

**Administrative Tribunal
Principal Bench**

OA No.2596/2013

New Delhi, this the 30th day of April, 2019

**Hon'ble Sh. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

S.S. Yadav,
Inspector of Special Police,
CBI/EO-I, New Delhi,
Central Bureau of Investigation,
Economic Offences Unit-II,
8th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi.

...Applicant

(By Advocate : Shri S. Mohanty)

Versus

1. Through Deputy Inspector General (Personnel/Establishment), Central Bureau of Investigation (CBI), HO, Plot No.5-B,C.G.O. Complex, Lodhi Road, New Delhi-110 003.
2. Director General of Police, Government of Arunachal Pradesh, Itanagar Arunachal Pradesh (Complete Address)
3. Union of India, Ministry of Personnel, Public Grievance & Pension, Through its Secretary, North Block, New Delhi-110001.

...Respondents

(By Advocate : Ms. Avinash Kaur)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :-**

The applicant was appointed as Head Constable in Arunachal Pradesh Police, the 2nd respondent herein, in the year 1978. He was selected and appointed as Sub-Inspector in the same administration on 19.02.1985.

2. The applicant joined the CBI on 26.11.1998 on deputation as Inspector, initially for a period of five years. The deputation was extended and he was permanently absorbed in the CBI as Inspector w.e.f. 13.07.2006.

3. The applicant made claims for extension of the benefit of the 1st and 2nd ACP in relation to the service rendered by him. Since the request was not acceded to, he filed this OA.

4. The applicant contends that the ACP scheme was introduced in the year 1999 and by that time, he completed 12 years of service as Sub-Inspector in the 2nd respondent Government and notwithstanding the deputation to the CBI in the year 1998, he was entitled to be granted the benefit of 1st ACP on completion of 12 years of service in the year 1997. He contends that his ACRs for the service during that period were above the benchmark and there was absolutely no basis for denying

him the benefit. As regards the 2nd ACP, he contends that the 1st respondent i.e. CBI was under obligation to extend it, but it was wrongly denied, by citing the so called below benchmark ACRs.

5. On behalf of respondents No.1&3, detailed counter affidavit is filed. The particulars of service furnished by the applicant are not disputed. It is stated that the 2nd respondent has taken the stand that the applicant is not entitled for the benefit of 1st ACP through their communication dated 14.10.2010. It is also stated that the case of the applicant was considered for the 2nd ACP by the third respondent and on finding that the ACRs of the applicant for the relevant period are below benchmark, he was denied the same. Reference is also made to the Office Memorandum dated 10.02.2002 issued by the DOP&T. It is to the effect that in case an employee who is appointed on absorption by transfer on deputation or first on deputation basis and later on absorbed (on transfer basis), he shall not be entitled to count his earlier service in the context of ACP. Other contentions are also raised.

6. We heard Shri S. Mohanty, learned counsel for applicant and Ms. Avinash Kaur, learned counsel for

respondents. Though the respondent No.2 is served with notice, it has chosen not to enter appearance or to file counter affidavit.

7. The applicant started his career as Head Constable in the 2nd respondent. In the year 1985, he was appointed as Sub Inspector in the same Government, not by way of promotion but through direct recruitment. He joined the CBI on deputation as Inspector on 26.11.1998. He was ultimately, absorbed in the CBI on 13.07.2006.

8. The ACP scheme came into existence through Memorandum dated 19.08.1999. According to this, such of the employees of the categories mentioned therein, who have completed 12 years of service but did not earn any promotion, are entitled to be extended the benefit of financial upgradation, subject to their being found fit. The applicant completed 12 years of service as Sub Inspector in the 2nd respondent by 18.02.1997. The scheme was not in vogue by that time, and he left the service of 2nd respondent on deputation to CBI. At least when the scheme became operative in the year 1999, his case ought to have been considered. A perusal of the order dated 20.10.2010 passed by the Finance and Accounts Officer of the 2nd respondent discloses that the

1st ACP was denied to him on the basis of his ACRs from 01.01.2007 to 31.12.2008. The fact, however, remains that during that period the applicant was in the service of CBI. There was absolutely no basis for the 2nd respondent to take that into account while dealing with the case for extension of the benefit of 1st ACP. In case the service of the applicant between 19.02.1985 and 18.02.1997 in the 2nd respondent was without any blemish and he did not get any promotion, he was entitled to be extended the benefit of 1st ACP.

9. So far as the benefit of 2nd ACP is concerned, the 1st respondent did treat it as an obligation to consider the case. On evaluation of the ACRs of the applicant for the relevant period, it emerged that some of them were below bench mark. Therefore, the applicant was found unfit to be extended the benefit of 2nd ACP. No exception can be taken to that.

10. The 1st respondent cannot be mulcted with the liability of extending the 1st ACP. The reasons is that they cannot be held liable in any way, in respect of the service, rendered by the applicant before he joined the CBI.

11. Therefore, the OA is partly allowed, directing the 2nd respondent to consider the case of the applicant for extension of the benefit of 1st ACP for the service rendered by him as Sub Inspector of Police between 19.02.1985 and 08.02.1997. The exercise in this behalf shall be completed within a period of two months from the date of receipt of a certified copy of this order. The view taken by the 1st respondent as regard the entitlement of the applicant for the 2nd ACP is upheld. In case the applicant is found fit for the 1st ACP, the impact thereof on his service in the 1st respondent shall be dealt with, in accordance with the relevant provisions of law.

There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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