

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/00957/2016

HYDERABAD, this the 12th day of April, 2021

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



Tayyaba Mubeen W/o. Syed Yousuf Hussain
Shah Quadri, Aged 51 years, Occ : Upper Division Clerk,
O/o The Director, Central Research Institute of Unani
Medicine, Erragadda, Hyderabad-500 038.

...Applicant

(By Advocate: Mr. KRKV Prasad)

Vs.

1.Union of India Rep by
The Secretary, Ministry of AYUSH,
Indian Red Cross Building, New Delhi.

2.The Director General,
Central Council for Research in
Unani Medicine, 61-65, Institutional Area,
Opp : D-Block, Janakpuri,
New Delhi – 110058.

3.The Director, Central Research Institute of
Unani Medicine, Erragadda, Hyderabad-500 038.

....Respondents

(By Advocate : Mr. 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 is filed in regard to withdrawal of Grade Pay of Rs.4200 already granted under 2nd ACP, vide order dt. 26.08.2016 and grant of Grade Pay of Rs.2800 under MACP scheme, vide order dt. 06.09.2016.

3. Brief facts of the case are that the applicant, while working as Upper Division Clerk with GP of Rs.2400/-, was granted 2nd financial up-gradation under ACP scheme with grade pay of Rs.4200 w.e.f. 14.11.2009 vide order dated 8.3.2011 and he was also granted annual increments from 2010 to 2016 in the said grade. While so, after 7 years, proceedings dated 26.8.2016 were issued withdrawing the Grade Pay already granted under ACP Scheme and granted the financial up-gradation with lesser Grade Pay under MACP Scheme. Thereafter, a sanction order was issued on 6.9.2016 sanctioning Grade Pay of Rs.2800 under MACP w.e.f. 1.9.2008 on the ground that the applicant is not eligible for the hierarchical pay scale. Without issuing notice, the pay of the applicant was reduced from Rs.14770/- with GP Rs.4200/- paid in July 2016 to Rs.10,580/- with GP of Rs.2400 in August 2016, resulting in loss of Rs.15,275 per month. Aggrieved, the OA is filed.

4. The contentions of the applicant are that the Grade Pay of Rs.4200 initially granted under ACP was correct. Without issuing notice, the reduction in Grade Pay from Rs.4200 to Rs.2800 as also reduction of pay

was effected. Such action is arbitrary and is violative of the Principles of Natural Justice. The difference between the ACP and the MACP scheme is the periodicity and rest of the terms are similar. Applicant cited the judgments of the different Benches of this Tribunal and that of the superior judicial fora in support of her contentions and contend that the respondents have to follow the legal principles laid therein.



This Tribunal passed an interim order on 12.09.2016 suspending the impugned orders dt. 26.08.2016 & 06.09.2016.

5. Respondents state that the ACP scheme was replaced by MACP scheme w.e.f. 1.9.2008 and hence, MACP scheme was applied to the case of the applicant from the said date. MACP scheme provides financial upgradation in the next higher grade pay and not as per promotional hierarchy, as stipulated in ACP scheme. On replacement of ACP scheme with MACP, the applicant is ineligible to seek financial up-gradation under ACP scheme and this fact was made clear in letters dated 7.3.2011/ 6.2.2012 of R-2. The 2nd financial up-gradation under ACP Scheme with Grade Pay of Rs.2800 granted to the applicant was pre-poned from 14.11.2009 to 1.9.2008. There is no loss of pay to the applicant. The instructions of the DOPT dated 19.5.2009, respondents letters dated 29.11.2011 & 6.2.2012 have not been challenged. Applicant was working in the Administrative Section and kept the letter dated 6.2.2012 under wraps and only when another Assistant was posted to the Section, the cited letter came to light in 2016 and therefore, the impugned action. The

judgments cited are not applicable to the case of the applicant. In regard to similarly placed employees, similar action was taken.

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



7. I. The dispute is about withdrawing of 2nd ACP with grade pay of Rs.4200 and granting grade pay of Rs.2800 under MACP. Applicant contends that the reduction of pay was done without issuing notice. Respondents state that with the replacement of ACP Scheme by MACP Scheme w.e.f. 1.9.2008, the respondents granted the grade pay of Rs.2800 by preponing its implementation from 14.11.2009 to 1.9.2008.

II. Whenever an administrative decision is taken with adverse civil consequences, the minimum expectation from the respondents is to issue notice, like in the case on hand, proposing to withdraw the grade pay of Rs.4200 and reducing the pay already granted, stating the reasons. Respondents have not complied with this legal requirement and therefore, the Principles of Natural Justice have been violated. Respondents without answering this contention, went on explaining the differences between ACP & MACP schemes, which are available on record. The same need to have been presented in the notice and thereafter, action taken as per rules and law.

III. In view of the above, we direct the respondents to issue an appropriate notice to the applicant and based on his reply thereto, respondents to take a decision deemed fit, as per extant rules/ law. Time

allowed to implement the judgment is 3 months from the date of receipt of this order. The interim order passed on 12.09.2016 will hold good till a decision is taken, as directed in the matter. Applicant is granted the liberty to revert to the Tribunal if the grievance persists.



IV. With the above direction, the OA is disposed of with no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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