

Central Administrative Tribunal
Jabalpur Bench

Circuit Sitting at Indore

OA No.229/04,
OA No.225/04,
&
OA No.206/04

Indore, this the 18th day of August, 2005.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman

Hon'ble Mr.Madan Mohan, Judicial Member

OA No.229/04

Phoolchand
S/o Shri Jainarayan Sharma
Junior Checker
R/o A-2-62, Aawas Nagar
Dewas.

Applicant

(By advocate Shri Rajendra Gupta on behalf
of Shri A.K.Sethi)

Versus

1. Union of India through
Secretary
Ministry of Finance
Department of Economic Affairs
New Delhi.
2. Bank Note Press
Sagar Mahal
Dewas through
General Manager.

Respondents

(By advocate Shri Umesh Gajankush)

OA No.225/04

Mohanlal
S/o Shri Hajarilal Rathor
Junior Checker
R/o 59A, Adarsh Nagar
B.N.P.Road, Dewas.

Applicant



(By advocate Shri Rajendra Gupta on
behalf of Shri A.K.Sethi)

Versus

1. Union of India through
Secretary
Ministry of Finance
Department of Economic Affairs
New Delhi.
2. Bank Note Press
Sagar Mahal
Dewas through
General Manager.

Respondents

(By advocate Shri Umesh Gajankush)

OA No.206/04

Shiv Narayan
S/o Shri Mangilal Solanki
Junior Checker
R/o 158, Maksi Road
Near Anaj Mandi
Dewas (MP).

Applicant

(By advocate Shri Rajendra Gupta on
behalf of Shri A.K.Sethi)

Versus

1. Union of India through
Secretary
Ministry of Finance
Department of Economic Affairs
New Delhi.
2. Bank Note Press
Sagar Mahal
Dewas through
General Manager.

Respondents

(By advocate Shri Umesh Gajankush)

. ORDER

By Madan Mohan, Judicial Member



As the issue involved in these three OAs is same and the facts are identical, these three OAs are disposed of by a common order.

For the purpose of brevity, facts of OA No.229/04 are given.

By filing this OA, the applicant has claimed the following reliefs:


- (i) Direct the respondents to extend the benefit of ACP Scheme to the applicant on the post of Junior Checker from pay scale Rs.3050-4590 to 4000-6000 with effect from 9.8.99 instead of 1.2.2002 and consequently the order dated 1.2.02 (A6) be modified.

2. The brief facts of the case are that the applicant who was initially appointed as Counter vide order dated 15.2.1978 was promoted to the post of Junior Checker with effect from 1.6.78 vide order dated 22.12.1981. On 11.11.97, the applicant's pay was fixed in the pay scale of Rs.3050-4590 as per Central Civil Services (Revision) of Pay) Rules, 1997 (Annexure A3). The Government of India introduced on 13.10.1999 the Assured Career Progression Scheme (ACP Scheme) to mitigate the hardship in case of acute stagnation either in the cadre or in isolated post and decided to grant 2 financial upgradations on completion of 12/24 years of regular service. Respondent No.2 issued an order dated 29.8.2001 for giving the benefit of ACP Scheme to various Junior Checkers with effect from 9.8.99 but the name of the applicant was not included in this list. It appeared that the Screening Committee did not consider the applicant's case for giving the benefit. Respondent No.2 thereafter issued an office order dated 1.2.02 by which the applicant was given the benefit of ACP Scheme and granted pay scale of Rs.4000-6000 with effect from 1.2.02 (Annexure A6). The applicant is entitled to the benefit of the ACP Scheme with effect from 9.8.99 i.e. from the date his juniors were given such benefit, instead of 1.2.2002. Applicant submitted various representations in this regard but all in vain. Hence this OA is filed.



