A SECR., GOVT., OF NCT OF DELHI & ORS.

v.

GRADE-I DASS OFFICERS' ASSOCIATION & ORS.

(Civil Appeal Nos. 5153-5157 of 2009)

JULY 30, 2014.

B

[VIKRAMAJIT SEN AND SHIVA KIRTI SINGH, JJ.]

SERVICE LAW:

C *Assured Career Progression Scheme (ACPS), 1999 – Second financial upgradation on completion of 24 years – Delhi Administration Subordinate Service (DASS) Grade-I, i.e., feeder grade and next promotional Grade, i.e., Delhi Andaman and Nicobar Island Civil Service (DANICS) Grade-*

D *II, being in the same pay grade – Claim of respondents members of DASS Grade-I for second financial upgradation in DANICS Grade-I instead of in DANICS Grade-II – Rejected by Tribunal, but allowed by High Court – Held: Fairness on part of State is a constitutional obligation and, therefore, a pay*

E *scale, which regularly promoted employee could not get due to established hierarchy for promotion, cannot be granted to those like the respondents on the plea that the financial upgradation to which they are found entitled as per existing hierarchy is too meagre — In view of stipulations and conditions in ACPS, financial upgradation is admissible in the*

F *next higher grade only in accordance with the existing hierarchy in a cadre/category of posts without creating new posts for the purpose — Financial upgradation under ACPS is not only in lieu of but also in anticipation of regular promotion — In such a situation, financial upgradation*

G *claimed by respondents cannot be granted because the same would be much in excess of what the officer would gain on actual promotion in the hierarchy, — In the facts of the case, it would not be proper to exercise power of judicial review*

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so as to reverse or modify the policy decision of Government and it would be violative of rules of fairness and Arts.14 and 16 of the Constitution — The claim of respondents was rightly rejected by Tribunal – Constitution of India, 1950 – Arts. 14, 16 and 226 – Government of India, Department of Personnel & Training, O.M. No. 35034/1/97-Estt. Dated 18.7.2001 – Clarification 52.

The respondents, who were appointed as Grade-II in the Delhi Administration Subordinate Service (DASS), and promoted to the post of DASS Grade-I, on completion of 24 years, were eligible for second financial upgradation. Grade-I of DASS in the pay scale of Rs. 6500-200-10500 was the feeder grade for the next promotional grade in the hierarchy which was Grade-II (Group B) under the Delhi Andaman and Nicobar Island Civil Service (DANICS), but the Grade-II (Group B) of DANICS also had the same pay scale of Rs. 6500-200-10500/-. Clarification 52 was issued by the Department of Personnel & Training by O.M. No. 35034/1/97-Estt. Dated 18.7.2001, to the effect that since the feeder and promotional grades in the hierarchy were in the same scale of pay, the benefit of financial upgradation under the ACPS was to be allowed in the same pay scale, and as per Condition No. 9 of the ACPS issued by the Department of Personnel & Training O.M. dated 10.2.2000, pay would be fixed under the provisions of F.R.22 (I) (a) (i) subject to a minimum benefit of Rs. 100/-. The representations of the respondents that they should be granted upradation to the scale of Rs. 10,000-325-15200 which was the pay scale for Grade-I (Group A) of DANICS, were rejected. Their O.A. was also rejected by the Tribunal. However, the High Court allowed their writ petitions.

Allowing the appeals, the Court

HELD: 1.1. From the relevant stipulations and conditions it is evident that the Assured Career

A Progression Scheme (ACPS) offers higher pay scale/ financial benefits only to those eligible Government servants who remain deprived of regular promotions. For such deprivation, they are compensated by grant of monetary benefits on personal basis but the same does B not amount to functional/regular promotion and does not require creation of new posts.As per Condition No.7 of the conditions contained in Annexure to the Assured Career Progression Scheme, financial upgradation is admissible in the next higher grade only in accordance C with the existing hierarchy in a cadre/category of posts without creating new posts for the purpose. [para 11] [988-E-G]

1.2. Condition No.9 indicates that on upgradation under ACP Scheme the re-fixation of pay must yield a D minimum benefit of Rs.100/- in accordance with the relevant Office Memorandum. It also clarifies that the financial benefit under the ACP Scheme is final and no pay fixation benefit shall accrue at the time of regular promotion, i.e., posting against a functional post in the E higher grade. [para 12] [989-C-D]

