

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 176/2007

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SECTION OFFICER (Judl.)

Bahga
05/10/17

CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH

ORDERS SHEET

1. Original Application No. 176/07

2. Miscellaneous Petition No. /

3. Contempt Petition No. /

4. Review Application No. /

Applicant(s) Imran Hussain VS Union of India & Ors

Advocate for the Applicant(s) M. Chanda

S. Nath, Ms. U. Dutta

Advocate for the Respondant(s) CASE

Notes of the Registry	Date	Order of the Tribunal
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This application is in form
is filed/C. F. for Rs. 50/-
deposited vide IPO/BD
No. 346/652835
Dated 5.4.07

Registrar

Pr.

Petitioner's Grievance
some notices are
received.

29.6.07. I have heard Ms. U. Dutta learned
counsel for the applicant and Ms. U. Das learned
Addl C.G.S.C. for the respondents.

This matter is non granting of ACP to
the applicant. When the matter came up for
hearing the learned counsel for the
respondents has submitted that she would like
to take instructions. Let it be done. Post the
matter on 13.8.07.

Vice-Chairman

lm

12.9.07

Judgment delivered in open
Court. Kept in separate sheets.
Application is disposed of. No costs.

Vice-Chairman

lm

Received
Imran Das
Addl C.G.S.C.
05/7/07

Received petition
w/ annexures with nln
dtd 29.6.07.

Received
Imran Das
Addl C.G.S.C.
20/9/07

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No,176 of 2007

DATE OF DECISION: 12.09.2007-

Md. Imran Hussain

.....Applicant/s

Mr. M. Chanda

..... Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

Ms. U. Das

.....Advocate for the
Respondents

CORAM

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

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

Vice Chairman

14/9/07

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,

O.A.No.176 of 07.

Date of Order: This the 12th Day of September, 2007.

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

**Md.Imran Hussain,
S/o Late Sariful Hussain
Working as Upper Division Clerk,
O/O The Central Administrative Tribunal,
Guwahati Bench,
Rajgarh Road, Bhnagarh, Guwahati-5.**

Applicant.

By Advocate Mr.M.Chanda, Mr.S.,Nath, Ms.U.Dutta.

-AND-

- 1. The Union of India,
Represented by the Secretary to the
Government of India,
Department of personnel and Training
Ministry of Personnel, Public Grievances and Pensions
New Delhi/110001,**
- 2. The Principal Registrar
Central Administrative Tribunal
Principal Bench, 61/35
Copernicus Marg, New Delhi-110001,**
- 3. Deputy Registrar,
Central Administrative Tribunal,
Principal Bench, 61/35
Copernicus Marg, New Delhi-110001.**
- 4. The Deputy Registrar
Central Administrative Tribunal,
Guwahati Bench
Rajgarh Road, Bhangagarh, Guwahati-5.**
- 5. Department of Personal & Training
Govt. of India,
Represented by the Secretary,
North Block, New Delhi-110001.**

Respondents.

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

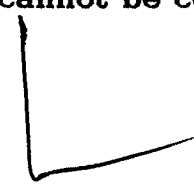


ORDER (ORAL)

K.V.SACHIDANANDAN, V.C:

The applicant was initially appointed on 02.6.1977 as Typist in the Office of the Registrar, Gauhati High Court. The applicant joined in the office of Central Administrative Tribunal, Guwahati Bench on 01.07.1986 on deputation basis to the analogous post of LDC. On 01.07.1994 the applicant was promoted to the post of UDC on regular basis. On 09.08.1999, Govt. of India introduced one welfare Scheme in the name of Assured Career Progression (ACP) Scheme to provide financial upgradation on completion of 12/24 years of regular service.

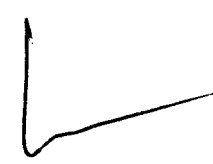
2. Applicant completed 24 years of service on 03.06.01 and as such he is entitled for 2nd upgradation under the Scheme of w.e.f 03.06.2001. The applicant submitted representation addressed to the respondent No.2 praying for grant of 2nd financial upgradation w.e.f. 08.12.2000. On 30.10.2006 the Respondent No.3 rejected the claim of the applicant on the ground that the applicant will eligible for 2nd financial upgradation after completion of 24 years of service counting from 01.11.89 i.e. the date from which the applicant was regularly absorbed in the present office. The Respondent referred to letter dated 13.01.2003 wherein, the D.O.P.T has clarified that ACP is applicable only in the case of Central Govt. Employees and as such the employees who subsequently absorbed in Central Government either from an Autonomous Body/statutory body/State Government their past services rendered in those organization cannot be counted



the Govt. of India. The applicant has filed this M.P. No.95 of 07 stating that similarly situated persons, namely; Sri Sampat Kumar, Sri B.V. Burli and Sri P. Narayana working in the Central Administrative Tribunal, Bangalore Bench, who prior to their joining CAT were working in the High Court of Karnataka, have been granted the benefit of ACP. Aggrieved by the action of the respondents, the applicant has filed this O.A. seeking the following reliefs:-

- "1. That the Hon'ble Tribunal be pleased to Set Aside and quash the impugned D.O.P.T letter bearing No.A-260011/3/2000-AT dated 13.01.2003 (Annexure-6) as well as the impugned letter bearing No.PB/1/1/2005/Estt.II/7189 dated 30.10.2006 (Annexure-5) so far the applicant is concerned.
2. That the Hon'ble Tribunal be pleased to direct the Respondents to grant 2nd financial upgradation to the applicant w.e.f. 03.06.2001 with arrear monetary benefit in the pay scale of Rs. 5,500-9000/- in terms of ACP Scheme dated 09.08.1999."

3. I have heard Mr.M.Chanda learned counsel for the applicant and Ms. U. Das, learned Addl.C.G.S.C. for the Respondents. When the matter came up for hearing the learned counsel for the applicant has submitted that he will be satisfied if direction is given to the Respondent No.2 to consider and dispose of representation as the case of other employees stated in the M.P. Counsel for the Respondents has submitted that the written statement has sent for vetting. However, she has no objection to dispose of the matter. In the Interest of justice therefore, this Court directs the applicant to make a comprehensive representation with all relevant documents /names afresh alongwith the copy of the O.A before the 2nd Respondent and on receipt of such representation the Respondent No.2 or any other



competent authority as directed shall consider afresh and dispose of the same untravelling by the observations in the rejection order earlier and pass appropriate orders and communicate the same within three months.

