

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.207 OF 2016**

DIST. : NANDED

Ganpat Jalbaji Waghmare,  
Age.59 years, Occu. : Pensioner,  
R/o Saptgiri Nagar, Taroda (Bk.),  
Nanded, Tq. & Dist. Nanded.

-- APPLICANT

**V E R S U S**

1. The State of Maharashtra,  
Through its Secretary,  
Revenue and Forest Department,  
Mantralaya, Mumbai - 32.

(Copy to be served on P.O.  
M.A.T., Bench at Aurangabad)

2. The Principal Chief Conservator  
Of Forest, Nagpur,  
Wan Bhawan, Ramgiri Road,  
Civil Line, Nagpur – 440 001.
3. The Chief Conservator of Forest,  
Aurangabad, Wam Bhawan, Railway  
Station Road, Opp. Govt. Engineering  
College, Osmanapur, Aurangabad.
4. The District Deputy Conservator,  
Of Forest, Chikhalwadi Corner,  
Vazirabad, Nanded,  
Tq. & Dist. Nanded.
5. The Range Forest Officer,  
Bodhadi, Tq. Kinvat,  
Dist. Nanded.

-- RESPONDENTS

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APPEARANCE : Shri H.P. Jadhav, learned Advocate for the  
applicant.  
: Shri S.K. Shirse, learned Presenting Officer  
for the respondents.  
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**Coram** : **Hon'ble Shri B.P. Patil, Member (J)**  
**Date** : **12<sup>th</sup> October, 2017**  
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### **ORDER**

1. The applicant has challenged the impugned order dtd. 11.1.2016 passed by the res. no. 3 rejecting his claim to extend the benefits under Assured Career Progression Scheme on completion of 24 years of service and prayed for directions to res. no. 3 to pass appropriate orders considering the recommendation of res. no. 4 dtd. 18.5.2015 and to pay arrears of the second time bound promotion scheme, in view of the G.R. dtd. 19.6.2008, by filing the present O.A.

2. The applicant was appointed as a Range Clerk in the Forest Department on 19.6.1984 by the res. no. 4. He retired on 30.4.2015 as a Range Clerk. Before retirement, the applicant produced the caste validity certificate. It is the contention of the applicant that as per G.R. dtd. 8.6.1995, the Govt. employees in Class - C and Class - D category are entitled for time bound promotion after completing 12 years' service, who may not get promotions because of the non-availability of the posts. On 1.4.2010 the Govt. issued another G.R. and issued guidelines regarding Assured Career Progression Scheme (for short A.C.P.

scheme) as regards extending the benefits of first A.C.P. scheme after completion of 12 years service and for second benefits under the said scheme on completion of 24 years service. On 12.7.2012, the applicant filed a representation with the respondents and prayed for extending benefits of A.C.P. scheme in view of G.R. dtd. 1.4.2010 as he completed 24 years' service. The res. no. 5 forwarded the representation to the res. no. 3 on 13.7.2012. The applicant sent several reminders to the res. nos. 2 to 4 to extend him the benefits under the said scheme by filing the applications on 21.4.2013, 29.11.2014 & 29.1.2015. On 3.1.2014 the res. no. 3 issued the order stating that in the meeting of the Departmental Selection Committee held on 19.11.2013 it was decided that the applicant was not entitled for promotion in view of the G.R. dtd. 20.7.2001 as gradation of his Annual Confidential Reports was 'B-' and, therefore, withdrew the benefits of the A.C.P. scheme extended to him. Thereafter the applicant filed the representation and prayed to extend the benefits of A.C.P. scheme. By the order dtd. 18.1.2014, the res. no. 4 withdrew the benefits given to the applicant under the said scheme. Thereafter the applicant filed another application dtd. 10.2.2015 to the res. no. 3 and prayed to consider his case for grant of benefits of A.C.P. scheme and to extend the benefits to him under the scheme. Thereafter he filed several applications with the similar request but the respondents