1.3. Clarification 52 issued by O.M. dated 18.7.2001 is found to be in accordance with the stipulations and conditions of ACPS. The High Court erred in taking a view F that it supplants the basic provisions in the ACPS. In fact, the clarification, at best, supplements the provisions of the Scheme and cannot be faulted for doing so. [para 13] [989-F]

1.4. In view of the stipulations and conditions in the G ACPS, it can be safely concluded that the financial upgradation under the ACPS is not only in lieu of but also in anticipation of regular promotion. In such a situation, the appellants have correctly submitted that financial upgradation claimed by the respondents cannot be H granted because the same would be much in excess of

what the officer would gain on actual promotion in the hierarchy. As a corollary, such claim of the respondents must be rejected on the ground that persons having better claims on actual promotion could be fitted only in the promotional post of Grade II (Group B) of DANICS, i.e. Rs.6500-200-10500/- whereas the respondents, on their claims being accepted, would get much higher pay scale of Rs.10000-325-15200/- available only to Grade I (Group A) in the DANICS. Such a situation would be violative of rules of fairness and Arts.14 and 16 of the Constitution of India. Fairness on part of State is a constitutional obligation and, therefore, a pay scale, which regularly promoted employee earlier belonging to Grade I (DASS) could not get due to established hierarchy for promotion, cannot be granted to those like the respondents on the plea that the financial upgradation to which they are found entitled as per existing hierarchy is too meagre. [para 14] [989-G-H; 990-A-D]

1.5. Besides being grossly unfair to the regular promotees, the view taken by the High Court would also violate the Government policy reflected by the stipulations in ACPS and the conditions attached to the same, as the benefit claimed by the respondents would not be restricted to them alone, rather, the policy of Government reflected by the ACPS shall suffer a mis-interpretation for all times to come and the results would be violative of rules of fairness guaranteed by Arts. 14 and 16 of the Constitution of India. In the facts of the case, it would not be proper to exercise power of judicial review so as to reverse or modify the policy decision of the Government.Accordingly, the judgment of the High Court is set aside and, as a result, the writ petitions preferred by the respondents shall stand dismissed. [para 15-17] [990-G; 991-D-F]

Govt. of T.N. & Anr. v. S. Arumugham & Ors. **1997 (5) Suppl. SCR 295 = (1998) 2 SCC 198 – relied on.**

A *Union of India v. Prakash Chand & Ors.* **132 (2006) DLT 525;** Council of *Scientific & Industrial Research & Anr. v. K.G.S. Bhatt & Anr.* **(1989) 4 SCC 635 – distinguished.**

Case Law Reference :

B	**1997 (5) Suppl. SCR 295**	**relied on**	**para 8**
	132 (2006) DLT 525	**distinguished**	**para 9**
	1989 (4) SCC 635	**distinguished**	**para 9**

C CIVIL APPELLATE JURISDICTION : Civil Appeal Nos.5153-5157 of 2009.

From the Judgment and Order dated 15.02.2008 in Writ Petition Civil Nos. 5883-87 of 2004 of the High Court of Delhi at New Delhi.

D K. Radhakrishnan, R.K. Rathore, Rekha Pandey, Rashmi Malhotra, R.S. Nagar, D.S. Mahra for the Appellants.

T.S. Tobia, Kiran Bhardwaj, Avinash Ahlawat, Rani Chhabra for the Respondents.

E The Judgment of the Court was delivered by

SHIVA KIRTI SINGH, J. 1. The Respondents in these Appeals were applicants before the Central Administrative Tribunal, Principal Bench, New Delhi (for short, 'the Tribunal'). F They preferred O.A. No.579 of 2002 against the Appellants seeking quashing of the order dated 10.8.2001 and also sought a direction to grant the scale of Rs.10000-325-15200/- to them and all other members of Grade-I (DASS) Officers' Association from the date they had completed 24 years of regular service G or 9.8.1999, whichever is later.

