

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI**

ORIGINAL APPLICATION No.210/388/2015

Dated this Wednesday, the 15th day of January, 2020

**CORAM: DR. BHAGWAN SAHAI, MEMBER (A)
R.N.SINGH, MEMBER (J)**

Shri Vishnu S. Khaire, Age 61 years,
Retired Assistant Director of Training,
Residing at 001 Madhur Mahima Apartments,
Samarth Nagar, Rameshwadi,
Badlapur (W) 421 503
(By Advocate Shri Vicky Nagrani)

- Applicant

VERSUS

1. The Union of India, Through the Secretary,
Ministry of Labour and Employment,
Directorate General of Employment and Training,
Shram Shakti Bhavan, Rafi Marg, New Delhi 110 001.
2. The Director, Advanced Training Institute,
CTI Campus, Guindy, Chennai 600 032.
3. The Pay and Accounts Officer, Pay and Accounts Office,
DGET-II, CTI Campus, Guindy,
Chennai 600 032.
(By Advocate Shri V.B.Joshi)

- Respondents

ORAL ORDER
Per : R.N.Singh, Member (Judicial)

Shri Vicky Nagrani, learned counsel for
the applicant.

Shri V.B.Joshi, learned counsel for the
respondents.

2. The applicant who retired from service of
the respondents on attaining the age of
superannuation with effect from 31.05.2013
has filed the present OA, under Section 19 of
the Administrative Tribunals Act, 1985 has

challenged the order dated 29.08.2013 (Annex A-1) in which it reads as under :-

“In continuation of the discussion Shri V.S. Khaire, Retd. A.D.T., had with the undersigned (on 6 points), this is to inform that

- i. A sum of Rs.9015/- towards the arrears of enhanced Grade Pay of Rs.4600/- with effect from 1.1.2006 to 3.4.2007 has already been claimed and paid to him on 30.05.2012. He was promoted as ADT on regular basis with effect from 4.4.2007 (copy of the Acquittance Roll enclosed). Pending of payment of arrears in this regard is incorrect.
- ii. Additional increment from 1.1.2006 has been granted and arrears of a sum of Rs.52,287/- has been claimed and e-payment is effected on 7/8th March, 2013 (Copy of the details of e-payment enclosed).
- iii. Necessary O.O. for the revision of enhanced rate of personal pay has been sanctioned and arrears bill is being prepared and submitted to PAO for disbursement.
- iv. Regarding 2nd ACP and 3rd MACP, he is informed that he has already got 3 promotions. Hence the question of awarding ACP/MACP does not arise at all.
- v. Covered in para in above.
- vi. Regarding the issual of LPC for availing CGHS Card, it is informed that LPC can be issued only after the surrendering of quarters and release of 10% of DCRG as per norms. However, certified pay slip for the last salary drawn has been issued by DDO on 26.08.2013 which would serve the purpose of availing CGHS Card.

This is for your kind information.”

3. The applicant has further challenged the order dated 23/24.12.2013 (Annex A-12) vide which the respondents have informed the applicant that he is not entitled for the benefit of MACP in view of the fact that

during 15 years of his initial recruitment on direct recruitment basis, the applicant was promoted twice and during 30 years of service, the applicant has got three promotions.

4. The applicant has prayed for the following reliefs in the present OA :

“8.A. This Hon'ble Tribunal may kindly call for the records, of the case from the Respondents and after examining the same, quash and set aside the impugned orders dated 29.08.2013 and 23/24.12.2013 with all consequential benefits.

8.B. This Hon'ble Tribunal may further be pleased to direct the respondents to grant 2nd ACP on completing 24 years of service on 09.09.2001 and Third Financial Upgradation to the Applicant under MACP Scheme in the w.e.f. 01.09.2008 and pay the arrears of pay to the applicant with interest @ 18% per annum with all consequential benefits.

8.C. Costs of the application be provided for.

8.D. Any other relief that this Hon'ble Tribunal deems fit to be granted.”

