

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH: HYDERABAD**

**Original Application No.20/283/2013**

**Reserved on: 05.07.2019**

**Pronounced on: 19.07.2019**

Between:

R.L. Ramachandra Rao, S/o. late R.L. Narasimha Rao,  
Aged about 61 years, Occ: Retired Upper Division Clerk,  
Central Tobacco Research Institute,  
Rajahmundry, East Godavari District,  
R/o. 12-21-15/4, Ward No. 34, Middle Street,  
R.A. Puram, Rajahmundry – 531 004.

... Applicant

And

1. The Union of India, rep. by its Secretary,  
Indian Counsel for Agricultural Research,  
Krishi Bhavan, Dr. Rajendra Prasad Road,  
New Delhi – 110 114.
2. The Director,  
Central Tobacco Research Institute,  
Rajahmundry, East Godavari District.
3. The Finance and Accounts Officer,  
Central Tobacco Research Institute,  
Rajahmundry, East Godavari District.

... Respondents

Counsel for the Applicant      ...      Mr. B. Pavan Kumar

Counsel for the Respondents      ...      Mrs. C. Vani Reddy, SC for ICAR

***CORAM:***

***Hon'ble Mr. A.K. Patnaik, Member (Judl.)***

***Hon'ble Mr. B.V. Sudhakar, Member (Admn.)***

**ORDER**

*{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }*

2. The OA is filed in regard to financial up-gradation under ACP and stepping up of pay on par with the junior.

3. Brief facts are that the applicant joined the respondent organisation on temporary basis in the post of Farash –SS Grade –I in the scale of pay of Rs.196-232 on 24.9.1977. Thereafter, he was promoted to SS grade –II with scale of pay of Rs 200-250 on 10.10.1985. Again on 1.7.1989 he was promoted as Junior Clerk and thereon as Upper division clerk in the scale of Rs.4000-6000 on 26.8.2008. Respondents issued the seniority list in UDC cadre in which Sri V.Narsimha Rao his junior who was promoted as UDC on 29.5.2009. The said junior was drawing higher salary. Applicant is aggrieved that juniors were considered for ACP resulting in juniors drawing higher pay, which contravenes FR 22(I) (a) (1). Applicant retired on 30.4.2012 on attaining the age of superannuation and submitted a representation on 12.6.2012 to step up his pay on par with Mr V.Narsimha Rao. The same was not considered and hence the OA.

4. The contentions of the applicant are that the inaction of the respondents in not considering the case of the applicant for ACP on 1.7.2001 or stepping up of his pay on par with his juniors is bad in law. As per FR 22(I)(a)(1) he is eligible to get his pay stepped up on par with juniors.

5. Respondents while confirming the details of joining and promotion of the applicant over the years as UDC do state that the Junior to the applicant Mr V. Narsimha Rao joined the respondents organisation under

direct recruitment quota as Junior Clerk on 1.7.1989. Further, ACP (Assured Career Progression) Scheme envisages two financial up-gradations to Gr B, C & D employees on completion of 12 & 24 years of regular service, provided they were not granted regular promotion during the prescribed periods. Applicant got two regular promotions from SS -II to Junior Clerk and from Junior Clerk to UDC in 1989 and 2008 respectively. As Upper Division Clerk in 2008 his pay was fixed in the scale of Rs.4000 - 6000 w.e.f. 27.8.2008 with DNI (date of next increment) on 1.8.2009 under FR (I) (a) (1). In contrast, Mr V.Narsimha Rao has joined the Respondents organisation under direct recruitment on 1.7.1989 and was granted the 1<sup>st</sup> ACP on 1.7.2001 after completing 12 years of service in the scale of Rs 4000-6000. The grant of financial up-gradation is personal to the employee and hence comparison of pay with a junior does not arise. On introduction of Modified Assured Career Progression Scheme (MACPS) the applicant was granted financial up-gradation on completion of 30 years of service w.e.f 1.9.2009 with grade pay of Rs.2800 vide office order dated 4.2.2013. Arrears of pay were paid and arrears of pension/retirement benefits would be paid shortly.