2. The aforesaid claim was founded upon the Assured Career Progression Scheme (for short, 'ACPS') introduced w.e.f. 9.8.1999 which, *inter alia*, provides for benefit of second financial upgradation on completion of 24 years of regular H service to such Central Government civilian employees who

faced stagnation and had not been granted two promotions during their service tenure. The controversy or the dispute arose in the background of some relevant facts which are as follows. A

3. The Respondents were appointed as Grade-II in the Delhi Administration Subordinate Service (for short, 'DASS'). They were promoted to the post of Grate-I between 1986 and 1989. They had completed 24 years of regular service between 1998 and 2001 and were thus eligible for second financial upgradation from 9.8.1999 or date of completion of 24 years of service, whichever is later. The pay scale of Grade-II of DASS was Rs.5000-150-8000/- and Grate-I was in the pay scale of Rs.6500-200-10500/-. The Grade-I of DASS was the feeder grade for the next promotional grade in the hierarchy which was Grade-II (Group B) under the Delhi Andaman and Nicobar Island Civil Service (for short, 'DANICS') but unfortunately the Grade-II (Group B) of DANICS also had the same pay scale of Rs.6500-200-10500/-. Because the feeder and the promotional grades, though at two levels in the hierarchy, had the same scale of pay, therefore, a clarification being Clarification 52 was issued by the Department of Personnel & Training vide O.M. No.35034/1/97-Estt.(D)/Vol.IV dated 18.7.2001, to the effect that since the feeder and promotional grades in the hierarchy were in the same scale of pay, the benefit of financial upgradation under the ACPS has to be allowed in the same scale for the reason that under the ACPS financial upgradation has to be allowed as per the exiting hierarchy. Financial upgradation cannot be allowed in a scale higher than the next promotional grade. In such cases, however, as per Condition No.9 of the ACPS issued vide Department of Personnel & Training O.M. dated 10.2.2000, pay shall be fixed under the provisions of F.R.22(I)(a)(1) subject to a minimum benefit of Rs.100/-. B C D E F G

4. The Respondents found the benefit under F.R.22(I)(a)(1) to be too meagre, therefore, they raised a demand that financial upgradation must be real and for that they should be granted H

A upgradation to the scale of Rs.10000-325-15200/- which was the pay scale for Grade-I (Group A) in the DANICS.

5. Since the normal channel of promotion for Grade-I of DASS was Grade-II (Group B) of DANICS and not the further higher post in the hierarchy, Grade-I (Group A) in DANICS, the Appellants turned down the representations of the Respondents leading to O.A.No.579 of 2002 preferred by the Respondents. In that O.A., the Tribunal considered the provisions and conditions of ACPS contained in Annexure I to the Scheme and came to a finding that the contention of the Respondents that irrespective of the hierarchy in which they are placed, they should be granted financial upgradation in the pay scale which is much higher than the hierarchical promotion was not an acceptable interpretation of the ACPS. The Tribunal found it patent in the ACPS that the financial upgradation is to be only in the next higher grade but it is with a rider that such upgradation has to be in accordance with the existing hierarchy in a cadre without creating new posts. The Tribunal placed strong reliance upon Para 7 of Annexure I to the ACPS dated 9.8.1999. The Tribunal also turned down the contention that the Clarification No.52 dated 18.7.2001 was contrary to the Scheme.

6. Against the judgment and order of the Tribunal dated 8.12.2003, the Respondents preferred a review petition bearing Review Application No.49 of 2004 which came to be dismissed by the Tribunal on 12.2.2004. Thereafter, the Respondents filed writ petitions being C.W.P.Nos.5883-5887 of 2004 before the High Court of Delhi which have been allowed by the judgment and order under appeal dated 15.2.2008 giving rise to the civil appeals under consideration. This Court granted interim stay and as a result, the benefits accruing from the judgment under appeal have not been made available to the Respondents as yet.

7. To assail the judgment of the High Court whereby the Appellants have been directed to consider the placement of the

Respondents in the next to next scale in the hierarchy, i.e., Rs.10000-325-15200/- by way of second upgradation in the ACPS, learned senior advocate Mr. K. Radhakrishnan has highlighted the relevant facts, as noted earlier, as also various stipulations in the ACPS particularly Condition Nos.1, 5.1, 7, 8, 9, 10 and 12. He has also distinguished the letter dated 10.2.2000 discussed in Paragraph 17 of the High Court judgment by showing that Doubt (1) was based upon entirely different fact situation and hence the clarification against that doubt is not attracted in the case of Respondents. He has also assailed the adverse findings in respect of O.M. dated 18.7.2001 containing Clarification No.52 discussed in Paragraph 18 of the High Court judgment. According to him, the plea of the Appellants that under ACPS the Respondents cannot be placed in a scale higher than what is provided for under the hierarchy to normal promotees has also been wrongly rejected in Paragraph 19 of the judgment.

