

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.674 of 2002

Jabalpur, this the 5th day of November, 2003

Hon'ble Shri M.P.Singh-Vice Chairman

1. Raj Kumar Shrivastava, S/o late H.N.Shrivastava, aged about 42 years, R/o A-3, Chenal Estate, Bairasia Road, Bhopal (M.P.).
 2. Ravindra Kumar Mathur, S/o Shri R.N.Mathur, Aged about 42 years, R/o III/22, Central Govt. Employees Colony, E-8, Bharat Nagar, Bhopal (MP) - APPLICANTS
- (By Advocate - Shri S.Paul)

Versus

1. Union of India through its Secretary, Ministry of Health & Family Welfare, Department of Health, Nirman Bhawan, New Delhi.
2. Director General of Health Services, Nirman Bhawan, New Delhi.
3. Director, Central Bureau of Health Intelligence, "A" Wing, Nirman Bhawan, New Delhi.
4. Sr. Regional Director, Regional Office for Health & Family Welfare, 32 Purjour House, IInd Floor, Indira Press Complex, Zone-I, Maharana Pratap Nagar, Bhopal (MP) - RESPONDENTS

(By Advocate - Shri K.N.Pethia)

O R D E R (Oral)

The applicants 2 in number, are working as Statistical Assistants in the pay scale of Rs.4500-7000. The said pay scale was upgraded to Rs.5000-8000. On 9th August, 1999 the Government has introduced an Assured Career Progression (or short 'ACP') scheme. The applicants became eligible for benefit of ACP scheme in the grade of Statistical Assistant. The next promotional post for the Statistical Assistant is Investigator Statistics ^{which} is in the pay scale of Rs.6500-10500. The Department of Personnel and Training have later given clarification regarding the ACP Scheme, that financial upgradation under the said scheme shall be given to the next higher grade in accordance with the existing hierarchy in the cadre/category of the post without creating posts for the purpose. However, in the case of isolated posts, in absence of defined hierarchical grades, financial

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upgradation shall be given by the Ministry/Departments concerned in the immediately next higher (standard/common) pay scale. The respondents have treated the post of Statistical Assistant as isolated post and have given the benefit of ACP promotion to the applicants in the scale of Rs.5500-9000 instead of Rs.6500-10500. Hence the applicants have filed this Original Application claiming the relief by seeking a direction to set aside the order dated 27.9.2002 (Annexure-A-1) and also the order dated 4.10.2002 (AnnexureA-2). They have further sought a direction to continue them in the pay scale of Rs.6500-10500 with all attendant benefits.

2. The respondents in their reply have stated that the applicants who are working as Statistical Assistants are holding the isolated post in the pay scale of Rs.5000-8000 and they are entitled for financial upgradation in the scale of Rs.5500-9000 only. According to them the salary of the applicant was wrongly fixed in the scale of Rs.6500-10500. According to them, in the isolated post, in absence of definite hierarchy grade, the financial upgradation shall be given by the Department concerned in the minimum next higher (standard/common pay scale) as indicated in Part-A of Schedule-I annexed with the Notification dated 30.9.1997 of the Ministry of Finance, Department of Expenditure. Since the posts held by the applicants are isolated one, they have rightly been granted the financial upgradation in the scale of next higher scale of Rs.5500-9000.

3. Heard, both the learned counsel.

4. The learned counsel for the applicants submitted that the applicants are working in the scale of Statistical Assistant of Rs.5800-8000 and the next promotional post to the applicants is that of Investigator Statistics in the scale of Rs.6500-10,500. In this context he placed reliance on order dated 5.8.1998 (Annexure-RJ/1). He also

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submitted that contention of the respondents that the post of Statistical Assistant is an isolated/is wrong. He drew our attention to the recruitment rules for the post of Investigator Statistics notified on 3.2.1994 (Annexure-RJ/2). As per column 11 of the said recruitment rules 75% of the post of Investigator Statistics are to be filled by promotion. As per column 12 of the said rules, the Statistical Assistants with 5 years' regular service in the grade are eligible for promotion to the post of Investigator Statistics. The post of Statistical Assistant also has a feeder grade as per recruitment rules for the post of Statistical Assistant enclosed with the additional return filed on behalf of the respondents. As per column 10 of the said rules, the post of Statistical Assistant is filled up by promotion of Computer-cum-key punch operators possessing the requisite qualification and having two years experience of working in field survey unit. The isolated post has been defined by the Department of Personnel, Public Grievances and Pensions, New Delhi vide OM No.F.No.35034/1/97-Estt(D) (Vol.IV) dated 10.2.2000 (at page 30 of the OA) in serial no.31 which states that "isolated post is a stand alone post, having neither feeder grade nor promotional grade. As such, a post having no promotional grade but having a feeder grade and vice-versa shall not be treated as isolated post for the purpose of ACPs. In the instant case, the post of Statistical Assistant has both feeder grade as well as promotional post, as observed above, and therefore the post of Statistical Assistant cannot be treated as an isolated post and as per the ACP scheme issued by the Department of Personnel on 9.8.99, the applicants are eligible for financial upgradation to the Investigator Statistics i.e. Rs.6500-10500-^{respondents has} grade of

5. The learned counsel for the respondents vehemently opposed the contentions of the learned counsel for the applicants.

6. After careful reading of the instructions issued by the Department of Personnel regarding ACP scheme issued on 9.8.1999, this Tribunal finds that the post of Statistical

Assistant is not an isolated post as it has both promotional as well as feeder grade post. The next higher promotional post, in accordance with the existing hierarchy in the cadre is that of Investigator Statistics ^{which} is in the scale of Rs.6500-10500. The applicants are, therefore, eligible for financial upgradation to the post of Rs.6500-10500.

7. Accordingly, the O.A. is allowed and the impugned orders dated 27.9.2002(Annexure-A-1) and 4.10.2002 (Annexure-A-2) are quashed and set aside. The respondents are directed to consider the applicants for grant of financial upgradation under the ACP scheme to the grade of Rs.6500-10500 within a period of three months from the date of communication of this order and grant them the consequential benefits within the same period. The interim order passed earlier is made absolute. No costs.

(M.P. Singh)
Vice Chairman

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सूचना एवं प्रसारण विभाग

S. Paul, Adh
KN Pethia, Adh

(Signature)
19.11.03

Quashed
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