

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.290/00048/2014

Reserved on : 14.02.2020

Jodhpur, this the 4th March, 2020

CORAM

Hon'ble Smt Hina P. Shah, Judicial Member

Hon'ble Ms Archana Nigam, Administrative Member

1. Bachhan Singh son of Shri Ganga Singh, aged 58 years, r/o P 51/5, MES Colony, Sagar Road, Bikaner.
2. Dashrath Singh Shekhawat son of Shri Mool Singh, aged 57 years, R/o T-169 MES Colony, Sagar Road, Bikaner.
3. Nand Lal Saini son of Shri Surja Ram, aged 53 years, P 51/2, MES Colony, Sagar Road, Bikaner.

All applicants Valve Man in the office of Garrison Engineer (P), MES, Kanasar, Bikaner

.....Applicants

By Advocate : Mr Vijay Mehta.

Versus

1. Union of India through the Secretary, Government of India, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer, Air Force, MES, Bikaner.
3. Garrison Engineer (P), MES, Kanasar, Bikaner.

.....Respondents

By Advocate : Mr B.L. Bishnoi.

ORDER

Per Smt. Hina P. Shah

The present Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking following relief(s) :

“The applicant pray that impugned order ANN A1 may kindly be quashed and the respondents may kindly be directed to accord benefits of MACP in Pay Band Rs 2800/- w.e.f. from dates mentioned in ANN A 3 and ANN A 4 with all consequential benefits. Interest at the rate of 12% may also be awarded to the applicant on the due amount. It is further prayed that order ANN A 3 and PTO ANN A 4 may kindly be restored. Any other order, as deemed fit may also be passed. Costs may also awarded to the applicants.”

2. Brief facts of the case are that the applicants herein earlier filed Original Application No. 88/2005 seeking Skilled Category pay-scale, i.e. Rs 260-400/950-1500 for the post of Valveman from the date of their initial appointment, which was further revised to Rs 3050-4500 under 5th CPC. The applicants remain successful vide order dated 15.11.2006 passed by this Tribunal in the aforesaid OA. Accordingly, respondents granted the applicants Skilled Category pay scale to their post of Valveman. Thereafter, applicants filed another Original Application No. 44/2010 seeking benefit of 1st ACP and the same was granted to them notionally from the date completion of 12 years' service and actual arrears were paid 18 months prior to the date of filing of the OA. The said benefit has been partly granted to the applicants after dismissal of writ petition filed by the respondents vide order dated 10.04.2013 by the Rajasthan High Court against order dated 11.11.2011 passed by this Tribunal.

The case of the applicants herein is that they have satisfactorily completed 30 years' service on 01.09.2008, 04.10.2012 and 05.07.2010 respectively, therefore, they are entitled for grant of 3rd MACP in the Grade Pay of Rs 2800/-. Vide order dated 13.08.2013 (Annex. A/3), respondents allowed them the benefit of 3rd MACP. However, the same has been cancelled vide order dated 05.09.2013 (Annex. A/1) by a non-speaking and unreasoned order. Aggrieved of the same, applicants have approached this Tribunal.

3. Respondents filed their written statement on 04.09.2015 stating therein that the applicants were promoted to the post of Valveman from the post of Chowkidar/Mazdoor and they were not appointed as Valveman. As per directions of this Tribunal, the applicants were given benefit of 2nd ACP on completion of 24 years' service. However, the actual arrears were paid notionally as per directions of the higher authorities from 18 months prior to the date of filing of the OA. Order dated 13.08.2013 for granting 3rd MACP was issued erroneously, therefore, the same was cancelled vide order dated 05.09.2013. Applicants got the benefits of Valvemen Skilled and 2nd ACP as per directions of this Hon'ble Court, which is not as per existing Recruitment Rules of Valveman. The respondents further stated that applicants have already crossed the Grade Pay of Rs 1800/-, 1900/- and 2400/- since their appointment and as per the MACP Policy they are not due for grant of 3rd MACP in the Grade Pay of Rs 2800/-. As per the Recruitment Rules of Valveman presently in vogue, Valveman is entitled to 3rd MACP for Rs 2400/- only which has already been granted to the applicants as 2nd MACP as per Hon'ble Tribunal's directions and not as per Recruitment Rules of Valveman. Respondents have further stated that order was issued on 13.08.2013 and was immediately