8. It is further contention on behalf of Appellants that ACPS is a policy decision under which the burden of financial upgradation is continued every month and hence the Appellants have good reasons to prefer these appeals also on the ground that High Court should not have granted a relief which tantamounts to changing the policy of State. He placed reliance upon a judgment by this Court in the case of *Govt. of T.N. & Anr. v. S. Arumugham & Ors.* (1998) 2 SCC 198. That case related to promotion policy governing promotion as Deputy Collectors in Tamil Nadu Civil Service. The Administrative Tribunal had issued certain directions to the Government for reframing of the Scheme in a particular manner. Criticizing the same, it was held that such judicial review was not permissible when the matter related to policy decision of Government.

9. To the contra, it has been submitted by Mr. T.S. Doabia, learned senior advocate for the Respondents that financial upgradation as contemplated by the ACPS is to deal with the problem of genuine stagnation in service or hardship faced by

A the employees due to lack of adequate promotional avenues and, therefore, mere grant of financial benefit of Rs.100/- cannot be equivalent of placement in the higher pay scale. According to him, the grant of financial benefits/placement in the higher pay scale indicated in Condition No.1 of Annexure I to the B Scheme has rightly been interpreted by the High Court to mean placement in the actual higher pay scale when the pay scale of feeder post and promotional post is found to be same. According to him, the interpretation and reliance placed upon Paragraph 7 of the conditions contained in Annexure I to the C Scheme by the Tribunal in Paragraph 13 of its judgment is incorrect in view of conditions Nos.10 and 12. He has also referred to the dictionary meaning of the word, 'upgrade' by referring to the New Shorter Oxford English Dictionary wherein, *inter alia*, 'upgrade' means, 'an additional feature or D enhancement'. He has placed reliance upon a Division Bench judgment of Delhi High Court in the case of *Union of India v. Prakash Chand & Ors.* 132 (2006) DLT 525 and a judgment of this Court in the case of *Council of Scientific & Industrial Research & Anr. v. K.G.S. Bhatt & Anr.* (1989) 4 SCC 635. E Before deciding the relevant issue in the light of rival submissions, it would be useful to extract the relevant conditions contained in Annexure I to the ACPS dated 9.8.1999, i.e., Condition Nos.1, 5.1, 7, 8, 9, 10 (Part) and 12 :

> "1. The ACP Scheme envisages merely placement in the F higher pay-scale / grant of financial benefits (through financial upgradation) only to the Government servant concerned on personal basis and shall, therefore, neither amount to functional/regular promotion nor would require creation of new posts for the purpose;
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> G 2. xxx xxx xxx xxx xxx
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> 3. xxx xxx xxx xxx xxx
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> 4. xxx xxx xxx xxx xxx

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5.1 Two financial upgradations under the ACP Scheme in the entire Government service career of an employee shall be counted against regular promotions (including in-situ promotion and fast-track promotion availed through limited departmental competitive examination) availed from the grade in which an employee was appointed as a direct recruit. This shall mean that two financial upgradations under the ACP Scheme shall be available only if no regular promotions during the prescribed periods (12 and 24 years) have been availed by an employee. If an employee has already got one regular promotion, he shall qualify for the second financial upgradation only on completion of 24 years of regular service under the ACP Scheme. In case two prior promotions on regular basis have already been received by an employee, no benefit under the ACP Scheme shall accrue to him;

5.2 xxx xxx xxx xxx xxx

6. xxx xxx xxx xxx xxx

7. Financial upgradation under the Scheme shall be given to the next higher grade in accordance with the existing hierarchy in a cadre/category of posts without creating new posts for the purpose. However, in case of isolated posts, in the absence of defined hierarchical grades, financial upgradation shall be given by the Ministries/Departments concerned in the immediately next higher (standard/ common) pay-scales as indicated in Annexure-II which is in keeping with Part-A of the First Schedule annexed to the Notification dated September 30, 1997 of the Ministry of Finance (Department of Expenditure). For instance, incumbents of isolated posts in the pay-scale S-4, as indicated in Annexure-II, will be eligible for the proposed two financial upgradations only to the pay-scales S-5 and S-6. Financial upgradation on a dynamic basis (i.e. without having to create posts in the relevant scales of pay) has been recommended by the Fifth Central Pay Commission