O.A. is disposed of, accordingly. There shall be no order as to costs.



(K.V.SACHIDANANDAN)
VICE-CHAIRMAN

LM

27 JUN 2007

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O.A. No. 176 /2007

Md. Imran Hussain

-Vs-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 02.06.1977- Applicant was initially appointed as Typist in the office of the Registrar, Gauhati High Court.
- 01.07.1986- Applicant joined in the office of Central Administrative Tribunal, Guwahati Bench on deputation basis to the analogous post of LDC.
- 01.07.1994- Applicant was promoted to the post of UDC on regular basis.
- 09.08.1999- Govt. of India introduced one welfare Scheme in the name of Assured Career Progression (ACP) Scheme to provide financial upgradation on completion of 12/24 years of regular service.
Applicant completed 24 years of service on 03.06.01 and as such he is entitled for 2nd upgradation under the Scheme w.e.f. 03.06.2001. (Annexure- 1)
- 24.11.04, 22.05.06, 26.05.06- Applicant submitted representations addressed to the respondent No. 2, praying for grant of 2nd financial upgradation w.e.f. 03.06.2001. (Annexure- 2 series and 3)
- 30.10.2006- Respondent No. 3 rejected claim of the applicant on the ground that the applicant will eligible for 2nd financial upgradation after completion of 24 years of service counting from 01.11.89 i.e. the date from which the applicant was regularly absorbed in the present office. (Annexure- 5)
In the impugned letter dated 30.10.06 the respondents have referred the D.O.P.T letter dated 13.01.2003, wherein the D.O.P.T has clarified that ACP is applicable only in the case of Central Govt. employees and as such the employees who subsequently absorbed in Central Government either from an Autonomous body/statutory body/State Government their past services rendered in those organization cannot be counted for the purpose

19/06

Imran Hussain

of granting benefit under ACP Scheme introduced by the Govt. of India. The clarification dated 13.01.03 of the D.O.P.T. is contrary to the condition No. 14 of the O.M dated 09.08.99 as such the same is liable to be set aside and quashed. (Annexure- 6)

Hence this application before the Hon'ble Tribunal.

P R A Y E R S

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned D.O.P.T letter bearing No. A-260011/3/2000-AT dated 13.01.2003 (Annexure-6) as well as the impugned letter bearing No. PB/1/1/2005/Estt. II/7189 dated 30.10.2006 (Annexure- 5) so far the applicant is concerned.
2. That the Hon'ble Tribunal be pleased to direct the respondents to grant 2nd financial upgradation to the applicant w.e.f. 03.06.2001 with arrear monetary benefit in the pay scale of Rs. 5,500-9000/- in terms of ACP Scheme dated 09.08.1999.
3. Costs of the application.
4. Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for.

During pendency of this application, the applicant prays for the following relief: -

1. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.

Imran Hameed

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

Title of the case : O. A. No. 176 /2007

Md. Imran Hussain : Applicant

-Versus -

Union of India & Others : Respondents.

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Date: 27.06.07

Filed by

S. Nath

Advocate

Imran Hussain

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O. A. No. _____/2007

BETWEEN:

Md. Imran Hussain,

S/o- Late Sariful Hussain,
Working as Upper Division Clerk,
O/o- The Central Administrative Tribunal,
Guwahati Bench,
Rajgarh Road, Bhangagarh, Guwahati- 5.

...Applicant.

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Department of Personnel and Training,
Ministry of Personnel, Public Grievances and Pensions
New Delhi- 110001.
2. The Principal Registrar
Central Administrative Tribunal
Principal Bench, 61/35
Copernicus Marg, New Delhi-110001.
3. Deputy Registrar (Estt.)
Central Administrative Tribunal
Principal Bench, 61/35
Copernicus Marg, New Delhi-110001.
4. The Deputy Registrar
Central Administrative Tribunal.
Guwahati Bench.
Rajgarh Road, Bhangagarh, Guwahati- 5.
5. Department of Personal & Training,
Govt. of India,
Represented by it's Secretary,
North Block, New Delhi- 110 001.

... Respondents.

Imran Hussain

i
Filed by me applicant-
Imran Hussain
27/08/07

DETAILS OF THE APPLICATION

1. Particulars of order(s) against which this application is made.

This application is made against the impugned letter bearing No. PB/1/I/2005/Estt. II/7189 dated 30.10.2006 (Annexure- 5) as well as D.O.P.T letter bearing No. A-260011/3/2000-AT dated 13.01.2003 (Annexure- 6), whereby claim of the applicant for grant of 2nd financial upgradation w.e.f. 03.06.2001 i.e. after completion of 24 years of service in the light of the instruction contained in DOPT O.M 09.08.1999 has been rejected and further praying for a direction upon the respondents to grant 2nd financial upgradation to the applicant in terms of Assured Career Progression Scheme (for short ACP Scheme) framed by the Govt. of India in the scale of Rs. 5,500-9,000/- at least w.e.f. 03.06.2001 with all consequential service benefits including monetary benefits.

2. Jurisdiction of the Tribunal.

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

3. Limitation

The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case:

- 4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

Imran Hussain

4.2 That your applicant was initially appointed as Typist on regular basis in the office of the Registrar, Gauhati High Court on 02.06.1977. While working as such, the applicant joined in the present office i.e. Central Administrative Tribunal, Guwahati Bench, Guwahati on deputation basis w.e.f. 01.07.1986 to the analogous post of LDC. However, the applicant was absorbed in the office of the Registrar, Central Administrative Tribunal, Guwahati Bench, on regular basis w.e.f. 01.11.1989 in the post of LDC.

4.3 That pursuant to the recommendation of the Fifth Central Pay Commission, the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training (DOPT) vide it's Office Memorandum No. 35034/1/97-Estt.(D) dated 09.08.1999 introduced one Assured Career Progression Scheme (for short ACP) Scheme making provisions for financial upgradation of the central Government civilian employees on completion of 12 years and 24 years of service as a 'Safety net' in order to provide relief against the hardships caused to such employees due to stagnation. As per the said Scheme, the Central Government Civilian employees who do not get any regular promotion due to stagnation or the categories of employees for whom there is no promotional avenues or because of the limited promotional scope, such employees will be granted two financial upgradations on completion of 12 years and 24 years of regular service during the entire tenure of their service.

