

**CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH  
HYDERABAD**

**OA/021/01161/2014**

Date of CAV : 25.11.2020

Date of Pronouncement : 04.12.2020



**Hon'ble Mr. Ashish Kalia, Judl. Member**  
**Hon'ble Mr. B.V. Sudhakar, Admn. Member**

V.Vishwas Rao S/o late Dr.V.Sudarshan Rao,  
Aged about 61 years, Occ : Retd. Faculty Member  
& Head, Sendoc, ni-msme, R/o 1-8-702/62/9,  
Behind Sankar Mutt, Nallakunta, Hyderabad-34.

...Applicant

(By Advocate : Mr. V. Venkateswara Rao)

Vs.

1. The Govt. of India, Rep. by Secretary,  
Ministry of Micro, Small & Medium Enterprises,  
(ni-msme), Udyog Bhavan, New Delhi – 110011.
2. The Dy. Secretary to Govt. of India,  
Ministry of Micro, Small & Medium Enterprises,  
(ni-msme), Udyog Bhavan, New Delhi – 110011.
3. The Director General, National Institute for Micro,  
Small & Medium Enterprises (ni-msme) Reptd.  
By its Director General,  
Yousufguda, Hyderabad-500 045.

....Respondents

(By Advocate : Mrs. K.Rajitha, Sr. CGSC for RR 1 & 2,  
Mr. Meharchand Noori for R-3)

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**ORDER**  
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

**Through Video Conferencing:**

The O.A. is filed by the applicant in regard to grant of MACP benefit.



2. The brief facts of the case are that the applicant joined the respondent's organization as a direct recruit Research Associate on 23.8.1979 in the pay scale of Rs.550-900 and thereafter he was promoted as Associate Faculty Member in Group 'A' cadre with the pay scale of Rs.2200-4000/- on 27.1.1989. Later, he became the Faculty Member & Head in Group 'A' with pay scale of Rs.10000-15200/- in SENDOC & CCIT on 18.2.2000. Later, his pay scale was upgraded to 15600-39100/- with Grade Pay of Rs.6600/- on implementation of recommendations of VI Pay Commission. Applicant retired on 30.9.2013 and was re-engaged as a Consultant with a consolidated pay of Rs.35000/- for a period of 6 months, which was later extended up to 30.9.2014. There were no adverse entries in the ACRs of the applicant. The applicant claims that as per Para 22 of MACP, a Group 'A' officer is not covered under MACP but is entitled for 3<sup>rd</sup> financial up gradation directly after rendering 30 years of service. Applicant asserts that he is eligible to be granted Grade Pay of Rs.7600/- as he has rendered 10 years service in the Grade Pay of Rs.6600/-, without any promotion from 18.2.2010. The juniors to the applicant, namely Sri P. Udaya Shankar & Smt. C. Rani were granted financial upgradation in February, 2010 and they were also given the positions of Directors of their respective projects, whereas the applicant was denied the same. The applicant was also imposed a penalty of reduction by four stages for two

years by the 3<sup>rd</sup> respondent. Aggrieved, O.A. No.1052/2009 was filed before the Tribunal wherein it was directed by the Tribunal vide order dated 1.1.2010 to make an appeal and the respondents shall dispose of the appeal. The Appellate Authority quashed the penalty vide order dated 7.6.2010. There were no warning/ adverse Memos issued to the applicant in his service. Applicant made a representation to the respondents on 1.8.2013 in regard to the MACP benefit and there has been no reply. However, the applicant had to retire on 30.9.2013, without the benefit sought not being extended to him. Even after retirement, applicant has been engaged as a Consultant but the benefit sought has not been granted and hence, the O.A.



4. The contentions of the applicant are that the bench mark required to be obtained in APAR is 'Good' to be granted the Grade Pay of Rs.6600/- and 'Very Good' to be granted the Grade Pay of Rs.7600/- & above. If there are any uncommunicated adverse entries in the ACRs, such adverse entries would be invalid as per the Hon'ble Supreme Court's judgement in Devdutt & Ghosh Dastedar. The applicant was not communicated any adverse remarks by the respondents. The denial of MACP is because of certain extraneous factors. Articles 14 & 16 are violated by not granting the MACP to which he is eligible is one another contention of the applicant.

