

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 747 of 2002

Jabalpur, this the 16th day of February, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. G.Shanthappa, Judicial Member

Sunil Kumar Salariya & Ors.

APPLICANTS

(By Advocate - Shri Munish Saini)

VERSUS

Union of India & Ors.

RESPONDENTS

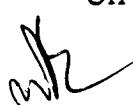
(By Advocate - Shri P.Shankaran)

O R D E R (ORAL)

By M.P. Singh, Vice Chairman -

By filing this OA, the applicants have sought a direction to the respondents to grant the benefit of second upgradation under the Assured Carrer Progression Scheme to the applicants since 9.8.1999 and to pay the arrears of difference of pay accordingly.

2. The brief facts of the case are that the applicant were initially appointed as Auditor and they have been promoted to the post of Senior Auditor in the Accounts Office, Gun Carriage Factory, Jabalpur. The Department of Personnel and Training has introduced the Assured Career Progression Scheme (for short 'ACP') vide order dated 9.8.1999. As per the scheme the employees who are stagnating and have not got promotion in their service career can be considered for grant of two financial upgradations first after completion of 12 years of service and the second after completion of 24 years of regular service. As per the said scheme 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. The scheme further



provided that "fulfilment of normal promotion norms(benchmark, 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 shall be ensured for grant of benefits under the ACP Scheme".

3. The applicants have got only one promotion from Auditor to Senior Auditor during their service career of 25 to 34 years of service. It is contended that all the applicants have completed more than 24 years of service as on 9.8.1999 however, the benefit of the said ACP Scheme for second financial upgradation has not been extended to them.

4. As per the recruitment rules, the second promotion from the post of Senior Auditor is to the post of Supervisor (Accounts)/Section Officer(Accounts) only on passing the prescribed departmental examination. Respondent No.2 has laid down a schedule for conducting the examination vide Annexure-A-5 and issued direction that since the scheme is required to be introduced immediately, Controllers may ensure that the screening committee complete their work by 30.9.1999. In the present case, the departmental examination was held by the respondents on 29.4.2002. The applicants have passed the test and they have ^{been} given the benefit of second upgradation from the date of passing their test on 29.4.2002. The grievance of the applicants is that they should be granted the benefit of second upgradation from 9.8.1999.

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5. The learned counsel for the applicants has drawn our attention to letter dated 4.1.2002(Annexure-A-10) issued by the Ministry of Defence giving certain clarifications regarding grant of benefit of ACP to the tradesman after passing the trade test. In the said letter, the Ministry of Defence, in consultation with the Department of Personnel & Training have stated as under :-

"2. DOP&T has clarified that as a special case the employees who qualify the trade test in first attempt after 9.8.99 may be allowed benefit of ACP from 9.8.99 only and not from the date of passing of trade test. However, employees who qualify in the trade test in subsequent attempt will be allowed financial upgradation only from the date of passing of trade test. In no case the benefit should be given to an individual w.e.f. 09.08.99, who had earlier appeared in the Grade Test before 09.08.99 but failed or has not appeared in trade test at all or has not otherwise passed the trade test.

3. In future, the required trade test should be held well in time as per planned calendar so that it is held before an employee completes 12/24 years of service for grant of financial upgradation under ACPS."

The learned counsel has also drawn our attention to Annexure-A-15 whereby one time exemption from passing the trade test has been given to those who have retired or expired after 9.8.1999 but before conducting of trade test.

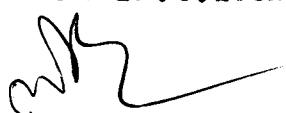
6. The learned counsel for the respondents has stated that the UO Note dated 10.9.2003(Annexure-A-15) is applicable only to those persons who had retired or expired after 9.8.1999 but before conducting the first trade test. Therefore, the said letter will not come to rescue of the applicants. He has further contended that the applicants have appeared in the examination but did not pass. Hence, they are not entitled to the ACP benefit prior to the date 29.4.2002 as claimed by them.

7. On the other hand, the learned counsel for the applicants stated that the examination was to be conducted by the respondents for granting the second financial upgradation under the ACP Scheme but the respondents did

not adhere to the time schedule. Therefore, for the lapse on the part of the respondents, the applicants cannot be made to suffer and the applicants have their legal right to get the benefits under ACP Scheme.

8. We have heard the learned counsel for the parties and carefully considered the rival contentions of the parties and we find that the scheme of Department of Personnel for ACP dated 9.8.1999 provides that the financial upgradation can be granted only on fulfilment of normal promotion norms i.e. the bench mark departmental examination, seniority-cum-fitness in the case of Group 'D' etc. In this case the applicants have not passed the departmental examination i.e. S.A.S. examination which is the mandatory requirement for next promotion to the post of Section Officer/Supervisor(Accounts). The respondents have, therefore, decided to conduct ability test just to grant the benefit of second financial upgradation to the applicants under the ACP scheme. Therefore, the test could not have been conducted on 9.8.1999 or immediately after 1999. The first such test has already been conducted on 29.4.2002, and the applicants have been given the benefit from that date. Hence, the contention of the respondents is **correct** that the applicants cannot get the benefit from earlier date i.e. 9.8.1999 as the said scheme itself requires fulfillment of normal promotion norms.

9. However, we find that the Ministry of Defence has already taken up the matter with the Deptt. of Personnel & Training and the Department of Personnel & Training has clarified that as a special case the employees who qualify the trade test in first attempt after 9.8.1999 may be allowed the benefit of ACP from 9.8.1999 only and not from the date of passing of trade test, as is evident from Annexure-A-10 reproduced above. In this case it is the admitted position that the first test after 9.8.1999 was conducted by the respondents only on 29.4.2002.



10. In the circumstances we deem it fit to dispose of this OA by directing the applicants to make their fresh detailed representations within 1 month from the date of receipt of a copy of this order and if they comply with this order thereafter the respondents are directed to take a decision after consultation with the Ministry of Personnel for grant of relexation, as has been done in the case of Trademan and to grant all benefit to the applicants from the retrospective date i.e. 9.8.80 within a period of 4 months from the date of receipt of aforesaid representation of the applicants. With the above directions, the OA is disposed of. No costs.

11. The Registry is directed to enclose a copy of the memo of parties while issuing a copy of this order.

G. Shanthappa
(G. Shanthappa)
Judicial Member

M.P. Singh
(M.P. Singh)
Vice Chairman

rkv.

पूर्णांकन सं. ओ/ज्या..... बंद्रलपुर, वि.....
पुस्तकालय, बंद्रलपुर, विहारीगढ़, बंद्रलपुर
(1) संचित, विद्यालय, बंद्रलपुर, विहारीगढ़ M. Scini
(2) लक्ष्मीनाथ, विद्यालय, बंद्रलपुर, विहारीगढ़ M. Scini
(3) पद्मराज, विद्यालय, बंद्रलपुर, विहारीगढ़ P. Shantappa
(4) योगेश्वर, विद्यालय, बंद्रलपुर, विहारीगढ़ P. Shantappa
सूचना एवं आवश्यक कागजातों का
Parimba
संचय संस्कारक संस्था, बंद्रलपुर
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