

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: May 21, 2013

+ **W.P.(C) 7664/2010**

GNCT OF DELHI AND ORS. Petitioners
Represented by: Ms. Latika Chaudhary, Advocate

versus

SK SHARMA AND ANR. Respondents
Represented by: Mr. Piyush Gaur and Mr. Arun
Bhardwaj, Advocates

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MR. JUSTICE V.KAMESWAR RAO

PRADEEP NANDRAJOG, J. (Oral)

1. Impugned order passed by the Tribunal reads as under:-

“Applicants through this OA, are seeking post-retirement benefits of Assured Career Progression Scheme, which were promulgated by the Government vide OM dated 9.8.1999. Respondents are yet to accord them the benefits of the same and the only justification, which comes forth, is that as per DOPT OM of 18.7.2001, financial upgradation under ACP scheme is to be allowed under the hierarchy existing as on 9.8.1999 or at the time one becomes eligible, whichever is later and since a new hierarchy has come into being, financial upgradations may be allowed only in the restructured grades, then Screening Committee may review cases on the basis of such Model Rules.

2. *On the other hand, learned counsel for applicants would contend that there is no hierarchal change on the post held by the applicants before they retire on superannuation.*

3. *In the above view of the matter, the justification of the respondents to delay the benefits of ACP is not justifiable. As we find that the rightful claim of the applicant is being denied and the ACP benefits with arrears were not disbursed to them before they retired on superannuation, this OA is disposed of with a direction to the respondents to accord to the applicants the ACP benefits with arrears and also with an interest of 9% simple from the date the ACP benefits accrued till actually paid. We also direct respondents to fix the responsibility of officers, who have deliberately, without any justification when the case was not covered by the clarification, delayed grant of ACP benefits to the applicants. This shall be done within a period of two months from the date of receipt of a copy of this order. No costs."*

2. Suffice would it be to state that in paragraph 1 the claim of the applicant has been noted and in paragraph 2 the response of the respondents has been noted.

3. Without any reasoning, the concluding paragraph 3, commences with the opinion arrived by the Tribunal observing that '*in above view of the matter*' the justification of the respondents to delay the benefits of ACP is not justifiable.

4. What is that '*above view of the matter*'? We are left without any clue.

5. We note that benefit of ACP has since been granted by the writ petitioner to the respondent and the issue subsists only of interest.
6. From the reply filed to the Original Application we find various contentions urged by the petitioners pertaining to reconstitution of the cadre and in particular merger of the post of Foreman and Senior Scientific Assistants.
7. Since we do not find any reasoning by the Tribunal, lest parties are prejudiced, we speak no further except to highlight that the impugned decision is without any reasons.
8. Setting aside the order dated July 12, 2010 we restore OA No.3077/2009 for fresh adjudication by the Tribunal.
9. Parties shall appear before the Registrar of the Tribunal on July 01, 2013 who shall list the original application before the Roster Bench for adjudication on merits.
10. No costs.
11. Dasti.

CM No.19927/2010

Dismissed as infructuous.

(PRADEEP NANDRAJOG)
JUDGE

(V.KAMESWAR RAO)
JUDGE

MAY 21, 2013

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