had not taken decision on it. On 4.3.2015, the res. no. 3 issued order and withdrew the order dtd. 3.1.2014 and granted first benefits under the A.C.P. scheme. Thereafter the applicant made several applications to the respondents and prayed to extend the second benefits under the A.C.P. scheme. On 18.5.2015, the res. no. 4 sent the proposal to grant second benefits under the scheme to the res. no. 3. But the proposal sent by the res. no. 4 had not been decided by the res. no. 3 and, therefore, the applicant made several representations to the res. no. 2 and requested him to decide the proposal sent by the res. no. 4. On 14.10.2015, the res. no. 2 issued letter addressed to the res. no. 3 to take decision on the proposal sent by the res. no. 4. Thereafter, the res. no. 3 by the communication dtd. 11.1.2016 informed the applicant that he is not entitled to get the second benefit under the A.C.P. scheme as his earlier benefits have been withdrawn on 3.1.2014 as he was not eligible for the regular promotion. Thereafter, he was held eligible and therefore the first benefit of the said scheme was granted to him from 4.3.2015. He is entitled to get second benefit on completion of 12 years service after his appointment on the promotional post, but meanwhile he retired and, therefore, he is not entitled to get the second benefit of A.C.P. scheme. Therefore, he rejected the application of the applicant. The applicant has challenged the said order by filing the present O.A.

3. It is the contention of the applicant that the order dtd. 3.1.2014 by which first benefit under the A.C.P. scheme has been withdrawn by the res. no. 3 has been cancelled by the res. no. 3 vide order dtd. 6.3.2015 and the said benefit had been restored. Therefore, he is entitled to get the second benefit under the A.C.P. scheme after completion of 24 years service, but the res. no. 3 has not considered the said aspect and wrongly interpreted the G.R. dtd. 1.4.2010 and rejected his claim by the impugned order. It is his contention that the impugned order is not in accordance with the G.Rs. and guidelines issued by the Govt. from time to time. Therefore, he prayed to allow the O.A.

4. The respondents filed an affidavit in reply and denied the contentions raised by the applicant. It is their contention that the impugned order issued by the res. no. 3 is in accordance with the G.R. and guidelines issued by the Govt. from time to time. It is their contention that, by taking policy decision the Govt. issued G.R. dtd. 8.6.1995 and granted two benefits under the A.C.P. scheme to the employees i.e. 1<sup>st</sup> benefit of A.C.P. scheme after completion of 12 years service by awarding pay scale of promotional post and second benefit of A.C.P. scheme after completion of 12 years of service after awarding the benefit of 1<sup>st</sup> A.C.P. scheme. For getting the benefits of A.C.P. scheme, the

concerned employee has to fulfill the conditions laid down for the regular promotion to the higher post i.e. educational qualification, qualifying in the assessment of A.C.Rs., seniority and passing of the departmental examination. The procedure required for regular promotion shall be followed while giving benefits under A.C.P. scheme vide G.Rs. dtd. 8.6.1995 and 20.7.2001. In view of the G.R. dtd. 8.6.1995 the first benefit under A.C.P. scheme was given to the applicant from 23.6.1997 on completion of 12 years of service. In the meeting of the Departmental Selection Committee held on 19.11.2013 the issue regarding promotion of the applicant has been considered and it was found that he was not fit for promotion after assessing his A.C.Rs. His grading of A.C.Rs. of the relevant 5 years i.e. 2009-10 to 2013-14 was 'B-' and, therefore, it was held that he was not entitled for regular promotion. As the applicant was not found fit and eligible for promotion in view of grading of relevant years' A.C.Rs., the first benefit under A.C.P. scheme given to him on 23.6.1997 has been withdrawn as per the order dtd. 3.1.2014 in view of the provisions of G.R. dtd. 20.7.2001.

5. Thereafter meeting of the Departmental Selection Committee was again held on 30.8.2014 and the grading of A.C.Rs. of the applicant was found 'B' and, therefore, the applicant was found

eligible candidate for first benefit under the A.C.P. scheme and, therefore, the order dtd. 6.3.2015 has been issued and accordingly the first benefit under the scheme had been given to the applicant from 6.3.2015. It is their contention that, as per the clause '3 - 4' of the G.R. dtd. 1.4.2010 the applicant will be eligible for second benefit under the scheme from the date of acceptance of the promotion and, therefore, he would be eligible for second benefit under the A.C.P. scheme from 6.3.2015, but thereafter he retired on 30.4.2015 and, therefore, he was not entitled to get the second benefit under the A.C.P. scheme. That's why the res. no. 3 rejected his application by passing the impugned order. It is their contention that there is no illegality in the impugned order issued by the res. no. 3. Therefore, they prayed to reject the O.A.

