified said examination in the first attempt i.e. in July 2003, which amongst others included applicant. Copies of orders dated 04.02.2009 and 09.02.2009 are taken on record.

3. Vide their communication/O.M. dated 09.02.2009 on grant of one time relaxation, authorities were directed to take up individual cases and pass necessary orders. Though more than 9 months have passed since then we have not been reported as to what is the status as on date. We may note that applicant attained age of superannuation on 31.10.2007. In this view of the matter since we have not been informed as to whether applicant has been granted benefit of financial upgradation or not, we dispose of this O.A. requiring respondents to pass reasoned and speaking order within two months from date of receipt of this order and if he is eligible and

recommended by the competent authority for grant of such benefit,
the same shall also be released within said period.

4. O.A. accordingly stands disposed of. No costs.

Chaturvedi
(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER

Mukesh
(MUKESH KUMAR GUPTA)
MEMBER (JUDICIAL)

nkm

22 OCT 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
GUWAHATI

(An application under section 19 of the Administrative Tribunals Act, 1985)

O.A.No. 281 OF 2007

Sri Natabar Nanda

...Applicant

-VS-

Union of India and others

...Respondents.

SYNOPSIS

This original application has been filed for a direction to the respondent no 3 and 4 to grant the applicant the benefit under the ACP scheme w.e.f. 9.8.99 as recommended by the duly constituted Screening Committee and subsequently approved by the government.

The applicant joined the Air Traffic Control wing of the Aviation Research Centre as Radio Operator on 12.4.1971. As per the Recruitment Rules, 1977, the Radio Operators are eligible for promotion to the post of Communication Assistant on completion of 8 years in the grade. But there was no promotion and the applicant continued to stagnate in the same post. The ACP scheme as recommended by the 5th Pay commission was introduced in the department and the duly constituted Screening Committee under the scheme by order dt: 29.10.99 found the applicant eligible for the benefits under ACP scheme. The recommendation of the Screening Committee was reviewed and it was upheld. Later the Government of India gave approval to the recommendation of the Screening Committee.

Inspite of the above recommendation/orders he was given the benefit from May 2000, thereafter he was receiving his salary regularly but from August 2005 his increment was stopped without any reason. On making enquiry the applicant came to know that the respondent no 4 was insisting that the applicant shall have to pass departmental qualifying examination meant for ATO(C) and on passing the examination he shall be granted the benefits under the A.C.P. Scheme from that date whereas the recruitment rules provides otherwise. The applicant on advice appeared in the examination of 2003 and came out

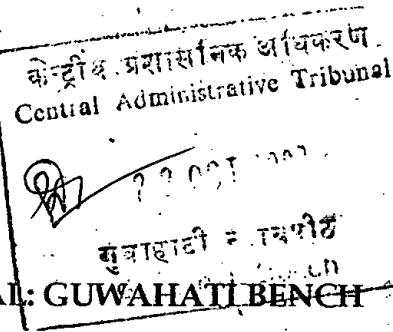
Central Government of India
13
District P.T.O. 93
Chandigarh Branch

successful. After 33 years of stagnation in the same post, the applicant by order dt: 16.9.2004 was promoted to the post of Communication Assistant and was transferred to ARC, Doomdooma. The applicant further states inspite of passing the departmental examination meant for ATO(C), the respondent authorities did not grant him the benefit of the ACP scheme as per the recommendation of the Screening Committee and subsequently approved by the Government of India on one pretext or another. In this regard the applicant submitted several representations but there was no response. Being aggrieved, the applicant approached this Hon'ble Tribunal by filing O.A. no 106/2007. This Hon'ble Tribunal by order dt 7.5.2007 disposed of the application with a direction to the applicant to submit a comprehensive representation before respondent no 3 within 15 days and he or any other competent authority shall dispose of the representation within a time frame of 3 months. Accordingly, on 25.5.2007, the applicant submitted the representation. But till date he has not received any positive response to the representation except a letter from the respondent no 5 stating about the forwarding of his representation. The applicant states that he is going to retire from service on 31.10.2007 and as such if his pay is not fixed in the scale as recommended under the ACP scheme by the Screening Committee w.e.f 9.8.99, he shall suffer irreparable loss and injury. Hence he is approaching this Hon'ble Tribunal for due relief.

Filed by

Sikandar Choudhury
xx/xx/07

Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
GUWAHATI

(An application under section 19 of the Administrative Tribunals Act, 1985)

O.A.No. 281 OF 2007

Sri Natabar Nanda

...Applicant

-VS-

Union of India and others

...Respondents.

LIST OF DATES

12.4.1971: Applicant joined the Air Traffic Control Wing of Aviation Research Centre as Radio Operator.

1977 : A.R.C. (AIR WING) Recruitment Rules, 1977 was promulgated. As per the recruitment rules, the Radio Operators are eligible for promotion to the post of Communication Assistant on completion of 8 years in the grade.

Annexure -I, Page 18.

The applicant did not get any promotion and he continued to stagnate in the post and in the meanwhile the authorities introduced A.C.P. scheme as recommended by the 5th Pay Commission.

Annexure-II, Page 24.

29.10.1999: The duly constituted Screening Committee found the applicant alongwith others fulfilling the criteria for financial upgradation under the A.C.P. w.e.f. 9.8.99 and accordingly the office of Director General of Security issued order.

Annexure-III, Page 31

22.8.2000 : The recommendation given by the Screening Committee in order dt: 29.10.99 was further reviewed and it was upheld and accordingly the office of Director General Security accepted the same and issued order informing about the review.

Annexure-IV, Page 33

25.6.2002 : The Government of India gave approval to the recommendation of the Screening Committee.

Annexure-V, Page 35

Inspite of the above recommendation and approval by the Government the applicant was given the benefit from May 2000. Thereafter he was receiving monthly salary but from

22 OCT 2007

गुरुवारी २ अक्टूबर
२००७

August, 2005 his increment was stopped without any reason. On making enquiry the applicant came to know that the respondent no 4 was insisting that the applicant shall have to pass departmental qualifying examination and on passing he shall be granted the benefits under the A.C.P. Scheme from that date whereas the recruitment rules provides otherwise.

28.8.2003: Letter from the office of respondent no 1 asking ARC(Charbatia) to provide the recruitment rules under which the applicant alongwith another appeared for departmental qualifying examination for ATO(C), so that their result can be accepted.

Annexure-VI, Page 36

16.9.2004: The applicant got his first promotion to the post of Communication Assistant and was transferred to ARC, Doomdooma and was relieved from ARC, Charbatia on 30.11.2004.

Annexure-VII, Page 37

Applicant submitted several representations before the authorities for fixation of his pay under the A.C.P. scheme from the date conferred by the Screening Committee since he is going to retire from service on October 2007. But he did not receive response.

Annexure-VIII(Series), Page 38

Being aggrieved, the applicant filed O.A.no 106/2007 before this Hon'ble Tribunal.

7.5.2007 : This Hon'ble Tribunal disposed of the application with a direction to the applicant to submit a comprehensive representation before respondent no 3 within 15 days and shall dispose of the representation within a time frame of 3 months.

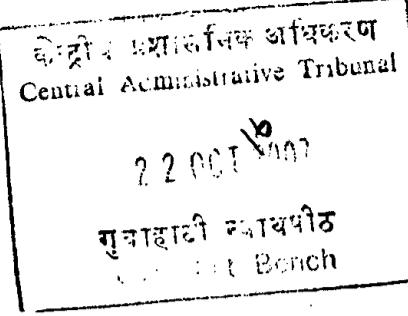
Annexure-IX, Page 46

25.5.2007 : The applicant submitted the representation.

Annexure- X, Page 49

22.8.2007 : The applicant received a letter from respondent no 5 stating about forwarding of the representation dt:25.5.2007 with some comments.

Annexure-XI, Page 57



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
GUWAHATI

(An application under section 19 of the Administrative Tribunals Act, 1985)

O.A.No. 281 OF 2007

Sri Natabar Nanda

...Applicant

- VS -

Union of India and others

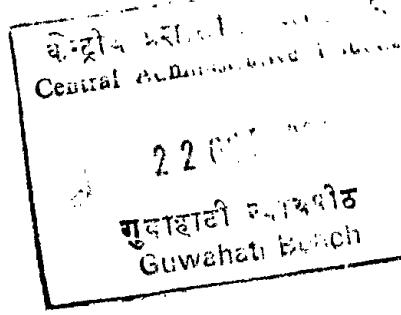
...Respondents.

<u>SL.NO</u>	<u>PARTICULARS</u>	<u>PAGE NO</u>
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5	Annexure-III	31 -32
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11.	Annexure- IX	46 -48
9.	Annexure-X	49-56
10.	Annexure-XI	57

Filed by

Sitaram Choudhury
22/10/07

Advocate, Guwahati



Filed to the 12
Applicant through
Bikram Chaudhury
Advocate
22-10-07
Natabar Nanda

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI

BENCH: GUWAHATI

(An Application Under Section 19 of Administrative Tribunal
Act, 1985)

O.A. 281 of 2007

Sri Natabar Nanda,
Son of Late Pranakrishna Nanda,
Resident of Quarter No.IV/D/09,
Aviation Research Centre, DoomDooma,
P.O. Sukreting, District: Tinsukia,
Assam.

.... Applicant.

-VERSUS-

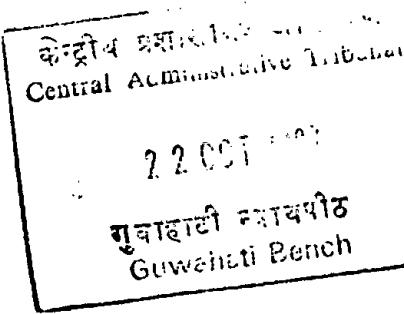
1. Union of India

Represented by the Cabinet / Special
Secretary, Department of Cabinet
Affairs, Bikaner House,
Shahjahan Road, New Delhi.

2. Director General of Security,
Cabinet Secretariate, Block- V (East), R.
K. Puram, New Delhi.

3. Director (SR),
Cabinet Secretariate, Bikaner House
Annex, Shahjahan Road,
New Delhi-110066.

Contd.....



-2-

4. Director of Accounts,
Cabinet Secretariat, R.K.Puram,
Level No VII, East Block X, Sector-I,
New Delhi- 110066.

5. Deputy Director (Administration),
Aviation Research Centre, Doomdooma,
P.O. Sukreting, Dist: Tinsukia, Assam

..... Respondents.

1. PARTICULAR OF THE ORDERS AGAINST WHICH THE APPLICATION IS MADE:

- (i) Illegal and arbitrary action of the authorities particularly respondent no 3 in not fixing the pay scale of the applicant under the A.C.P. scheme from the date as recommended by the Screening Committee and subsequently approved by the Government.
- (ii) Action of the Respondents in not disposing of the several representations/appeals submitted by the applicant for fixing /admitting the pay scale given to him from the date as recommended by the Screening Committee under the A.C.P. scheme and to release the arrears.
- (iii) Action of the respondent no 4 in imposing a new condition not contemplated by the A.C.P.scheme and the notifications issued by the Goverment for impletation of the A.C.P.scheme.
- (iv) Action of the authorities (respondent no 3) in not disposing of the representation dt: 25.5.07 submitted by the applicant within the time frame as directed by this Hon'ble Tribunal in O.A 106 /2007.

Contd.....

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22 OCT 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

-3-

2. **JURISDICTION OF THE TRIBUNAL:**

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of this Hon'ble Tribunal.

3. **LIMITATION:**

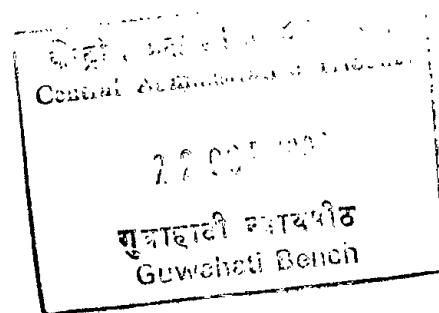
The applicant further declares that the application is within the limitation prescribed under Section 21 of the Administrative Tribunal, Act 1985.

4. **FACT OF THE CASE:**

1. That the applicant is a citizen of India and is a resident of the aforesaid locality and he is entitled to the rights and privileges guaranteed under the Constitution of India.
2. That the applicant begs to state that he joined the Air Traffic Control (in short A.T.C.) Wing of Aviation Research Centre (in short A.R.C.) Charbatia, Orissa, on 12.4.1971 as Radio Operator. Since the date of joining service the applicant has been discharging the duties as assigned to his post sincerely and honestly and there was no occasions when any adverse remark or otherwise was ever communicated to him. The applicant states that at present he is serving as Communication Assistant, A.R.C., Doomdooma and he is going to retire from service on 31.10.07.
3. That the applicant begs to state that the Aviation Research Centre is a department of the Government of India, directly under the Cabinet Secretary and the applicant is in the Air Wing of A.R.C. The applicant states that after he joined service, the A.R.C. (AIR WING STAFF) Recruitment Rules 1977 was

Contd.....

Q1



-4-

promulgated. As per the recruitment rules, the Radio Operators are eligible for promotion to the post of Communication Assistant on completion of 8 years service in the grade and thereafter to the post of Assistant Technical Officer (Communication). In view of the above recruitment rules, the applicant had high expectation and was hopeful that he shall have opportunities for growth and advancement in the career chosen by him as per the recruitment rules.

The relevant extract of the Recruitment Rules 1977 is annexed herewith and marked as ANNEXURE- I.

4. That, as per the above recruitment rules the applicant was eligible for promotion long back but the authorities did not give any promotion and the applicant continued to stagnate in the post of Radio Operator without any promotion. In the meanwhile, the respondent authorities decided to introduce the Assured Career Progression Scheme (in short A.C.P) as recommended by the Fifth Pay Commission so as to deal with the problem of genuine stagnation and hardship faced by the employees due to lack of promotional opportunities.

A copy of the A.C.P. scheme is annexed herewith and marked as ANNEXURE-II.

5. That, thereafter, the Screening Committee constituted for the purpose of processing the cases for grant of benefits under the A.C.P. scheme, found the applicant alongwith other persons belonging to the Group "C" category in the A.R.C., Airwing ATC/Met cadres eligible for financial upgradation on completion of 12 years/24 years of service w.e.f.9.8.99 and accordingly the office of the respondent no 2 issued order no ARC/AW.153/99(Pt.)-9548 dt:29.10.99 recommending the

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financial upgradation under the ACP scheme.

It will be relevant to mention here that the order reflected the following features amongst other namely (i) that the financial upgradation is admissible w.e.f. 9.8.99 and thereafter depending upon the date of completion of 12 years or 24 years as the case may be subject to other eligibility conditions and (ii) for the grant of the benefits the residency periods (regular service) has been counted from the grade in which the applicant and the others were appointed as direct recruits.

A copy of the order dt: 29.10.99 is annexed herewith and marked as ANNEXURE-III.

6. That, the applicant begs to state that the Screening Committee further reviewed the order dt: 29.10.99 (Annexure-III) and found the applicant alongwith others eligible for financial upgradation under the ACP scheme confirming / conferring the same pay scale and the effective date as given in the order dated 29.10.99. The cadre controlling authority i.e. Respondent No. 2 accepted the recommendation of the Screening Committee by order dated 22.8.2000 issued vide memo no ARC/AW.153/99/(Pt.)-4899.

It will be relevant to mention here that the order dt:22.8.2000 pointed out that the Screening Committee before recommending the names kept in mind the check points mentioned in O.M.dated 9.8.99 in para 3(3.1) (3.2) and conditions laid down in para 1,2,4,5.1,5.2,10,11,13 and 14 of Annexure I of DP&T order dt:9.8.99.

Copy of the order dated 22.8.2000 and is annexed herewith and marked as ANNEXURE- IV.

7. That ,the applicant begs to state that the Government of India

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thereafter gave approval to the above recommendation made by the Screening Committee for financial upgradation of the applicant and others under the ACP scheme and the same was circulated to various units from the office of respondent no 1 through respondent no 2 vide letter Cabinet .Sectt.28/67/2001-DO-II-540 dated 25.6.02.

Copy of the letter dated 25.6.02 is annexed herewith and marked as ANNEXURE-V.

8. That, the applicant begs to state that the Screening Committee in the order dated 29.10.99 (Annexure-III) and order dated 22.8.2000 (Annexure-IV) under the ACP scheme recommended the pay scale of the applicant at Rs.8000-13500/-w.e.f.9.8.99 on completion of 24 years of regular service. The applicant states that inspite of the above orders and subsequent approval by the government by letter dated 25.6.02 (Annexure-V), the authorities at ARC, Charbatia, (where he was posted at the relevant time) though fixed his pay under the ACP scheme from 9.8.99 but started making the payment under the scale from May 2000, though the above orders allowed him the benefits under the ACP scheme from 9.8.99. In this regard, the applicant submitted several representations before the authorities but till date there has been no response.

9. That, the applicant begs to state that after receiving the above orders the Deputy Director (Administration) ARC,Charbatia (where he was posted at the relevant time) duly fixed his basic pay and accordingly he drew his monthly salary upto July,2005. Thereafter without assigning any reasons his annual increment was not granted/stopped from August 2005. On making enquiry, the applicant came to know that the respondent no 4 is stating and insisting that on passing the departmental qualifying

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examination meant for ATO (C), the applicant shall be granted the benefits under the ACP scheme from that date.

