

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/20/880/2018

HYDERABAD, this the 12th day of November, 2020



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

S. Pushpanadha, T.No.747,
S/o . Late. Appala Naidu,
Aged about 54 years, Occ: TMM,
O/o. Material Organization (Visakhapatnam),
R/o. D.No.4-40/2, Venkatapuram,
Visakhapatnam – 530 029.

...Applicant

(By Advocate : Smt. Anita Swain)

Vs.

1. The Union of India rep. by its Secretary, Ministry of Defence, South Block, New Delhi.
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, (For CCPO), Head Quarter Eastern Naval Command, Naval Base, Visakhapatnam.
4. The Material Superintendent, For Controller (P&A), NAD, Eastern Naval Command, Naval Dockyard, Visakhapatnam.

....Respondents

(By Advocate : Smt. L. Pranathi Reddy, Addl. CGSC)

ORAL ORDER

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

Through Video Conferencing:



2. The OA has been filed aggrieved by non-grant of 2nd financial upgradation under ACP and MACP Scheme by counting the service from the date of initial appointment on par with other similarly situated employees.
3. Brief facts of the case are that the applicant was appointed as casual labourer on 23.03.1992. He was granted temporary status on 02.11.1998 and his services were regularized on the direction of this Tribunal in OA 1342/2011 dt. 28.08.2014. Applicant submits that by counting the service from the date of initial appointment, he is entitled for financial upgradation under ACP and MACP from 2004 and 2012 respectively. Despite submitting representation, the financial upgradation has not been granted by counting the service from the date of initial appointment. Hence, the OA.
4. The contentions of the applicant are that the Hon'ble Bombay Bench of this Tribunal allowed OAs 306/1988, 516/1988 and 732/1988 and granted the relief sought to similarly situated employees. The Ministry of Defence vide its letter dt. 26.06.1995 has ordered that the relief granted by the Tribunal be granted to the applicants who have filed the OAs and also to all those who have not filed the OA. In fact, the Hon'ble Supreme Court in its judgment in CA No. 880/1994 dt. 11.2.1988 directed to implement the orders of the Ministry of Defence contained in their letter dt. 26.06.1995 to

those petitioners as well as non petitioners. Hon'ble Ernakulam Bench of this Tribunal in OA No.755/2000 allowed to grant similar relief as sought and the said order of the Tribunal was upheld by the Hon'ble Kerala High Court in WPC No.21384/2007(Z) on 17.01.2012. The respondents implemented the directions of the Hon'ble High Court vide letter dt. 26.04.2013. Hon'ble Mumbai Bench of this Tribunal disposed OA No. 153/2013 & batch granting similar relief on 02.12.2013. The 2nd respondent directed the 3rd respondent vide letter dt. 04.07.2016 to collect information about all the eligible employees to be granted relief sought. Further, the 3rd respondent has not given any information as sought by the 2nd respondent. Similar relief was granted by this Tribunal in OA Nos. 1911/2000 and 451/2011, which was upheld by the Hon'ble High Court of Andhra Pradesh. Thus, the main contention of the applicants is that when number of judicial orders are in favour of grant of the relief sought by them and when similarly placed employees have been granted the similar relief, denying the same by the respondents is illegal.

5. The respondents filed reply statement stating that as per DOPT orders on the subject, only regular service has to be considered for grant of financial upgradation under ACP. The respondents submit that the applicant was appointed as casual labourers. Later, he was granted temporary status w.e.f. 02.11.1998 and finally, regularized from 01.11.2013 on implementation of the directions of this Tribunal in OA No.1342/2011. Therefore, he is eligible for grant of ACP/ MACP counting the service from the date of regularization of his service. The respondents state that as per DOPT OM dt. 09.08.1999 introducing ACP Scheme, financial upgradation

has to be granted for regular service rendered and not for casual / adhoc service. Even in the MACP Scheme introduced vide DOPT OM dt. 19.05.2009 w.e.f. 01.09.2008, for grant of financial upgradation under MACP scheme, the main condition of regular service applies. The main plank of the respondents to oppose the grant of relief is the DOPT OM cited.



6. Heard both counsel and perused the pleadings on record.
7. I. The applicants have cited number of judgments of different Benches of this Tribunal wherein similar relief has been granted. The Hon'ble High Courts of Kerala, Andhra Pradesh have also upheld the orders of the respective Benches of this Tribunal wherein similar relief as sought by the present applicants was granted. The applicants prayed that the Ministry of Defence vide its letter dt. 26.06.1995 issued directions to implement the orders of the Hon'ble Bombay Bench of this Tribunal in OA Nos. 306/1988, 516/1988 and 732/1988. The direction was to grant relief to those who approached the Court as well as who did not approach the Court. Despite specific orders of the Judicial Fora, respondents have not implemented the directions contained therein. They have only stated that the DOPT OM on the subject in respect of ACP and MACP Scheme do not allow consideration of the casual/ adhoc service for grant of financial upgradation under the respective schemes. Learned counsel for the respondents submitted that there are certain judgments later to those cited by the applicants of the superior judicial fora, which apply to the cases of the applicant and hence, pleaded to permit taking a decision in the context of the latest orders on the subject.

II. In view of the above facts and circumstances, we dispose of the OA directing the respondents to grant the relief sought for by the applicant in the light of the judgments of various Tribunals cited as well as the directions of the Hon'ble High Courts referred to in the OA and as per the latest legal principles on the subject.



III. The OA is accordingly disposed, with no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

/pv/evr/