

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE**

ORIGINAL APPLICATION NO.170/01206/2019

DATED THIS THE 05th DAY OF MARCH, 2020

HON'BLE DR.K.B.SURESH, JUDICIAL MEMBER

HON'BLE SHRI C.V.SANKAR, ADMINISTRATIVE MEMBER

S.Pandia Nedunchezhiyan
S/o Subramanian Samuel
Aged about 63 years
Master Gazetted (Retd)
Rashtriya Military School (RMS)
C/o K.Amrendra
#.No.136, Peer Layout
Bairameshwara Nagaar
Nelamangala-562 123
Bangalore Rural Dt.

....Applicant

(By Advocate Sri K.Hanifa)

Vs.

1. Union of India
Rep. by its Secretary
Room No.101, South Block
Ministry of Defence (Govt. of India)
New Delhi-110 011.

2. Joint Secretary (Trg & CAO)
E-Block, Dalhousie Road
Ministry of Defence (Govt. of India)
New Delhi-110 011.

3. Under Secretary
Room No.101, DI Wing, Sena Bhavan
Ministry of Defence (Govt. of India)
New Delhi-110 011.

4. Deputy Chief of Army Staff (T&C)
Dte. Gen. of Mil. Trg.
General Staff Branch
Integrated Head Quarters (Army)
DHQ PO
New Delhi-110 011.

5. The Director (MT-7)

Dte. Gen. of Mil. Trg.
General Staff Branch
Integrated Head Quarters (Army)
DHQ PO
New Delhi-110 011.

6. The Principal
Rashtriya Military School (RMS)
Bangalore-560 025.Respondents

(By Advocate Sri S.Sugumaran, ACGSC for R1)

O R D E R

(PER HON'BLE SHRI C.V.SANKAR, MEMBER (ADMN))

The applicant joined the respondent organisation as Assistant Master on 27.11.1989 and was promoted as Master Gazetted on 12.4.1998 and remained in the same position for almost 18 years and retired on 31.5.2016. He has made several representations for giving him 2nd MACP w.e.f. 28.11.2009 and to upgrade his Grade pay from Rs.5400 to Rs.6600 w.e.f. 28.11.2009 and to pay arrears of pay to be claimed prior to implementation of 7th CPC. The respondents have passed an order for implementation of MACP scheme vide Annexure-A9 order dtd.4.10.2017 stating specifically that the scheme is to be implemented vide provisions of the Govt. of India DoPT OM dtd.19.5.2009 providing for upgradations for every 10, 20 & 30 years of service. As rightly contended by the applicant, he had no promotions after the year 1998 and therefore he is certainly eligible for the 2nd MACP w.e.f. 28.11.2009 and the stand taken by the respondents that since he retired on 31.5.2016 before the orders of the implementation vide Annexure-A9, he is not eligible for the entitlement of MACP is clearly wrong. This is absolutely ridiculous and as additionally bolstered by the applicant, the Hon'ble High Court of Bombay in WP.No.1763/2013 has categorically stated that the MACP is to be considered as part of pay and not allowances. The respondents took their own time to implement an order which

was issued in 2009 covering all the central Govt. employees and in their organisation only with effect from 2017 and to claim that this order will be applicable only after that date in October 2017 is ridiculous to the extreme.

2. We therefore hold that the applicant is entitled for the MACP benefit w.e.f. 28.11.2009 and direct the respondents to pay the arrears etc., that is due to the applicant along with refixation of his pension etc. within a period of two(2) months from the date of issue of this order. He will also be entitled for interest at the GPF rate from the dates he is eligible. We allow the OA with the cost of Rs.5000 on the respondents to be paid to the applicant.

(C.V.SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

/ps/

Annexures referred by the applicant in OA.No.170/01206/2019

Annexure-A1: DOPT OM dtd.19.5.2009

Annexure-A2: MOD ID dtd.20.5.2009
Annexure-A3: Seniority Roll, Master Gazetted dtd.9.9.2014
Annexure-A4: Letter dtd.27.5.2015 of MOD
Annexure-A5: Order dtd.22.2.2016 of CAT, BG in OA.72-74/2015
Annexure-A6: Representation dtd.4.5.2016
Annexure-A7: Letter dtd.19.5.2016 of R5
Annexure-A8: PPO dtd.31.5.2018
Annexure-A9: Letter dtd.4.10.2017 of R5
Annexure-A10: Letter dtd.10.10.2017 of R5
Annexure-A11: Letter dtd.7.3.2018 of R5
Annexure-A12: Order dtd.15.10.2018 of Bombay High Court in WP.1763/2013
Annexure-A13: Letter dtd.4.12.2018 of R5
Annexure-A14: Representation dtd.20.12.2018
Annexure-A15: PMO PG/2019 dtd.7.1.2019
Annexure-A16: Letter dtd.30.8.2019 of PMO
Annexure-A17: Letter dtd.9.9.2019 of R5

Annexures with reply:

Annexure-R1: Order dtd.4.10.2017
Annexure-R2: Order dtd.9.9.2019

Annexures with rejoinder:

-NIL-

Annexures with additional reply:

-NIL-

Annexures with written arguments note filed by the applicant:

Annexure-A18: Letter dtd.18.9.1990 of GOI
Annexure-A19: MOD order dtd.23/29.3.2008
Annexure-A20: Reply of R1-R6 in OA.72-74/2015