In this regard, the applicant states that at the time of introduction of the A.C.P. scheme, he was serving as Radio Operator and the Recruitment Rules 1977 does not provide for passing departmental examination for promotion to the post of Communication Assistant from Radio Operator and moreover he had already completed about 29 years of regular service without any promotion in the same grade as on 9.8.1999. The respondent No. 2 and 3 and the government found that he fulfilled every eligibility conditions as stated in the ACP scheme and as such, the applicant was surprised by the unjust and incongruous action of the respondent no 4 stating and insisting upon that the benefits under the ACP scheme shall become effective from the date of his passing the departmental qualifying examination for A.T.O.(C). The applicant then inspite of being granted the benefits under the ACP scheme, he appeared on advice in the departmental qualifying examination for A.T.O.(C) and came out successful.

It will be pertinent to mention here that in the letter no ARC/AW.451/98-6070 dt:28.8.2003 issued from the office of the respondent no 2 addressed to ARC (Charbatia), while informing about the approval of the result of the examination held on 10th July, 2003, it further directed to provide the recruitment rules under which the applicant and another Radio Operator were allowed to appear in the departmental examination, so that their result can be accepted by the ARC headquarter.

Copy of the letter dt:28.8.2003 is annexed herewith and marked as ANNEXURE-VI.

10. That, in the meantime, after 33 years of long and faithful service in the department, the respondents in recognition of

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his service record promoted him to the post of Communication Assistant vide Msg no ARC/AW.19/2004 dated 16.9.04 and transferred him to ARC, Air Wing, Doomdooma and accordingly he was relieved of his duties from ARC, Air Wing , Charbatia on 30.11.2004. The applicant thereafter joined ARC, Air Wing, Doomdooma on 6.12.04.

Copy of the relieving order is annexed herewith and marked as ANNEXURE-VII.

11. That, thereafter, the applicant submitted several representations/appeals before the higher authorities through proper channel stating the above facts with the prayer for fixation /admittance of his pay under the A.C.P. scheme from the date conferred by the Screening Committee and to release the arrears at the earliest ,since he is going to retire from service on October,2007.But it fell on deaf ears and the applicant did not received any response from the authorities and the matter remained standstill.

On 27th November,2006, he again submitted a representation/appeal before the respondent no 3 through proper channel stating the above facts. But the applicant till date has not received any response from any corner and it appears that the authorities are sitting over the matter, due to which the applicant has been highly prejudiced, as he has been denied the benefits under the A.C.P. scheme from its due date without any justifiable reason.

Copy of such representation/appeals are annexed herewith and marked as ANNEXURE VIII (SERIES).

12. That,thereafter ,having no other alternative the applicant approached this Hon'ble Tribunal by filing an original application with the prayer to direct the authorities to fix/grant or admit his pay scale under the A.C.P

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scheme with all consequential benefits from the date i.e. 9.8.99 as recommended by the Screening Committee and subsequently approved by the Central Government and the case was registered and numbered as O.A.106/07. On 7.5.07, the Hon'ble Tribunal after hearing all parties disposed of the case directing the applicant to make a comprehensive representation before the respondent no 3 within 15 days and the respondent no 3 or any other competent authority, shall dispose of the representation by speaking order within a time frame of three months. The order further directed the respondents to adhere to the time limit otherwise the court will make adverse inference.

Copy of the order dated 7.5.2007 is annexed herewith and marked as ANNEXURE-IX.

13. That, thereafter, the applicant on receiving the certified copy of the order submitted a comprehensive representation as directed by this Hon'ble Tribunal, through proper channel on 25.5.07, with the hope of getting the due benefit of the ACP scheme from the due date. However, once again the grievances of the applicant has fallen on deaf ears and the respondents are dilly-dallying the matter and till date the applicant has not received any response from the respondent authorities. The applicant is living in a state of uncertainty as he will be incurring a huge financial loss at the time of his retirement (which is on 31.10.07), if his pay is not fixed under the ACP scheme from the date conferred by the Screening Committee and subsequently approved by the Government.

Copy of the representation is annexed herewith and marked as ANNEXURE-X.

14. That, the applicant begs to state that under the conditions laid down for grant of benefits under the A.C.P. scheme, condition no 4 provides that the first financial upgradation shall be allowed after 12 years of regular service and the second financial upgradation after 12 years of regular service from the

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date of first upgradation, subject to fulfillment of the prescribed conditions. Condition no 5.1 further provides that two financial upgradations under the A.C.P. scheme shall be available only if no regular promotions during the prescribed periods have been availed by an employee. Condition no 15 provides that, subject to condition no 4, 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, from what is stated above, it is crystal clear that the applicant had completed about 29 years of regular service in one grade without any promotion by 1999 and the Screening Committee found that the applicant not only fulfilled the condition no 15 but also other conditions for getting the benefits under the A.C.P. and accordingly granted the same and which was subsequently approved by the government by order dated 25.6.02(Annexure -V). Moreover, from the order dated 22.8.2000 (Annexure- IV) it will be evident that the Screening Committee while recommending the name of the applicant alongwith others took into consideration the checkpoints as laid down in the OM dated 9.8.99 and as such it is not open to the respondent No. 4 to impose a new condition for admittance of the pay of the applicant from its due date, which is contradictory to the A.C.P scheme, for granting the benefit to the applicant, when the recommendation of the Screening Committee was duly approved by the Government. Moreover, from the recruitment rules it is clear that the applicant have to appear for departmental qualifying examination for promotion to Assistant Technical Officer(C) whereas at the time of introduction of ACP scheme the applicant was working as Radio Operator and he got his promotion only in the year 2004 i.e. after the grant of ACP by the Goverment and as such there can be no question for the applicant to appear in departmental examination for Assistant Technical Officer(C) when he was not even in the cadre of the feeder post in the year 1999.

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15. That the applicant recently received a letter no 3/ESTT/ARC/DDM/2004(113)-5731-32 dt:22.8.2007 from respondent no 5 addressed to the Asst.Director (B),ARC Headquarter,New Delhi, stating that the representation submitted by the applicant before respondent no 3(as directed by this Hon'ble Tribunal) has been forwarded with some comments. Amongst other, the respondent no 5 stated that the respondent no 4 has again raised objection with regard to the admittance of pay fixation under the A.C.P.scheme on the ground that the official is entitled to financial upgradation under A.C.P. w.e.f.14.7.2003 i.e.the date of passing the departmental examination rather than w.e.f.9.8.99.

Copy of the letter dt:22.8.2007 is
annexed herewith and marked
as ANNEXURE XI.

16. That the applicant begs to state that the respondent no 4 has already admitted the cases of almost all officers entitled for the benefits under the ACP scheme as given in orders dt:29.10.99 (Annexure-III) and dt:22.8.2000(Annexure-IV).Moreover, nowhere in the O.M. no 35034/1/97-Estt.(D) dt:10.2.2000, it is stated that the one has to pass the departmental examination, which is not provided in the recruitment rules for promotion from the post in which the employee has completed more than 24 years in service to the next post.Further,from the letter dt:28.8.2003, it is crystal clear that the Radio Operator are not required to appear in departmental examination for promotion as per recruitment rules.

The action of the respondent No. 4 in not fixing the pay scale of the applicant under the A.C.P. scheme from the due date on one pretext or another for such a long period i.e.7 years has caused immense loss to the applicant and therefore he is convinced that he shall not get any relief from the authorities,inspite of submitting representation as per the direction of this Hon'ble Tribunal and as such he is approaching this Hon'ble Tribunal once again for due relief.

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5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

- I. For that, the action of the authorities in not admitting /fixing the pay scale of the applicant under the A.C.P. scheme from the date as conferred by the Screening Committee and subsequently approved by the government is highly illegal, arbitrary, unjust and not in consonance with the conditions laid down in the ACP scheme and such action are bad in law and is liable to be quashed and set aside
- II. For that condition no 15 of Annexure -I under the A.C.P scheme provides that 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 and the Screening Committee found that the applicant had already completed 29 years of regular service without any promotion and he also fulfilled other prescribed conditions as laid down in O.M. dated 9.8.99 and accordingly conferred him the benefit under the scheme w.e.f.9.8.99 and as such the action of the respondents, particularly respondent No. 4 in not fixing the pay scale from that date and imposing a new condition contradictory to the A.C.P scheme is illegal and arbitrary and is liable to be quashed and set aside.
- III. For that, the recruitment rules does not provide that one has to appear in departmental qualifying examination in the feeder post i.e. Radio Operator to be eligible for the promotional post i.e. Communication Assistant and at the time of introduction of the A.C.P. scheme the applicant was working as Radio Operator and as such the action of the respondent no4 on insisting upon to pass the departmental qualifying examination for getting the benefits under the A.C.P. scheme, when the rules

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and the A.C.P scheme states otherwise is abstruse and as such the same is bad in law and is liable to be set aside

IV. For that, when the benefit under the A.C.P.scheme having accrued to the applicant on the basis of the order dt:29.10.99(Annexure-III),order dt:22.8.2000 (Anexure-IV) and letter dt:25.6.02(Annexure-V),the same cannot be denied without giving any valid justifiable reasons and that not being done is bad in law and is liable to be set aside.

V For that, the action of the respondents in not fixing / admitting the pay scale of the applicant under the A.C.P. from the date as assigned by the duly constituted Screening Committee without any justifiable reason amounts to penalty and since the procedure for imposing the penalty has not been followed the same is liable to be quashed and set aside.

VI. For that, the action of the authorities in not admitting the pay scale of the applicant from the date as conferred by the Screening Committee is in violation of the condition laid down in the A.C.P. scheme, in view of the fact that the Screening Committee after taking into consideration every relevant facts and rules has conferred the benefit and as such the impugned action of the authorities is not maintainable in law and is liable to be set aside.

VII. For that, the manner in which the Respondent No. 4 has been denying the benefit under the A.C.P.scheme to the applicant would show that the authorities are acting in violation of the A.C.P. scheme and the recruitment rules and as such the impugned action of the authorities in seeking to deprive the applicant from his due benefit under the A.C.P. scheme is bad in law and is liable to be set aside.

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VIII. For that the order dt:22.8.2000 reveals that Radio Operators are not required to appear in any departmental examination and as such the respondent no 4 should not have imposed upon a new condition which neither the recruitment rules and the condition of A.C.P scheme provides for and moreover the Screening Committee found the applicant to satisfy all eligible conditions and as such the action of the respondent no 4 to defeat the claim of the applicant is not sustainable in law and is liable to be set aside.

IX. For that as directed by this Hon'ble Tribunal in O.A.No106/2007, the applicant had submitted a comprehensive representation on 25.5.2007 and as such the action of the respondent no 4 in not disposing the same till date shows that they have failed to exercise the jurisdiction vested in it and the action of the authorities in not disposing the same is bad in law.

X. For that, it is apparent from the letter dt:28.8.2003 that recruitment rules does not provide for departmental examination for Radio Operator to be eligible for promotion to Communication Assistant and as such the action of the respondent no 4 on stating that the benefit under the ACP shall be given from the date of passing the departmental examination is perverse and not sustainable in law.

XI. For that, in any view, of the matter the impugned action of the authorities is bad in law and liable to be set aside.

6. **DETAILS OF REMEDIES EXHAUSTED :**

The applicant had submitted several representations/ appeals before the authorities praying for admittance /fixation of his pay scale under the A.C.P scheme from the date as recommended by the Screening Committee and subsequently approved by the Government and to pay the arrears at the earliest as he is going to retire from service on October 2007, but he has not received any response. The last representation / appeal was submitted by the applicant on 25.5.07 as directed by this Hon'ble

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Guwahati Bench

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Tribunal in O.A.no106/2007, but till date he has not received any response from the authorities with regard to any of his representations.

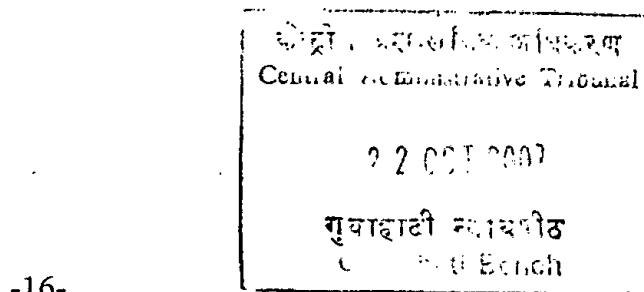
7. **MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:**

The applicant further declares that he had previously filed O.A.no 106./2007 before this Hon'ble Tribunal with regard to the matter in respect of which this application has been made, but he was directed to file a comprehensive representation and till date there has been no response. He has not filed any other application, writ petition or suit on the same matter 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. **PRAAYER**

It is ,therefore, prayed that this Hon'ble Tribunal may be pleased to admit this application, call for the entire records of the case, ask the respondents to show cause as to why the applicant shall not be granted the benefits under the A.C.P. scheme with all consequential benefits from the date i.e.9.8.99 as recommended by the duly constituted Screening Committee by order dated 29.10.99 (Annexure- III) which was reviewed and confirmed by order dated 22.8.2000 (Annexure-IV) and subsequently approved by the government by order dated 25.6.02 (Annexure-V) and after perusing the causes shown, if any and hearing the parties, be pleased to issue a direction to the respondents, particularly to respondent no 3&4 to grant the applicant the benefits/fix or admit the





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pay scale of the applicant under the A.C.P. scheme with all consequential benefits from the date i.e. 9.8.99 as recommended by the duly constituted Screening Committee by order dated 29.10.99 (Annexure- III) which was reviewed and confirmed by order dated 22.8.2000 (Annexure-IV) and subsequently approved by the government by order dated 25.6.02 (Annexure-V) and/or pass any order or orders as the Hon'ble Tribunal and deem fit and proper.

And for this act of kindness the applicant as in duty shall ever pray.

9. INTERM ORDER, IF ANY PRAYED FOR :

It is, further, prayed that pending disposal of the application Your Lordships would be pleased to issue a direction to the authorities that the pensionary benefits that shall be given to the applicant on his retirement i.e. 31.10.2007 shall be subject to the outcome of the case and /or pass any other order/ orders as Your Lordships may deem fit and proper.

And for this act of kindness the applicant as in duty shall ever pray.

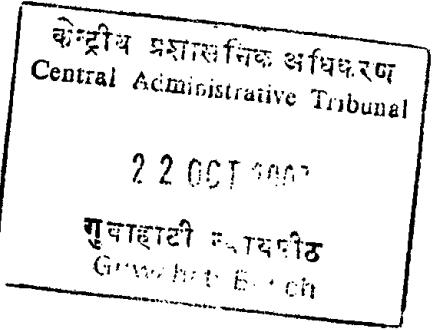
10. PARTICULARS OF THE POSTAL ORDER IN RESPECT OF THE APPLICATION FEE.

IPO NO 32G 042639 dated issued by Guwahati Post Office.

11. LIST OF ENCLOSURE:

As stated in the Index.

RB



VERIFICATION

I, Sri Natabar Nanda, Son of Late Pranakrishna Nanda, aged - 59 years, Resident of Quarter No.IV/D/09, Aviation Research Centre, DoomDooma, P.O. Sukreting, District: Tinsukia, Assam, do, hereby verify that the statements made in paragraphs nos 1, 2, 8, 11, 13, 14 and 16 are true to my personal knowledge and statements made in paragraphs nos 3, 4, 5, 6, 7, 9, 10, 12, and 15 are believed to be true on legal advice and that I have not suppressed any material facts.

Place:- Guwahati

Date:- 22-10-07

Natabar Nanda.

SIGNATURE OF THE APPLICANT

ANNEXURE - I

(TYPED COPY)

RESTRICTED

No. EA/ARC-EST. 9/75
CABINET SECRETARIAT
(DEPARTMENT OF CABINET AFFAIRS)

NEW DELHI, DATED THE 15 MAR 1977.

NOTIFICATION

Subject : Recruitment Rules for the posts in the AIR Wing of ARC.

In exercise of the powers conferred by the proviso to article 300 of the Constitution and of all other powers enabling him in this behalf, the president hereby makes the following rule regulating the method of recruitment to the posts of AIR WING OF ARC.

1. SHORT TITLE AND COMMENCEMENT :

- (1) These rules may be called the ARC (AIR WING STAFF) Recruitment Rules, 1977.
- (2) These rules shall come into force at once.

2. DEFINITIONS :

In these rules, unless the context otherwise requires :

- (a) 'appointed day' means the date on which these rules come into force ;
- (b) 'controlling authority' means the Secretary, Department of Cabinet Affairs, Cabinet Secretariat.

3. NUMBER OF POSTS, CLASSIFICATION AND SCALE OF PAY :

The number of posts, classification and the scale of pay attached thereto shall be as mentioned in columns 3 to 5 of the schedule hereto annexed.

4. INITIAL APPOINTMENT :

- (1) All persons holding, as on the appointed ^{day} of the posts in the grades specified in column 2 of the schedule hereto annexed, in a permanent or temporary or officiating capacity or on deputation basis, shall be eligible for appointment to the said post the commencement of these rules.