3. In reply, respondents have stated that the applicant joined Bank Note Press, Dewas as Counter on 4.3.1974 in the Control Section in the scale of Rs.210-290 and promoted as Junior Checker (ad hoc) from 1.6.78 in the scale of Rs.225-308 and thereafter as Junior Checker in the scale of Rs.260-400 with effect from 1.2.79. The post of Junior Checker was re-categorized as Junior Checker in the higher scale of Rs.260-400. As per OM dated 9.8.99 by which the ACP Scheme was introduced by the Government, the applicant was eligible for grant of financial upgradation on completion of 24 years of service i.e. he became eligible with effect from 4.3.98. However, as the OM is applicable only with effect from 9.8.99, he is eligible for the benefit from 9.8.99. While examining the case of re-categorization, a doubt arose as to how to treat the case of re-categorized posts for the purpose of grant of ACP. Accordingly, the matter was referred to Ministry and the Ministry in consultation with DoPT informed vide letter dated 4.7.2001 that the higher pay scale granted due to re-categorization of Junior Checkers need not be counted as one financial upgradation/promotion. After receipt of the clarification, the cases were put up to the Departmental Screening Committee. The Screening Committee held on 9.8.2001 observed that the applicant was under currency of penalty i.e. from 1.2.2001 to 31.1.2002 (copy of charge sheet and penalty order are annexed as Annexure R-7). Therefore, the committee recommended to grant 2nd financial upgradation under ACP from 1.2.2002 i.e. after completion of the penalty period. Accordingly the applicant was granted ACP with effect from 1.2.2002 vide order dated 1.2.2002 (Annexure R8).

4. Heard learned counsel for both parties. It is argued on behalf of the applicant that the applicant was initially appointed with effect from 4.3.1974 as is mentioned in the office order dated 22.3.1974 (Annexure R1) and this fact is admitted by the respondents in the reply. According to the OM dated 9.8.99, the applicant became entitled for the benefit of the ACP Scheme on 4.3.1998. During the relevant period, there was nothing adverse against the applicant at all.



Even if there was any penalty or proceedings against the applicant, that could not have affected the entitlement of the applicant for the benefit. Admittedly, the applicant was under currency of penalty from 1.2.2001 to 31.1.2002. Hence after the period of the alleged penalty, the respondents have granted the ACP benefit to the applicant with effect from 1.2.2002. Hence the applicant is entitled to the reliefs claimed.

5. In reply, learned counsel for the respondents argued that as the applicant was under currency of penalty from 1.2.2001 to 31.1.2002, he was given the benefit after expiry of the penalty period and thus the respondents have given the benefit to the applicant within due time.

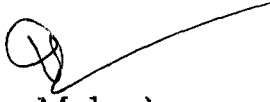
6. After hearing the learned counsel for the parties and perusing the records, we find that admittedly the applicant in OA No. 229/04 and the applicant in OA No. 225/04 joined Bank Press Note, Dewas as Counter with effect from 4.3.1974 while applicant in OA No. 206/04 joined on 4.2.1974 (Annexure R1). According to OM dated 9.8.99 (Annexure R4), the applicants became eligible for grant of financial upgradation on completion of 24 years i.e. with effect from 4.3.98 in the aforesaid OAs i.e. 229 & 225 of 2004 and the applicant in OA No. 206/04 became entitled for the benefit with effect from 4.2.98. But this OM is applicable only with effect from 9.8.99. At that time, nothing was adverse against the applicant, even according to the contentions of the respondents. Respondents have contended that the Screening Committee held on 9.8.2001 observed that the applicants were under currency of penalty from 1.2.2001 to 31.1.2002, and therefore the committee recommended second financial upgradation with effect from 1.2.2002 i.e. after completion of the penalty period on 31.1.2002. After the date on which the applicants became entitled for the benefit of the ACP Scheme, any subsequent event cannot disentitle them from the benefit of the Scheme, which has already accrued to them. Respondents have denied this benefit to the applicants from the due date on the ground of currency of penalty

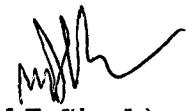


from 1.2.2001 to 31.1.2002 i.e. much later than 9.8.99 when the applicants became entitled for the benefit.

7. Considering all facts and circumstances of the case, we are of the considered opinion that the applicant are legally entitled for the relief claimed. Accordingly the OAs are allowed and the respondents are directed to extend the benefit of the ACP Scheme to the applicants with effect from 9.8.99 instead of 1.2.02. Impugned order dated 1.2.02 is modified accordingly.

8. All the aforesaid OAs are disposed of as above. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

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Comptroller
20/10/02

copy Recd.
on 20/10/02
