
(2009) 11 DEL CK 0173

In the Delhi High Court

Case No : Writ Petition (C.) No's. 4578-79 of 2006

Rameshwar Singh and Others

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 25-11-2009

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2009) 11 DEL CK 0173

Hon'ble Judges : Vipin Sanghi, J;Anil Kumar, J

Bench : Division Bench

Advocate : A.K. Trivedi, for the Appellant; Nemo, for the Respondent

Final Decision : Dismissed

Judgement

Anil Kumar, J.—The petitioners have impugned the order dated 13th December, 2005 in OA No. 2674 of 2005, Rameshwar Singh and Ors. v. Union of India and Ors. declining the petitioners' claim for directions to the respondents to grant the benefit of ACP Scheme to the petitioners by granting second financial up-gradation with all consequential benefits including the arrears of difference of pay and allowance with interest.

2. The petitioners had sought for a direction for quashing of clarification No. 53 issued by DOP&T vide OM dated 18th July, 2001. By the said clarification, it was stated that only those employees who fulfill all promotional norms are eligible to be considered for benefit under ACPS. It was clarified that if recruitment rules for promotion to the next higher grade, including the higher/additional educational qualifications are required or prescribed, the employee would need to possess or meet those higher/additional educational qualifications to avail financial up-gradation under the Assured Career Progression Scheme. The Tribunal while considering the plea of the petitioners had relied on a Full Bench decision of State Tribunal at Chandigarh which has dealt with the questions, whether a person for getting the financial up-gradation under the ACP Scheme to the next higher grade/scale is required to possess educational qualifications required for

appointment/promotion to the next higher post/grade which is to be given under the ACP Scheme as a financial up-gradation.

3. The Full Bench had held that for grant of financial up-gradation under the ACP Scheme to the next higher grade/scale, an employee is required to possess the educational qualification required for appointment/promotion to the next higher grade carrying the same scale.

4. Learned Counsel for the petitioner has contended that the ACP Scheme is to deal with genuine stagnation and hardship faced by employees due to lack of adequate promotional avenues and consequently higher educational qualification or other requirements are not to be fulfilled.

5. The plea of the petitioners is contrary to the object of the ACP Scheme. Under the ACP Scheme, an up-gradation is to be granted only if an employee is eligible for promotion, however, on account of stagnation, adequate promotional avenues are not available. Assured Career Progression Scheme, however, does not entitle a person to the next promotion despite not having eligibility qualification or possessing the educational qualification or other requirements for promotions.

6. The ACP Scheme gives relief to those who are eligible but who do not get promotion on account of stagnation or other similar reasons, however, under the ACP Scheme an employee who is not eligible for promotion does not become eligible for promotion despite not having the requisite qualification. Such a plea is apparently contrary to very basic objective of scheme and such a plea of the petitioners, cannot be accepted. In the circumstances, the decision of the Tribunal declining the claim of the petitioners for up-gradation under the ACP Scheme as they are not eligible for promotion cannot be faulted. Learned Counsel for the petitioner has failed to show any error or illegality in the decision of the Tribunal which will entail interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. The writ petition, in the facts and circumstances, is without any merit and it is, therefore, dismissed. Parties are, however, left to bear their own costs.