Contd.....

*Attested by:
Bhupen Chaudhury
ACW*

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(2) The Controlling Authority shall constitute a Screening Committee in respect of each grade for adjudging the suitability of persons, who being eligible to be appointed to the grades under sub-rule (1), were serving in the said grades immediately before the commencement of these rules, for permanent appointment therein and every committee so constituted shall, subject to such general or special instructions as the controlling authority may give and after following such procedure as the committee may deem fit, prepare lists of persons considered suitable for appointment in each grade with the names of such persons arranged in the order of seniority based on the date of continuous appointment in the grade in which they are to be absorbed or in an equivalent grade.

Provided that if the controlling authority deems it necessary so to do, the same committee may be constituted to function in relation to two or more grades or different committees may be constituted to function in relation to the same grade for different sub-offices.

(3) An intimation shall be sent to every person considered suitable for appointment to a post in any grade giving him an opportunity to express, within thirty days of the receipt of intimation by him, his willingness to be so appointed on a permanent basis and the option once exercised shall be final.

(4) Persons who are willing to be appointed on a permanent basis shall be so appointed in the order of seniority against permanent posts available as on the appointed day.

(5) Notwithstanding anything contained in sub-rules (2) to 4, every person holding, as on the appointed day, a permanent post in any grade in the ARC shall, without prejudice to his being considered for appointment to a permanent post in the higher grade or to his continuance in such higher grade in officiating or temporary capacity, be absorbed in his respective substantive grade against the permanent post available as on the appointed day.

(6) The Screening Committee may recommend for permanent appointment in a lower grade any person who is serving in a higher grade irrespective of whether he is a deputationist or a direct recruit and every appointment made on such recommendation shall be without prejudice to his continuing to serve in the higher grade.

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(7) Persons holding posts, as on the appointed day, in any grade, who are not found suitable for appointment to the said grade under sub-rules (2) to 6, may be continued, so long as may be necessary, in posts in the same grade in a temporary or officiating capacity, as the case may be.

5. SENIORITY OF THOSE APPOINTED AT THE COMMENCEMENT OF THE RULES :

Seniority of persons appointed on a permanent basis in each grade at the time of commencement of these rules shall be in the order in which they are shown in the lists prepared in accordance with provisions of rule- 4.

6. MAINTENANCE :

(1) Subject to the appointment made in each grade at the commencement of these rules, every post remaining unfilled and every vacancy that may arise thereafter shall be filled in accordance with the provisions contained in the schedule annexed to these rules by appointment on promotion deputation/transfer, re-employment after retirement or direct recruitment as the case may be.

(2) For a period not exceeding three years from the date of commencement of these rules, notwithstanding the limits specified in column 11 of the schedule, the controlling authority may, if it considers it necessary so to do, exceed the percentage specified for filling up of vacancies by deputation and decrease the percentage prescribed for filling up of vacancies by promotion, direct recruitment or re-employment after retirement, as it may deem fit.

7. SENIORITY AT THE MAINTENANCE STAGE :

Seniority in each grade shall be reckoned with reference to the date of continuous appointment to the post in that grade by direct recruitment or by promotion.

8. RESIDUARY MATTERS :

In regard to matters not specifically covered by these rules, the persons appointed to various grades shall be governed by general rules, regulations and orders applicable to Central Government employees in corresponding grades.

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9. POWER TO RELAX :

Where the Government is of the opinion that it is necessary or expedient so to do, it may by order for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.

10. INTERPRETATION :

When any doubt arises as to the interpretation of these rules, it shall be referred to the Government of India, in the Cabinet Secretariat (Department of Cabinet Affairs), whose decision thereon shall be final.

Sd/- Illegible
(F.T.R. COLASO)
Deputy Secretary to the
Government of India.

A copy is forwarded to :-

1. Shri T.M. Subramaniam, Director, ARC, New Delhi.
2. Shri R. Saran, Director of Accounts, Cabinet Secretariat, New Delhi.
3. Shri R.K.G. Rau, Internal Financial Adviser, Cabinet Secretariat, New Delhi.
4. Shri P.B. Kulkarni, Assistant Director (Coordination), D.G. (S), New Delhi.

Sd/- Illegible
(F.T.R. COLASO)
Deputy Secretary to the
Government of India.

RELEVANT EXTRACT

1.	2	3	4	5	6	7	8	9	10	11	12	13
7.	Communication Assistant.	2	General Central Service, Class-III	Rs. 550-20-650-25-750 Non-Gazetted Non-Ministerial	Non-Selection	18-25 years	Engineering Degree from a recognised Institute/ University or Diploma in Radio/Tele-communication Engineering from a recognised institute with 3 years experience in Mercantile Marine or Aeronautical communication service.	No. Probation Trial Two years	Probation 3 years.	Promotion/ Deputation/ Direct Recuritment/ Re-employ-ment.	1. Deputation of persons holding post of Communication Assistant or equivalant Radio Operator with 3 years service or Radio Operators with 8 years service in the grade. 2. Re-employment of released/retired persons possessing qualifications and experience as prescribed for direct recruits. 3. Promotion of Radio Operator with 8 years service in the grade.	

RELEVANT EXTRACT

1.	2	3	4	5	6	7	8	9	10	11	12	13
8.	Radio Operator	6	General Central Service, Class-III Non-Gazetted Non-Ministerial	Rs. 380-12- 500-EB-15- 560	Not applicable	18-25 years	Matriculation or equivalent with a speed of 22 words per minitue in transmission and receiving Morse Code in plain language and 18 groups (letters and cypher figure) per minite and experience in communication procedure and handling of Traffic as applicable to Mercantile Marine or Aeronautical communiction service.	Not applicable 3 years.	Probation	1. Deputation 2. Direct 3. Re- employ- ment.	1. Deputation of Radio Operators or equivalent officers in Ministries/Other Govt. Departments including Air Force.	Not appliabl

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

Government of India

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

North Block, New Delhi 110001
August 9, 1999

OFFICE MEMORANDUM

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

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

2. GROUP 'A' CENTRAL SERVICES

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

3. GROUP 'B', 'C' AND 'D' SERVICES/POSIS AND ISOLATED POSIS IN GROUP '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 genuine stagnation either in a cadre or in an isolated post. Keeping in view all relevant factors, it has, therefore, been decided to grant 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 25 years (subject to condition no.4 in Annexure-I) of regular service respectively. Isolated posts in Group 'A', 'B', 'C' and 'D' categories which have no promotional avenues shall also qualify for similar benefits on the pattern indicated above. Certain categories of employees such as casual employees (including those with temporary status), ad hoc and contract employees shall not qualify for benefits under the aforesaid Scheme. Grant of financial upgradations under the ACP Scheme shall, however, be subject to the conditions mentioned in Annexure-I.

Attested by
B. Sundaray
Adv.

Q.S

RE-A

3.2.2. **Regular Service** for the purpose of the ACP Scheme shall be interpreted to mean eligible 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 higher posts, the composition of the Screening Committee (with modification as noted above, if required) shall be the same as that of the DPC for promotion to analogous grade in that Ministry/Department.

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

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

Ministries/Departments are advised to explore the possibility of effecting savings so as to mitigate 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 Department 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 Appraised 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/classification 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.

To, ~~Establishment-D~~ (K.K. JHA),
Director(Establishment)

1. All Ministries/Departments of the Government of India
2. President's Secretariat/Vice President's Secretariat/Prime Minister's Office/
3. Supreme Court/Rajya Sabha Secretariat/Lok Sabha Secretariat/Cabinet Secretariat/
4. UPSC/CVC/C&AO/Central Administrative Tribunal(Principal Bench), New Delhi
5. All attached/subordinate offices of the Ministry of Personnel, Public
6. Grievances and Pensions
7. Secretary, National Commission for Minorities
8. Secretary, National Commission for Scheduled Castes/Scheduled Tribes
9. Secretary, Staff Side, National Council (JCM), 13-C, Ferozeshah Road, New Delhi
10. All Staff Side Members of the National Council (JCM)
11. Establishment (D) Section - 1000 copies

ANNEXURE-I

CONDITIONS FOR GRANT OF BENEFITS
UNDER THE ACP SCHEME

1. The ACP Scheme envisages merely placement in the higher pay-scale/grant of financial benefits (through financial upgradation) only to the Government servant concerned on personal basis and shall, therefore, neither amount to functional/regular promotion nor would require creation of new posts for the purpose;
2. The highest pay-scale upto which the financial upgradation under the Scheme shall be available will be Rs.14,300-18,300. Beyond this level, there shall be no financial upgradation and higher posts shall be filled strictly on vacancy based promotions;
3. The financial benefits under the ACP Scheme shall be granted from the date of completion of the eligibility period prescribed under the ACP Scheme or from the date of issue of these instructions whichever is later;
4. The first financial upgradation under the ACP Scheme shall be allowed after 12 years of regular service and the second upgradation after 12 years of regular service from the date of the first financial upgradation subject to fulfillment of prescribed conditions. In other words, if the first upgradation gets postponed on account of the employee not found fit or due to departmental proceedings, etc this would have consequential effect on the second upgradation which would also get deferred accordingly;
- 5.1 ✓ Two financial upgradations under the ACP Scheme in the entire Government service career of an employee shall be counted against regular promotions (including *in-situ* promotion and fast-track promotion availed through limited departmental competitive examination) availed from the grade in which an employee was appointed as a direct recruit. This shall mean that two financial upgradations under the ACP Scheme shall be available only if no regular promotions during the prescribed periods (12 and 24 years) have been availed by an employee. If an employee has already got one regular promotion, he shall qualify for the second financial upgradation only on completion of 24 years of regular service under the ACP Scheme. In case two prior promotions on regular basis have already been received by an employee, no benefit under the ACP Scheme shall accrue to him;
- 5.2 ✓ Residency periods (regular service) for grant of benefits under the ACP Scheme shall be counted from the grade in which an employee was appointed as a direct recruit;

6. Fulfillment of normal promotion norms (bench-mark, departmental examination, seniority-cum-fitness in the case of Group 'D' employees, etc.) for grant of financial upgradations, performance of such duties as are entrusted to the employees together with regularization, declassification, financial upgradations as personal to the incumbent for the stated purposes and restriction of the ACP Scheme for financial and certain other benefits (Housing Building Advance, allotment of Government accommodation, advances, etc) only without conferring any privileges related to higher status (e.g. induction to ceremonial functions, deputation to higher posts, etc) shall be exempted for grant of benefits under the ACP Scheme;

7. Financial upgradation under the Scheme shall be given to the next higher grade in accordance with the existing hierarchy in a cadre/category of posts without creating new posts for the purpose. However, in case of isolated posts, in the absence of defined hierarchical grades, financial upgradation shall be given by the Ministries/Departments concerned in the immediately next higher (sliding/regular) pay-scales as indicated in Annexure-II, which is in keeping with Part-A of the Pay Schedule annexed to the Notification dated September 30, 1997, of the Ministry of Finance (Department of Expenditure). For Isolated Incumbents of Isolated Posts in the pay-scale S-4, as indicated in Annexure-II, will be applicable 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 move posts in the relevant category 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) u(1) subject to a minimum financial benefit of Rs.100/- as per the Department of Personnel and Training Office Memorandum No.176/97-Pay.I dated July 5, 1997. 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 debarred to fulfil his unqualified acceptance for regular promotion on occurrence of vacancy subsequently. In case he refuses to accept the higher post in 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 thereafter if he refuses regular promotion and is consequently debarred for one year and subsequently he is promoted to the higher grade on regular basis after completion of 15 years ($12+2+1$) of regular service, he shall be eligible for consideration for the second upgradation under the ACP Scheme only after rendering ten more years in addition to two years of service already rendered by him after the first financial upgradation ($2+10$) in that higher grade i.e. after 25 years ($12+2+1+10$) of regular service because the debarment period of one year cannot be taken into account towards the required 12 years of regular service in that higher grade;

11.3 In the matter of disciplinary/penalty proceedings, grant of benefits under the ACP Scheme shall be subject to rules governing normal promotion. Such cases shall, therefore, be regulated under the provisions of relevant CCS(CCA) Rules, 1965 and Instructions thereunder;

12. The proposed ACP Scheme contemplates merely ~~reservation~~ on ~~functional~~ basis in the higher pay-scale/rank of functional benefits only and shall not amount to regular/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. 6 above, in cases where the employees have already completed 24 years of regular service, with or without a promotion, the second financial upgradation under the scheme shall be granted directly. Further, in order to rationalise unequal level of stagnation benefit of surplus regular service (not taken into account for the first upgradation under the scheme) shall be given at the subsequent stage (second) of financial upgradation under the ACP Scheme as a one time measure. In other words, in respect of employees who have already rendered more than 12 years but less than 24 years of regular service, while the first financial upgradation shall be granted immediately, the surplus regular service beyond the first 12 years shall also be counted towards the next 12 years of regular service required for grant of the second financial upgradation and, consequently, they shall be considered for the second financial upgradation also as and when they complete 24 years of regular service without waiting for completion of 12 more years of regular service after the first financial upgradation already granted under the Scheme.

Director(Establishment)

ANNEXURE-II

STANDARD/COMMON PAY-SCALES

As per Part-A of the First Schedule Annexed to the Order of Ministry
(Department of Expenditure) Gazette Notification dated September 30, 1927

[REFERENCE PARA 7 OF ANNEXURE I OF THIS OFFICE MEMORANDUM]

S.No.	Revised pay-scales (Rs)
1.	5-1 2500-55-2660-60-3200
2.	5-2 2010-60-3150-75-3540
3.	5-3 2650-65-3300-70-4000 ✓
4.	5-4 2760-70-3800-75-4100 ✓
5.	5-5 3050-75-3950-80-4590 ✓
6.	5-6 3200-85-4900
7.	5-7 4000-100-6000
8.	5-8 4500-125-7000
9.	5-9 5000-150-8000
10.	5-10 5500-175-9000
11.	5-12 6500-200-10500
12.	5-13 7350-225-11500
13.	5-14 7500-250-12000
14.	5-15 8000-275-13500
15.	5-19 10000-325-15000
16.	5-21 12000-375-16500
17.	5-23 12000-375-18000
18.	5-24 14300-400-18500

ANNEXURE III

OFFICE ORDER NO.

199

In pursuance of DP&T OM No. 35034/97-Estt(D) dated 9.8.99 the Screening Committee constituted for the purpose of granting financial up-gradation under ACP Scheme as recommended by 5th Pay Commission and accepted by the Government with certain modification, has recommended the financial upgradation in respect of the following persons belonging to Group 'C' category in the ARC, Allowing ATC/Met cadres w.e.f. 09.08.99 or the date as shown against each name as per details given below :

S.No.	Name & present design. & place of posting	Present scale of pay	Recommended Pay scale as per ACP from scheme after completion of qualifying period	date from which ACP Scheme is due
1.	H.S. Mishra, Tech. Asstt., DDM	5000-8000	8000-13500/-9.8.99	
2.	RK Bose Roy Choudhury, Aero. Asst. CBT	5000-8000	6500-10500/-9.8.99	
3.	KA Mathew, Radio Optr., DDM	4000-6000 5000-8000	8000-13500/-9.8.99	
4.	EK Mohanty, Tech. Asstt., CBT	5000-8000	8000-13500/-9.8.99	
5.	CM Behera, Aero. Asst., DDM	5000-8000	6500-10500/-9.8.99	
6.	Natabar Nanda, Radio Optr., CBT	4000-6000 5000-8000	8000-13500/-9.8.99	
7.	K.K. Sadanandan, Commr. Asst., CBT	5000-8000	8000-13500/-9.8.99	
8.	Dipak Nandy, Radio Mis-try, DDM	3050-4590 3200-4900	-	9.8.99
9.	Golak Ch. Swain, Radio Mistry, CBT	3050-4590 3200-4900	4000-6000/-9.8.99	

All the above persons should exercise their option for fixation of pay w.e.f. 9.8.99 or from the date of next increment in the existing scale under the provision of FR 22-I(a)(i) within one month from the date of issue of the order to the Head of Office.

contd. on P. 2/2

Attested by
Sikham Choudhury
Adv.

-2-

The upgradation is sanctioned subject to the following conditions :-

(i) The financial up-gradation as above shall be personal to the individual concerned and shall not amount to functional/regular promotion.

(ii) These upgradation shall be admissible w.e.f. 9.8.99 and thereafter depending upon the date of completion of 12 years or 24 years as the case may be subject to other eligibility conditions.

(iii) For grant of the benefits the residency periods (regular service) have been counted from the grade in which they were appointed as direct recruits.

(iv) The financial upgradation being personal to them they will continue to retain the old designation and perform such duties as entrusted to them and is subject to restrictions as incorporated in para-6 of Annexure-I to DP&T order dated 09.08.99.

(v) For ishlaeki posts the scale of pay recommended as in the above statement is on the basis of pay scales prescribed in Annexure-II of DP&T OM dated 9.8.99.

(vi) The ACP scheme being personal to them contemplate merely grant of financial benefits only and shall not amount to actual/functional promotion.