(Copy of the Scheme dated 09.08.99 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- 1).

4.4 That it is stated that the applicant have been promoted to the post of Upper Division Clerk (for short UDC) in the present office w.e.f. 01.07.1994 on regular basis and now have completed 24 years of service on 03.06.2001 from his initial appointment i.e. from 02.06.1977. Therefore, the

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applicant is entitled to the benefit of 2nd financial upgradation at least w.e.f. 03.06.2001 in terms of the D.O.P.T O.M No. 35034/1/97-Estt.(D) dated 09.08.1999.

- 4.5 That your applicant submitted one representation on 24.03.2004 addressed to the Respondent No. 2, praying for grant of second financial upgradation in terms of D.O.P.T O.M dated 09.08.99. In the said representation applicant stated that he has completed 24 years of service on 03.06.2001, therefore he is entitled to the benefit of 2nd financial upgradation at least w.e.f. 03.06.2001. In the representation dated 24.03.04 applicant also stated that the next hierarchy or cadre in his channel of promotion is the post of "Assistant" in the pay scale of Rs. 5500-9000/-, as such he is entitled to 2nd financial upgradation under the ACP scheme in the pay scale in the pay scale of Rs. 5500-9000/- at least w.e.f. 03.06.2001.

Copy of the representation dated 24.11.04 and 26.05.06 are enclosed herewith and marked as Annexure- 2 (Series).

- 4.6 That your applicant begs to state that finding no response to his representation dated 24.03.04 and 22.05.06 he submitted a detailed representation on 26.05.06 addressed to the respondent No. 2. In the said representation applicant stated that he was initially appointed in the office of the Registrar, Gauhati High Court on 02.06.1977 on regular basis and joined in the office of Central Administrative Tribunal, Guwahati Bench on ad hoc basis w.e.f. 01.07.1986 in the post of L.D.C and his service was regularised w.e.f. 01.11.1989. Applicant in his representation also stated that he was promoted to the post of UDC w.e.f. 01.07.1994 on regular basis and completed 24 years of regular service on 03.06.2001, therefore he is entitled to the benefit of 2nd financial upgradation in terms of D.O.P.T O.M dated 09.08.1999.

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In the representation dated 26.05.06 applicant categorically stated that in terms of clarificatory letter dated 17.06.1994 the entire period of his service rendered as Typist in the Hon'ble Gauhati High Court also liable to be taken into consideration for the purpose of grant of 2nd ACP benefit and if the aforesaid period of service rendered as Typist in the Hon'ble Gauhati High Court is taken into consideration in that event he is entitled to 2nd financial upgradation w.e.f. 03.06.2001. As such he prayed before the respondent No. 2 to pass necessary order granting the benefit of 2nd financial upgradation in the scale of pay of Rs. 5500-9000/- w.e.f. 03.06.2001 with all consequential benefits.

(Copy of the representation dated 26.05.06 and letter dated 17.06.94 are annexed hereto for perusal of Hon'ble Tribunal as Annexure- 3 and 4 respectively).

- 4.7 That it is stated that the respondent No. 3 vide his impugned letter bearing No. PB/1/1/2005/Estt. II/7189 dated 30.10.2006 addressed to the respondent No. 4 rejected claim of the applicant on the ground that since the applicant has got one promotion in the grade of UDC, he will be eligible for 2nd financial upgradation after completion of 24 years of service counting from 01.11.1989. In this connection it is pertinent to mention here that the applicant was initially appointed in the Hon'ble Gauhati High Court as Typist on 02.06.1977 and joined on deputation in the Central Administrative Tribunal on regular basis w.e.f. 01.11.1989 and his past service in the Hon'ble Gauhati High Court as Typist w.e.f. 02.06.77 has been counted for all purposes, including seniority and pension purpose and accordingly applicant has completed 24 years of service on 03.06.2001. Therefore, denial of 2nd ACP benefit on the ground that 24 years of service of the applicant will be counted from 01.11.1989 for grant benefit of 2nd ACP is totally wrong decision of the authority. Moreover, as per clarificatory letter dated 17.06.1994 issued by respondent

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No. 3 the service rendered by the applicant in his parent department can be considered for the purpose of promotion to the cadre of UDC is also liable to be counted for the purpose of counting of total length of service of the applicant. Therefore total length of service of the applicant is liable to be counted w.e.f. 02.06.77 and not from 01.11.89 as because for the purpose of promotion/financial upgradation and other service benefits, past service of the applicant rendered in the Hon'ble High Court is liable to be taken into consideration, for the purpose of grant of 2nd ACP counting of the length of service from the date of regular absorption i.e. w.e.f. 01.11.89 cannot be tenable and the said action of the respondents are arbitrary, illegal and as such the impugned letter dated 30.10.06 is liable to be set aside and quashed so far the applicant concerned.

(Copy of the impugned letter dated 30.10.06 and O.M dated 13.01.03 are annexed hereto for perusal of Hon'ble Tribunal as Annexure- 5 and 6 respectively).

- 4.3 That it is stated that in the impugned order dated 30.10.2006 the respondents have referred the D.O.P.T letter bearing No. A-260011/3/2000-AT dated 13.01.2003 wherein the D.O.P.T has clarified that ACP is applicable only in the case of Central Govt. employees and as such the employees who subsequently absorbed in Central Government either from an Autonomous body/statutory body/State Government their past services rendered in those organization cannot be counted for the purpose of granting benefit under ACP Scheme introduced by the Govt. of India and it was further stated in the impugned letter dated 13.01.2003 that a clarification already given to point of doubt No. 43 through O.M dated 18.07.2001 to the effect that services rendered in an autonomous body/statutory body/State Government is not to be granted for the purpose of ACP. The said clarification appears contrary to the condition

No. 14 of the O.M dated 09.08.99 on that ground itself the impugned clarification dated 13.01.2003 is liable to be set aside and quashed.