6. Heard both the counsel and perused the pleadings on record.

7. I) The ACP Scheme envisages merely placement in the higher pay-scale/grant of financial benefits (through financial upgradation) only to the Government servant concerned on personal basis and shall, therefore, neither amount to functional/regular promotion. The first financial up-gradation under the ACP Scheme shall be allowed after 12 years of regular service and the second up-gradation after 12 years of

regular service from the date of the first financial up-gradation subject to fulfilment of prescribed conditions. Thus the ACP scheme essentially provides for two financial up-gradations on completing 12 and 24 years of regular service, in case the employee is not granted regular promotion during the said period. Against this background if we evaluate the career graph of the applicant, he was promoted to the grade of Junior clerk in 1989 and as UDC in 2008 respectively. The promotion from SS-1 to SS-II has been ignored due to the merger of scales. Therefore applicant has availed two promotions. As per ACP scheme if an employee has already availed two promotions then he will not be eligible for financial up-gradation. Condition 5.1 of the ACP scheme makes this explicit as under:

*5.1 Two financial upgradations under the ACP Scheme in the entire Government service career of an employee shall be counted against regular promotions (including in-situ promotion and fast-track promotion availed through limited departmental competitive examination) availed from the grade in which an employee was appointed as a direct recruit. This shall mean that two financial upgradations under the ACP Scheme shall be available only if no regular promotions during the prescribed periods (12 and 24 years) have been availed by an employee. If an employee has already got one regular promotion, he shall qualify for the second financial upgradation only on completion of 24 years of regular service under the ACP Scheme. In case two prior promotions on regular basis have already been received by an employee, no benefit under the ACP Scheme shall accrue to him;*

The learned counsel for the applicant while making submissions was trying to drive home the point that during the period 1989 to 2008 the employee stagnated for nearly 19 years and therefore he is eligible for financial up-gradation which does not hold good in the context of the condition 5.1 of the ACP scheme. However, in the written arguments

submitted the applicant claims that his joining the post of junior clerk has to be treated as direct recruit and not as a promotion.

II) The applicant in his written arguments has cited the order of the Hon'ble Bangalore Bench of this Tribunal in OA 1403/2014 dated 17.01.2018 wherein promotion of the applicant therein from the post of Postman to the post of Postal Assistant was pursuant to a Limited Departmental Competitive Examination (LDCE), which was treated as Direct Recruitment and he was directed to be granted MACP. Therefore, submission of the applicant that his promotion from SS Gr. II to the post of Junior Clerk need also to be considered on similar plane and his promotion to the said post has to be considered direct recruitment. On doing so, he would be eligible for financial upgradation under ACP Scheme. However, the record speaks otherwise. Applicant was promoted from SS Gr. II to Junior Clerk by holding a Departmental Promotion Committee meeting, as is evident from the Office Order dt. 20.06.1989, filed as Annexure A-V to the OA. His appointment to the post of Junior Clerk was not pursuant to a Limited Departmental Competitive Exam, as in the case of the OA 1403/2014 and therefore, his promotion to the post of Junior Clerk cannot be treated as direct recruitment. Thus, his averment that he has been promoted to the said post by way of direct recruitment does not stand to reason. Applicant himself admitted in his OA that he was considered for promotion to the post of Junior Clerk and was appointed so vide office order dt. 20.06.1989. Consequently, movement of the applicant from SS Gr. II to Junior Clerk has necessarily to be treated as promotion and thereby he becomes ineligible for financial

upgradation under ACP Scheme. Thus, the order of the Coordinate Bench of this Tribunal cited is not relevant to the present case. Based on the above, the action of the respondents is as per Rules.

III) The other aspect raised by the applicant is that his junior Mr V. Narsimha Rao is drawing more pay than him. The junior referred to got a higher pay in view of the ACP being granted to him on 1.7.2001 which does bring about a difference in the pay over the years. Clause 8 of the conditions for grant of ACP stipulates as under:

*8. The financial upgradation under the ACP Scheme shall be purely personal to the employee and shall have no relevance to his seniority position. As such, there shall be no additional financial upgradation for the senior employee on the ground that the junior employee in the grade has got higher pay-scale under the ACP Scheme.*

Therefore the question of applying FR 22 (i) (a) (1) as pleaded by the applicant does not arise.

IV) With the introduction of the MACPS, applicant was provided the financial up-gradation due on completion of 30 years of service w.e.f 1.9.2009 with grade pay of Rs 2800 vide office order dated 4.2.2013 since he availed two regular promotions. While granting financial up-gradation the critical aspect to be examined is as to whether there is stagnation which has been suffered by the employee. In case of the applicant he got two promotions and for stagnating in UDC cadre he has been granted the financial up-gradation under MACP.

V) Hence, as seen from the above, respondents have acted as per the provisions of the ACP and MACP scheme. There is no violation of the rules. Hence the OA being devoid of merit, merits dismissal and accordingly dismissed with no order as to costs.

**(B.V. SUDHAKAR)**  
**MEMBER (ADMN.)**

**(A.K. PATNAIK)**  
**MEMBER (JUDL.)**

Dated, the 19<sup>th</sup> day of July, 2019

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