(S.K. MALHOTRA)

DY. DIRECTOR(A) AW

No. ARC/AW. 153/99 (P1) - 9548
Aviation Research Centre
Directorate General of Security
(Cabinet Secretariat)
East Block-V, R.K. Puram
New Delhi - 110066

Dated: 29 Oct. '99

Copy to:

1. Dir. of Accounts, R.K. Puram, New Delhi.
2. Dy. Director(A) ARC, Charbatia/ Domm Dooma for information and necessary action.
3. Person concerned (Shri...)
4. Guard File.

(TYPED COPY)

ANNEXURE - IV

No. ARC/AW.153/99(Pt-II) 4595
Aviation Research Centre
Dte. General of Security
(Cabinet Secretariat)
East Block - V, RK Puram
New Delhi - 110066
22 Aug 2000

O R D E R

In supersession of this Dte. Order No. 120/99 circulated under endst. of even number dated 29.10.99 and pursuant to the implementation of the Assured Career Progression Scheme for the Central Govt. employee as notified vide DP&T OM No. 35034/1/97-Estt. (D) dated 9.8.99, the Screening Committee for Group 'C' employees of ATC/Met Cadre in its meeting held on 11.10.99 found the following ATC & MET personnel eligible for financial upgradation on completion of 12/24 years service in the pay-scales as mentioned against each.

Sl No.	Name & Designation	Recommended Pay-scale	Date fm. which eligible
1.	S/Sh. H.S. Mishra Tech. Asstt.	Rs. 8,000-13,500/-	9.8.99
2.	R. K. Bose Roy Choudhury Aerodrome Asst.	Rs. 6,500-10,500/-	9.8.99
3.	K. A. Mathew Radio Optr.	Rs. 8,000-13,500/-	9.8.99
4.	B. K. Mohanty, Tech. Asst.	Rs. 8,000-13,500/-	9.8.99
5.	C.M. Behera Aerodrome Asstt.	Rs. 6,500-10,500/-	9.8.99
6.	Natabar Nanda Radio Optr.	Rs. 8,000-13,500/-	9.8.99
7.	K.K. Sadanandan Comm. Asstt.	Rs. 8,000-13,500/-	9.8.99
8.	Dipak Nandy, Radio Mistry	Rs. 3,200-4,900/-	9.8.99
9.	Golak Ch. Swain Radio Mistry	Rs. 4,000-6,000/-	9.8.99

Contd...

Attested by:
R. K. Bose Roy Choudhury
Advocate
Sikhaman

-2-

Certified that before recommending the above names Screening Committee has kept in the mind the cheek points mentioned in OM dated 9.8.1999 in para 3 (3.1) (3.2)& conditions laid down in para 1, 2, 4, 5.1, 5.2, 10, 11, 13, 14 of Annexure- I of DP&T order dated 9.8.1999.

The financial benefit allowed under this scheme shall be final and the pay shall not be ré-fixed on regular promotion to the higher grade.

On financial upgradation under the scheme, the pay of the beneficiary shall be fixed under the provision of FR-22(1)a(i). The seniors will not claim any stepping up/antedating of their pay with their juniors who have been allowed financial upgradation under this scheme.

Financial upgradation given above is purely personal to the employee and shall have no relevance to his seniority position.

There shall be no change in their existing designation/status.

The Service Books of the above mentioned employees are also forwarded to the office of the Dte. of Accounts, Cab. Sectt. RK Puram, N. Delhi. They are deemed to have given their unqualified acceptance for regular promotion on concurrence of vacancies subsequently.

In compliance with the DP&T OM No. 35034/1/97-Estt (D) dated 9.8.99, Para 13, Annexure- I, the department has opted for the ACP Scheme for Group 'C' category of employee of ATC/Met Cadre vide order No. 120/99 dated 29.10.99

(S.K.MALHOTRA)
DY. DIRECTOR (A) AW

Copy to :

1. Dte. of Accounts, Cab. Sectt. RK Puram, N. Delhi.
2. Dy. Director (A), ARC, Charbatia.
3. Dy. Director (A), ARC, Doom Dooma.
4. Individual concerned (T) Unit Head.
5. Office Order Book.

ANNEXURE - ✓

(TYPED COPY)

**Cabinet Secretariat
Bikaner House (Annexe)**

Subject : Financial upgradation under ACP Scheme.

Reference : ARC Dte. HO No.ARC/AW-153/99-4033 dated 23.05.2002 on the above subject

Approval of the Government is hereby conveyed to the grant of 2nd financial upgradation under ACP Scheme to the pay scale of Rs. 8000-13500/- to the following officers of ARC as mentioned below on completion of 24 years of service in terms of DoP & T OM No. 35034/1/97-Estt (D) dated 09.08.99 :-

Sl No.	Name	Date of entry into Govt. Service	Date of grant of 2 nd financial upgradation
1.	H.S. Mishra Technical Assistant	27.04.73	09.08.99
2.	H. M. Swain Communication Asstt.	13.05.70	01.04.2001
3.	K. A. Mathew Radio Operator	10.07.74	09.08.99
4.	B. K. Mohanty Technical Assistant	12.04.71	09.08.99
5.	Natabar Nanda Radio Operator	12.04.71	09.08.99
6.	K.K. Sadanandan Communication Asstt	29.04.70	09.08.99

Sd/- Illegible

(MUKUL CHATTERJEE)
DEPUTY SECRETARY (SR)

ARC : (Shri Ashok Kumar, Deputy Director (A) AW)
Cabinet Seett. 28/67/2001- DO-II-540 dated 25/6/02

Attested by
Shri Ashok Kumar
Cabinet Secretary
Government of India

ADJUTANT
प्रदेश सेवक

COMMANDER
कमान्डर

Asstt. Director (Admn.)
Directorate General of Security
ARC, Charbatia, Cuttack.

The Asstt. Director (A)
ARC, Charbatia.

Subject:- Departmental Qualifying Examination 2003/
2004 ATC Staff.

Reference is made to your No. XXIV/31/Tig/85(II)-
15807 dated 30 Jul 2003 forwarding the result sheet
of Departmental Qualifying Examination in respect of
ATC Staff ARC.

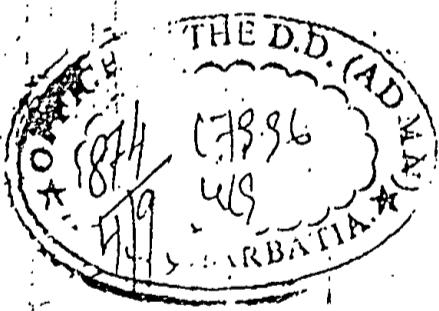
2. The Result Sheet for the Examination held on
10 Jul 2003 in respect of following ATC Staff has been
approved by the DD(A)AF, ARC Hqrs.

S/Shri:

1. B.K. Mohanty, Tech. Assistant
2. H.S. Misra, -do-
3. S.K. Patra, -do-
4. H.M. Swain, Communication Asstt.

3. You are requested to provide us the Rule under
which the following officials were allowed to appear
the Departmental Examination for reference and acceptance
of result by the ARC Hqrs.

1. S/Shri N. Nanda, Radio Operator.
2. V.H. Mathew, -do-



(R.H. PATTANAIK)
ASS'T. DIRECTOR (B)

IMMEDIATE

No. XXIV/31/Tig/85(II)- 15807
ARC, Charbatia
Cuttack District (Orissa)
Pin: 754028

Dated the 17.8.03

Copy forwarded to Commander, ARC, Airwing, Charbatia
for information and necessary action w.r.t. his letter No.
ARC/102/10/Gen/PG(20)- 6105 dtd 22 July 2003. Please submit
the compliance report with reference to Para-3 of above
referred letter of ARC, Hqrs. at the earliest for onward
action. *Attn: Director (B) AF, Hqrs.*

Attested by
Birendra
Adm

ANNEXURE-VII

OFFICE ORDER NO. A/179/2004

Consequent upon his transfer on promotion to the post of Communication Asstt. vide Msg. No: ARC/AW.19/2004 dated 16.9.04, Shri Natabar Nanda, Radio Operator is relieved of his duties from ARC, Airwing, Charbatia in the afternoon of 30.11.2004. He is directed to report to Asstt. Director (A), ARC, Doom Dooma after availing usual joining time as admissible under Rules.

for ASSISTANT DIRECTOR(A)

No. VII/18(5)/2002-Vol.5/
Aviation Research Centre,
Government of India
P.O. Charbatia (754028)
Dist. Cuttack (Orissa).

Dated the: 30.11.04

1. Director of Accounts, Cab. Sectt., R.K.Puram, New Delhi.
2. The Dy. Director (B), ARC Hqrs., New Delhi.
3. The Dy. Director (A), A/W, ARC Hqrs., New Delhi.
4. The Asstt. Director (B), ARC Hqrs., New Delhi.
5. The Commander, A/W ARC, Charbatia.
6. The C.E., Airwing, ARC, Charbatia.
7. The Commander, A/W, ARC, Doom Dooma.
8. The ATC Admin. Officer, ARC, Charbatia.
9. The Accounts Officer ARC, Charbatia (4 copies).
10. Person concerned.
11. SFO(A)/SFO(S)/O I/C Library/ O I/C Tel. Exchange
12. S.O.(L), ARC, Charbatia.
13. Divn. IV, VI, VII(O.O. file), VIII, NGO(ADR), QMSIS, Computer Cell, Disc. Cell, ARC, Charbatia.
14. The Asstt. Director (A), ARC, Doom Dooma.

Attested by:
A. D. Choudhury
Asstt. Director

Wataker Honda
Communication Assistant
ARC AWG (Air wing)
IICOM, DDCMA

Dated the 20 Mar 2006

To
The Deputy Director(Adm.)
ARC HQs,
NEW DELHI-65

(Through CSO, ARC HQs New Delhi)

Sub:- Find financial upgradation under COP Scheme

Sir,

I have the honour to submit the following for favour of your kind consideration and necessary action.

That Sir, I was granted IIInd ACP in the Pay scale of Rs.8,000/- 275/- 13,500/- with effect from 09-8-1999 vide No. ARC/AW/153/99(Pt.II) 4899 dated 22 Aug 2000 and further approval of Colb. Sectt. was conveyed to me vide No.28/57/2001-II-540 dated 25-5-2002. Accordingly my Basic Pay was duly fixed by DD(A) ARC Chorbatia and I was drawing monthly salary as per the revised Basic Pay upto 2004. My Annual increment is not granted from Aug 2005 due to non-admittance of IIInd ACP by DACS.

In this regard I may please be permitted to state that as per DGP&T OM No.35034/1/97-Btt(D)(Vol. IV) dated 10-2-2000 classification vide Sl.No.16 "no upgradation shall be allowed if an employee fails to qualify departmental/skill test prescribed for the purpose of regular promotion".

The Departmental qualifying Examination for the post of ATO(C) was not held from 1988 to 2003. I have been asked to appear the first ever conducted departmental examination after 1988 in 2003 and successfully qualified. Since I have not failed to qualify the Departmental Qualifying Examination as on 09-08-1999 I may not be debarred from benefit of IIInd ACP.

Therefore, I request you sir, to kindly consider my case favourably at the earliest as I am retiring from service after 18 months and non-admittance of IIInd ACP from 09-8-99 will adversely affect my pension calculation.

Thanking you sir,

Yours faithfully,

Wataker Honda
(Wataker Honda)
the then Radio Operator

2006
20/3
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2006

Alleged by
Bhawalipuri
Adv.

8776617

Natabar Nanda
 Commn. Asst
 ATC, AIR WING
 ARC Doon Dooma
 20 May 2006

To,
 Deputy Director (Admin)
 Air Wing, ARC, HQ
 New Delhi

(Through Proper Channel)

Sub: My Financial Up gradation Under ACP Scheme

Ref: Personal application dated 20 Mar 06

Sir,

1. I have the honour to state that I have been drawing the pay scale of Rs. 8000-275-13500 since May 2000 as per DD (A) A/W HQ No. ARC/AW/153/99 (part-II) 9548, dt'd 29/10/1999. The order is further reviewed and rectified by two subsequent orders confirming the same pay scale and effective date.
2. In terms of DoPT OM. No. 35034/1/97 Estt (D) Vol IV dated 10/02/2000 clarified vide SI. No. 16. "No up gradation shall be allowed if an employee fails to qualify departmental/skill test prescribed for the purpose of regular promotion."
3. Since I have not failed to qualify departmental/skill test as on 09/08/99, the effective date of ACP may please be treated from 09/08/99, as it is same for other employees of ATC whose ACP is also sanctioned vide the same order under reference.

Prayer

4. Therefore I earnestly request you sir to kindly reconcile/recommend my case and dispatch service book to DACS by considering sympathetically the following.

(i) The DQE for the post of ATO of ATC estt. was not conducted after 1988 and I have qualified at the first ever conducted DQE in 2003.

(ii) I have passed the training/exam in 1995 for ILS/DME course (duly endorsed in service book and copy of certificate issued by M/S GCEL also enclosed with service book).

(iii) Since no DQE was conducted after 1998, ILS/DME course may please be treated as alternative to DQE and DACS may please be intimated regarding passing of ILS/DME course as equivalent/ alternative to DQE.

Therefore, I request you sir to kindly consider my case favourably at the earliest/ since my retirement is in Oct 07.

Yours faithfully

Natabar Nanda

Natabar Nanda

120150 Radio Operator

Enclosure as stated:

Attested by
 Bhawalnayak
 Adv.

(TYPED COPY)

ARC Airwing Doom Dooma
..... No. 959 dL 8/6/06

Natbar Nanda
Commn. Asst
ATC, AIR WING
ARC Doom Dooma
07 June 2006

To
The Chief Signal Officer
ARC, HQ
New Delhi

(Through Proper Channel)
Sub : Hind Financial Up gradation Under ACT Scheme
Ref : Personal application dated 20 Mar 06

Sir,

1. I have the honour to state that I have been drawing the pay of Rs. 8000-275-13500 since May 2000 as per DD (A) A/W HQ No. ARC/AW/153/99 (part-II) 9548 dtd 29/10/1999. The order is further reviewed and rectified by two subsequent orders confirming the same pay scale and effective date.
2. In terms of Do PT OM. No. 35034/1/97 Estt (D) Vol IV dated 10/02/2000 clarified vide Sl. No. 16 "No up gradation shall be allowed if an employee fails to qualify departmental/skill test prescribed for the purpose of regular promotion".
3. Since I have not failed to qualify departmental/skill test as on 09/08/99, the effective date of ACP may please be treated from 09/08/99 as it is same for other employee of ATC whose ACT is also sanctioned vide the same order under reference.

Prayer

4. Therefore I earnestly request you sir to kindly reconcile/recommend my case and dispatch service book to DACS by considering sympathetically the following.

- (i) The DQE for the post of ATO of ATC estt. was not conducted after 1998 and I have qualified at the first ever conducted DQE in 2003.
- (ii) I have passed the training/exam in 1995 for ILS/DME course (duly endorsed in service book and copy of certificate issued by M/S GCEL also enclosed with service book).
- (iii) Since no DQE was conducted after 1998, ILS/DME course may please be treated as alternative to DQE and DACS may please be intimated regarding passing of ILS/DME course as equivalent/alternative to DQE.

Therefore I request you sir to kindly consider my case favourably at the earliest since my retirement is in Oct 07.

Yours faithfully
Sd/- Natabar Nanda
Natbar Nanda

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(3)

Notabari Wanda
Conn. Asst, ADC ANC M/W
Deen Deen
Dated the 24th Aug 2006

To
The Deputy Director (Admin.) A/W
ANC Mrs
NEW DELHI-66

Sub:- NON-ADMITTANCE OF ACP (SCALE BY DACS

(Through proper Channel.)

Sir,

I have the honour to invite your kind attention to my personal application dated 26th May 2006.

2. It is learnt that DACS is of the opinion that date of passing the DCE should be effective date of ACP eligibility whereas in terms of DeP&T CM No.35034/1/97 Estt (D) VOL.IV, dated 10-2-2000 Para 16 that " NO upgradation shall be followed if an employee fails to qualify departmental/skill test prescribed for the purpose of regular promotion."

3. I have got qualified in the first ever conducted DCE in 2003 after the screening Committee vide "No. ANC/AN.153/99 (Pt.II)4899; dated 22/Aug 2000 found me eligible for ACP.

4. Sir, my retirement is due in Oct 2007 and have to submit my pension papers in Feb 2007. The retirement /terminal benefits would be on the basis of the yet to be admitted pay scale granted under ACP vide Cab. Sectt. order No.28/67/2001-BG-II-540 dated 25-5-2002.

5. Therefore, I request you Sir, to kindly intimate the DACS that the I have been found eligible by the Screening Committee and Cab. Sectt. has approved the ACP in terms of DeP&T CM No.35034/1/97-Estt (D) dated 9-8-1999.

Thanking you Sir,

Yours faithfully,
Nafasari Wanda
(NATABARI WANDA)

16. ANC/DM/CEO/ADMN/GEN-100

08-01-2006

Attested by
Chaudhary
Adw

Nataben Honda
Osmi. Amt.,
ATC A/W Deen Deem
Dated the 19th Oct 2006

To
The Deputy Director(Admn.) A/W
ARC A/W Eqr.
NEW DELHI-66

Sub:-ADMISSION OF ACP SCALE

Respected Sir,

Reference is made to my application even dated 24th Aug 06.