- 4.9 That the High Court has been set up under the provision of Constitution of India and it is an autonomous organization under the Govt. of India, therefore service rendered by the applicant in his parent organization i.e. at Gauhati High Court is liable to be taken into consideration for the purpose of grant of 2nd ACP in terms of O.M dated 09.08.1999. It is pertinent to mention here that after setting up of the various Benches of the Central Administrative Tribunal under Administrative Tribunal Act 1985, the services of experience persons on deputation basis were utilized in different cadres in the Tribunal and the present applicant and other employees of the Gauhati High Court were allowed to work on deputation basis considering their experiences in the line and finally most of the deputationists were absorbed in the interest of the service. In such circumstances the respondents are not entitled to ignore the valuable past services of the applicant rendered in his parent organization for the purpose of granting the benefit of 2nd financial upgradation. The condition 14 of the D.O.F.T. O.M dated 09.08.1999 rather specifically stated that even if an employee declares surplus in his parent organization and in case of transfer including unilateral transfer on own request, the regular service rendered by him or her in the previous organization shall be counted along with his her regular service in new organization for the purpose of giving financial upgradation under the scheme. In view of such specific clarification there is no impediment in granting the benefit of second financial upgradation from the day when the applicant has completed 24 years of regular service i.e. with effect from 03.06.2001 since he completed 24 years of regular service on 07.12.2000. The respondents while issuing the impugned order rejecting the claim of the applicant for grant of 2nd financial upgradation w.e.f. 03.06.2001, lost sight of the fact that there is a specific clarification already given in condition No. 14 of the D.O.F.T O.M

Imran Hannonin

dated 09.08.1999 to count the services rendered by an employee in his previous organization. That being the position of the Office memorandum, the rejection of the prayer of the applicant on the alleged ground that 24 years of service is liable to be counted only with effect from the date of regular absorption is contrary to the conditions laid down in the O.M dated 09.08.1999 and such decision is also opposed to public policy and on that score alone the impugned letter dated 30.10.06 is liable to be set aside and quashed so far the applicant is concerned.

- 4.10 That it is stated that the applicant in spite of his best effort could not obtain the copy of the O.M dated 18.07.2001 as indicated in the impugned letter dated 13.01.2003, therefore the respondents be directed produce a copy of the O.M dated 18.07.2001 for perusal of the Hon'ble Tribunal and also for proper adjudication of the case of the applicant.

It is a settled position of law that an office memorandum issued by the Govt. of India cannot be improved in favour of the respondent Union of India through clarificatory memorandums or letters without proper amendment of the original memorandum issued by the Govt. of India for the purpose of granting benefit of ACP and on that score alone the impugned letter dated 13.01.2003 issued by the D.O.P.T as well as the impugned letter dated 30.10.2006 are liable to be set aside and quashed so far the applicant is concerned.

- 4.11 That the applicant most humbly begs to submit that due to non-consideration for grant of second financial upgradation under the ACP Scheme, the applicant has been suffering heavy financial losses. Finding no other alternative, the applicant is approaching this Hon'ble Tribunal for protection of his rights and interests and it is a fit case for the Hon'ble Tribunal to interfere with and protect the rights and interests of the applicant, directing the respondents to grant second financial upgradation to the applicant under the ACP Scheme w.e.f. 03.06.2001.

Imben Hunnar

4.12 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

5.1 For that, the applicant completed 24 years of regular service on 03.06.2001, as such he is entitled for 2nd financial upgradation in the pay scale of Rs. 5,500-9,000/- at least w.e.f. 03.06.2001 in terms of ACP Scheme issued by the D.O.P.T O.M dated 09.08.1999.

5.2 For that, the entire period of service rendered by the applicant as Typist in the Hon'ble Gauhati High Court is liable to be taken into consideration for the purpose of grant of 2nd ACP benefit w.e.f. 03.06.2001, as such decision of the respondents not to take into account the past service rendered by the applicant in the Hon'ble High Court communicated through impugned letter dated 30.10.2006 is contrary to the D.O.P.T O.M dated 09.08.99 issued by the D.O.P.T as such the impugned O.M dated 13.03.03 as well as the impugned letter dated 30.10.2006 are liable to be set aside and quashed so far the applicant is concerned.

5.3 For that, Hon'ble High Court has been set up under the provision of Constitution of India and it is an autonomous organization under the Govt. of India, therefore service rendered by the applicant in his parent organization i.e. at Gauhati High Court is liable to be taken into consideration for the purpose of grant of 2nd ACP in terms of O.M dated 09.08.1999.

5.4 For that, the rejection of the prayer of the applicant on the alleged ground that 24 years of service is liable to be counted only with effect from the date of regular absorption is contrary to the condition No. 14 laid down in the O.M dated 09.08.1999 and such decision of the respondents rejecting the claim of 2nd ACP is contrary to the O.M dated 09.08.99 as well as

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opposed to public policy and on that score alone the impugned letter dated 30.10.06 is liable to be set aside and quashed so far the applicant is concerned.

5.5 For that, it is a settled position of law that an office memorandum issued by the Govt. of India cannot be improved in favour of the respondent Union of India through clarificatory memorandums or letters without proper amendment of the original memorandum issued by the Govt. of India for the purpose of granting benefit of ACP and on that score alone the impugned letter dated 13.01.2003 issued by the D.O.P.T as well as the impugned letter dated 30.10.2006 are liable to be set aside and quashed so far the applicant is concerned.

5.6 For that when past service of the applicant has been taken into consideration for the purpose of seniority and for pensionary benefit, as such there is no cogent reason to deny the said past service for the purpose of 2nd financial upgradation under O.M dated 09.08.1999.

5.7 For that the due to non-consideration of grant of 2nd financial upgradation, the applicant has been incurring heavy financial losses.

6. Details of remedies exhausted

That the applicant states that he has exhausted all the remedies available to him and there is no other alternative and efficacious remedy than to file this application.

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

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this

Imran Hussain

application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned D.O.P.T letter bearing No. A-260011/3/2000-AT dated 13.01.2003 (Annexure-6) as well as the impugned letter bearing No. PB/1/1/2005/Estt. II/7189 dated 30.10.2006 (Annexure-5) so far the applicant is concerned.

8.2 That the Hon'ble Tribunal be pleased to direct the respondents to grant 2nd financial upgradation to the applicant w.e.f. 03.06.2001 with arrear monetary benefit in the pay scale of Rs. 5,500-9000/- in terms of ACP Scheme dated 09.08.1999.

