

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

OA/020/684/2020

**Date of CAV : 16.04.2021
Date of Pronouncement : 29.04.2021**



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

Rokkam Sreenu,
S/o. Late R. Narayana Rao,
Age 38 years, R/o. D.No.10-54,
BC Colony, Pendurthy,
Visakhapatnam 6 531 173.

...Applicant

(By Advocate : Smt. Anita Swain)

Vs.

1. The Union of India rep. by its
Secretary,
Ministry of Defence,
South Block,
New Delhi 6 110 011.
2. The Chief of Naval Staff,
Naval Head Quarters,
North Block,
New Delhi 6 110 011.
3. The Flag Officer Commanding in Chief,
Eastern Naval Command,
Visakhapatnam 6 530 014.
4. Base Victualling Officer,
Base Victualling Yard,
Naval Base, Visakhapatnam 6 530 009.

... Respondents

(By Advocate: Smt. K. Rajitha, Sr. CGSC)

ORDER
(As per Hon'ble Mr. Ashish Kalia, Judl. Member)



The present O.A. is filed seeking the following reliefs:

1. To call for the service record of the applicants and declare the inaction of the respondents in extending the financial upgradation from date of initial appointment by regularizing the service of the applicant from the date of initial appointment is illegal, arbitrary and unjust and discriminatory and in violation of Article 14, 16 & 21 of the Constitution. Hence, direct the respondent to extend financial upgradation under ACP & MACP and other benefits by regularizing the services of the applicant from the date of initial appointment with all consequential and attended benefits including arrears of pay at par with the other similarly situated employees.

2. The brief facts of the case are that the applicant worked in the office of the 4th respondent from 1992 to 2015 as casual labourer on daily wage basis. Subsequently, his services were regularized in the year 2018 in pursuance of the direction of this Tribunal in OA No.1617/2013 filed by the applicant along with two more similarly situated casual labourers. It is submitted that the applicant is entitled for ACP/ MACP benefit on completion of 12/20/30 years of service. The applicant made a representation on 05.10.2016. He has relied upon the judgements of various Benches of this Tribunal

3. Notices were issued. Respondents put appearance and filed a detailed reply wherein it is submitted that the applicant was initially appointed as casual labourer w.e.f. September, 1992 purely on casual basis on monthly wages of pay depending upon the requirement and availability of funds. The engagement of the applicant was purely on

casual basis. He was not given any offer of appointment for his engagement. Subsequently, as per DOPT&T O.M. No.51016/2/90-Estt© dated 10.9.1993 and upon fulfilling the conditions laid down therein, the applicant was conferred temporary status w.e.f. 16.9.2015. On occurrence of regular vacancy, service of the applicant was regularized w.e.f. 16.9.2018 as Tradesman Mate.



4. It is further submitted by the respondents that as per the Assured Career Progression Scheme dated 9.8.1999, the 1st & 2nd financial upgradations are granted on completion of 12 & 24 years of regular service respectively, if an employee has not got any regular promotion within the stipulated time, subject to other conditions thereto. As per para 3.2 of GoI DOP&T OM No.35034/1/97-Estt(D) dated 9th August, 1999, Regular Service for the purpose of the ACP Scheme shall be interpreted to mean the eligibility service counted for regular promotion in terms of relevant Recruitment/ Service Rules. Accordingly, the date of regularization of the service of the applicant as Tradesman Mate w.e.f. 16.9.2018 was taken into consideration while granting financial upgradation.

5. It is further submitted by the respondents that as per the Modified Assured Career Progression (MACP) Scheme, during the service, three financial upgradations shall be admissible on completion of 10, 20 & 30 years of regular service w.e.f. 1.9.2008. The financial upgradation under the scheme is to be given strictly in accordance with the hierarchy of grade pay in the pay bands as notified vide CCS (Revised Pay) Rules 2008.

6. Heard Smt. Anita Swain, learned counsel for the applicant and Smt. K. Rajitha, learned Senior Standing Counsel appearing for the respondents at length and perused the records.

7. The short point raised in this O.A. is whether the applicant is entitled for financial upgradation for the service rendered by him on temporary basis prior to regularization of his services. The respondents have cited the ACP/ MACP Schemes which stipulate that only regular service will be counted for grant of ACP/ MACP benefits. They have relied upon few judgements of various Benches of this Tribunal.

8. After considering the rival contentions, the Coordinate Benches of this Tribunal have decided the issue in favour of the applicants therein. But they are in different circumstances altogether. In the present case, they are not attracted for the reason that the applicant has not rendered regular service. Both ACP & MACP Schemes clearly stipulate that while considering the cases for grant of financial upgradation, only ~~regular service~~ has to be counted. Thus, the services rendered by the applicant till 16.9.2018 cannot be considered for the purpose of grant of financial upgradation. Accordingly, the O.A. fails.

9. With the above observation, the O.A is dismissed. No order as to costs.

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

**(ASHISH KALIA)
JUDL. MEMBER**

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