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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO. 2809/2003

New Delhi this the 12th day of April, 2006

Hon'ble Mrs. Meera Chhibber, Member (J)
Hon'ble Mr. N.D. Dayal, Member (A)

Shri Suman Kumar Tyagi,
T.No. 2984 TCM (Radio),
S/o Shri Omkar Singh,
R/o B-86, Surya Nagar Saket,
Meerut working in 510 Army
Base Workshop,
Meerut Cantt.

... **Applicant.**

(By Advocate Shri V.P.S. Tyagi)

Versus

1. The Union of India
through Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. The Director General EME (CIV),
MGO'S Branch, Army HQs,
DHQ PO, New Delhi.
3. The Commandant,
510, Army Base Workshop,
Meerut Cantt.

... **Respondents.**

(By Advocate Shri K.R. Sachdeva)

O R D E R (ORAL)

Hon'ble Mrs. Meera Chhibber, Member (J).

By this O.A., applicant has sought the following reliefs:

"Direct the respondents to accord the ACP benefit to the applicant by giving financial upgradation w.e.f. the same date as has been given to the other similarly placed employees with all consequential benefits".

2. It is submitted by the applicant that while working in industrial trade of TCM (Radio) with respondents, he was initially appointed in HS Grade-I in the scale of Rs.1320-2040. There was another grade known as HS Grade-II in the

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scale of Rs.1200-1800. Pursuant to 5th Central Pay Commission recommendations, both these scales were merged with an integrated scale of Rs.4000-6000.

3. On 9.8.1999, scheme of ACP was issued by the DOP&T, which guaranteed two promotions to Group B, C and D employees on completion of 12 years and 24 years of regular service, respectively. Grievance of applicant in this case is that he was granted the benefit of ACP Scheme in the scale of Rs.5000-8000 w.e.f. 1.7.2001 whereas, according to him, since he had completed his 12 years in July, 1999 itself, he should have been given the benefit of ACP w.e.f. 9.8.1999 when some of his similarly placed colleagues were granted the same.

4. According to the applicant, the first trade test was held in January, 2000 itself, in which some persons had appeared but failed in the first attempt. They passed the test only in second attempt held in July, 2000 yet they have been granted ACP w.e.f. 9.8.1999 whereas in his case, he was given the benefit of ACP only w.e.f. 1.7.2001. He has thus submitted that if those persons, who had passed in July, 2000 could be given ACP w.e.f. 9.8.1999, there is no justification as to why the applicant should also not be given the ACP benefit w.e.f. 9.8.1999.

5. Respondents have opposed this O.A. They have explained that after the O.M. dated 9.8.1999, the first supervisory trade test for grant of financial upgradation under ACP was conducted in the office of Respondent No. 3 during the period from 4.7.2000 to 6.7.2000. The applicant appeared in the said trade test but he failed. However, those persons, who had passed the said test, were granted financial upgradation w.e.f. 9.8.1999. Applicant passed the said trade test in his second attempt, on 14.2.2001, therefore, he was eligible for grant of financial upgradation from the above date. He, however, executed an option for being granted the ACP benefit w.e.f. 1.7.2001. Accordingly, his pay was re-fixed at Rs.5600/- the pay scale of Rs.5000-8000, as opted by him. They have further explained that as per Para 6 of Annexure-I of Govt. of India, DOP&T O.M. dated



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9.8.1999, fulfillment of normal promotional norms such as bench mark, departmental exam. etc. are necessary for grant of benefit under the ACP Scheme. DOP&T vide their letter dated 4.1.2002 had only clarified that as a special case, the employees who qualify the trade test in first attempt after 9.8.1999 may be allowed benefit of ACP from 9.8.1999 only and not from the date of passing of trade test. However, employees who qualify the trade test in subsequent attempts would be allowed financial upgradation only from the date of passing of trade test. Since applicant had qualified in the second attempt, therefore, he has rightly been given the benefit w.e.f. 1.7.2001 as per his own option.

6. We have heard both the counsel and perused the pleadings as well. Respondents have annexed letter dated 22.1.2005 issued by 509 Army Base Workshop, Agra Cantt, which clearly states that first supervisory test under ACP Scheme was conducted from 4.7.2000 to 6.7.2000 and no supervisory test under ACP Scheme was conducted during January, 2000 and the individuals whose names are enlisted in Para 2 of the letter had not appeared in the test scheduled during February, 2000. This letter was written in response to letter dated 6.1.2005 written by 510 Army Base Workshop, Meerut Cantt, addressed to 509 Army Base Workshop, Agra Cantt, wherein it was specifically asked whether any test for ACP was held in January, 2000 in order to ascertain whether any person, who had passed the test, in second attempt during July, 2000 was allowed financial upgradation w.e.f. 9.8.1999. They had even given the names of those persons who were alleged by the applicant to fall in that category. Not only this, respondents have even annexed the letter dated 9.6.2000 to show that supervisory trade test for grant of financial upgradation under the ACP Scheme was to be held from 4.7.2000 to 6.7.2000. From above annexures, it is absolutely clear that no test for grant of ACP was held in January, 2000, as alleged by the applicant. Since his whole case is based on the averment that certain persons had appeared in the test in January, 2000, who had failed and



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passed in second attempt in July, 2000, which is factually not correct, O.A. is liable to be dismissed on this ground alone. It is now clear that no test, in fact, was held in January, 2000 even at Agra Cantt. Admittedly, in the first attempt applicant had appeared in July, 2000 but he had failed. He reappeared in the second attempt in February, 2001, which he passed, therefore, he became entitled for grant of benefit w.e.f. February, 2001. However, as per applicant's own option, his pay in the higher scale of Rs.5000-8000 was fixed w.e.f. 1.7.2001.

7. In view of above discussion, we find no merit in the O.A. The same is accordingly dismissed. No order as to costs.



(N.D. Dayal)
Member (A)



12/4/06
(Mrs. Meera Chhibber)
Member (J)

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