

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/21/646/2018

HYDERABAD, this the 12th day of November, 2020



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

Makaradhoja Pallai,
S/o Muralidhar Pallai, Gr.B
Aged about 58 years,
Occ: LFM, R/o. Qtr No.365/7, Ashoka Park,
Defence Civilian Colony,
Kanchrapalem (PO) Visakhapatnam.

...Applicant

(By Advocate : Smt. Anita Swain)

Vs.

1. The Union of India rep. by its Secretary, Ministry of Defence, South Block, New Delhi – 110 011.
2. The Chief of Naval Staff, Integrated Headquarters, Ministry of Defence (Navy), Sena Bhavan, PO. DHQ, New Delhi – 110 011.
3. Flag Officer-Commanding-in-Chief (P&A), (For CCPO), Head Quarter Eastern Naval Command, Naval Base, Visakhapatnam – 530 008.
4. The Admiral Superintendent, Naval Dockyard, Naval Base, Visakhapatnam – 530 008.

....Respondents

(By Advocate : Sri T. Sanjay Reddy for
Sri T. Hanumantha Reddy, Sr. PC for CG)

ORAL ORDER

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

Through Video Conferencing:

2. The OA has been filed questioning the order issued by the 3rd respondent rejecting to extend the financial upgradation under ACP and MACP scheme counting the service from the date of initial appointment on par with juniors and other similarly situated employees.

3. Brief facts of the case are that the applicant was appointed as Fireman Gr. II on 06.06.1984 and his services were regularized on 06.12.1984. The applicant was granted two financial upgradations on 01.09.2008 and 06.12.2014 under ACP and MACP Scheme respectively whereas he is eligible on completion of 24 years and 30 years of service by counting his service from the date of initial appointment. He made a representation for counting his service from the date of initial appointment and grant the said benefits under ACP and MACP Schemes, but the same was rejected vide impugned order dt. 09.01.2018. Aggrieved by the same, the OA has been filed.

4. The contentions of the applicant are that benefits under ACP/ MACP Scheme are to be granted on par with juniors and other similarly situated employees. The respondents themselves issued order dt. 26.06.1995 to implement the orders of the Hon'ble Bombay Bench in OA 306/1988, 516/88 and 732/88 wherein it was directed to regularize the casual labourers. The letter also states that the benefit has to be extended to those

employees who did not approach the Tribunal as well. This Tribunal allowed OA Nos. 563/2005 & batch, which were filed for similar relief and the said order was upheld by the Hon'ble High Court of Andhra Pradesh in WP No. 24314/2008 & batch. Further, Sri A. Nayak, LFM and Sri Promod Kumar Das, who joined the respondents organization as Fireman Gr. II on 1.6.1984 and got promoted as Fireman Gr. I on 03.06.1989, were granted 2nd ACP on 01.06.2008, but the applicant. The action of the respondents is against the orders of the Hon'ble Supreme Court in Inderpal Yadav v. Union of India – 1985 (2) SLR 2481 and K.C. Sharma v. Union of India, wherein it has been laid down that similarly placed employees have to be granted the relief.

5. The respondents in their reply statement state that the applicant was initially appointed as Fireman Gr. II on 06.06.1984 on temporary/ casual basis and his services were regularized w.e.f. 06.12.1984. He got two promotions i.e. Fireman Gr. I w.e.f. 03.06.1989 and Leading Hand Fire (Ordinary Grade) w.e.f. 22.05.2008. ACP Scheme was introduced on 09.08.1999 and as per the said Scheme, two financial upgradations have to be granted on completion of 12 and 24 years of service. The applicant was not granted 1st financial upgradation under ACP Scheme as he already got one promotion as Fireman Gr. I. The second financial upgradation has to be granted after 24 years of service. Therefore, the applicant was due for second financial upgradation on 06.12.2008. However, in the meanwhile, MACP Scheme was implemented w.e.f. 01.09.2008. Therefore, the applicant was given 2nd MACP and 3rd MACP under the MACP Scheme

w.e.f. 01.09.2008 and 06.12.2014 respectively. Hence, grant of 2nd ACP as sought by the applicant does not arise.

6. Heard both the counsel and perused the pleadings on record.



7(I) The applicant claims that he has to be granted 2nd ACP w.e.f. 06.06.2008 on completion of 24 years of service after he was appointed on 6.6.1984. Temporary/ casual service is also to be reckoned for grant of ACP benefit is the averment of the applicant. In response, the respondents have made it clear that since the services of the applicants were regularized w.e.f. 06.12.1984, he is not entitled for II ACP counting the service from that date, since by the date he completed 24 years on 06.12.2008, MACP Scheme came into operation w.e.f. 01.09.2008 and hence, he was granted 2nd MACP w.e.f 01.09.2008. The respondents relied upon the DOPT OMs wherein it was clearly stated that regular service has to be considered for grant of ACP and MACP benefits. The applicants averred that Sri Alekha Naik and Sri Pramod Kumar Das were granted II ACP on 01.06.2008, for which, the respondents replied that since the services of the said employees were regularized on 01.06.1984, they were given II ACP on 01.06.2008 on completion of 24 years of service. However, the services of the applicant were regularized w.e.f. 06.12.1984 and therefore, by the time, he completed 24 years of service on 06.12.2008, MACP scheme came into operation and therefore, his case comes under the ambit of MACP. The respondents also state that they have filed Special Leave Petition No. 25649/2015 which is pending adjudication by the Hon'ble Apex Court. The issue that is being adjudicated in the said SLP is about consideration of the services rendered

as casual labour for grant of ACP. The SLP has been filed against the order of the Hon'ble High Court of Kerala vide judgment dt. 17.01.2012 wherein the orders of the Hon'ble Ernakulam Bench of this Tribunal in OA 23/2005 dt. 10.10.2006 was upheld, granting relief sought in the instant OA.



II. In view of the above submissions of both parties, we direct the applicant to pursue appropriate remedies from the competent authorities after the Hon'ble Supreme Court delivers the judgment in SLP No. 25649/2015.

III. With the above directions the OA is disposed of with no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

/al/evr/