

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.795 of 2002

Jabalpur, this the 28th day of October, 2003

Hon'ble Shri M.P.Singh-Vice Chairman(A)  
Hon'ble Shri G.Shanthappa,Judicial Member

P.K.Agarwal, Inspector of Central Excise,  
Bilaspur Division, Bilaspur(Chattisgarh  
State).

- APPLICANT

(By Advocate Shri P.K.Tiwari)

Versus

1. Union of India through Secretary Revenue,  
North Block, New Delhi.

2. Commissioner of Customs & Central Excise,  
Raipur.

3. Commissioner of Customs & Central Excise,  
Indore (M.P.).

- RESPONDENTS

(By Advocate Shri K.N.Pethia)

O R D E R (Oral)

By G.Shanthappa, Judicial Member -

The applicant has filed this O.A. for a direction to the respondents to convene a review D.P.C. for consideration of his case for grant of 1st upgradation under ACP scheme from 9.8.1999 and for promotion to next higher grade.

2. The case of the applicant is that he is working as Inspector of Central Excise at Bilaspur from 15.4.2002. He joined the service on 1.3.1982 and he was entitled to first upgradation under ACP scheme from 9.8.1999. Due to an adverse entry in his confidential report for the year 1998-99 he was not granted the 1st upgradation which fell due on 9.8.1999. His adverse remarks were expunged on 12.1.2000. It is contended by the applicant that in spite of expunction of the adverse remarks, his name has not been considered by the review DPC for upgradation under the ACP scheme as also for consideration of his case for promotion to next higher grade. He submitted his representation dated 21.6.2001 (Annexure-A-4) but he has not yet been granted the

benefit of 1st upgradation under the ACP scheme. A reminder has also been submitted on 30.9.2002. Since the respondents have not considered the case of the applicant, he has approached this Tribunal for grant of reliefs as prayed for.

3. Per contra the respondents have submitted reply denying the averments made in the Original Application. The case of the respondents is that the applicant was not found fit since he did not meet the bench mark of 'good' fixed by the departmental screening committee. The benchmark taken by the departmental screening committee was as under-

"Those who have obtained -

- (a) 2 just adequate or below just adequate in their preceding three year's ACR; or
- (b) 2 just adequate and 1 below just adequate or combination thereof in preceding 8 years; or
- (c) 3 just adequate in preceding 8 years

are to be assigned Bench mark "Average/not yet fit".

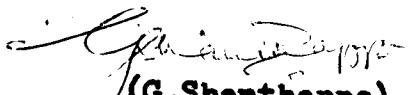
The overall assessment of the performance of the applicant was assessed which was just adequate by the reviewing officer in the ACR for the year 1998-99 remained unaltered as clarified by the Joint Commissioner (P&V), Central Excise, Raipur as per Annexure-R-1. Even for subsequent years also the departmental screening committee meeting was held on 29.11.1999, 29.3.2001, 20.8.2001 and 12.9.2002 but all the time the applicant was found unfit as he did not meet the benchmark as fixed in the above departmental screening committee. When the departmental screening committee was held on 29.3.2001 and 20.8.2001 the applicant was having 'just adequate' reports in ACRs for 3 years out of ACRs of preceding 5 years and at the time of last departmental screening committee held on 12.9.2002 he was found to have 'just adequate' reports in his ACRs for 4 years out of ACRs for preceding 5 years as considered by the departmental screening committee. Subsequently, the departmental promotion committee was held on 23.7.2002 but he was found 'unfit' as per

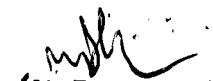
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committee. For bench mark of 'good' it was decided by the above departmental screening committee that atleast 4 ACRs out of preceding 5 years i.e. 1997-98 to 2001-2002 should be 'good' and there should be no 'adverse report'. Since the applicant was having just adequate reports of 4 years out of his ACRs of preceding 5 years, he was graded as 'unfit' by the departmental screening committee. Accordingly, he was not placed on the panel and as such could not be promoted to the next higher grade of Superintendent, Central Excise, Gr.B while his juniors could be as they met the bench mark fixed by the departmental screening committee which was applicable uniformly to all and they were accordingly promoted. The respondents have supported their action and have requested for rejection of the OA.

4. After hearing both the sides, the short question in this case is, as to whether the respondents have considered the case of the applicant in terms of the norms fixed by them vide their document no.1 i.e. preceding 8 years ACRs were to be considered while considering the case of the applicant for grant of benefit of ACP. The respondents submit that they have considered preceding five years ACRs only. Since three years' ACRs were not considered, the learned counsel for the respondents submits that if a direction is given to them to consider the previous three years' ACRs also and if the applicant is found fit, then his case will be considered.

5. Accordingly, this OA is disposed of with a direction to the respondents to consider the case of the applicant for grant of financial upgradation under the ACP scheme by a review departmental screening committee by considering his previous 8 years ACRs and if he is found fit in terms of the norms laid down by them grant him all the consequential benefits. The respondents are directed to comply with the aforesaid directions within a period of four months from the date of communication of this order. No costs.

  
(G. Shanthanu)

  
M.H.