8.3 Costs of the application.

8.4 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following relief: -

Imtiaz Hussain

- 9.1 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

- | | | |
|------|---------------|--------------------|
| i) | I. P. O. No. | : 34 G652835 |
| ii) | Date of Issue | : 5.4.2007 |
| iii) | Issued from | : G.P.O. Guwahati. |
| iv) | Payable at | : C.P.O. Guwahati. |

12. List of enclosures.

As given in the index.

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VERIFICATION

I, Md. Imran Hussain, S/o- Late Sariful Hussain, aged about 55 years, Working as Upper Division Clerk, in the office of the Central Administrative Tribunal, Guwahati Bench, Rajgarh Road, Bhangagarh, Guwahati- 5, applicant in the instant original application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 29th day of June 2007.

Imran Hussain

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

Government of India

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

ANNEXURE-1

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:-

GROUP 'A' CENTRAL SERVICES

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

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

3.1 While in respect of these categories also promotion shall continue to be duly earned, it is proposed to adopt the ACP Scheme in a modified form to mitigate hardship in cases of acute stagnation either in a cadre or in an isolated post. Keeping in view all relevant factors, it has, therefore, been decided to grant two financial upgradations [as recommended by the Fifth Central Pay Commission and also in accordance with the Agreed Settlement dated September 11, 1997 (in relation to Group 'C' and 'D' employees) entered into with the Staff Side of the National Council (JCM)] under the ACP Scheme to Group 'B', 'C' and 'D' employees on completion of 12 years and 24 years (subject to condition no.4 in Annexure-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 upgradations under the ACP Scheme shall, however, be subject to the conditions mentioned in Annexure-1.

...2/-

A.O.-A/87(CM)-E

12/3/99

Advocate

- 15 -

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

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

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

6. **SCREENING COMMITTEE**

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

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

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

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

3. - - - 16 -

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

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

9. In so far as persons serving in the Indian Audit and Accounts Departments are concerned, these orders issue after consultation with the Comptroller and Auditor General of India.

10. The Fifth Central Pay Commission in paragraph 52.15 of its Report has also separately recommended a "Dynamic Assured Career Progression Mechanism" for different streams of doctors. It has been decided that the said recommendation may be considered separately by the administrative Ministry concerned in consultation with the Department of Personnel and Training and the Department of Expenditure.

1. Any interpretation/clarification of doubt as to the scope and meaning of the provisions of the ACP Scheme shall be given by the Department of Personnel and Training (Establishment-D).

2. 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;

3. Hindi version would follow.



(K.K. JHA)
Director(Establishment)

- 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
- All attached/subordinate offices of the Ministry of Personnel, Public
- Grievances and Pensions
- Secretary, National Commission for Minorities
- Secretary, National Commission for Scheduled Castes/Scheduled Tribes
- Secretary, Staff Side, National Council (JCM), 13-C, Ferozeshah Road, New Delhi
- All Staff Side Members of the National Council (JCM)
- Establishment (D) Section - 1000 copies

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ANNE

**CONDITIONS FOR GRANT OF BENEFITS
UNDER THE ACP SCHEME**

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

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

3. The financial benefits under the ACP Scheme shall be granted from the date of completion of the eligibility period prescribed under the ACP Scheme or from the date of issue of these instructions whichever is later;

4. The first financial upgradation under the ACP Scheme shall be allowed after 12 years of regular service and the second upgradation after 12 years of regular service from the date of the first financial upgradation subject to fulfillment of prescribed conditions. In other words, if the first upgradation gets postponed on account of the employee not found fit or due to departmental proceedings, etc this would have consequential effect on the second upgradation which would also get deferred accordingly;

5.1 Two financial upgradations under the ACP Scheme in the entire Government service career of an employee shall be counted against regular promotions (including in-situ promotion and fast-track promotion availed through limited departmental competitive examination) availed from the grade in which an employee was appointed as a direct recruit. This shall mean that two financial upgradations under the ACP Scheme shall be available only if no regular promotions during the prescribed periods (12 and 24 years) have been availed by an employee. If an employee has already got one regular promotion, he shall qualify for the second financial upgradation only on completion of 24 years of regular service under the ACP Scheme. In case two prior promotions on regular basis have already been received by an employee, no benefit under the ACP Scheme shall accrue to him;

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

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

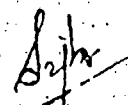
Financial upgradation under the Scheme shall be given to the next higher grade in accordance with the existing hierarchy in a cadre/category of posts without creating new posts for the purpose. However, in case of isolated posts, in the absence of defined hierarchical grades, financial upgradation shall be given by the Ministries/Departments concerned in the immediately next higher (standard/common) pay-scales as indicated in Annexure-II which is in keeping with Part-A of the First Schedule annexed to the Notification dated September 30, 1997 of the Ministry of Finance (Department of Expenditure). For instance, incumbents of isolated posts in the pay-scale S-4, as indicated in Annexure-II, will be eligible for the proposed two financial upgradations only to the pay-scales S-5 and S-6. Financial upgradation on a dynamic basis (i.e. without having to create posts in the relevant scales of pay) has been recommended by the Fifth Central Pay Commission only for the incumbents of isolated posts which have no avenues of promotion at all. Since financial upgradations under the Scheme shall be personal to the incumbent of the isolated post, the same shall be filled at its original level (pay-scale) when vacated. Posts which are part of a well-defined cadre shall not qualify for the ACP Scheme on 'dynamic' basis. The ACP benefits in their case shall be granted conforming to the existing hierarchical structure only;

8. The financial upgradation under the ACP Scheme shall be purely personal to the employee and shall have no relevance to his seniority position. As such, there shall be no additional financial upgradation for the senior employee on the ground that the junior employee in the grade has got higher pay-scale under the ACP Scheme;

9. On upgradation under the ACP Scheme, pay of an employee shall be fixed under the provisions of FR 22(I) a(1) subject to a minimum financial benefit of Rs.100/- as per the Department of Personnel and Training Office Memorandum No.1/6/97-Pay.1 dated July 5, 1999. The financial benefit allowed under the ACP Scheme shall be final and no pay-fixation benefit shall accrue at the time of regular promotion i.e. posting against a functional post in the higher grade;