2. I have already been communicated with Memo No. Accts/ARC/DM4/PP/IM/06/14037 dated 18-10-2006 to submit pension papers.

3. It is hereadded that exact cases of 05 (out of 9 members of one Office order No.150/99) have already been admitted out of which 03 personnel have gone on retirement with actual retirement benefits duly pay fixed from 9-8-1999 when their DQE conducted later on.

4. It is once again requested to kindly intimate DACB that I was found eligible by the screening committee vide their report dated 11-10-1999 on the basis of which Hon'ble CAT, Cuttack bench was apprised vide Cab. Sectt order No. I/109/98-EA.I(Ft.)-4139 dated 29-10-1999 and Cab. Sectt has already approved the ACP w.e.f. 9-8-1999 vide their order even No. 28/57/2001-DO-II-540 dated 25-6-2002.

5. A line of communication is prayed for,

W/L/CS-regards/s,

Yours faithfully,

Mr. Arup Kumar Nanda
(NATAKH NANDA)

Attested by
Bhandilray
Adm

Nitabar Nanda
Communication Assistant
ATC, A/W
ARC, Doom Bazaar (Assam)

Dated the 27th Nov 2000.

To
The Hon'ble Director (SR)
Office of the Cab. Sectt.,
Bikaner House Annex
NEW DELHI-66

(Through proper channel)

Sub:- NON IMPLEMENTATION OF CAT CUTTACK JUDGEMENT
DATED 04 JAN 1999 IN OA NO. 104/92 OF N. NADAV, UOI &
OTHER & DOPT OM NO. 35034/1/97-ESTHD DATED 09 AUG 1999

Sir.

With due respect and humble submission I beg to state the following for favour of your kind consideration.

1. That Sir, i had approached CAT Cuttack, Bench for redressal of my grievance regarding my scale parity with AAI and career advancement in accordance with MoR circular dated 11.12.94. As per directives of the Hon'ble CAT Cuttack Bench, the Committee had no scope for my scale parity, but stated "that action has been initiated to give two bar acid upgradation in terms of DoP&T order mentioned above" as intimated vide your Office order No. 1140/98/RA-1(P) 4140 dated 29 Oct 99.
2. My date of joining in the entr. level grade i.e., Radio Operator is 12.1.1971 and as on 09 Aug 1999 I had already completed 28 years of regular service.
3. In pursuance of DoP&T order mentioned above, the cadre controlling authority i.e., DD (A) A/W has recommended HInd ACP vide No.ARC/AW.153/99(Pl.)-9548 dated 29 Oct 99 superseded by No.ARC/AW.153/99(Pl.)-4899 dated 22 Aug 2000 wherein it is also certified that "the screening committee has kept in mind the check points mentioned in OM dated 09 Aug 99 in para 3(3.1), (3.2) and conditions laid down in para 1, 2, 4, (5.1), (5.2), 6, 10, 11, 13, & 14 of Annexure-I of the said order". The approval of the Government is conveyed by Dr. Secy (SR) vide Cab. Sect.28/67/2001-PO.H-540 dated 26-06-2002.
4. It is understood that my cadre controlling authority has followed the guidelines of Annexure-I para.3 (ACP shall be granted from the date of completion of the eligibility period prescribed under the ACP schemes or from the date of issue of these instructions i.e., OM dated 09 Aug 99 which ever is later) and para 15 (in case where employees have already completed 24 years of regular service; with or without promotion, the second financial upgradation under the scheme shall be granted directly).

Attested by
Choudhury
Adv.

5. It is also clarified vide DoP&T OM No 35014/1/2003-Estt(D) dated 29 June 2004 para-4 that "it is clear from harmonious reading of the condition no 6 of the ACP scheme with other conditions and stipulations of the scheme that, while a person has to be eligible in all other aspects (Educational Qualification, Department Exam, Skill/Trade test, Bench mark etc.) to hold HIGHER POST, in terms of the R/R, the scales of which being considered, under the ACP scheme, in so far as the requirement is that, he should have completed the prescribed 12 or 24 years regular service completed from the direct entry grade."

6. I am fulfilling all the conditions given in the above para 4 and 5. In addition to that, I am also qualified in the Departmental Qualifying Examination conducted in 2003. The DoP&T OM no 35034/1/97-Estt(D) (Vol.IV) dated 10 Feb 2000 stipulates that "no upgradation shall be allowed, if an employee fails to qualify in the departmental/skill test prescribed for the purpose of regular promotion."

7. Sir, the ACP scheme is a "Safety Net" to deal with problems of genuine stagnation and hardship faced by employees due to lack of adequate promotional avenue, but ironically my Pay and Accounts Office i.e. Director of Accounts, Cab.Sectt. is not admitting my fixation of pay for the last 6 years under various observations. The basic purpose of ACP scheme is defeated by the inordinate delay. I am due for retirement on 31 Oct.2007 and non fixation of pay scale basic pay is having a direct bearing on my retirement and terminal benefits.

8. Therefore, it is earnestly requested that your kind intervention at this critical juncture of my career will help me and go a long way in settling the issue or also I may be compelled to seek the protection under the law to get the natural justice.

Thanking you sir,

Yours faithfully,

Copy to :

1. Special Secretary
ARC HQ
New Delhi.
2. Deputy Director (Admin.)
ARC HQ
New Delhi.

(With a request to forward a copy of my application to Asst. Director of Accounts, office of the DACS, R.K. Puram, New Delhi)

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.106 of 2007

Date of Order: This, the 7th Day of May, 2007.

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

Sri Natabar Nanda,
Son of Late Pranakrishna Nanda,
Resident of Quarter No.IV/D/09,
Aviation Research Centre, Doom Dooma,
P.O. Sukreting, District, Tinsukia,
Assam.

Applicant

By Advocate Mr.B.Choudhury

-Versus-

1. Union of India
Represented by the Cabinet/Special Secretary,
Department of Cabinet Affairs,
Bikaner House,
Shahjahan Road, New Delhi.
2. Director General of Security,
Cabinet Secretariat, Block-V(East),
R.K.Puram, New Delhi.
3. Director (SR)
Cabinet Secretariat,
Bikaner House Annex, Shahjahan Road
New Delhi-110066.
4. Director of Accounts,
Cabinet Secretariat, R.K.Puram
Level No. VIII, East Block V, Sector-1,
New Delhi-110066.
5. Deputy Director (Administration),
Air Wing, Aviation Research Centre
Director General of Security,
Cabinet Secretariat,
Block-V (East), R.K.Puram,
New Delhi
6. Deputy Director (Administration)
Aviation Research Centre, Doomdooma,
P.O. Sukreting, Dist: Tinsukia, Assam.

Respondents

By Advocate Ms.U.Das, Addl.C.G.S.C.

Alleged by
Bhoudhury
Adv.

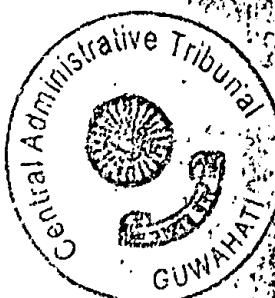
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ORDER (ORAL)

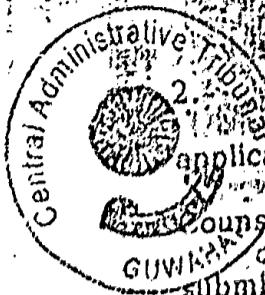
SACHIDANANDAN V.C.

The applicant is working as Communication Assistant. He has joined Air Traffic Control Wing of Aviation Research Centre as Radio Operator in 1971. The applicant has completed 24 years and he is entitled to get ACP benefit from 9.8.1999. After the recommendation of the Screening Committee in order dated 29.10.99 was further reviewed and it was upheld and Respondent No.5 accepted the same and issued order informing about the review. In spite of the above recommendation and approval by the Government the applicant was given the benefit from May, 2000. Thereafter his increment was stopped, without any reason. Applicant submitted several representations before the authorities for fixation of his pay under the A.C.P. Scheme from the date conferred by the Screening Committee since he is going to retire from service on October, 2007. But the applicant did not receive any response. Being aggrieved he has filed this O.A. seeking the following reliefs:

It is, therefore, prayed that this Hon'ble Tribunal may be pleased to admit this application, call for the entire records of the case, ask the respondents to show cause as to why the applicant shall not be granted the benefits under the A.C.P. Scheme with all consequential benefits from the date i.e. 9.8.99 as recommended by the duly constituted Screening Committee by order dated 22.8.2000 (Annexure-IV) and subsequently approved by the government by order dated 25.6.02 (Annexure-V) and after perusing the causes shown, if any and hearing the parties, be pleased to issue a direction to the respondents, particularly to respondent No.4 to grant the applicant the benefits/fix or admit the pay scale of the applicant under the ACP Scheme with all consequential benefits from the date i.e. 9.8.99 as recommended by the duly



constituted Screening Committee by order dated 29.10.99 (Annexure-IV) and subsequently approved by the government by order dated 25.6.02 (Annexure-V) and/or pass any order or orders as the Hon'ble Tribunal and deem fit and proper.



I have heard Mr. B. Choudhury, learned counsel for the applicant and Ms. U. Das learned Addl.C.G.S.C. for the respondents.

Counsel for the applicant has submitted that earlier the applicant has submitted several representations before the respondents but the respondents have not responded to them. Counsel also submitted that he would be satisfied if the applicant is permitted to submit a comprehensive representation before the 3rd respondent and on receipt of such representation, if the respondents shall dispose of the same within the time frame. The learned counsel for the respondents has no objection if such direction is given. In the interest of justice, therefore, I

direct the applicant to make a comprehensive representation before the 3rd respondent within 15 days from the date of receipt of this order along with all relevant documents and the copy of the O.A. On receipt of such representation, the said authority or any other competent authority shall dispose of the representation by passing speaking orders within a time frame of three months thereafter. It is made clear

that since the applicant is retiring from service in October 2007, the respondents are direct to adhere to the time limit granted as above, otherwise this Court will have to make adverse inference.

O.A. is disposed of accordingly. There will be no order as to

costs.

TRUE COPY

S/VICE CHAIRMAN

प्रियानंद

N. Choudhury
16.5.07

प्रियानंद चौधुरी

Secretary Officer (Jest) to

Central Administrative Tribunal

Guwahati - 781006

Assam - India

Ex-Officio Chairman

LM

16.5.07

To

The Deputy Director (Administration),
Aviation Research Centre, DoinDooma,
P.O. Sukreting, Dist: Tinsukia, Assam.

Sub: Representation.

Ref: Order dt: 7.5.07 passed by the Hon'ble Central Administrative
Tribunal, Guwahati Bench in O.A. 106/07.

Sir,

I beg to state that I had approached the Hon'ble Tribunal in the above case under reference for a direction for fixing/admitting my pay scale under the A.C.P. scheme w.e.f. 1.8.99 as conferred by the Screening Committee and conferred by the Government. The Hon'ble Tribunal by order dt: 7.5.07 disposed of the above case directing me to submit a representation before the Director (SR) and accordingly I am submitting the same before Your Goodself for forwarding the same to the Director (SR). I have also submitted an advance copy before the Director General of Security.

At 25.05.07

Yours Faithfully

Natabar Nanda
(NATABARNAND)

Communication Assistant, A.R.C.
Doin Dooma.

Attested by
Anandlal
Adw

To

The Director (SR)

Cabinet Secretariate, Bikaner House Annex, Shahjahan Road,

New Delhi-110066

Sub : Representation for fixation/admittance of my pay under the A.C.P. scheme from the date i.e.9.8.99 as recommended by the duly constituted Screening Committee and subsequently approved by the Government.

Ref : Order dated 7.5.07 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, in O.A. No 106 /2007.

Sir,

I, humbly, beg to encroach upon your valuable time by placing the following before Your Goodself so that no injustice is done to me at the sag end of my career and I be allowed to reap the benefit of A.C.P. scheme as conferred upon me by the government.

1. That I beg to state that I joined the Air Traffic Control (in short A.T.C.) Wing of Aviation Research Centre (in short A.R.C.) Charbatia, Orissa, on 12.4.1971 as Radio Operator. Since the date of my joining service I have been discharging the duties as assigned to my post sincerely and honestly and there was no occasions when any adverse remark or otherwise was ever communicated to me. I further state that at present I am serving as Communication Assistant, A.R.C., Doon Doon and I am going to retire from service on 31.10.07.
2. That I beg to state that after I joined service, the A.R.C. (AIR WING STAFF) Recruitment Rules 1977 was promulgated. As per the recruitment rules, the Radio Operators are eligible for promotion to the post of Communication Assistant on completion of 8 years service in the grade and thereafter to the post of Assistant Technical Officer

Contd

- 2 -

(Communication). In view of the above recruitment rules, I had high expectation and was hopeful that I shall have opportunities for growth and advancement in the career chosen by me as per the recruitment rules.

The relevant extract of the Recruitment Rules 1977 is annexed herewith and marked as ANNEXURE-1.

3. That, inspite of the above recruitment rules everything remained standstill and I continued to stagnate in the post of Radio Operator without any promotion. In the meanwhile, the authorities decided to introduce the Assured Career Progression Scheme (in short A.C.P) as recommended by the Fifth Pay Commission.

A copy of the A.C.P. scheme is annexed herewith and marked as ANNEXURE-II.

4. That, thereafter, the Screening Committee was constituted for the purpose of implementing the A.C.P. scheme and the Secretary Committee recommended myself alongwith other persons belonging to the Group "C" category in the A.R.C., Airwing ATC/Met cadres for granting financial upgradation on being found eligible on completion of 12 years/24 years of service w.e.f. 9.8.99 and accordingly the Deputy Director (Administration), Cabinet Secretariat issued order no ARC/AW.153/99(Pt)-9548 dated 29.10.99 recommending the benefits under the ACP scheme.

A copy of the order dated: 29.10.99 is annexed herewith and marked as ANNEXURE-III.

5. That, I beg to state that the Screening Committee further reviewed the order dated 29.10.99 (Annexure-III) and found myself alongwith others eligible for financial upgradation under the ACP scheme and confirmed /conferred the same pay scale and the effective date as given in the order dated 29.10.99. The cadre controlling authority i.e. Deputy

DDM.....

Director (Administration), AW accepted the recommendation of the Screening Committee by order dated 22.8.2000 issued vide memo no ARC/AW.153/99/(Pt.)-4899. Thereafter the Government of India gave approval to the above recommendation of financial upgradation made by the Screening Committee for financial upgradation of myself along with others under the ACP scheme and the same was circulated to various units from the office of Cabinet/Special Secretary, Department of Cabinet Affairs through Director General of Security by letter no Cabinet . Sectt.28/67/2001-DO-II-540 dated 25.6.02.

Copies of the order dated: 22.8.2000 and letter dated: 25.6.02 are annexed herewith and marked as ANNEXURE- IV & V respectively.

6. That, I beg to state that the Screening Committee in the order dated 29.10.99 (Annexure-III) and order dated 22.8.2000 (Annexure-IV) under the ACP scheme recommended /granted for me the pay scale of Rs. 8000-13500/- w.e.f. 9.8.99 on completion of 24 years of regular service. I further state that inspite of the above orders and subsequent approval by the government by letter dated 25.6.02 (Annexure-V), the authorities at ARC, Charbatia, (where I was posted at the relevant time) fixed my pay under the ACP scheme from May, 2000 though the above orders allowed me the benefits under the ACP scheme from 9.8.99. In this regard I have submitted several representations for admittance of my pay scale from the date as recommended by the Screening Committee, before the higher authorities but till date there has been no response.
7. That, I beg to state that after receiving the above orders the Deputy Director (Administration)ARC, Charbatia (where I was posted at the relevant time) duly fixed my basic pay and accordingly I was drawing my monthly salary regularly upto July, 2005. Thereafter without assigning any reasons my annual increment was not granted/ stopped from August, 2005. On making enquiry I came to know that the Director of Accounts has stated and insisted upon that the benefits under the

Contd

A.C.P. scheme shall be granted to me from the date of passing the departmental qualifying examination.

I beg to state that the recruitment rules 1977 does not provide for passing departmental examination for promotion to the post of Communication Assistant from Radio Operator and moreover I had already completed 28 years of regular service without any promotion on 1999 and the Director General of Security and the Deputy Director (Administration), Air Wing, A.R.C, New Delhi and the government duly found that I fulfilled every eligibility conditions as stated in the ACP scheme. As such, I was surprised on the action of the Director of Accounts that the ACP scheme shall become effective from the date of my passing the departmental qualifying examination. Thereafter inspite of being granted the benefits under the ACP scheme by the Screening Committee and the Government, I appeared on advice in the first ever departmental qualifying examination and came out successful.

8. That, in the meantime, after 33 years of long and faithful service in the department, the authorities in recognition of my service record promoted me to the post of Communication Assistant vide Msg no ARC/AW/19/2004 dated 16.9.04 and transferred me to ARC, Air Wing, Doomdooma and accordingly I was relieved of my duties from ARC, Air Wing, Charbatia on 30.11.2004. Accordingly, I joined ARC, Air Wing, Doomdooma on 6.12.04.

