

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 16 OF 2015

DISTRICT : PUNE

Shri Avinash Wamanrao Kulkarni)
Flat No. 501, Oshan Waves,)
Cipla Foundation Road, Warje)
Highway Area, Warje,)
Pune 411 058.)...**Applicant**

Versus

1. The State of Maharashtra)
Through the Secretary,)
Finance Department,)
Mantralaya, Mumbai.)
2. The Secretary,)
Animal Husbandry Department)
Mantralaya, Mumbai.)
3. The Regional Joint Commissioner)
of Animal Husbandry,)
Region-Latur, Dist-Latur.)...**Respondents**

Smt Punam Mahajan, learned advocate for the Applicant.

Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

DATE : 13.10.2016

ORDER

1. Heard Smt Punam Mahajan, learned advocate for the Applicant and Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant seeking declaration that he is entitled to second benefit of the Assured Career Progression Scheme on completion of 24 years of continuous service

3. Learned Counsel for the Applicant argued that the Applicant is presently working in the cadre of Assistant Commissioner of Animal Husbandry, Grade-I at the Training Centre of the Department in Pune in the Grade Pay of Rs. 15600-39100 plus grade pay of Rs. 5700. The Applicant was granted first Time Bound Promotion w.e.f. 1.8.2001 in terms of G.R dated 8.6.1995 which was superseded by G.R dated 20.7.2001. By this Time Bound Promotion / first benefit of Assured Career

Progression Scheme, he was given the pay scale of Rs. 15600-39100 + grade pay of Rs. 5700/-. By G.R dated 1.4.2010, second benefit of A.C.P Scheme was introduced on completion of 24 years of continuous service. As the Applicant was granted first benefit of A.C.P Scheme on 1.8.2001, he is eligible for second benefit after 12 years from 1.8.2013. The Applicant had made a representation on 26.6.2013 to the Respondent no. 4 seeking second benefit of A.C.P Scheme. He was, however, informed that under Para 2(a) of G.R dated 1.4.2010, he is not eligible to get second benefit of A.C.P Scheme. Learned Counsel for the Applicant argued that the Government has issued another G.R dated 6.9.2014, which provides for second benefit of A.C.P Scheme to the persons, who are getting grade pay from Rs. 5001 to 5900, and whose grade pay can be raised by Rs. 800/- on grant of second benefit of A.C.P Scheme. Learned Counsel for the Applicant contended that the Applicant is also entitled to this benefit. This Tribunal (Aurangabad Bench) in O.A no 229/2015 by judgment dated 14.9.2016 has granted relief to another Officer from the same department under identical circumstances.

4. Learned Presenting Officer (P.O) argued on behalf of the Respondents that the G.R dated 1.4.2010 makes it very clear that this modified Assured Career Progression Scheme is applicable only to those employees getting pay in the Pay Band of Rs. 15600-39100 + Grade

Pay of Rs. 5400/-. The Applicant is admittedly getting grade pay of Rs. 5900/-. He is clearly not eligible for second benefit of A.C.P Scheme. As regards G.R dated 5.7.2010, learned Presenting Officer stated that this scheme is applicable to those who are getting grade pay of Rs. 5400/- in the Pay Band of Rs. 15600-39100. Learned Presenting Officer argued that this G.R is applicable only to those who are occupying isolated posts and where there is no promotional channel available to them. In the present case, the Applicant is eligible to be promoted to the next post in the promotional channel. Also, the benefit of this scheme is not applicable to those, who have received three or more promotions in their service career.

5. It is seen that the Respondents are making distinction between those employees, who are working in a post in which future promotion is possible as per chain of promotion and those who are working in isolated posts, for which no promotional avenues are open. However, the basic object of the Assured Career Progression Scheme was to give financial upgradation in the pay scale of promotional posts, where despite being eligible, an employee could not be promoted for want of vacancies. If an employee in the Pay Band of Rs. 15600-39100 with grade pay up to Rs. 5400/- is working in an isolated post, he is eligible to get Rs. 500/- additional grade pay when given first benefit of A.C.P Scheme.

Such persons are eligible for second benefit of A.C.P Scheme also and those whose grade pay is from Rs. 500/- to Rs. 5900/- after first benefit are eligible to get Rs. 700/- additional grade pay on getting second benefit. If the present applicant, whose grade pay after getting first benefit is Rs. 5900/-, was working in an isolated post, he would have been eligible to get second benefit of A.C.P Scheme and his grade pay would have been increased by Rs. 700/- to Rs. 6600/-. However, as the Applicant is working in a post where there is a chance that he can be promoted, he is held ineligible to second benefit of A.C.P Scheme on the ground that his grade pay is more than Rs. 5400/-. This is highly discriminatory or arbitrary and cannot be sustained.

6. This Tribunal (Aurangabad Bench) in O.A no 229/2015 by judgment dated 14.9.2016 has held that provisions of G.R dated 5.7.2010 will apply in all cases. No different view can be taken in this Original Application.

7. The Applicant, if he is eligible to get second benefit of A.C.P Scheme in terms of his performance (grading of his ACR, qualifications etc.) and if he was not promoted on three occasions in the past and has been denied that benefit only on the ground that his grade pay was more than Rs. 5400/-, is held that eligible to be considered for second benefit of A.C.P Scheme as per G.R

dated 5.7.2010. The communication dated 30.7.2013 from the Respondent no. 4 is quashed and set aside. The Respondents are directed to consider the Applicant's case in terms of G.R dated 5.7.2010 within a period of two months from the date of this order.

Sd/-
(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 13.10.2016
Dictation taken by : A.K. Nair.