10. Grant of higher pay-scale under the ACP Scheme shall be conditional to the fact that an employee, while accepting the said benefit, shall be deemed to have given his unqualified acceptance for regular promotion on occurrence of vacancy subsequently. In case he refuses to accept the higher post on regular promotion subsequently, he shall be subject to normal debarment for regular promotion as prescribed in the general instructions in this regard. However, as and when he accepts regular promotion thereafter, he shall become eligible for the second upgradation under the ACP Scheme only after he completes the required eligibility service/period under the ACP Scheme in that higher grade subject to the condition that the period for which he was debarred for regular promotion shall not count for the purpose. For example, if a person has got one financial upgradation after rendering 12 years of regular service and after 2 years therefrom if he refuses regular promotion and is consequently debarred for one year and subsequently he is promoted to the higher grade on regular basis after completion of 15 years (12+2+1) of regular service, he shall be eligible for consideration for the second upgradation under the ACP Scheme only after rendering ten more years in addition to two years of service already rendered by him after the first financial upgradation (2+10) in that higher grade i.e. after 25 years (12+2+1+10) of regular service because the debarment period of one year cannot be taken into account towards the required 12 years of regular service in that higher grade;

- 19 - 26 -
11. In the matter of disciplinary/penalty proceedings, grant of benefits under the Scheme shall be subject to rules governing normal promotion. Such cases shall, therefore, be regulated under the provisions of relevant CCS(CCA) Rules, 1965 and instructions thereunder.
 12. The proposed ACP Scheme contemplates merely placement on personal basis in the higher pay-scale/grant of financial benefits only and shall not amount to actual/functional promotion of the employees concerned. Since orders regarding reservation in promotion are applicable only in the case of regular promotion, reservation orders/roster shall not apply to the ACP Scheme which shall extend its benefits uniformly to all eligible SC/ST employees also. However, at the time of regular/functional (actual) promotion, the Cadre Controlling Authorities shall ensure that all reservation orders are applied strictly;
 13. Existing time-bound promotion schemes, including in-situ promotion scheme, in various Ministries/Departments may, as per choice, continue to be operational for the concerned categories of employees. However, these schemes, shall not run concurrently with the ACP Scheme. The Administrative Ministry/Department -- not the employees -- shall have the option in the matter to choose between the two schemes, i.e. existing time-bound promotion scheme or the ACP Scheme, for various categories of employees. However, in case of switch-over from the existing time-bound promotion scheme to the ACP Scheme, all stipulations (viz. for promotion, redistribution of posts, upgradation involving higher functional duties, etc) made under the former (existing) scheme would cease to be operative. The ACP Scheme shall have to be adopted in its totality;
 14. In case of an employee declared surplus in his/her organisation and in case of transfers including unilateral transfer on request, the regular service rendered by him/her in the previous organisation shall be counted along with his/her regular service in his/her new organisation for the purpose of giving financial upgradation under the Scheme; and
 15. Subject to Condition No. 4 above, in cases where the employees have already completed 24 years of regular service, with or without a promotion, the second financial upgradation under the scheme shall be granted directly. Further, in order to rationalise unequal level of stagnation, benefit of surplus regular service (not taken into account for the first upgradation under the scheme) shall be given at the subsequent stage (second) of financial upgradation under the ACP Scheme as a one time measure. In other words, in respect of employees who have already rendered more than 12 years but less than 24 years of regular service, while the first financial upgradation shall be granted immediately, the surplus regular service beyond the first 12 years shall also be counted towards the next 12 years of regular service required for grant of the second financial upgradation and, consequently, they shall be considered for the second financial upgradation also as and when they complete 24 years of regular service without waiting for completion of 12 more years of regular service after the first financial upgradation already granted under the Scheme.


(K.K. JHA)
Director (Establishment)

ANNEXURE-IISTANDARD/COMMON PAY-SCALES

As per Part-A of the First Schedule Annexed to the Ministry of Finance
(Department of Expenditure) Gazette Notification dated September 30, 1997

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

S.No.	Revised pay-scales (Rs)	
1.	S-1	2550-55-2660-60-3200
2.	S-2	2610-60-3150-65-3540
3.	S-3	2650-65-3300-70-4000
4.	S-4	2750-70-3800-75-4400
5.	S-5	3050-75-3950-80-4590
6.	S-6	3200-85-4900
7.	S-7	4000-100-6000
8.	S-8	4500-125-7000
9.	S-9	5000-150-8000
10.	S-10	5500-175-9000
11.	S-12	6500-200-10500
12.	S-13	7450-225-11500
13.	S-14	7500-250-12000
14.	S-15	8000-275-13500
15.	S-19	10000-325-15200
16.	S-21	12000-375-16500
17.	S-23	12000-375-18000
18.	S-24	14300-400-18300

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MAIN FEATURES OF THE ASSURED CAREER PROGRESSION SCHEME

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

- (i) It is financial upgradation not promotion.
- (ii) It has no relation with vacancies.
- (iii) Normal (Regular) promotion on the basis of vacancies will continue to be granted as per relevant rules, when vacancies in higher grade arise.
- (iv) Cadre Review will not cease.
- (v) The benefit is on personal basis.
- (vi) Two financial upgradations under the ACP Scheme shall be available on completion of 12 years and 24 years of regular service respectively.
- (vii) If the first upgradation gets postponed on account of the employee not found fit due to Departmental proceedings etc. this would have consequential effect on the second upgradations.
- (viii) If an employee has already got one regular promotion, he shall qualify for the first financial upgradation on completion of 24 years of regular service under the ACP Scheme. In case two prior promotions on regular basis have already been received by an employee, no financial benefit under the scheme shall accrue to him.
- (ix) Departmental Screening Committees (same as DPCs) to process cases.
- (x) Screening to be held twice a year - Jan and Jul in advance. First screening to be done within one month of the issue of the order for cases maturing upto 31 March 2000.
- (xi) Scheme to be operational w.e.f. 09 Aug 99.