A only for the incumbents of isolated posts which have no avenues of promotion at all. Since financial upgradations under the Scheme shall be personal to the incumbent of the isolated post, the same shall be filled at its original level (pay-scale) when vacated. Posts which are part of a well-
B defined cadre shall not qualify for the ACP Scheme on 'dynamic' basis. The ACP benefits in their case shall be granted conforming to the existing hierarchical structure only;

C 8. The financial upgradation under the ACP Scheme shall be purely personal to the employee and shall have no relevance to his seniority position. As such, there shall be no additional financial upgradation for the senior employee on the ground that the junior employee in the grade has got pay-scale under the ACP Scheme;

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9. On upgradation under the ACP Scheme, pay of an employee shall be fixed under the provisions of FR 22(I)(a)(1) subject to a minimum financial benefit of Rs.100/- as per the Department of Personnel and Training
E Office Memonradum No.1/6/97-Pay.I dated July 5, 1999. The financial benefit allowed under the ACP Scheme shall be final and no pay-fixation benefit shall accrue at the time of regular promotion, i.e,, posting against a functional post in the higher grade;

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10. Grant of higher pay-scale under the ACP Scheme shall be conditional to the fact that an employee, while accepting the said benefit, shall be deemed to have given his unqualified acceptance for regular promotion on occurrence of vacancy subsequently. In case he refuses
G to accept the higher post on regular promotion subsequently, he shall be subject to normal debarment for regular promotion as prescribed in the general instructions in this regard. ... ...

H 12. The proposed ACP Scheme contemplates merely

placement on personal basis in the higher pay-scale/grant of financial benefits only and shall not amount to actual/ functional promotion of the employees concerned. Since orders regarding reservation in promotion are applicable only in the case of regular promotion, reservation orders/ roster shall not apply to the ACP Scheme which shall extend its benefits uniformly to all eligible SC/ST employees also. However, at the time of regular/functional (actual) promotion, the Cadre Controlling Authorities shall ensure that all reservation orders are applied strictly;"

10. For the controversy at hand Clarification 52 contained in O.M. dated 18.7.2001 is relevant. It reads as follows :

Points of Doubt	Clarification
Following the recommendations of the Pay Commission, feeder and promotional posts have been placed in the same scale. Consequently, hierarchy of a post comprises of Grades 'A', 'A' and 'C' i.e. the entry level and the first promotional grade are in the same scale. What shall be his entitlements under ACPS	Normally, it is incorrect to have a feeder grade in the same scale of pay. In such cases, appropriate course of action is to review the cadre structure. If as a restructuring, feeder and promotional posts are merged to constitute one single level in the hierarchy, then in such a case, next financial upgradation will be in the next hierarchical grade above the merged levels and if any promotion has been allowed in the past in grades which stand merged, it will have to be ignored as already clarified in reply to point of doubt no.1 of O.M. dt.10.02.2000. However if for certain

	reasons it is inescapable to retain both feeder and promotional grades as two district levels in the hierarchy though in the same scale of pay, thereby making a provision for allowing promotion to a higher post in the same grade, it is inevitable that benefit of financial upgradation under ACPS has also to be allowed in the same scale. This is for the reason that under the ACPS, financial upgradation has to be allowed as per the existing hierarchy. Financial upgradation cannot be allowed in a scale higher than the next promotional grade. However, as specified in condition No.9 of the ACP Scheme (vide DoP&T O.M. dated 10.02.2000, pay in such cases shall be fixed under the provisions of FR 22(I)(a)(1) subject to a minimum benefit of Rs.100/-.

11. On going through the ACPS and the relevant stipulations and conditions it is evident that the Scheme offers higher pay scale/financial benefits only to those eligible Government servants who remain deprived of regular promotions. For such deprivation, they are compensated by grant of monetary benefits on personal basis but the same does not amount to functional/regular promotion and does not require creation of new posts. The financial upgradations under the Scheme are to be counted against regular promotions in the service career of the concerned Government employee. The two financial upgradations under the Scheme shall be available only if no regular promotions during the prescribed periods (12 and 24 years) have been availed by an employee. As per Condition No.7, financial upgradation is admissible in the next higher grade only in accordance with the existing hierarchy in a cadre/category of posts without creating new posts for the purpose. Practical solution has been indicated in case of isolated posts where there is no defined hierarchical grades.