5. In response to the notice received from the Tribunal, the respondents have filed reply affidavit and have opposed the claim of the applicant in the present OA. In paragraph No.5 of such reply affidavit, the respondents have shown the applicant's career graph during his employment under them which is as under :

S. No.	Post	Scale	Date	Place	Mode
1	Senior Instructors (Chem) Vocational Instructor	Rs.440-20-500-EB-25-700-EB-25-750	09/09/77	CTI, Mumbai	Initial Apptt. Direct Recrt.
2	Vocational Instructor	Rs.740-35-880	31/03/82	RTVI, Mumbai	Selection Grade
3	Senior Technical Assistant (Purchase)	Rs.650-30-740-35-880-EB-50-960	14/12/82	RTVI, Mumbai	Promotion
4	Assistant Training Officer	Rs.2000-3200 (IV-CPC)	01/04/88	- do -	Re-deginated
5	Training Officer Group B Gazetted	Rs.2000-3500 (IV-CPC) Rs.6500-200-10500	12/10/92	ATI, Hyderabad	Promotion
6	Asst. Director of Training (Group A Gazetted)	Rs.8000-275-13500	04/04/07	ATI, Mumbai	Promotion
7	Asst. Director of Training (Group A Gazetted)	Rs.8000-275-13500	01/09/08	ATI, Chennai	Transferred
8	Date of Superannuation		31/05/13	ATI, Chennai	

6. Shri Vicky Nagrani, learned counsel for the applicant does not dispute the aforesaid career progression of the applicant. He only submits that the applicant's promotion to the Senior Technical Assistant (Purchase) with effect from 14.12.1982 in the scale of Rs.650-960/- had wrongly been construed as ~~✓~~ promotion by the respondents inasmuch as the

same is not a promotion but mere redesignation/temporary promotion given by the respondents. Per contra Shri V.B. Joshi, learned counsel appearing for the respondents with the assistance of reply filed by the respondents vehemently argues that the applicant's career progression to the post of Senior Technical Assistant (Purchase) in the scale of Rs.650-930/- is neither redesignation nor a temporary promotion inasmuch as the said promotion was accorded to the applicant after considering the recommendation of the DPC vide order dated 10.12.1982 (Annex-A-4) and the said promotion was never withdrawn by the respondents from the applicant. He further submits that during the period 09.09.1997 i.e. date of initial recruitment of the applicant on direct recruitment basis till 08.09.2001 i.e. till completion of 24 years of service under the respondents, the applicant was accorded the following promotions:-

“4(a). From the post of Vocational Instructor (Chemistry) Rs.440-20-500-EB-25-700-EB-25-750 to the post of Senior Technical Assistant (Re-designated as Assistant Training Officer on abolition of the post) (Rs.650-30-740-35-880-EB-50-960) on 14.12.1982 and

4(b). From the post of Asstt. Training Officer (Rs.2000-3200) to the post of Training Officer (Rs.2000-3500) w.e.f. 12.10.1992.”

7. He further submits that on both the occasions the promotional benefit under FR 22(1)(a)(i) was allowed and the same was continued till his date of retirement. He invites our attention to the paragraph No.5.1 of the Scheme dated 09.08.1999, issued by the DOPT regarding ACP and the same reads as under:-

“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 upgradation under the ACP Scheme shall be available only if no regular promotions during the prescribed period (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.”

8. It is also brought to our notice that the applicant after earning the two promotions during the span of 24 years of service, was again promoted to the post of Assistant Director of Training (Group A) in the pay scale of Rs.8,000-275-13,500/- from the post of Training Officer Group B Gazetted in the pay scale of Rs.6500-10,500/- and the same is not disputed by the applicant. He further clarifies that as evident from the above during the span of 30 years of service, the

applicant has got three promotions.

Therefore, the applicant is equally not entitled for the MACP Scheme as well.

9. We have perused the pleadings on record and have also considered the submissions made by the learned counsel for the parties. Once the ACP Scheme dated 09.08.1999 provides upgradation after completion of 12 and 24 years of service, in absence of any promotion during such period of 12 and 24 years of service and the applicant has evidently been accorded two promotions noted herein-above. We do not find any enforceable right of the applicant to claim the benefit of upgradation of under ACP Scheme. Similarly, once the applicant has got three promotions during the the span of 30 years of service, the applicant is not entitled for claiming the benefit under MACP Scheme.

10. In the aforesaid facts and circumstances, we find this OA to be devoid of any merit and accordingly, the same is dismissed. However, no order as to costs.

(R.N.Singh)
Member (Judicial)

(Dr. Bhagwan Sahai)
Member (Administrative)

kmg*

32/01/20

