

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI**

**OA NO.501/2013**

Order reserved on 12.01.2017  
Order pronounced on 24.01.2017

**HON'BLE MR P.K. BASU, MEMBER (A)**  
**HON'BLE DR B.A. AGRAWAL, MEMBER (J)**

1. Sh. Satish Kumar,  
Tax Assistant,  
Directorate of Logistics,  
Customs and Central Excise,  
Lok Nayak Bhawan, Khan Market,  
New Delhi.
  2. Sh. Nagendra Pandey,  
Tax Assistant,  
Directorate of Logistics,  
Customs and Central Excise,  
Lok Nayak Bhawan, Khan Market,  
New Delhi.
- ... Applicants

(By Advocate: Mr. M.K. Bhardwaj)

**VERSUS**

UOI & Others through:

1. The Secretary,  
Ministry of Health and Family Welfare,  
Nirman Bhawan, New Delhi.
2. The Drug Controller General of India,  
Directorate General of Health Services,  
FDA Bhawan, Kotla Road,  
New Delhi.
3. The Secretary-cum-Scientific Director,  
Indian Pharmacopoeia Commission,  
Ministry of Health and Family Welfare,  
Govt. of India, Raj Nagar,  
Ghaziabad, UP.

4. The Directorate of Logistics,  
Customs & Central Excise,  
Lok Nayak Bhawan, Khan Market,  
New Delhi. ...Respondents

(By Advocate: Mr. Rishi Kant Singh)

**:ORDER:**

**DR BRAHM AVTAR AGRAWAL, MEMBER (J):**

The two applicants had joined the Central Indian Pharmacopoeia Laboratory (CIPL) as Laboratory Assistants in the pay-scale of Rs.975-1540 (later, revised to V CPC pay-scale of Rs.3200-4900) on 12.07.1995 and 31.03.1994, respectively. Both the applicants became Sr. Laboratory Assistants in the pay-scale of Rs.4000-6000 as direct recruits w.e.f. 07.06.2000. The CIPL merged with the Indian Pharmacopoeia Commission (IPC) on 31.07.2007 and the applicants opted for surplus cell. Incidentally, the said two posts also got merged and became Sr. Laboratory Assistant in the pay-scale of Rs.4000-6000. They became Tax Assistants in the Directorate of Logistics, Customs and Central Excise on 27.02.2009.

1.2 Certain incumbents of the posts of Laboratory Assistant in the CIPL were accorded the pay-scale of Rs.4000-6000 w.e.f. 01.01.1996 on the principle of equality, vide this Tribunal's order dated 11.07.2006 in the OA No.1935/2005 [Sanjay Kumar & Ors. Vs. UOI & Ors.] (Annexure R-1).

1.3 In the above backdrop, the question for consideration is as to whether the applicants herein are entitled to the first financial upgradation under the ACPS by counting their 12 years' service w.e.f. 01.01.1996 or w.e.f. 07.06.2000, as contended by the respondents.

1.4 That the 12 years' service be counted from the applicants' respective dates of joining as Laboratory Assistants in the pay-scale lower than the pay-scale of Rs.4000-6000 can by no argument be countenanced. Therefore, we will examine their claim with reference to the date 01.01.1996 vis-a-vis the date 07.06.2000.

1.5. In the earlier OA filed by the applicants, i.e., the OA No.3460/2011, the respondents therein were directed to consider their representation and pass a final order within three months, vide the Tribunal's order dated 22.09.2011 (Annexure A-11).

1.6. During the pendency of the CP No.221/2012 filed by the applicants, the respondents passed the impugned order dated 03.07.2012 (Annexure A-1) and the CP was closed, vide the Tribunal's order dated 05.07.2012 (Annexure A-13).

2. We have heard the learned counsel for the parties, perused the pleadings and given our thoughtful consideration to the matter.

3. We may now note the following extracts from the DoP&T's OM dated 10.02.2000 (Annexure A-12) containing some clarifications regarding the ACPS dated 09.08.1999:

S. No.	Point of doubt	Clarification
4.	In a case where a person is appointed to a post on transfer (absorption) basis from another post, whether 12 years and 24 years of service for the purpose of ACPS will count from the initial appointment or otherwise.	The benefits under ACPS are limited to higher pay scale and do not confer designation, duties and responsibilities of the higher post. Hence, the basic criterion to allow the higher pay scale under ACPS should be whether a person is working in the same pay scale for the prescribed period of 12/24 years. Consequently, so long as a person is in the same pay scale during the period in question, it is immaterial whether he has been holding different posts in the same pay scale. As such, if a Government servant has been appointed to another post in the same pay scale either as a direct recruit or on absorption (transfer) basis or first on deputation basis and later on absorbed (on transfer basis), it should not make any difference for the purpose of ACPS so long as he is in the same pay scale. In other words, past promotion as well as past regular service in the same pay scale, even if it was on different posts for which appointment was made by different methods like direct recruitment, absorption (transfer)/deputation, or at different places should be taken into account for
5.	Whether a Government servant, who is direct recruit in one grade and subsequently joins another post again as direct recruit, is eligible for first financial upgradation under ACPS after completion of 12 years of service counted from the first appointment or from the subsequent second appointment as direct recruit?	
6.	An employee appointed initially on deputation to a post gets absorbed subsequently, whether absorption may be termed as promotion or direct recruitment. What will be the case if an employee on deputation holds a post in the same pay-scale as that of the post held by him in the present cadre? Also, what will be the situation if he was holding a post in	

	the parent cadre carrying a lower pay-scale?	<p>computing the prescribed period of service for the purpose of ACPS. Also, in case of absorption (transfer)/deputation in the aforesaid situations, promotions earned in the previous/present organisations, together with the past regular service shall also count for the purpose of ACPS. However, if the appointment is made to higher pay-scale either as on direct recruitment or on absorption (transfer) basis or first on deputation basis and later on absorbed (on transfer basis), such appointment shall be treated as direct recruitment and past service /promotion shall not count for benefits under ACPS.</p> <p>Needless to say, in cases of transfer on administrative ground, involving only change of station within the same department, the service rendered in the same grade at two stations may count for ACPS, as such transfers are within the same organization, ordered generally for administrative/ personal considerations and the service rendered in the earlier station counts as eligibility service for promotion.</p>
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4. It may be seen that the focus of the ACPS is on pay-scale. If an employee has been in a particular pay-scale for 12 years, he will be entitled to the higher pay-scale thereafter.

5. It cannot, in the instant case, be denied that the two applicants were in the pay-scale of Rs.4000-6000 w.e.f. 01.01.1996 by virtue of this Tribunal's order dated 11.07.2006 in the OA No. 1935/2005 (Annexure R-1). That the respondents treat them in the pay-scale of Rs.4000-6000 only w.e.f. 07.06.2000 is not legally sustainable.

6. In the light of the above, the OA deserves to succeed. The applicants are held entitled to the first financial upgradation under the ACPS by counting their 12 years' service w.e.f. 01.01.1996. They shall be paid due arrears along with the interest at the GPF rate within one month from the date of receipt of a copy of this Order.

7. The OA is allowed in the above terms. No order as to costs.

**(DR B.A. AGRAWAL)**  
**MEMBER (J)**

**(P.K. BASU)**  
**MEMBER (A)**

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