The condition emphasizes that financial upgradation on a dynamic basis (i.e. without having to create posts in the relevant scales of pay) has been recommended by the Fifth Central Pay Commission only for the incumbents of isolated posts which have no avenues of promotion at all. Condition No.7 fortifies the view taken by the Tribunal through the clear stipulation in the last two sentences – "Posts which are part of a well-defined cadre shall not qualify for the ACP Scheme on 'dynamic' basis. The ACP benefits in their case shall be granted conforming to the existing hierarchical structure only."

12. Condition No.9 indicates that on upgradation under ACP Scheme the re-fixation of pay must yield a minimum benefit of Rs.100/- in accordance with the relevant Office Memorandum. It also clarifies that the financial benefit under the ACP Scheme is final and no pay fixation benefit shall accrue at the time of regular promotion, i.e., posting against a functional post in the higher grade. Condition No.10 further clarifies that benefit under the ACPS is to be conditional and the concerned employee shall be deemed to have given an unqualified acceptance for regular promotion on occurrence of vacancy subsequently.

13. Clarification 52 issued by O.M. dated 18.7.2001 is found to be in accordance with the stipulations and conditions of ACPS. The High Court erred in taking a view that it supplants the basic provisions in the ACPS. In fact, the clarification, at best, supplements the provisions of the Scheme and cannot be faulted for doing so.

14. In view of stipulations and conditions in the ACPS noticed above, it can be safely concluded that the financial upgradation under the ACPS is not only in lieu of but also in anticipation of regular promotion. In such a situation, the contention advanced on behalf of Appellants that financial upgradation claimed by the Respondents cannot be granted because the same would be much in excess of what the officer

A would gain on actual promotion in the hierarchy, is found to have substance. As a corollary, such claim of the Respondents must be rejected on the ground that persons having better claims on actual promotion could be fitted only in the promotional post of Grade II (Group B) of DANICS, i.e. Rs.6500-200-10500/-
B whereas the Respondents, on their claims being accepted, would get much higher pay scale of Rs.10000-325-15200/- available only to Grade I (Group A) in the DANICS. Such a situation would be violative of rules of fairness and Articles 14 and 16 of the Constitution of India. The claim of the
C Respondents had to be rejected as was done by the Tribunal in view of Clause 7 of the ACPS read with other relevant clauses as well as on the basis of aforenoticed ground. Fairness on part of State is a constitutional obligation and hence a pay scale, which regularly promoted employee earlier
D belonging to Grade I (DASS) could not get due to established hierarchy for promotion, cannot be granted to those like the Respondents on the plea that the financial upgradation to which they are found entitled as per existing hierarchy is too meagre. In case Respondents' claim was to be allowed on the ground accepted by the High Court that financial upgradation must be
E real and substantial, in case of regular promotion in future, employees like the Respondents would have to be reduced in their pay scale because actual or functional promotion as per established hierarchy can be only on a post in Grade II (Group B) in DANICS.

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15. Besides being grossly unfair to the regular promotees, the view taken by the High Court would also violate the Government policy reflected by the stipulations in ACPS and the conditions attached to the same. In the facts of the case, it
G would not be proper to exercise power of judicial review so as to reverse or modify the policy decision of the concerned Government. The judgment in the case of *S. Arumugham* (supra) has rightly been relied upon by learned senior counsel for the Appellants on the aforesaid issue.

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16. So far as the judgment relied upon by the learned senior counsel for the Respondents are concerned, it is found that the facts and issues decided in the case of *Prakash Chand* (supra) were quite different. The issue of fairness and constitutional obligation under Articles 14 and 16 did not arise in that case. So far as the judgment in the case of *Council of Scientific & Industrial Research* (supra) is concerned, the Court had found in that case that the Respondent-Civil Engineer had suffered injustice and had stagnated in one post for 20 years and, therefore, this Court refused to exercise its powers under Article 136 of the Constitution of India although promotion granted to the Respondent in that case by the Central Administrative Tribunal appeared to be erroneous. In the present case, however, the benefit claimed by the Respondents would not be restricted to them alone, rather, the policy of Government reflected by the ACPS shall suffer a mis-interpretation for all times to come and the results would be violative of rules of fairness guaranteed by Articles 14 and 16 of the Constitution of India.

17. In the light of discussions made above, we find merit in the case of the Appellants. The Appeals are allowed. The judgment of the High Court under appeal is set aside and as a result, the writ petitions preferred by the Respondents shall stand dismissed. There shall be no order as to costs.

Rajendra Prasad Appeals allowed.