cancelled on 05.09.2013. No financial benefits have been granted to the applicants till date. Both the orders aforesaid orders were addressed to respondent No. 3 for implementation without intimation to the applicants. Hence, intimation to the applicant was not required. The representation of the applicants received through respondent No. 3 on 30.09.2013 in this matter was also replied by respondent No. 2 vide letter dated 03.10.2013. Since, the order was not implemented in its letter and spirit till date and representation of the applicant replied by the respondent No. 2, therefore, issue of show cause notice was not necessary in the present scenario. Thus, respondents prayed to dismiss the OA with costs.

4. Applicants filed rejoinder on 07.08.2018 denying the averments made by the respondents in their reply. Applicants stated that order dated 13.08.2013 (Annex. A/3) was illegally cancelled vide order dated 05.09.2013 (Annex. A/3) and the same was issued even without granting any opportunity to the applicants by a totally non-speaking and unreasoned order. The respondents have neither submitted documents granting benefits of skilled category to the applicants nor have they submitted alleged order passed by this Hon'ble Tribunal granting 2nd ACP and they have also failed to submit the alleged Recruitment Rules of Valveman. It has been further averred that though the respondents were required to pay salary in pay scale of skilled category to the applicants but paid salary of semi skilled category. This Hon'ble Tribunal directed the respondents to grant pay scale of skilled category from the dates of their initial appointment on the post of Valveman. Thus it is apparent that the benefits of skilled category were withheld and the respondents had to grant the same in compliance of order passed by this Tribunal. The orders granting skilled pay scale to Valve

man were time and again passed by this Hon'ble Tribunal and these orders were upheld by Hon'ble High Court and Hon'ble Supreme Court.

5. Heard counsels for the parties.

6. Counsels for the parties reiterated the averments made in the matter. Learned counsel for the applicant submitted that impugned order dated 05.09.2013 is a non-speaking order, therefore, deserves to be quashed and set aside. On the other hand, learned counsel for the respondents submitted that order dated 13.08.2013 was immediately cancelled vide order dated 05.09.2013 (Annex. A/1) and no financial benefits arising out of order dated 13.08.2013 has been granted to the applicants. Since, both the orders have been addressed to respondent No. 3 for implementation and not to the applicants, therefore, contention of the applicants is not justified.

7. Having heard counsels for the parties and perusing the record, we find that the applicants have annexed 11 documents including Scheme of MACP, representations etc. On the other hand, respondents have not placed on record any document in support of their reply. The applicants herein claim to have been granted Skilled Category pay-scale to Valveman, which is a higher scale pursuant to directions of Courts as averred in the present OA. Respondents in para 4.7 of their reply claim that the applicants have already crossed the Grade Pay of Rs 1800/-, 1900/-, 2000/- and Rs 2400/- since their appointment and as per the MACP Policy they are not due to grant of 3rd MACP in the Grade Pay of Rs 2800/-. References have been made with regard to the orders of Hon'ble Courts and claims have been made. However, we find that substantial material for

adjudication of the present matter on merits has not been placed on record by either side.

8. Be as it may, we noticed that the respondents have filed a vague reply and could not explain as to how the applicants are not entitled for 3rd MACP? Whether they have already availed three promotions/upgradations and therefore, not eligible for the same or otherwise? We find that impugned order dated 05.09.2013 (Annex. A/1) issued by the respondents cancelling grant of 3rd MACP to the applicants vide order dated 13.08.2013 (Annex. A/3) is a summary order and no reasons have been assigned for cancellation of grant of 3rd MACP to the applicants. In these circumstances, we are inclined to dispose of the present OA with directions to the respondents to pass an appropriate order.

9. Accordingly, impugned order dated 05.09.2013 (Annex. A/1) cancelling order dated 13.08.2013 (Annex. A/3) is quashed and set aside. Respondents are directed to consider the case of the applicant in view of facts averred by the applicant and observations made by us, and pass a reasoned speaking order in consultation with higher administrative authorities within 03 months from the date of receipt of a copy of this order.

10. In terms of above directions, OA is disposed of with no order as to costs.

**[Archana Nigam]
Administrative Member**

**[Hina P. Shah]
Judicial Member**

Ss/-