- (xii) Upgradation to be given to the next higher grade in accordance with existing hierarchy in the Cadre. In case of isolated posts where there is no hierarchy, upgradation should be given in the next higher scale as per standard pay scales recommended by Fifth CPC.
- (xiii) On financial upgradation, the concerned employee will continue to retain old designation and perform such duties as entrusted to the employee.
- (xiv) The ACP Scheme will be restricted to financial and certain other benefits like House Building Advance, Allotment of Government Accommodation, Advances etc. only. This will not confer any privilege related to higher status e.g. deputation to higher posts etc.
- (xv) On upgradation under ACP Scheme, pay of an employee shall be fixed under the provisions of FR 22(I)(a)(1) subject to a minimum financial benefit of Rs.100. The financial benefit allowed under the ACP Scheme shall be final and no fixation benefit will accrue at the time of regular promotion.
- (xvi) In the matter of Disciplinary Penalty proceedings, grant of benefits under the ACP Scheme will be subject to rules governing normal promotion.
- (xvii) Orders regarding reservation in promotion are not applicable to ACP Scheme.
- (xviii) Existing In Situ Promotion Scheme will not run concurrently with the ACP Scheme.
- (xix) In cases where employees have already completed 24 years of regular service with or without a promotion, second financial upgradation under the Scheme shall be granted directly.

To

The Principal Registrar,
Central Administrative Tribunal,
Principal Bench,
61/35, Copernicus Lane,
NEW DELHI-110 001.

8/2
Annexure-2
(Series)

(THROUGH PROPER CHANNEL)

Sub:-Prayer for grant of ^{1st} Second Financial upgradation
in terms of OM No.35034/1/97-Estt(D), dated
9-8-1999 issued by the D.O.P.T.Govt.of India.

Respected Sir,

I like to draw your kind attention on the subject cited above and further beg to state that the undersigned was initially joined as Typist in the office of the Registrar Gauhati High Court, Gauhati on 1-7-1977 to the post of Typist on regular basis, while working as such the undersigned joined in the present office, i.e. Central Administrative Tribunal Guwahati Bench on deputation basis w.e.f. 1-7-86 to the analogous post of L.D.C. However, the undersigned was absorbed in the office of the Registrar, Central Administrative Tribunal Guwahati Bench (present office) on regular basis w.e.f. 1-11-89 in the post of L.D.C. It is pertinent to mention here that I have been promoted to the post of U.D.C. in the present office w.e.f. 1-3-1994 on regular basis. Now I have completed 24 years of service on 7th Dec 2001, therefore I am entitled to the benefit of 2nd financial upgradation at least w.e.f. 1-8-2001 in terms of the D.O.P.T. office Memorandum No. 35034/1/97-Estt. (D) dated 9-8-1999.

It is relevant to mention herethat the next existing hierarchy or cadre in my channel of promotion is the post of "Assistant" in the scale of Rs. 5500-9000/- as such the undersigned is entitled to 2nd financial upgradation under the ACP Scheme in the pay scale of Rs. 5500-9000 at least w.e.f. 1-8-01. with all consequential benefit including monetary benefit.

I therefore most humbly and respectfully pray before your honour to pass the necessary order granting the benefit of 2nd financial upgradation to the undersigned in the scale of Rs. 5500-9000 at least w.e.f. 1-8-2001.

An early action in this regard is highly desired.

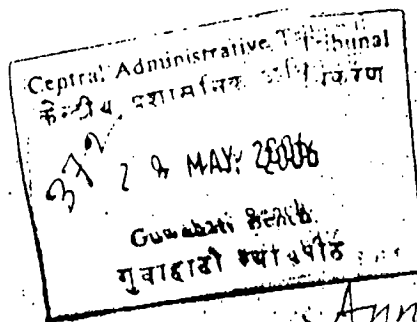
Yours faithfully,

(Signature)
(MD. IMRAN HUSSAIN)
U.D.C. CAT GHY. BENCH
GUWAHATI-5.

Alfred
Law
Almouk
DATED:- 24-11-04. *I Mr*

K/S
24-2-04

-24-



Annexure-2 (Serial)

To: The Principal Registrar,
Central Administrative Tribunal,
Principal Bench, New Delhi.

(THROUGH PROPER CHANNEL)

Sub: Prayer for grant of financial upgradation in terms
of OM No. 35034/1/97/Eatt(D) dt. 9-8-99 issued by the
DOPT Govt. of India.

Ref: My representation dtd. 24-3-04. 11-04
My representation dt. 22.5.06 & 26-5-06
3) Your letter bearing No. PB/17/11/93-Eatt/7469 dtd.
17-6-94.

Respected Sir,

I like to draw your kind attention on the subject cited above and further beg to state that the undersigned was initially joined as Typist in the office of the Registrar, Gauhati High Court on 01-07-1977, on regular basis while working as such the undersigned joined in the present office i.e. Central Administrative Tribunal, Guwahati Bench, Guwahati on deputation basis w.e.f. 01-07-1986 to the analogous post of L.D.C. However the undersigned was absorbed in the office of the Registrar Central Administrative Tribunal, Guwahati Bench (Present office) on regular basis w.e.f. 01-11-1989 in the post of L.D.C. It is pertinent to mention here that I have been promoted to the post of U.D.C. in the present office w.e.f. 01-07-1994 on regular basis. Now I have completed 29 years of regular service on 7th December 2000, therefore I am entitled to the benefit of financial upgradation at least w.e.f. 8-12-2000 in terms of the D.O.P.T. Office Memorandum No. 35034/1/97/Eatt(D) dtd. 09-08-1999.

It is relevant to mention here that the next existing hierarchy or cadre in my channel of promotion is the post of 'Assistant' in the scale of pay of Rs-5500-9000/- as such the undersigned is entitled to financial upgradation under the ACP scheme in the scale of pay of Rs- 5500-9000/- at least w.e.f. 8-12-2000 with all consequential benefit including monetary ben

contd. 2a

Officer
Sd/-
Advocate

I also beg to submit that in terms of your clarificatory letter dt. 17-06-1994 the entire period of the service of the undersigned rendered as Typist in the Hon'ble Gauhati High Court also liable to be taken into consideration for the purpose of grant of 1st ACP benefit and if the aforesaid period of service rendered as Typist in the Hon'ble Gauhati High Court is taken into consideration in that event the undersigned is entitled to 1st financial upgradation w.e.f. 8-12-2000 but surprisingly although I have submitted my earlier representation way back on 24-03-2004 but to no action has been taken till date on my said representation. I therefore once again pray before your Honour kindly to consider my case for grant of benefit of 1st ACP w.e.f. 8-12-2000 in terms of the OM dt. 9-8-99 as well as in terms of your letter dtd. 17-6-94 with immediate effect.