6. I have heard Shri H.P. Jadhav, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents. I have also considered the documents placed on record.

7. Learned Advocate for the applicant has submitted that the applicant was appointed as a Range Clerk in the Forest Department on 19.6.1984 and he retired on 30.4.2015 after rendering unblemished service as a Range Clerk. He has argued

that the first benefit under the A.C.P. scheme has been granted to the applicant on completion of 12 years service w.e.f. 23.6.1997. He has submitted that on completion of 24 years service, he is entitled to get second benefit under the A.C.P. scheme, but the respondents had not extended the second benefit under the scheme to him on completion of services of 24 years. He has argued that instead of extending second benefit under the scheme, the res. no. 3 issued order dtd. 3.1.2014 and denied him the regular promotion on the ground that average gradation of his A.C.Rs. was 'B-' and therefore he was not eligible for regular promotion. On the basis of 'clause 8' in the G.R. dtd. 20.7.2001 the res. no. 3 withdrew the first benefit extended to the applicant under the scheme and accordingly the res. no. 4 issued the order dtd. 18.1.2014 withdrawing the financial benefits given to the applicant. He has submitted that the applicant made several representations to the respondents to extend him the benefits under the said scheme, but those representations have not been decided by the respondents. The respondents considered his case again in the meeting of the Departmental Selection Committee and decided to grant first benefit under the scheme as gradation of his A.C.Rs. was 'B'. Accordingly, the res. no. 3 issued order dtd. 6.3.2015 and granted benefit under the scheme from 6.3.2015. He has submitted that by the said order the res. no. 3 cancelled



the earlier order dtd. 3.1.2014 and, therefore, the benefit withdrawn by the order dtd. 3.1.2014 had been restored and, therefore, the applicant is entitled to get the second benefit under the scheme on completion of 24 years service. He has submitted that, the applicant made several representations, but the respondents had not considered the same and lastly the res. no. 3 rejected his representations quoting the provisions under clause '3 - 4' of the G.R. dtd. 1.4.2010. The res. no. 3 rejected the application on the ground that first benefit of the scheme was given to the applicant on 6.3.2015 and he will be eligible for second benefit under the scheme after completion of 12 years from the said date, but since he retired on 30.4.2015, the applicant is not entitled for the second benefit under A.C.P. scheme.

8. Learned Advocate for the applicant has submitted that the res. no. 3 has wrongly interpreted the G.R. dtd. 1.4.2010. He has argued that, since earlier order dtd. 3.1.2014 passed by the res. no. 3 had been cancelled by him by the order 6.3.2015, the applicant is entitled to get second benefit under the scheme after completion of 12 years from the date of granting of first benefit under the said scheme i.e. w.e.f. 23.6.1997. He has submitted that by the order dtd. 6.3.2015, the first benefit under the A.C.P. scheme granted to the applicant w.e.f. 23.6.1997 has been

restored and, therefore, from that date the applicant is entitled to get second benefit on completion of 12 years service. He has attracted my attention to the provisions of G.R. dtd. 1.4.2010. He has submitted that as the res. no. 3 has wrongly interpreted the G.R. and the provisions contained therein, he prayed to quash the impugned communication and to extend the second benefit to him under A.C.P. scheme.

9. Learned P.O. has submitted that the first benefit under the A.C.P. scheme was granted to the applicant w.e.f. 23.6.1997 on completion of 12 years service in view of the scheme introduced by the Government. He has submitted that the case of the applicant was considered for regular promotion by the Departmental Selection Committee in its meeting dtd. 19.11.2013. At that time the grading of A.C.Rs. of the applicant was 'B-', he was not fulfilling the criteria required for promotion on regular basis, therefore, promotion was not given to him. For granting benefit under A.C.P. scheme, it was one of the conditions that the concerned employee has to fulfill the conditions laid down for regular promotion to the higher post. It was one of the conditions that the employee must qualify in the assessment of his A.C.Rs., but the applicant was not qualified and gradation of his A.C.Rs. was 'B-', therefore, he was not eligible for the promotion.