Copy of the relieving order is annexed herewith and marked as ANNEXURE-VI.

9. That, thereafter, I submitted several representations/appeals before the higher authorities through proper channel stating the above facts for fixation /admittance of my pay under the A.C.P. scheme from the date conferred by the Screening Committee and to release the arrears at the earliest, as I am going to retire from service on October, 2007. But I have not received any response till date from any concerned and the matter continued to remain standstill.

Contd

- 5 -

Copy of such representation/appeals are
annexed herewith and marked as
ANNEXURE VII (SERIES).

10. That, on 27th November, 2006, I again submitted a representation/appeal before the Your Good self through proper channel stating the above facts. But till date I have not received any response due to which the I have been highly prejudiced, as I have been denied the benefits under the A.C.P. scheme from its due date without any justifiable reason.

Copy of the representation/appeal dated
27.11.06 is annexed herewith and marked as
ANNEXURE-VIII.

11. That thereafter having no other alternative I approached the Hon'ble Central Administrative Tribunal, Guwahati Bench by filing an original application with the prayer to direct the authorities to fix/grant or admit my pay scale under the A.C.P scheme with all consequential benefits from the date i.e. 9.8.99 as recommended by the Screening Committee and approved by the Central Government and the case was registered and numbered as O.A.106/07. On 7.5.07, the Hon'ble Tribunal after hearing all parties disposed of the case directing myself to make a comprehensive representation before Your Goodself within 15 days from the date of receipt of order along with all relevant documents and a copy of the O.A. and to dispose of the representation by passing speaking orders within a time frame of 3 months thereafter.

Copy of the Order dated 7.5.07 is annexed
herewith and marked as ANNEXURE-IX.

12. That, I beg to state that under the conditions laid down for grant of benefits under the A.C.P. scheme, condition no 4 provides that the first financial upgradation shall be allowed after 12 years of regular service and the second financial upgradation after 12 years of regular service from the date of first upgradation, subject to fulfilment of the prescribed conditions. Condition no 5.1 further provides that two financial

Contd

upgradations under the A.C.P. scheme shall be available only if no regular promotions during the prescribed periods have been availed by an employee. Condition no 15 provides that, subject to condition no 4, 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.

It will further be apparent from what is stated above that I had already completed about 29 years of regular service in one grade without any promotion by 1999 and the Screening Committee found that I not only fulfilled the condition no 15 but also other conditions for getting the benefits under the A.C.P. and accordingly, granted the same and which was subsequently approved by the government by order dated 25.6.02 (Annexure- V). Moreover, from the order dated 22.8.02 (Annexure- IV) it will be evident that the Screening Committee while recommending my name alongwith others took into consideration the checkpoints as laid down in the OM dated 9.8.99 and as such it is strange as to why the Director of Accounts had insisted upon passing the departmental qualifying examination which is contradictory to the A.C.P scheme, for granting the benefit to me, when the recommendation of the Screening Committee was duly approved by the Government after taking into consideration the relevant recruitment rules and other relevant aspects.

13. That as per recruitment rules I had to complete 8 years in the grade Radio Operator to be eligible for promotion to Communication Assistant which I had fulfilled long time back before the benefits of A.C.P. was given to me and thus thereby I fulfilled the condition No. 6 as given in the scheme. Inspite of that as desired by the Director of Accounts I had appeared in the first departmental qualifying examination (which I am not required to appear as per recruitment rules for promotion to Communication Assistant) and came out successful and as such how there should not be any impediment for granting the benefit inspite of the fact that I had fulfilled every eligibility condition as found out by the duly constituted Screening Committee

Contd.....

14. That I further state that the recruitment rules do not provide that one has to appear in departmental qualifying examination in the ~~feeder post~~ ^{direct entry grade} i.e. Radio Operator to be eligible for the promotional post i.e. Communication Assistant on 1999 and as such when the rules does not provide for any examination, the direction of Director of Accounts insisting that I shall have to pass the departmental qualifying examination for getting the benefits under the A.C.P. scheme, when the rules and the A.C.P scheme states otherwise has highly prejudiced me.

I, further state that the act of not fixing my pay scale under the A.C.P. scheme from the due date for such a long period i.e. 7 years has caused immense loss to me and as directed by the Hon'ble Tribunal I am approaching before Your Goodself through this representation for due relief so that I may not suffer any longer

I, therefore, pray before Your Goodself to kindly consider what is stated above and call for the relevant records after perusal grant me the benefits under the A.C.P. scheme with all consequential benefits from the date i.e. 9.8.99 as recommended by the duly constituted Screening Committee by order dated 29.10.99 (Annexure-III) order dated 22.8.2000 (Annexure- IV) and subsequently approved by the Government by order dated 25.6.02 (Annexure- V) at the earliest as I am going to retire from service on 31.10.07 and for this act of kindness I shall remain ever grateful to you.

Yours faithfully

Natabar Nanda
(Natabar Nanda)
Communication Assistant
A.R.C. Doomdooma,
P.O.- Sukreting, Dist - Tinsukia,
Assam

-57-**ANNEXURE-XI**

No.3/ESTT/ARC/DDM/2004(113)- 5757-32

O / O the Deputy Director (A)

Aviation Research Centre,

Government of India

Post : Doom Dooma : 786 151

Dist : Tinsukia : (Assam)

Dated the, 22/8/07

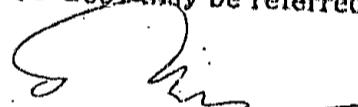
MEMORANDUM

Subject:- **FORWARDING OF APPLICATION IN RESPECT OF
SHRI NATABAR NANDA, COMMUNICATION ASSISTANT.**

Shri Natabar Nanda, Communication Assistant of ARC, Doom Dooma has submitted an application addressed to the Director(SR), Cab.Sectt., New Delhi which is forwarded with the following comments for further necessary action at your end please.

2. In this regard it may be mentioned here that earlier the Service Book of Shri Nanda was submitted to DACS by ARC, Charhatia (ARC, CBT Ltr.No.VII/289/ACP/AW/07-Vol-III-17319 dated 27-07-2007 may be referred to) for admittance of pay fixation under ACP which was not admitted, for the official had not submitted his technical resignation from the post of LDC on his subsequent appointment to the post of Radio Operator. On its resubmission after complying to the observations, the DACS had raised another objection that the official is entitled to financial up-gradation under ACP w.e.f. 14-07-2003 i.e. the date of passing the departmental examination rather than w.e.f. 09-08-1999.

3. As regards to the grant of annual increments, the Service Book of the official has been sent to ARC, Charhatia for issuance of revised pay fixation order of ACP w.e.f. 14-07-2003, which is to be got admitted at DACS and on admittance of the same, the pending annual increments can only be released accordingly. (In this regard our Msg No.15/ESTT/ARC/DDM/ACP/2006(1)-425 dated 16-08-2007 may be referred to).



(D.PATTANAIK)

ASSISTANT DIRECTOR(A)

Encl:- As stated.

To

The Assistant Director(B)
ARC Hqrs., New Delhi.

Copy to:-

✓ Shri Natabar Nanda, Communication Assistant,
(Th) The Aerodrome Officer, ATC, ARC, Doom Dooma - for information.

Attested by
Biswajit
Adv

30 MAY 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

O.A. No. 281 OF 2007

Sri Nata Bar Nanda

...Applicant

-Versus-

Union of India & Ors.

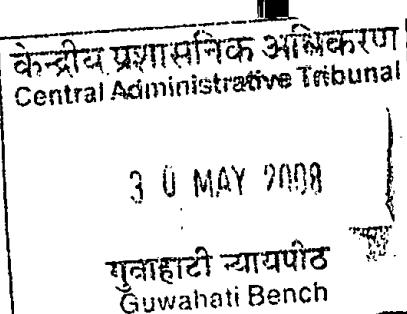
....Respondents

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*Gautam Baruah
S. Chakraborty*

30-05-08



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI.

ORIGINAL APPLICATION No. 281 of 2007

Filed by
the respondents
through Guwahati Bench
30.05.08

SHRI NATABAR NANDA.

.....APPLICANT

- VERSUS -

THE UNION OF INDIA & ORS.

.....RESPONDENTS

The written statement on behalf of
the respondents above named: -

THE WRITTEN STATEMENT ON BEHALF OF THE RESPONDENTS

MOST RESPECTFULLY BEGS TO SHEWETH: -

1. That the respondent begs to state that a copy of the Original Application has been serve upon them respondent and after going through the same has understood the Content thereof.
2. That the respondent begs to state that the statements which are not specifically admitted by the answering respondents are deemed to be denied by the respondent.
3. That with regard to the statements made in paragraph 1 of the instant Original Application, the answering respondent begs to state that those are within the specific knowledge of the applicant and the respondent cannot admit or deny the same.

*Assistant Director (Adm)
ARC, Dibrugarh, Assam*

*Received copy
Bikram Choudhury
30.5.08 A.W.*

Contd.:/-

31 MAY 2008

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गुवाहाटी न्यायपीठ
Guwahati Bench

4. That with regard to the statement made in paragraph 2 and 3 of the instant Original Application, the answering respondent begs to state that those are within the specific knowledge of the applicant and the answering respondents begs to offer no comments.

5. That with regard to the statements made in paragraph 4.1 of the Original Application, the respondent begs to offer no comments.

6. That with regard to the statements made in paragraph 4.2 of this instant Original Application, the respondent begs to state that Shri Natabar Nanda joined as Lower Division Clerk (LDC) on 17-06-1967 and not as Radio Operator as stated by him, but was subsequently appointed as Radio Operator with effect from 12-04-1971, later on he was promoted as Communication Assistant w.e.f. 16-12-2008. He has no retired for ARC Dooma Dooma w.e.f. 31-10-2007 as Communication Assistant.

7. That with regard to the statement made in paragraph 4.3 of the instant Original Application, the respondent begs to state that Recruitment Rule of ARC was issued on 15th March 1977 vide notification No.EA/ARC-Est.9/75 dated 15th March 1977 with amendments vide notification No.21/80-DO-I dated 29th April 1983 (for posts like Radio Technician and Communication Assistant etc.) and amendment No.12018/4/86-DO-I dated 26th May 1987 [for the post of ATO (Communication)]. As per the said

[Signature]
Assistant Director (Admn)
ARC, Gauhati, Assam

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Recruitment Rule one of the ~~method of filling~~ up the post of Communication Assistant by on promotion of Radio Operators with 8 years of service in the grade. Likewise, the post of Assistant Technical Officer (Communication) can be filled up by Communication Assistants with five years of service in the grade subject to passing a departmental qualifying examination. All promotions are subject to availability of vacancies and as per seniority cum fitness, from the available panel of the feeder grade.

8. That with regard to the statement made in paragraph 4.4 of the instant Original Application, the respondent begs to state that the applicant was appointed as a Radio Operator w.e.f. 12-04-1971 and promoted to the post of Communication Assistant on 16-12-2004 vide order No.460 dated 01-10-2004 as per his seniority, after a vacancy was available in the post of Communication Assistant. Allegation of the applicant that he continued to stagnate in the post of Radio Operator without any promotion is false, concocted and misleading and, hence, totally denied. Further, the scheme of ACP was introduced vide DoP&T OM No.35034 /1/97-Estt(D) dated 09th August 1999.

9. That with regard to the statement made in paragraph 4.5 of the instant Original Application, the respondent begs to state that as per the policy on ACP scheme, an employee who has completed 12/24 years service without any promotion is eligible for

G. C. D.
ARC, Dibrugarh, Assam
Assistant Director (Admn)

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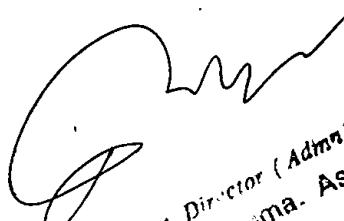
30 MAY 2008

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गुवाहाटी ब्यायपाठ
Guwahati Bench

first and second financial upgradation to next higher scale. However, the said employee will not be eligible for financial upgradation if he does not fulfill the QRs mentioned in the Recruitment Rules. The policy was effective w.e.f. 09-08-1999. As on 09-08-1999, the applicant was having more than 24 years service without promotion, hence, he was granted two financial upgradations (first to scale 5000-8000 and second to 8000-13500/-) in the order dated 29th October 1999.

10. That with regard to the statement made in paragraph 4.6 of the instant Original Application, the respondent begs to state that as per point No.15 of Annexure-I to DoP&T O.M dated 09-08-1999 (already attached as Annexure-II to the O.A), "subject to conditions 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. In the dept order dated 29-10-1999, the applicant was granted two financial upgradations (first to pay scale 5000-8-000 and second to 8000-13500) w.e.f. 09-08-1999, where as he is eligible for second financial upgradation to scale 8000-13500/- directly as per point No.15. Accordingly, in supersession of order dated 29-10-1999, another order was issued dated 22-08-2000 where he was granted second financial upgradation to scale 8000-13500/- w.e.f. 09-08-1999, directly on completion of 24 years of service without any promotion.


Assistant Director (Admin)
ARC, Dibrugarh, Assam

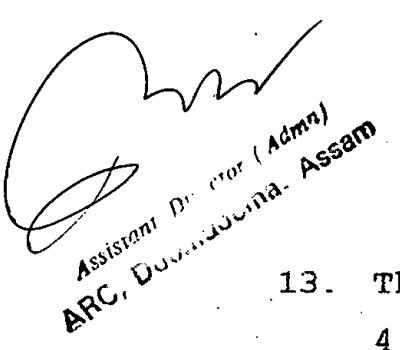
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30 MAY 2008

Guwahati Bench

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11. That with regard to the statement made in paragraph 4.7 of the instant Original Application, the respondent begs to state that as the second financial upgradation to the scale 8000-13500/- was to the scale of group 'A' officer, it was required to be issued by Cab Sectt. Hence, Cab Sectt issued order dated 25-06-2002 wherein the applicant was granted second financial upgradation to scale 8000-13500/- w.e.f. 09-08-1999.
12. That with regard to the statement made in paragraph 4.8 of the instant Original Application, the respondent begs to state that in accordance with second financial upgradation, pay of Shri Nanda was fixed at Rs.8000/- w.e.f. 09-08-1999 by ARC Charbatia vide their order No.414/2000 dated 10-04-2000 with next increment due on 01-08-2000. However, the pay fixation under ACP was not admitted by DACS with the observation that, the official has not passed the departmental qualifying examination prior to grant of ACP i.e. 09-08-1999 and directed to grant 2nd ACP w.e.f. 14-07-2003 i.e. date of passing the departmental qualifying examination.


 Assistant Director (Admin)
 ARC, Dibrugarh, Assam

Copy of the order dated 10-04-2000 is annexed herewith and marked as ANNEXURE-I.

13. That with regard to the statement made in paragraph 4.9 of the instant Original Application, the respondent begs to state that the annual increment

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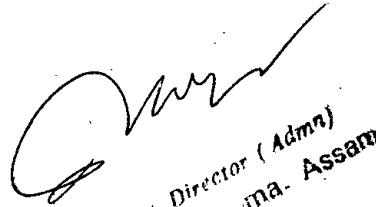
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गुवाहाटी न्यायपीठ
Guwahati Bench

in respect of the applicant was granted upto 01-08-2004 during his posting at ARC Charbatia. Shri Nanda was then transferred to ARC Doom Dooma w.e.f. 30-11-2004. Since grant of 2nd ACP is under dispute, his annual increment w.e.f. year 2005 will be released once the matter is finalized with the approval of Cab Sectt and DoP&T. Further, respondent No.4 clarified that para 6.1 of order No.35034/1/97-Estt-(D) dated 09-08-1999 and point No.6 of Annexure-I to the above order clearly states that ACP will be admissible only to those who fulfil all the prescribed normal promotion norms. Accordingly to the Recruitment Rules of ATO, it is mandatory to qualify the said examination for the purpose of promotion to the post of ATO. Hence, the individual is entitled for the ACP from the date of passing of the Departmental Exam i.e. 04-07-2003 and not 09-08-1999 as desired by him. The same was intimated to ARC Charbatia (then place of posting of the applicant) by respondent No.4 vide letter No.NGE/ARC HQ/ACP/2006-07/1708 dated 21-11-2006.

14. That with regard to the statement made in paragraph 4.10 of the instant Original Application, the respondent begs to offer no comment that those are matter of records and the respondent do not admit anything work is not borne out of record.

