

IN THE HIGH COURT OF DELHI AT NEW DELHI

**W.P. (C) 6922/2014
C.M. Nos.16313-16314/2014**

**UNION OF INDIA and ORS. Petitioners (Through: Mr. Saqib, Advocate.)
versus
M.P. SHRIVAS and ORS. Respondents (Through: Mr. M.K. Bhardwaj, Advocate.)**

CORAM:

**HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE VIPIN SANGHI**

**O R D E R
13.10.2014**

The Union of India, through the Department of Posts and Telegraph, claims to be aggrieved by an order of the Central Administrative Tribunal (hereafter referred to as (CAT) dated 11.03.2014 in OA 3609/2012, whereby the claim of the respondents/applicants for the second financial upgradation - which the Union of India had sought to withdraw – was allowed.

The respondents/applicants were working in the Department of Posts and Telegraph as Assistant Engineer (Civil) and were appointed sometime in early 1980 as Junior Engineer (Civil) and eventually regularized as Assistant Engineer (Civil) sometime in 2007. The respondents/applicants contended that since they have spent more than 24 years of service, they were entitled to the benefit of second financial upgradation under the Assured Career Progression (ACP) Scheme; this was denied by the Union of India, which contended that they were ineligible for promotion to the post of Executive Engineer since they did not possess the prescribed degree qualification. The applicants had, on the other hand, contended that they were entitled to be considered and relied upon the rules framed in 1994.

The CAT accepted the applicants contentions holding that they were entitled to be considered for the ACP benefits. At the outset, it is pointed out that this Court - in identical circumstances – while considering the claim of incumbents of the same Department for ACP benefits, had in W.P. (C) 4879/2014 upheld and affirmed the similar order of the CAT passed in OA 2651/2012. The said judgment of this Court dated 5.8.2014 (Union of India v. T.R. Sharma and Ors.) had noticed the Circular dated 26.5.1977 issued by the Central Government which stated that diploma holders should possess experience of ten years, which was deemed to be equivalent to degree holders for the purpose of appointment. This Court held as follows: -

7. This Court is of the opinion that in the absence of any material contradicting the CAT inference that the equivalence was applicable and held good, even as on date, the UOI contentions cannot be accepted. If indeed the UOI is right in contending that equivalence is a matter which has to be considered from service to service and having regard to the time, there has to be some material apart from the bare assertion that the 26.05.1977 declaration of equivalence which is wide and applicable to all posts and

services under the Central Government - is not correct. In the absence of any such material, the UOI contention, in our opinion, was rightly rejected. As far as the decision in Surliya (supra) was concerned, the CAT itself noticed that while the 1994 Recruitment Rules, which are in issue in the present case, were undoubtedly considered, the question of equivalence had not been discussed at all. Apparently, the 26.05.1977 circular was not brought to the notice of the Court at this stage. Therefore, Surliya (supra) decision is not an authority on the ineligibility of those, like applicants/respondents, who were deemed to possess qualifications equivalent to a degree in engineering and, therefore, entitled to second ACP benefits.

8. The last contention with regard to the applicability of the 2001 Office Memorandum, in our opinion, is rendered irrelevant in the light of the previous discussion with regard to the applicant equivalence of degree qualifications. This Court is of the opinion that having regard to the object of the ACP Scheme, i.e. to alleviate stagnation for long periods and given that the equivalence criteria have been met, the insistence upon eligibility conditions spelt-out in the recruitment rules would render the benefits under the scheme illusory. At any rate, having regard to the declaration of equivalence made by the 26.05.1977 circular, which was applicable in the present case, it cannot be said that the respondents/applicants were ineligible for the second ACP.

In view of the above decisions, we are of the opinion that there is no infirmity in the order of the CAT which is accordingly upheld.

The writ petition is, therefore, dismissed along with all the pending applications.

S. RAVINDRA BHAT, J
VIPIN SANGHI, J

OCTOBER 13, 2014