Consequently, first benefit given to him under the A.C.P. scheme had been withdrawn in view of clause 8 of the G.R. dtd. 20.7.2001. He has submitted that, thereafter on 30.8.2014 again a meeting of the Departmental Selection Committee had been held and at that time the applicant's case was placed before that Committee and at that time the A.C.Rs. of the applicant for the years 2009-10 to 2013-14 had been considered. As his gradation of A.C.Rs. was 'B', he was found eligible for regular promotion and, therefore, the Committee decided to give him the first benefit under the scheme w.e.f. 6.3.2015. He has submitted that as the first benefit was again given to the applicant from 5.3.2015 he will be eligible for second benefit after completion of 12 years service thereafter, but the applicant retired on 30.4.2015 and, therefore, he was not entitled to get the second benefit of A.C.P. scheme in view of the provisions of clause '३ - ५' of the G.R. dtd. 1.4.2010. He has submitted that the res. no. 3 had rightly considered the said provisions and rejected the applications of the applicant by the impugned order dtd. 11.1.2016. Therefore, he prayed to reject the O.A.

10. Admittedly, the applicant joined the services in the Forest Department as a Range Clerk from 19.6.1984. He was granted the first benefit under the A.C.P. scheme from 23.6.1997. In view

of the provisions of the G.Rs. dtd. 8.6.1995 and 1.4.2010, the first benefit under A.C.P. scheme can be granted to the employees on completion of 12 years service. For getting benefit under the A.C.P. scheme, the employee has to fulfill the conditions laid down under the G.Rs. One of the conditions is that, he must be eligible for regular promotion to the higher post and he has to fulfill those conditions required for regular promotion. For the purpose of regular promotion of employee, he has to fulfill the conditions of educational qualification, assessment of A.C.Rs., seniority and passing of the departmental examination. If the employee is not eligible for his regular promotion or he denies to accept the promotion, in that case the first benefit given to him under the A.C.P. scheme shall be withdrawn and his case cannot be considered for second benefit under the scheme. The relevant conditions of the G.Rs. dtd. 8.6.1995 & 1.4.2010 are as under :-

**CLAUSE 2 – A & B of G.R. DTD. 8.6.1995**

“२. या पदोन्नतीची तपशिलवार योजना खालीलप्रमाणे आहे :-

गट क व ड (पूर्वीचे वर्ग ३ व ४) मधील पदधारकांना १२ वर्षांच्या नियमित सेवेनंतर त्यांच्या पदोन्नती राखळीतील वरच्या पदावरील वेतनश्रेणी देण्यात येईल. ज्या कर्मचा-यांना पदोन्नती साखळीतील पदावर पदोन्नतीसाठी पद अस्तित्वात नाही अशा कर्मचा-यांना या निर्णया सोबतच्या परिशिष्टामध्ये दर्शविण्यात आल्यानुसार वरिष्ठ वेतनश्रेणी देण्यात येईल. या योजनेची इतर प्रमुख वैशिष्ट्ये व अंमलबजावणीची कार्यपध्दती खालीलप्रमाणे आहे.

(अ) ही योजना १ ऑक्टोबर १९९४ पासून अंमलात येईल.

(ब) या योजनेअंतर्गत वरिष्ठ वेतनश्रेणी मिळण्यासाठी पदोन्नतीसाठी विहित कार्यपध्दती, ज्येष्ठता, पात्रता, अर्हता परीक्षा, विभागीय परीक्षा या बाबींची पूर्तता करणे आवश्यक आहे.

(क ते य)        --                                --                                --  
                               --                                --                                --  
                               --                                --                                -- ”

**clause 'ड - ५' of G.R. dtd. 1.4.2010**

“(ड). योजनेच्या दुस-या लाभासाठी पात्रतेच्या अटी व शर्ती:-

(१) --                                --                                --                                --  
 (२) --                                --                                --                                --  
 (३) --                                --                                --                                --  
 (४) --                                --                                --                                --

(५) पहिला लाभ मंजूर केल्यानंतर संबंधित कर्मचारी प्रत्यक्ष पदोन्नतीस अपात्र ठरला अथवा त्याने पदोन्नती नाकारली तर अशा प्रकरणी पहिला लाभ काढून घेतला जात असल्याने अशा कर्मचा-यांचा थेट दुस-या लाभासाठी विचार करता येणार नाही. मात्र त्याने त्यानंतर पदोन्नती स्वीकारल्याच्या दिनांकापासून १२ वर्षांच्या नियमित सेवेनंतर त्याला अन्य अटी व शर्तीच्या अधीन राहून दुसरा लाभ मंजूर करता येईल.”