15. That with regard to the statement made in paragraph 4.11 of the instant Original Application, the respondent begs to state that in response to the


Assistant Director (Admin)
ARC, Dooamona, Assam

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गुवाहाटी न्यायपीठ
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representation of the applicant, a case was taken up with Cab Sectt vide U.O. note No.14-10-2005 for one time exemption for not undergoing departmental qualifying examination before recommending 1st and 2nd ACP. The case is yet to be finalized. The application dated 27th November 2006 was on the subject "non-implementation of CAT Cttack judgement dated 04th January 1999 in OA No.164/92". In this connection, Shri Nanda was already replied way back in year 1999, vide Cab Sectt U.O. note dated 29th October 1999 that "the educational qualification, nature of duties and pay scale for the post in question were not identical in ARC and NAAI. Moreover the cadre structure and nature of duties of ARC do not justify merger of posts on the line of NAAI. In view of the above it will not be possible to upgrade the posts and give parity in pay scales and designations as in NAAI to the applicants". In addition to this, the applicant brought out in his application dated 27th November 2006 that he has not been paid ACP benefits. In this connection it is submitted that he was fulfilling all conditions of ACP except condition No.16 of DoP&T letter F No.35034/1/9-Estt(D) (Vol. IV) dated 10th February 2000, the condition of passing departmental examination. In this case, the applicant had passed departmental examination in 2003 and, hence, he is eligible for IInd financial upgradation w.e.f. 14-07-2003 not w.e.f. 09-08-1999 as claimed by the applicant that he has completed 24 years as on date of implementation of ACP scheme.


Assistant Director (Admin)
ARC, Dibrugarh, Assam

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Guwahati Bench

Copies of the ~~official~~ dated 29th October 1999 and letter dated 10-02-2000 are annexed herewith and marked as ANNEXURE - II & III respectively.

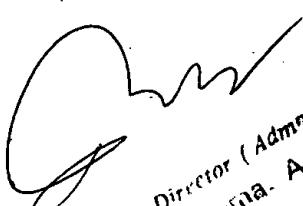
16. That with regard to the statement made in paragraphs 4.12 and 4.13 of the instant Original Application, the respondent begs to state that by the time case for passing speaking order was referred to Cab Sectt, another case for obtaining one time relaxation of passing departmental examination in respect of the applicant and others was under consideration at Cab Sectt/DoP&T. If the relaxation is agreed to by DoP&T, the applicant would be eligible for second ACP w.e.f. 09-08-1999 for which he moved Hon'ble CAT through the present O.A. Hence, it was prudent to wait for the disposal of the case by DoP&T. DoP&T, however, granted relaxation, but it was applicable only to those who had qualified the departmental examination in first attempt i.e. in 2002. The applicant passed the departmental examination on 14-07-2003 along with other officials. Hence, the case has been once again taken up with Cab Sectt vide ARC U.O dated 12th February 2008 for one time exemption from passing departmental examination in the year 2003 instead of 2002. In view of the above position, speaking order can be passed only after receipt of the one time exemption from DoP&T.


Assistant Director (Admin)
ARC, Dibrugarh, Assam

Copy of the ARC dated 12-02-2008 is annexed herewith and marked as ANNEXURE - IV.

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17. That with regard to the statement made in paragraph 4.14 of the instant Original Application, the respondent begs to state that in addition to the points brought out by the applicant, as per clarifications issued vide DoP&T OM No.F.No.35034/1/97-Estt(D) (Vol.IV) dated 10th February 2002, point No.16 quote no upgradation shall be allowed if an employee fails to qualify departmental / skill test prescribed for purpose of regular promotion unquote. The applicant has passed departmental examination on 14-07-2003. Hence he is eligible for ACP w.e.f. 14-07-2003 and not from 09-08-1999. As per DoP&T O.M No.35034/1/97-Estt(D) dated 09th August 1999 para 3.1 quote Grant of financial upgradations under the ACP scheme shall, however, be subject to the conditions mentioned in Annexure-I unquote. Further as per point No.6 of Annexure-I, one of the condition for grant of benefits under the ACP scheme is fulfillment of normal promotion norms (bench-mark, departmental examination etc). In this case, as per order dated 29-10-1999, the applicant was granted first ACP to the pay scale 4000-6000 i.e. pay scale of Communication Assistant. For promotion to the post of Communication Assistant there is no requirement of passing departmental examination. Hence, the applicant was granted first ACP w.e.f. 09-08-1999 i.e. w.e.f. date of implementation of ACP scheme. The applicant was granted second ACP to pay scale 8000-13500/- i.e. pay scale of ATO (Communication) for which passing departmental examination is a mandatory criteria as per RR. The applicant passed


Assistant Director (Admin)
ARC, Dibrugarh, Assam

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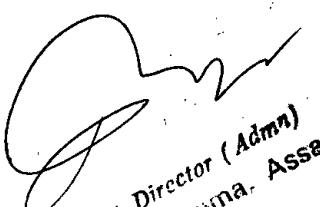
Guwahati Bench

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the departmental examination on 14-07-2003. Hence, grant of second ACP w.e.f. 09-08-1999 vide the said order was not accepted to DACS and the same is under dispute. However, case has been taken up with Cab Sectt for one relaxation of passing departmental examination with Cab Sectt. On receipt of the said relaxation, the applicant would be eligible for second ACP w.e.f. 09-08-1999 also.

Copy of the DOP&T office memorandum dated 09-08-1999 is annexed herewith and marked as ANNEXURE-V.

18. That with regard to the statement made in paragraph 4.15 of the instant Original Application, the respondent begs to offer no comment that those are matter of records and the respondent do not admit anything work is not borne out of record.
19. That with regard to the statement made in paragraph 4.16 of the instant Original Application, the respondent begs to state that as per order dated 29-10-1999 and as superseded by order dated 22nd August 2000, out of nine officials, five officials were recommended for financial upgradation to scale 8000-13,500/- . Out of these five cases, few were admitted by DACS and later on cancelled by DACS, stating that it was admitted erroneously. Their names have been included in the case taken up for one time exemption of passing departmental examination (copy already attached as Annexure-IV) in addition DACS has treated the issue purely on



Assistant Director (Admin)
ARC, Dibrugarh, Assam

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30 MAY 2008

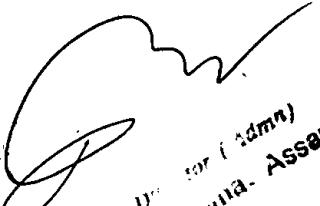
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Guwahati Bench

merit and according to the rule position in the case which is clearly depicted in the RRs of the ATO. Hence, the allegation of the applicant, that respondent No.4 has already admitted the cases of almost all officers is totally wrong, vague and uncalled for. Hence denied by the answering respondent.

20. That with regard to the statement made in paragraph 5.I of the instant Original Application, the respondent begs to state that the grant of ACP w.e.f. 09-08-1999 is under objection as the same is not in consonance with the rules of ACP. However, case has been taken up with DoP&T/Cab Sectt for one time exemption for passing departmental examination to become eligible for ACP. On grant of the exemption, the applicant will be eligible for ACP w.e.f. 09-08-1999. Hence, allegations of the applicant are wrong and baseless, hence, bad in the eyes of law. Hence, totally denied by the answering respondent.

21. That with regard to the statement made in paragraph 5.II of the instant Original Application, the respondent begs to state that though the applicant had completed 29 years regular service without any promotion as on 09-08-1999 but he was not meeting the eligibility criteria of passing departmental examination as mentioned at para 3.1 of DoP&T O.M dated 09-08-1999, condition No.6 of Annexure-I to the said O.M, point No.16 of DoP&T O.M dated 10th February 2000. Hence, he is not eligible for grant



Assistant D.P.C. for Assam
ARC, Dibrugarh, Assam

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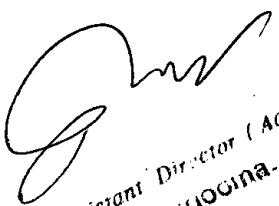
30 MAY 2008

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गुवाहाटी आयोग
Guwahati Bench

of 2nd ACP w.e.f. 09-08-1999. Therefore, his case has not been admitted till date. However, case has been taken up with DoP&T/Cab Sectt for one time exemption of passing departmental qualifying examination. On grant of such exemption, the applicant will be eligible for 2nd ACP w.e.f. 09-08-1999 and necessary action would be initiated for payment of all legitimate dues accruing on implementation of ACP.

22. That with regard to the statement made in paragraph 5.III of the instant Original Application, the respondent begs to state that the 2nd ACP recommended for the applicant was to the pay scale Rs.8000-13500, i.e. pay of ATO (Comm) for which passing departmental examination is a mandatory criteria as per RR. Hence, the grant of 2nd ACP to the applicant is under dispute.
23. That with regard to the statement made in paragraph 5.IV of the instant Original Application, the respondent begs to state that the reasons for not granting 2nd ACP w.e.f. 09-08-1999 to the applicant as mentioned in the order dated 29-10-1999, as superceded by order dated 22-08-2000 and letter dated 25-06-2002 has already been mentioned in preceding paragraphs which are justified and valid.
24. That with regard to the statement made in paragraph 5.V of the instant Original Application, the respondent begs to state that the reasons for not granting 2nd ACP w.e.f. 09-08-1999 to the applicant


Assistant Director (Admin)
ARC, Dibrugarh, Assam

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are correct, valid and justified. Hence, the issue of penalty as requested by the applicant does not arise. Therefore, totally denied by the respondent.

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25. That with regard to the paragraph 5.VI the respondent denies the statements of the instant Original Application. The respondent begs to state that there is no violation of the conditions laid down in the ACP scheme, rather, not granting ACP is absolutely correct as per para 3.1 of DoP&T O.M dated 09-08-1999, condition No.6 of Annexure-I to the said O.M. point No.16 of DoP&T O.M dated 10th February 2000. Such act is totally correct and valid in the eye of law.

26. That with regard to the paragraphs 5.VII to 5.XI of the O.A., the respondent begs to state that detailed reply to those para has already been given by the respondent in the preceding paragraphs. The respondent further begs to state that the grounds laid down are not good grounds which are neither tenable in law nor fact and are liable to be rejected by this Hon'ble Tribunal.

27. That with regard to the statement made in paragraph 6 of the instant Original Application, the respondent begs to state that by the time case for passing speaking order was referred to Cab Sectt, the case for obtaining one time relaxation of passing departmental examination in respect of the applicant and others was under consideration at Cab Sectt/DoP&T. If the relaxation is agreed to by

ARC, Dibrugarh, Assam
Assistant Director (Admin)

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गुवाहाटी न्यायालय
Guwahati Bench

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DoP&T, the applicant would be eligible for second ACP w.e.f. 09-08-1999 for which he moved Hon'ble CAT through the present O.A. Hence, it was prudent to wait for the disposal of the case of relaxation of passing departmental examination by DoP&T/Cab Sectt. DoP&T, however, granted relaxation, but it was applicable only to those who had qualified the departmental examination in first attempt i.e: in 2002. The applicant passed the departmental examination on 14-07-2003 alongwith other officials. Hence, the case has been again taken up with Cab Sectt vide ARC U.O dated 12th February 2008 and for one time exemption from passing departmental examination in the year 2003 instead of 2002. In view of the above position, speaking order cab be passed only after receipt of the one time exemption from DoP&T. Moreover, the applicant will also become eligible for ACP w.e.f. 09-08-1999 and necessary action will be taken up for payment of ACP w.e.f. 09-08-1999.

28. That with regard to the statement made in paragraph 7 of the instant Original Application, the respondent begs to offer no comment that those are matter of records and the respondent do not admit anything work is not borne out of record.

29. That with regard to the statement made in paragraph 8 of the instant Original Application, the respondent begs to state that as per present rule, the applicant is not eligible for ACP w.e.f. 09-08-1999 as he has passed DQE on 14-07-2003. However,

ARC, Dibrugarh, Assam
Assistant Commissioner

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30 MAY 2028

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Guwahati Bench

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on issue of relaxation for passing DQE by the appropriate authority, he will become eligible for ACP w.e.f. 09-08-1999 and necessary action will be initiated for payment of the same. Case for grant of such relaxation has already been taken up with Cab.Sectt/DoP&T as mentioned in Para 17 of this instant written statement.

30. That with regard to the statement made in paragraph 9 of the instant Original Application, the respondent begs to state that in view of the above facts as laid down by the respondents, the interim order, if any prayed for the applicant in the instant Original Application may be rejected.

CW
Assistant Director (Admin)
ABC, Dooimooma, Assam

31. That with regard to the statement made in paragraph 10 and 11 of the instant Original Application, the respondent has no comment to offer.

Confd.:/-

30 MAY 2008

गुवाहाटी न्यायालय
Guwahati Bench

VERIFICATION

I, D.P. Rattanakumar..... S/o. K.C. Rattanakumar.....
aged about 47 years, R/o ARC, Duvuudooma.....
District Tinsukia..... and working as AD(A)..... and
has been authorised by the Respondent to verify the
statement on their behalf. I, do hereby verify that the
statement made in paras 1-11, 13, 14, 18-3 1
are true to my knowledge and
those made in paras 12, 15, 16 & 17
being matters of record are true to my information
derived therefrom which I believe to be true and the
rests are my humble submission before this Hon'ble
Tribunal and I have not suppressed any material facts.

And I sign this verification on this 28th day
of May 2008 at Guwahati.



Signature

Assistant Director (Admn),
ARC, Duvuudooma, Assam

ANNEXURE-I

20

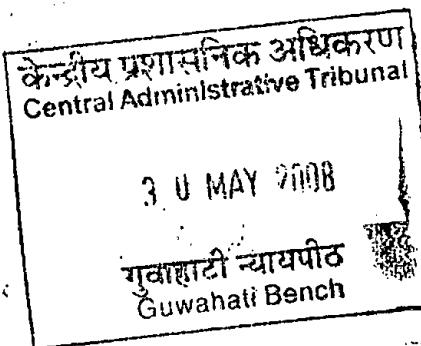
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No. A.C.F. 1/90) 659
Avishek Research Centre
Government of India
P.U. Unbaria-174020
Dist. Cooch Behar (Orissa)
Dated this,

17/4/2000

Dr. 4/4/2000

S.L. No.	Due date of A.C.P.	Date of trial which opted	Extrading day on before the date of A.C.P.												TOTAL
			1	2	3	4	5	6	7	8	9	10	11	12	
By adding G.R. increment due extra day on before the date of A.C.P. (Min. Rs. 100/-)															
1	20/3/99	19/3/99	19	18	17	16	15	14	13	12	11	10	9	8	150
2	21/3/99	20/3/99	20	19	18	17	16	15	14	13	12	11	10	9	150
3	22/3/99	21/3/99	21	20	19	18	17	16	15	14	13	12	11	10	150
4	23/3/99	22/3/99	22	21	20	19	18	17	16	15	14	13	12	11	150
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37	25/4/99	24/4/99	55	54	53	52	51	50	49	48	47	46	45	44	150
38	26/4/99	25/4/99	56	55	54	53	52	51	50	49	48	47	46	45	150
39	27/4/99	26/4/99	57	56	55	54	53	52	51	50	49	48	47	46	150
40	28/4/99	27/4/99	58	57	56	55	54	53	52	51	50	49	48	47	150
41	29/4/99	28/4/99	59	58	57	56	55	54	53	52	51	50	49	48	150
42	30/4/99	29/4/99	60	59	58	57	56	55	54	53	52	51	50	49	150
43	1/5/99	30/4/99	61	60	59	58	57	56	55	54	53	52	51	50	150
44	2/5/99	1/5/99	62	61	60	59	58	57	56	55	54	53	52	51	150
45	3/5/99	2/5/99	63	62	61	60	59	58	57	56	55	54	53	52	150
46	4/5/99	3/5/99	64	63	62	61	60	59	58	57	56	55	54	53	150
47	5/5/99	4/5/99	65	64	63	62	61	60	59	58	57	56	55	54	150
48	6/5/99	5/5/99	66	65	64	63	62	61	60	59	58	57	56	55	150
49	7/5/99	6/5/99	67	66	65	64	63	62	61	60	59	58	57	56	150
50	8/5/99	7/5/99	68	67	66	65	64	63	62	61	60	59	58	57	150
51	9/5/99	8/5/99	69	68	67	66	65	64	63	62	61	60	59	58	150
52	10/5/99	9/5/99	70	69	68	67	66	65	64	63	62	61	60	59	150
53	11/5/99	10/5/99	71	70	69	68	67	66	65	64	63	62	61	60	150
54	12/5/99	11/5/99	72	71	70	69	68	67	66	65	64	63	62	61	150
55	13/5/99	12/5/99	73	72	71	70	69	68	67	66	65	64	63	62	150
56	14/5/99	13/5/99	74	73	72	71	70	69	68	67	66	65	64	63	150
57	15/5/99	14/5/99	75	74	73	72	71	70	69	68	67	66	65	64	150
58	16/5/99	15/5/99	76	75	74	73	72	71	70	69	68	67	66	65	150
59	17/5/99	16/5/99	77	76	75	74	73	72	71	70	69	68	67	66	150
60	18/5/99	17/5/99	78	77	76	75	74	73	72	71	70	69	68	67	150
61	19/5/99	18/5/99	79	78	77	76	75	74	73	72	71	70	69	68	150
62	20/5/99	19/5/99	80	79	78	77	76	75	74	73	72	71	70	69	150
63	21/5/99	20/5/99	81	80	79	78	77	76	75	74	73	72	71	70	150
64	22/5/99	21/5/99	82	81	80	79	78	77	76	75	74	73	72	71	150
65	23/5/99	22/5/99	83	82	81	80	79	78	77	76	75	74	73	72	150
66	24/5/99	23/5/99	84	83	82	81	80	79	78	77	76	75	74	73	150
67	25/5/99	24/5/99	85	84	83	82	81	80	79	78	77	76	75	74	150
68	26/5/99	25/5/99	86	85	84	83	82	81	80	79	78	77	76	75	150
69	27/5/99	26/5/99	87	86	85	84	83	82	81	80	79	78	77	76	150
70	28/5/99	27/5/99	88	87	86	85	84	83	82	81	80	79	78	77	150
71	29/5/99	28/5/99	89	88	87	86	85	84	83	82	81	80	79	78	150
72	30/5/99	29/5/99	90	89	88	87	86	85	84	83	82	81	80	79	150
73	1/6/99	30/5/99	91	90	89	88	87	86	85	84	83	82	81	80	150
74	2/6/99	1/6/99	92	91	90	89	88	87	86	85	84	83	82	81	150
75	3/6/99	2/6/99	93	92	91	90	89	88	87	86	85	84	83	82	150
76	4/6/99	3/6/99	94	93	92	91	90	89	88	87	86	85	84	83	150
77	5/6/99	4/6/99	95	94	93	92	91	90	89	88	87	86	85	84	150
78	6/6/99	5/6/99	96	95	94	93	92	91	90	89	88	87	86	85	150
79	7/6/99	6/6/99	97	96	95	94	9								



No. 1/109/98-CA.1(PL) - 4139
Government of India
Cabinet Secretariat

Bikaner House (Annexe)
Shahjahan Road
New Delhi; the

ORDER

29 OCT 1999

In pursuance of Hon'ble CAT, Cuttack Bench judgement did. 4th Jan. 1999 in Q.A. Nos. 155/92, 162/92, 163/92 and 164/92 filed by S/Sh. GC Swain, Radio Mistry, RK Bose, Roy Choudhury, Aerodrome Operator Gr.I, SK Patra, Radio Tech. And Natabar Nanda, Radio Operator, a committee was constituted to examine the issue of parity in pay scales and designation between ATC personnel of the ARC and those of NAAI in terms of duties and responsibilities, educational qualifications, method of recruitment etc. prescribed for the posts in question in both the organisations.