5. The respondents in their reply statement state that the applicant's overall grading in the ACR for the year 2003-04 is 'Good' & for the year 2008-09 is 'Below Average'. The ACR grading of 'Below Average' was communicated to the applicant vide Memo dated 17.12.2009. The applicant received the same on 24.12.2009 which is acknowledged by him, by affixing his initials in the dispatch register (Annex.R-XI). Applicant

was also responsible for loss of Demand Drafts and, therefore, he was proceeded on disciplinary grounds and penalty of 'Censure' was imposed. The applicant has been given number of warnings and Memos as is evident from pages 70 to 107 of the reply statement. For grant of MACP, a Screening Committee was constituted, which met and rejected the applicant's case because of below bench mark grading in the ACR. The applicant's claim that his colleagues have been given the position of Director as well as MACP, whereas he was denied the same, is answered by the respondents stating that it is because of the difference in grading in the ACR. The representation submitted by the applicant on 7.9.2013 was replied on 4.10.2014. Even the representation dated 1.8.2013 referred to by the applicant in the O.A. was rejected and as such the applicant's stand that no reply has been given to his representation is false. He was allowed to work as Consultant till 30.9.2014 and thereafter his services were discontinued.



6. Heard Sri V. Venkateswara Rao, learned counsel for the applicant and Smt. K. Rajitha, learned Senior Standing Counsel appearing for Respondents No.1 & 2. There is no representation on behalf of Respondent No.3. As requested by the learned counsel for the applicant, one week's time was granted for filing rejoinder. However, despite granting time as requested, no rejoinder has been filed. We have perused the pleadings on record.

7. The grievance of the applicant is that he has not been granted Grade Pay of Rs.7600/- , even after rendering more than 10 years of service in the

Grade Pay of Rs.6600/-. The eligibility for grant of Grade Pay of Rs.7600/- is that the minimum bench mark in the APAR should be 'Very Good' & above. The respondents have intimated the 'Below Average' grading in the year 2008-09 to the applicant on 17.12.2009. The same was received by the applicant on 24.12.2009 as is evident from his initials in the dispatch register (Annex.R-XI). The overall grading of the applicant over the years is shown hereunder:



Shri V. Vishwas Rao's ACR Grading and Financial Targets year-wise				
		Grading	Target (in lakhs)	Achieved (in lakhs)
1	2003-04	Good	--	2.39
2	2004-05	Good	46.11	51.08
3	2005-06	Good	51.63	41.08
4	2006-07	Good	49.27	32.46
5	2007-08	Good	49.27	28.28
6	2008-09	Below Average	49.64	23.42
7	2009-10	Good	75.96	45.24
8	2010-11	Good	64.37	29.17

As can be seen from the above table, the applicant got the grading of 'Below Average' during the period when he was considered for grant of MACP to the grade pay of Rs.7600/-. As per rules, the minimum bench mark required is 'Very Good' & above. As the applicant did not satisfy this provision, the respondents have not granted the Grade Pay of Rs.7600/-. Hence, the action of the respondents is in accordance with the rules.

The other contention of the applicant is that his juniors namely Sri P. Udaya Shankar and Smt. C. Rani have been given financial upgradation in

the year 2010 and that both of them were given the position of Directors of their respective Projects whereas he was denied the same. The answer is found in the ACR grading of the applicant as reproduced in the above para. Promotion is based on many parameters and crucial among them is performance and relative merit. Respondents have every right to promote those who are eligible. Hence, the applicant cannot, as a matter of right, seek promotion. He has a right only to be considered. The applicant has been given a number of warnings and memos as evidenced by the documents submitted by the respondents from pages 70 to 107 of the reply. In fact, for the negligence of the applicant in losing Demand Drafts obtained from the Bank, he was even imposed the penalty of Censure. The representation made by the applicant on 7.9.2013 was replied on 4.10.2014 and the other representation dated 1.8.2013 stated in the O.A. was also rejected and replied. Hence, the respondents have been prompt in responding to the grievances of the applicant. Nevertheless, when any benefit is to be granted, it can be only as per rules. In the instant instance, since the applicant did not have the proper benchmark in the ACR, when he was considered for grant of financial up-gradation to the Grade Pay of Rs.7600/-, his case was rejected by the competent screening committee.

In view of the above, we do not find any merit in the O.A. Hence, the same is dismissed with no order as to costs.

**(B.V.SUDHAKAR)**  
**ADMINISTRATIVE MEMBER**

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

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