

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-3109/2003

New Delhi this the 3rd day of June, 2004.

Hon'ble Shri Shanker Raju, Member(J)
Hon'ble Shri S.A. Singh, Member(A)

Krishan Singh Balyan,
S/o Shri Harbans Lal,
R/o R-6/94, Raj Nagar,
Ghaziabad. Applicant

(Applicant in person)

Versus

The Controller General of
Defence Accounts,
West Block-V,
R.K. Puram,
New Delhi. Respondent

(through Sh. J.B. Mudgil, Advocate)

ORDER (ORAL)
Hon'ble Shri Shanker Raju, Member(J)

Applicant who has retired on superannuation on 30.11.2002 as Senior Auditor has sought quashing of respondents' order dated 18.7.2003 denying him benefit of Assured Career Progression Scheme from 9.8.1999. Applicant has sought grant of second financial upgradation from 9.8.1999.

2. Applicant who was initially appointed as UDC was redesignated as Auditor and got his first promotion in the pay scale of Rs.5000-8000 as Senior Auditor in April 1987. Promulgation of ACP Scheme from 9.8.1999 conferred upgradation in the pay scale due to stagnation to the concerned. As per the ACP Scheme vide clarification No. 16 circulated vide O.M. dated 10.2.2000 of DOP&T as per condition No.6

all the promotional norms including prescribed departmental examination are to be fulfilled before upgradation.

3. DOP&T on a clarification vide order dated 4.1.2002 opined that from the promulgation of ACP Scheme from 9.8.1999 as one time measure on relaxation one who qualifies the trade test in first attempt would be allowed financial upgradation from the date of effect of the Scheme i.e. 9.8.1999 and those who qualify the trade test in subsequent events would have to be given financial upgradation from that date. SAS examination is held for promotion to JT Controller Class-I. An examination was ordered on 13.7.1999 vide notification of the even date. Applicant has failed to avail the opportunity. Accordingly, on his qualifying the examination on 29.4.2002 was accorded benefit of ACP Scheme from 29.4.2002. This is exactly the stand taken by the respondents.

4. Applicant in person contends that whereas the SAS examination Class-I was notified on 13.7.1999 whereas ACP was promulgated on 9.8.1999. The aforesaid examination cannot be the first examination falling after the promulgation of the Scheme and accordingly the examination of 2002 in which the applicant had participated and qualified would be the first examination and accordingly he is entitled for benefit of ACP Scheme from 9.8.1999 instead 29.4.2002.

5. On careful consideration of the rival contentions we find that the ACP Scheme in Clause-6 prescribes qualifying the trade test meant for promotion including any departmental examination in order to entitle a government servant to be accorded financial upgradation. Clause-16 of the clarification ibid does not lay down any condition as to the first or the second attempt for qualification of the examination before grant of Scheme. DOP&T clarification of qualifying the trade test in first attempt for allowing the benefit of ACP 9.8.1999 and in case of passing the test subsequently from that date is in conflict with the provisions of the Scheme.

6. Moreover, SAS examination Part-I was not an examination subsequent to promulgation of ACP Scheme on 9.8.1999. The benefit of ACP was denied to the applicant from 9.8.1999 on the ground that in first attempt the applicant has failed to qualify the examination is not justifiable. Assuming the clarification of the DOP&T is correct the first attempt would be counted after 9.8.1999. If an examination has been notified earlier to the promulgation of the Scheme would not count as first available examination after promulgation of the Scheme. Accordingly, undisputedly the next SAS examination was held in 2002 which the applicant had qualified on 29.4.2002 as such would count first attempt and the benefit of ACP would relate to 9.8.1999.

10
(4)

7. Accordingly, O.A. is allowed. Impugned order is set aside. Respondents are directed to accord to the applicant benefit of ACP Scheme w.e.f. 9.8.1999 till 29.4.2002 with all arrears to the applicant and consequential benefits in respect of retiral dues. The directions shall be complied with within a period of three months from the date of receipt of a copy of this order. No costs.


(S.A. Singh)

Member(A)


(Shanker Raju)

Member(J)

/vv/