The findings of the Committee are given below which have been accepted by the Government. It was noted by the Committee that NAAI was carved out of DGCA and now is an autonomous organisation. At the time of setting up, certain restructuring was also carried out. No such restructuring was carried out in ARC. NAAI employees are governed by separate set of rules & regulations and service conditions. The employees of the ARC are governed by the rules of Central Govt. and therefore their pay structure is different and cannot be compared with that of NAAI.

a) Radio Mistry(ARC)/Equipment Mechanic (NAAI)

Sh. GC Swain, Radio Mistry, has represented for upgradation of his post to Equipment Mechanic w.e.f. 1.1.86 and for grant of pay scale as applicable to his counter parts in NAAI w.e.f. 1.9.82 and also to grant him benefits of career advancement.

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done
downscale*
The Committee constituted to examine the case has observed that the post of Radio Mistry in DGCA was re-designated as equipment Mechanic in 1974. Comparison of these posts shows that the post of Radio Mistry carried a pay scale of Rs.260-350 in ARC while in NAAI the post of Equipment Mechanic carried a higher scale of Rs.260-400 as on 1.3.82. Also the post in NAAI required 2 years working experience and some additional qualification of climbing wireless masts for repair work, which were not required in ARC. However, minimum qualification for the post in ARC was matriculation, while in NAAI it was middle pass.

In Sept. 82, NAAI changed the scale of the Aviation staff including Equipment Mechanic from Rs.260-400 to Rs.380-560. Consequently the IVth Pay Commission provided replacement scales of Rs.250-1400 and Rs.1,320-2040 to Radio Mistry/Eqpt. Mech.

30 MAY 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

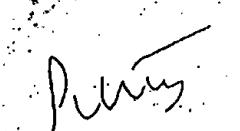
-5-

qualifications have been revised to B.Sc. Hence, retrospective upgradation of post and pay scale and subsequent revisions on 1.1.86 do not merit approval. The introduction of IDA Pay Scales in NAAI in 1996 retrospectively w.e.f. Oct.1989 cannot be admissible to a Govt. Deptt. like Cabinet Secyt. (ARC).

The Committee has further observed that granting the pay scales of NAAI as claimed by the petitioners could entail change in the entire pay structure of ATC and may even necessitate changes in the Recd. Rules, educational qualification etc. of ATC only to achieve parity on these aspects with NAAI. As such, these changes have not been found necessary in ARC. Moreover the pay scales of NAAI which is an autonomous institution, are not standard pay scales available for Govt. employees in other depts. Thus a direct comparison and adoption of pay scales is not possible, particularly after 1.10.90.

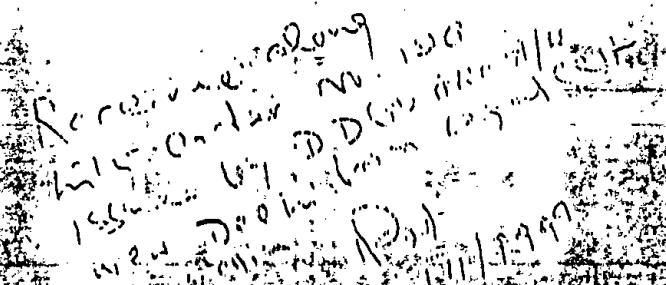
It is therefore, inferred that the educational qualifications, nature of duties and pay scales for the post in question were not identical in ARC and NAAI. Moreover the cadre structure and nature of duties of ARC do not justify merger of posts on the line of NAAI. In view of the above it will not be possible to upgrade the posts and give parity in pay scales and designations as in NAAI to the applicants.

As far as career advancement is concerned DP&T vide their OM No.13074/1/97-Estt(O) dtd. 9.8.99 has issued a scheme for assured career progression and action has been initiated to give two financial upgradations to the entitled persons.


(PN Thakur)
DIRECTOR(SR)

To:

1. Sh.GC Swain, Radio Mistry, ARC, Charbatia
2. Sh.RK Bose Roy Choudhary, Aerodrome Operator Gd.I, ARC, Doini Doma
3. Sh.SK Patra, Radio Tech., ARC, Charbatia
4. Sh.Natabar Nanda, Radio Operator, ARC, Charbatia.


1. Sh. GC Swain, Radio Mistry, ARC, Charbatia
2. Sh. RK Bose Roy Choudhary, Aerodrome Operator Gd.I, ARC, Doini Doma
3. Sh. SK Patra, Radio Tech., ARC, Charbatia
4. Sh. Natabar Nanda, Radio Operator, ARC, Charbatia

File No. 1000/97-BM(I)(Vol.IV)

Government of India

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

Annexure B/1 03

New Delhi 110001 -
February 10, 2000

OFFICE MEMORANDUM

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Officer

31 MAY 2000

गुवाहाटी न्यायालय
Guwahati Bench

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 ACPS 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 ACPS-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.

[Signature]
(K.K. JHA)

Director(Establishment)

copy

*True
Pwrs To
Solicitor*

1. All Ministries/Departments of the Government of India
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
2. All attached/subordinate offices of the Ministry of Personnel, Public
Grievances and Pensions
3. Secretary, National Commission for Minorities
4. Secretary, National Commission for Scheduled Castes/Scheduled Tribes
5. Secretary, Staff Side, National Council (JCM), 13-C, Pergreshah Road, New
Delhi
6. All Staff Side Members of the National Council (JCM)
7. Estate Board (Delhi) - 1000 copies

Point of doubt

Q. 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?

Clarification

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.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

16 MAY 78

प्रमाणात्मक स्वायत्पाठ
C. 1st Bench

ARC
DG(S), CAB SECTT

Sub : Financial up-gradation under ACP scheme in respect of ATC staff

Cab Sectt may kindly refer to their UO No 28/67/2001-DO-II-28 dt 11 Jan 2008 regarding relaxation of condition of passing trade test in respect of ATC Officials. Facts of the case are as under:-

2. Departmental Screening Committee was held on 11.10.99 & 07 May 02 to consider the cases of ATC staff for grant of Financial upgradation under ACP scheme (Copy enclosed).
3. After pay fixation on grant of ACP, their cases were sent to DACS for admittance, by the respective controlling officers but the same has not been admitted till now by the DACS for the reason that the ATC staff have not passed the DQE as on the date of grant of ACP.
4. With the approval of DG(S) the case was submitted to Cab Sectt vide our letter dt 14 Oct 2005 (copy enclosed) for one time exemption for not undergoing Departmental Qualifying Examination before recommending of 1st and 2nd ACP benefits wef 11.10.99 and 7.5.2002 in respect of following six ATC officials .-

S/Shri

- i) H S Mishra, Technical Assistant
- ii) B K Mohanty, Technical Assistant
- iii) H M Swain, Communication Assistant
- iv) K K Sadananda, Communication Assistant
- v) Natbar Nanda, Radio Operator
- vi) K A Mathew, Radio Operator

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

30 MAY 2008

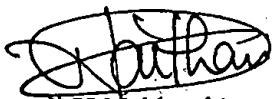
गुवाहाटी न्यायपीठ
Guwahati Bench

5. Cab Sectt vide UO dt 11 Jan 2008, have conveyed the approval for relaxation in passing the trade test in respect of those ATC staff who have passed the DQE in the first attempt in the year 2002 and not to those who have qualified in the year 2003.

6. It is stated that all the above officials have passed the departmental qualifying examination in the year 2003 and had passed in the first attempt itself. No exam was held by the Deptl. in the year 2002.

7. In view of the position explained above, Cab Sectt is, once again, requested that DOP&T may kindly be approached for obtaining one time exemption from passing DQE in the year 2003 instead of 2002 in respect of the Six ATC staff as no DQE was held by the Deptt in the year 2002.

*Copy
for
Advocate*


(P K Naithani)
Gp Capt
/C Dy Director (A) AW

Cab Sectt. (M/S Sumai Kumar, DSISK), Bikaner House, New Delhi
ARC Dte UO No ARC/AW/153/99-II - 1295 dt 12 Feb 2008

नियन्त्रिक अधिकारपाल
Administrative Tribunal

0 MAY 2000

No. 1. Block, New Delhi 110001
August 9, 1999

OFFICE MEMORANDUM

संस्थानी न्यायपाठ
Swavalamban Subject: THE ASSURED CAREER PROGRESSION SCHEME FOR
THE CENTRAL GOVERNMENT CIVILIAN EMPLOYEES.

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

2. GROUP 'A' CENTRAL SERVICES

2.1 In respect of Group 'A' Central services (Technical/Non-Technical), no financial application under the Scheme is being proposed for the regular promotion in their case must be exempted. 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/acadies on functional grounds by way of organisational study, cadre review, etc. as per prescribed norms.

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

3.1 While in respect of these categories also promotion shall continue to be duly earned, it is proposed to adopt the ACP Scheme in a modified form to mitigate hardship in cases of acute stagnation either in a cadre or in an isolated post. Keeping in view all relevant factors, it has, therefore, been decided to grant no financial rewards (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 22 years and 24 years (subject to condition no.4 in Annexure-1) of regular service respectively. Isolated posts in Group 'A', 'B', 'C' and 'D' categories which have no promotional avenues shall also qualify for similar benefits on the pattern indicated above. Certain categories of employees such as casual employees (including those with temporary status), ad hoc and contract employees shall not qualify for benefits under the aforesaid Scheme. Grant of financial appurtenances under the ACP Scheme shall, however, be subject to the conditions mentioned in Annexure-1.

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Gen
Advocate

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३० MAY २०१८

ग्राहकी स्थायीठ

२. Regular Service. For the purpose of the ACP Scheme shall be interpreted as ~~the concerned~~ ~~the concerned~~ Bench, eligibility service counted to a grant promotional tenure of relevant Recruitment/Service Rules.

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

४. 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.

६. SCREENING COMMITTEE

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

६.२ 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 a higher grade in that Ministry/Department.

६.३ In order to prevent operation of the ACP Scheme from resulting into undue strain on the administrative machine, 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 (July-September) of a particular financial year for grant of benefits under the ACP Scheme shall be taken up for consideration by the Screening Committee if eligible 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 30 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.

६.४ To make the Scheme operational, the Chief Controlling Authority 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 as indicated above.

Departments are advised to explore the possibility of effecting savings so as to meet additional financial commitment that introduction of the ACP Scheme may entail.

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

10. 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.

11. The Fifth Central Pay Commission in paragraph 52.15 of its Report has also separately recommended a "Dynamic Appraisal 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 doubts 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 will follow.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

(K.K. JHA)

Director (Establishment)

To

गुवाहाटी न्यायालय
Guwahati Bench

31 MAY

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, Feriyanshah Road, New Delhi
7. All Staff Side Members of the National Council (JCM)
8. Establishment (D) Section - 11000353

30 MAY 2008

Guwahati Bench

ANNEXURE-I

CONDITIONS FOR GRANT OF BENEFITS
UNDER THE ACP SCHEME

ACP Scheme envisages merely placement in the higher pay-scale/grant of financial (through financial upgradation) only to the Government servant concerned on personal basis, therefore, neither amount to functional/regular promotion nor would require of new posts for the purpose;

The highest pay-scale upto which the financial upgradation under the Scheme shall be able will be Rs.14,300-18,300. Beyond this level, there shall be no financial upgradation. Higher posts shall be filled strictly on vacancy based promotions;

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;

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 first financial upgradation subject to fulfillment of prescribed conditions. In other words, if 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. It would also get delayed accordingly;

Two financial upgradations under the ACP Scheme in the entire Government service of an employee shall be counted against regular promotions (including in-situ promotion, fast-track promotion availed through limited departmental competitive examination) availed 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 in 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 no promotions on regular basis have already been received by an employee, no benefit of the ACP Scheme shall accrue to him;

Residency periods (regular service) for grant of benefits under the ACP Scheme shall be calculated from the grade in which an employee was appointed as a direct recruit;

Fulfillment of annual promotion norms (benchmark, departmental examination, fit-ability-cum-fitness in the case of Group 'D' employees, etc.) for grant of financial upgradations, performance of such duties as are entrusted to the employees together with fulfillment of other distinguishing financial upgradations as personal to the incumbent for the stated period and continuation of the ACP Scheme for financial and certain other benefits (House Rent Allowance, allotment of Government accommodation, advances, etc.) only without any privilege related to higher status (e.g. invitation to ceremonial functions, promotion to higher posts, etc) shall be examined for grant of benefits under the ACP Scheme;

Upgradation under the Scheme shall be given to the next higher grade in the existing hierarchy in a cadre/category of posts without creating new posts. However, in case of isolated posts, in the absence of defined hierarchical structure, financial upgradation shall be given by the Ministries/Departments concerned in the newly next higher (स्थानीय प्रशासन) pay-rates as indicated in Appendix-II, which is in Part-A of the First Schedule annexed to the Notification dated September 30, 1997 of the Ministry of Finance (Department of Expenditure). For instance, if an isolated post in the cadre S-4, as indicated in Appendix-II, will be eligible for the proposed two financial upgradations only to the pay-rates S-5 and S-6. Financial upgradation on a 'dynamic' basis (i.e. without creating new posts) has been commanded 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(l) u(1) subject to a minimum financial benefit of Rs. 100/- as per the Department of Personnel and Training Office Memorandum No.1/6/97-Pay.I dated July 5, 1997. 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 implied 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 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 5 years (12+2+1) of regular service, he shall be eligible for consideration for the second upgradation under the ACP Scheme only after rendering ten more years in addition to two years of service already rendered by him, after the first financial upgradation (2+10) in that higher grade i.e. after 25 years (12+2+1+10) of regular service because the debarment period of one year cannot be taken into account towards the required 12 years of regular service in that higher grade;

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matter of disciplinary/punalty proceedings, grant of benefits under the ACP Scheme, subject to rules governing normal promotion. Such cases shall, therefore, be governed by the provisions of relevant CCS(CCA) Rules, 1965 and instructions thereunder;

The proposed ACP Scheme contemplates merely ~~base~~^{base} ~~on~~^{on} ~~reservational basis~~^{reservational basis} in the sense/grant of financial benefits only and shall not amount to actual/functional reservation of the employees concerned. Since orders regarding reservation in promotion are only in the case of regular promotion, reservation orders/roster shall not apply to the 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 ensure that all reservation orders are applied strictly;

Existing time-bound promotion schemes, including in-situ promotion schemes, 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

In the matter to choose between the two schemes, i.e., existing time-bound promotion 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., promotion, redistribution of posts, upgradation involving higher functional duties, etc) made in the former (existing) scheme would cease to be operative. The ACP Scheme shall have to end in its totality;

In case of an employee declared surplus in his/her organisation and in case of transfers or 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

Subject to Condition No. 4 above, in cases where the employees have already completed 12 years of regular service, with or without a promotion, the second financial upgradation under the Scheme shall be granted directly. Further, in order to rationalise unequal level of stagnation, 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 Scheme as a one time measure. In other words, in respect of employees who have already more than 12 years but less than 24 years of regular service, while the first financial upgradation shall be granted immediately, the surplus regular service beyond the first 12 years shall be counted towards the next 12 years of regular service required for grant of the second 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 12 more years of regular service after the first financial upgradation already granted under the Scheme.

(H.K. JYoti)

(Director(Establishment))