

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 603 of 2004

Indore this the 18th day of Oct 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Vijay Singh Baghel, S/o. late Shri
L.S.N. Baghel, aged about 58 years,
Working at present as Sr. Auditor
in the O/o. The Principal Accountant
General (Audit)-I, M.P. Gwalior.

.... Applicant

(By Advocate – Shri Deepak Panjwani)

V e r s u s

1. Union of India, through Secretary,
Ministry of Personnel, Department of
Personnel & Training, Govt. of India,
New Delhi.
2. The Comptroller and Auditor General of
India, 10, Bahadurshah Zafar Marg,
New Delhi.
3. Principal Accountant General,
(Audit) I, M.P. Gwalior, MP.
.... Respondents

(By Advocate – Shri M. Rao)

O R D E R

By Madan Mohan, Judicial Member –

By filing this Original Application the applicant has claimed the following main reliefs :

“8.1 to direct the respondents to revise the qualifying pay w.e.f. 1.1.1986 and 1.1.1996,

8.2 to direct the respondent to extend the benefit of ACP Scheme granted w.e.f. 9.5.1999.”



2. The brief facts of the case are that the applicant was initially appointed as Lower Division Clerk on 3.7.1964. He was promoted as Auditor on 27.4.1997. As a result of restructuring of cadres the pay scale of Auditors was revised to Rs. 425-800/- with effect from 1.3.1984. While upgrading the pay scale with effect from 1.3.1984 the pay fixation was done and benefit of FR-22-C was given. Since the fixation was done under FR-22-C a doubt was raised about qualifying pay being drawn by the Auditors due to passing of the departmental confirmatory test, which was clarified by C&AG of India vide circular dated 3.4.1984. The applicant submitted number of representations about merger of the qualifying pay which was rejected in terms of the circular dated 3.4.1984. The applicant asked in his representation dated 11.3.2003 that if the pay fixation has not been done as a result of promotion then the applicant should have been given the benefit of ACP scheme after putting more than 24 years of service. The respondents again refused to merge the qualifying pay on the plea that the pay fixation of Rs. 425-800/- was merely a placement in the higher pay scale and it is infact partial upgradation of cadre and not a promotion and therefore the question of merging qualifying pay does not arise. The applicant has passed the departmental test before 1.1.1973 and was granted the qualifying pay of Rs. 5/- w.e.f. 1.6.1981. Since the placement of pay scale of Rs. 425-800/- is not to be treated as promotion then the applicant is entitled for ACP benefit w.e.f. 9.8.1999. The respondents are rejecting both the demands at a time which is no way justified. The respondent No. 3 has not decided the representation of the applicant dated 22.1.2004, even after lapse of more than 6 months. Hence, this Original Application is filed.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. The learned counsel for the respondents has raised a preliminary objection that the applicant has claimed multiple reliefs. The learned



counsel for the applicant during the course of arguments has not pressed the relief No. 8.1 i.e. to direct the respondents to revise the qualifying pay w.e.f. 1.1.1986 and 1.1.1996. He is now only pressing the relief No. 8.2 i.e. regarding direction to the respondents to extend the benefit of ACP Scheme with effect from 9.5.1999. However, the applicant is granted liberty to approach the Tribunal by filing a fresh OA with regard to the relief No. 8.1.

5. The learned counsel for the applicant has argued that the applicant was initially appointed on 3.7.1964. Since the placement in the revised pay scale of Rs. 425-800/- if not to be treated as promotion, as the respondents have denied the merger of qualifying pay as on 1.3.1984 then the applicant is entitled for ACP benefit w.e.f. 9.8.1999. The applicant has submitted several representations before the respondents but they were not duly considered while the applicant is legally entitled for the benefit of the ACP scheme after putting more than 24 years of service. He has also filed the copy of the representation dated 22.1.2004 (Annexure A-8). Thus, the applicant is legally entitled for the benefit of Second ACP since 9.8.1999.

6. In reply the learned counsel for the respondents argued that the applicant has already been given two regular promotions, one to the post of Auditor (UDC) on 28.4.1970 and the second as Sr. Auditor on 1.3.1984. Therefore, he is not at all entitled for any upgradation as per conditions/instructions laid down in paragraph 5.1 of Annexure-I to the Government of India, Ministry of Personnel, Public Grievances and Pension (Department of Personnel & Training) OM dated 9.8.1999. The Government of India has introduced two financial up-gradations under the ACP scheme in the entire service career of an employee which shall be counted against his regular promotions availed from the grade in which an employee was appointed as a direct recruit. In the instant case the applicant has already been given two regular promotions. Therefore he is



not entitled for any further promotion under the ACP scheme. Hence, this Original Application is liable to be dismissed.

7. After hearing the learned counsel for the parties and carefully perusing the pleadings and records, we find that the applicant was initially appointed as a Lower Division Clerk on 3.7.1964. He was promoted to the post of Auditor (UDC) on 28.4.1970 and thereafter he was further promoted as Senior Auditor on 1.3.1984. We have perused Annexure A-7 dated 24.9.1999, regarding clarification on implementation of ACP scheme. In its serial No. 5 the answer given to the question whether appointments to the cadre of Senior Auditor in the pre-revised pay scale of Rs. 425-800/- is to be treated as regular promotion, is yes. The appointment to the cadre of Senior Auditor in the pre-revised scale of Rs. 425-800/- was treated as regular promotion in the case of the applicant by the respondents vide aforesaid clarification No. 5 of Annexure A-7. Since the applicant has already received two regular promotions on 28.4.1970 and 1.3.1984 on the post of Auditor (UDC) and Senior Auditor, respectively, and in view of the instructions contained in the OM dated 9.8.1999 (Annexure A-3) issued by the Government of India, Ministry of Personnel, Public Grievances and Pension, Department of Personnel and Training, regarding Assured Career Progression scheme for the Central Government civilian employees, we find that the applicant is not entitled for the relief claimed by him in this Original Application. According to the ACP scheme two financial up-gradations are provided in the entire service career of an employee i.e. after completion of 12 years and 24 years of service during his whole service and these promotions shall be counted against regular promotions availed from the grade in which an employee was appointed as a direct recruit.

8. Considering all the facts and circumstances of the case, we are of the considered view that the applicant has failed to prove his case and this Original Application is liable to be dismissed as having no merits.

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Accordingly, the Original Application is dismissed. There shall be no order as to costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

"SA"

पृष्ठांकन सं. ओ/ला..... जयलम्बुर, दि.....
प्रतिलिपि अर्थात् :-

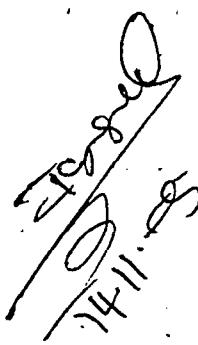
- (1) संग्राही, उच्च व्यापार सं. ए.पी.एस.जॉलम्बुर
- (2) आकेदव श्री/महिला, के घाउंसल
- (3) प्रत्यक्षी श्री/महिला, के घाउंसल
- (4) ग्रामपाल, गोपाल, जयलम्बुर उपायकीड़ि

सूचना एवं आवश्यक घाउंसली हैं।

Deepak Panjwani
Deepak Panjwani

M. Rao PW Gud

..... अ. राजस्वामी


14/11/05