I therefore most humbly and respectfully pray before your honour to pass the necessary order granting the benefit of 1st financial upgradation to the undersigned in the scale of Rs-5500-9000/- at least w.e.f. 08-12-2000.

An early action in this regard is highly desired.

Yours faithfully,

Imran Hussain
(IMRAN HUSSAIN)
U.D.C. CAT, GUWAHATI BENCH
GUWATI-5

DATE: 26-05-06.

-26-

Annexure - 3

Central Administrative Tribunal
22.05.2006
Guwahati Bench
22.05.2006

22.05.2006

To

The Deputy Registrar,
Central Administrative Tribunal,
Guwahati Bench, Rajgarh Road,
Guwahati - 781 005.

Sub.: Prayer for Financial upgradation under ACP Scheme -
reg.

Sir,

With reference to my application dated 24.3.2004, I beg to remind again that I had been recruited as Typist in the Hon'ble Gauhati High Court on 1.7.1977 and came on deputation to this office as LDC on 1.7.1986 and subsequently was absorbed in the said post w.e.f. 1.11.1989. Thereafter, I had been promoted to the post of U.D.C. w.e.f. 1.4.1994 and since then I have completed 12 years of service in the post of UDC.

Further, I am to mention here that I reached to the stagnation w.e.f. 1.3.2006.

You are, therefore, requested to kindly consider my case for financial upgradation in the scale of pay of Rs. 5500-175-9000/- and for which act of your kindness I shall ever grateful to you.

Yours faithfully,

Imran Hussain

(IMRAN HUSSAIN)

U.D.C.

22/5/06

Sc(E)
23.5.06

Agst
Sub.
Advocate.

14/5/06

No. PB/17/11/93-Estt 17469(A)
केन्द्रीय प्रशासनिक अधिकरण

CENTRAL ADMINISTRATIVE TRIBUNAL
Central Administrative Bench, New Delhi
केन्द्रीय प्रशासनिक न्यायपीठ

28 JUN 1994

Guwahati Bench

The Section Officer,
Central Administrative Tribunal,
Guwahati Bench.

Faridkot House, Copernicus Marg,
New Delhi-110001.

Dated the 17th June, 94

To

Sub: Clarification for promotion to the post of
UDC-reg.

Sir,

I am directed to refer to your office letter
No. 107/88-Admn/698 dated 25th April, 1994 on the
subject mentioned above and to say that the regular
service rendered as Typist in their parent department
can be considered for eligibility for promotion to
the grade of UDC but not for the purpose of fixation
of inter-se seniority which has to be determined based
on contents of DOP&T, OM No. -20020/7/30-Estt(D)
dated 29.5.1986 and provisions of Rule 5 of the
Recruitment Rules.

Yours faithfully,

Raghubir Singh

(Raghubir Singh)
Deputy Registrar (E)

Mr. Mahan

PL put up in file

28/6

Mr. Mahan
Sub. Advocate



- 28 -
केन्द्रीय प्रशासनिक अधिकरण
CENTRAL ADMINISTRATIVE TRIBUNAL
प्रधान न्यायपीठ, नई दिल्ली
Principal Bench, New Delhi

Annexure - 5

61/35, Copernicus Marg, New Delhi-110 001

No. PB/1/1/2005/ Estt. II

Dated 30/10/2006

To,

The Registrar,
Central Administrative Tribunal,
Guwahati Bench,
Guwahati.

Sub : Grant of second financial upgradation under the ACP scheme - reg.

Sir,

I am directed to refer to your office letter No. 2/99/ACP/Estt/988 dated 15/12/2004 on the above subject forwarding therewith the representations of S/Sh. K. K. Sharma, Md. Imran Hussain and Dhanuram Das, UDCs of your bench and to say that Service Books of these officials along with your office comments on their representations were called for vide this office letter of even no. dated 07/02/2005 but the same have not been received in this Tribunal so far.

However the matter has been examined and it has been found that these officials came on deputation from the Office of Registrar, Guwahati High Court in analogous post of LDC and got absorbed in CAT w.e.f. 1-11-89. As per clarification on the provisions of ACP scheme received from DOP&T vide letter dated 13/01/2003 (copy enclosed), the reckonable service for the purpose of ACPs in case of employees from state Govts will count only from the date of absorption in CAT. Since these employees have got one promotion in the grade of UDCs in year 1994 -98, they will be eligible for 2nd financial upgradation after completion of 24 years of service counting from 01-11-89.

Encl : As above.

Yours Faithfully,

(SANJAY SHARMA)
DEPUTY REGISTRAR (Estt.)

SO(E)
NS
6.11.06

Affesto
Int.
Adwocate

NO.A-26011/3/2000-AT

Government of India

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

Annexure-6

North Block, New Delhi the 13th January 2003

To

The Principal Registrar,
Central Administrative Tribunal,
Principal Bench, 61/35, Copernicus Marg,
New Delhi.

Subject: Clarification on the provisions of ACP Scheme-reg.

I am directed to refer to your letter No.PB/1/1/2003-Estt.1 dated 8th January 2003 on the above subject and to say that as per the clarification given to point of doubt No.43 of this Department O.M. dated 18.07.2001, ACP Scheme is applicable to Central Government Civilian employees and for the purpose of financial upgradation under the ACP Scheme, only the regular service rendered after regular appointment in a Central Government civilian post is to be counted. Therefore, service rendered in an autonomous body/statutory body/State Government is not to be counted for the purpose. Correspondingly, promotions earned in these bodies prior to appointment in the Central Government are also to be ignored. The clarification in reply to point of doubt no. 4 to 6 in O.M. dated 10.02.2000(read with clarification to point of doubt No.36 of O.M. dated 18.07.2001) providing for counting of past service in another organisation in the same grade is only in relation to past service in a civilian post held in the Central Government.

It is, therefore, evident from above that in the case of employees from State Governments, the reckonable service for the purpose of ACPS will count only from the date of their absorption in CAT.

Yours faithfully,

B.S.A. Pudmanabha

(B.S.A. Pudmanabha)

Under Secretary to the Govt. of India

Tel. No.23094142.

CAT (PB) New Delhi
Recd. 36.2/226
Date 14/1/2003
Receiving Officer

Attested
Sub. Adm. Secy

15.01.03