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

Date of decision: 01.09.2025

+ W.P.(C) 7345/2019 & CM APPL. 30624/2019, CM APPL. 30626/2019

UNION OF INDIA & ORS.

.....Petitioners

Through: Mr. Praveen Kumar Jain,
Mr. Aditya Rathi, Advs. and
Mr. Tarun Gupta, Chargeman.

versus

BACHAN RAM & ANR.

.....Respondents

Through: Mr. A.K. Trivedi and Mr.
Dhruv Kothari, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed, challenging the Order dated 13.11.2018 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the "Tribunal") in O.A. No. 3755/2016, titled ***Bachan Ram & Anr. v. Union of India & Ors.***, whereby the O.A. filed by the respondents herein was allowed, directing that they be granted the ACP and MACP benefits by treating their appointment to the post of Lower Divisional Clerk from Group-D through departmental examination as a fresh appointment and not as a promotion.

2. It is not disputed that the respondents had been appointed to the post of LDC through a departmental examination.



3. The learned counsel for the petitioner submits that in terms of the ACP scheme itself, any fast-track promotion given through limited departmental competitive examination is to be treated as a regular promotion for the grant of ACP benefits. He also placed reliance on Clarifications dated 18.09.2000 and 30.04.2003 issued by the Ministry of Defence in this regard.

4. He further submits that the respondents had competed only against the departmental candidates and not against the other general candidates, and therefore, their case was one of fast-track promotion. He submits that the respondents were also granted age relaxation solely because they were departmental candidates and therefore, they cannot be treated as direct recruits.

5. On the other hand, the learned counsel for the respondents placing reliance on the 'Ordnance Factories and Ordnance Equipment Factories Group C Non Industrial Post Rules, 1976' ('Recruitment Rules') submits that the same provide for direct recruitment through departmental candidates having the minimum eligibility and clearing the competitive examination. He submits that, as the Recruitment Rules themselves stipulate that the cases of the departmental candidates shall be treated as direct recruitment, the same cannot be treated as promotion for the purposes of ACP benefit. He further submits that clarifications dated 18.09.2000 and 30.04.2003 relied upon by the petitioner cannot override the ACP Scheme that had been cleared by the Cabinet and duly notified.

6. We have considered the submissions advanced by the learned counsels for the parties.



7. The Recruitment Rule for the post of LDC, in so far as relevant for the purposes of the present petition, reads as under:

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| <i>By direct recruitment</i> |
| <i>(a) Ninety per cent by direct recruitment</i> <i>(b) Ten per cent of the vacancies shall be filled by appointment of educationally qualified Class IV employees including checkers having at least 3 years' service in that grade (borne on regular establishment) working in the Ordnance Factories on the basis of competitive department test. The maximum age for appearing at the examination shall be 40 years (45 years for SC/ST candidates provided that for the first two examinations to be ... under the ...</i> |

8. A reading of the above would show that the direct recruitment is through two different modes: one, from general non-departmental candidates and; second, from the departmental candidates. The departmental candidates, though may be granted an age relaxation, also have to clear the competitive department test.

9. Therefore, appointment of the departmental candidates as direct recruit to the post of the LDC, cannot be treated as a promotion but as a method of direct recruitment to the post of LDC.

10. Paragraph 5.1 of the ACP Scheme, on which reliance has been placed by the learned counsel for the petitioners, reads as under:

“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.”

11. A reading of the above would show that only when an employee is promoted, including through a limited departmental competitive examination, the same shall be counted for the purposes of the ACP Scheme. In the present case, the appointment of the respondents to the post of LDC was not by way of promotion but by way of direct recruitment. Therefore, such appointment has to be treated as direct recruitment and not as a promotion for the purposes of ACP.

12. The subsequent clarifications dated 18.09.2000 and 30.04.2003 cannot override the notified ACP Scheme. Reference in this regard may be made to the Judgement of the Supreme Court in **Director General of Posts and Ors. v. B. Ravindran & Anr.**, (1997) 1 SCC 641.

13. In view of the above, we find no merit in the present petition.



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The same, along with the pending applications, is accordingly dismissed.

NAVIN CHAWLA, J

MADHU JAIN, J

SEPTEMBER 1, 2025*/bs/RM/ik*