11. In the instant case, the case of the applicant was placed before the Departmental Selection Committee in its meeting held on 19.11.2013. On considering A.C.Rs. of the applicant of the relevant years i.e. 2009-10 to 2013-14f, it was found that his gradation of A.C.Rs. was 'B-' and, therefore, he was declared 'unfit'/not eligible for the said promotional post and therefore the

first benefit given to him under A.C.P. scheme had been withdrawn in view of clause 8 of the G.R. dtd. 20.7.2001. The clause 2 (8) of G.R. dtd. 20.7.2001 is as under :-

“२. शासन आता असे आदेश देत आहे की संदर्भाधीन अनुक्रमांक (१) येथील शासन निर्णयान्वये अंमलात असलेली कालबद्ध पदोन्नती योजना बंद करून त्याऐवजी सेवांतर्गत अश्वसित प्रगती योजना लागू करण्यात यावी. ही योजना पुढील प्रमाणे अंमलात येईल.

(१)	--	--	--
(२)	--	--	--
(३)	--	--	--
(४)	--	--	--
(५)	--	--	--
(६)	--	--	--
(७)	--	--	--

(८) नियमित पदोन्नती नाकारलेल्या तसेच नियमित पदोन्नतीस अपात्र ठरलेल्या कर्मचा-यांना या योजनेचा लाभ देय होणार नाही. या योजनेअंतर्गत वरिष्ठ वेतनश्रेणी दिल्यानंतर नियमित पदोन्नती नाकारलेल्या वा नियमित पदोन्नतीस अपात्र ठरलेल्या कर्मचा-यांना देण्यात आलेला लाभ काढून घेण्यात येईल. मात्र दिलेल्या लाभांची वसूली करण्यात येणार नाही.”

12. The copy of the minutes of the meeting of the Departmental Selection Committee dtd. 19.11.2013 is placed on record at paper book page 84. Thereafter the case of the applicant had been considered again for promotion in the meeting of the

Departmental Selection Committee held on 30.8.2014 and after considering the A.C.Rs. of the applicant for the years 2009-10 to 2013-14 he was considered for the promotion. His gradation of A.C.Rs. was 'B', therefore, he was granted the first benefit under A.C.P. scheme, which had been withdrawn by the order dtd. 3.1.2014, from 5.3.2015. He was held eligible for promotion from 5.3.2015 and, therefore, the first benefit under A.C.P. scheme had been granted to him from the date when he was eligible for regular promotion in view of clause '३ - ५' of the G.R. dtd. 1.4.2010 reproduced as above.

13. It is the contention of the applicant that the first benefit under A.C.P. scheme was granted to him from the retrospective effect by the decision of the Departmental Selection Committee taken in the meeting dtd. 30.8.2014 and, therefore, it can be held that he received the first benefit under the scheme on 23.6.1997 and after completing 12 years therefrom he is entitled to second benefit under the scheme, but the respondents had not considered the said fact and granted the first benefit under the A.C.P. scheme w.e.f. 5.3.2015, which is against the provisions of law. I do not find substance in the contentions of the learned Advocate for the applicant. Clause '३ - ५' of the G.R. dtd. 1.4.2010 is self explanatory and it provides that an employee

whose first benefit had been withdrawn, if he is not eligible for regular promotion, is entitled for the second benefit under the A.C.P. scheme but he will be entitled for second benefit after completing 12 years service after accepting the promotion. The respondent no. 3 has rightly considered the provisions and rejected the application of the applicant. There is no illegality therein as the applicant was held eligible for regular promotion w.e.f. 5.3.2015 as per the minutes of meeting of the Departmental Selection Committee.

14. The res. no. 3 has rightly rejected the claim of the second benefit under A.C.P. scheme by issuing the impugned order dtd. 11.1.2016. There is no illegality in the impugned order. Therefore, no interference is called for in the impugned order. There is no merit in the O.A. Consequently, the O.A. deserves to be dismissed.

15. In view of above discussion, the O.A. stands dismissed with no order as to costs.

**MEMBER (J)**

ARJ-O.A. NO. 207-2016 BPP (ASSURED CAREER PROGRESSION SCHEME)