



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**O.A. No. 3637/2015
M.A. No. 1566/2021**

This the 13th Day of July, 2021

(Through Video Conferencing)

**Hon'ble Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)**

1. Kamesh Chand Sharma, AE (Civil),
Aged about 52 years,
S/o Sh. P.C. Sharma,
R/o C-16, Navkunj Apartment,
IP Extension, Delhi – 92
2. Rajneesh Syal, AE (Civil),
Aged about 53 years,
S/o Sh. Yashpal Syal,
R/o Qtr No. 1573, Sector – 5
RK Puram, Delhi - 22

... Applicants

(Mr. Kamesh Chand Sharma, Applicant in person)

Versus

South Delhi Municipal Corporation (SDMC) & Ors.

1. Through its Commissioner,
SDMC, Civic Centre, Minto Road, New Delhi.
2. Additional Commissioner (Engg.)
SDMC, Civic Centre, Minto Road, New Delhi.
3. Dy. Commissioner (South Zone),
SDMC, Green Park, New Delhi.
4. Dy. Controller of Accounts (South Zone),
SDMC, Green Park, New Delhi.

... Respondents

(By Advocates : Shri Arun Birbal and Shri Sanjay Singh)

O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman :

The applicants joined the service of erstwhile municipal corporation in the year 1988 and thereafter he was allotted to the South Delhi Municipal Corporation, (SDMC). They were extended the benefit of 1st financial upgradation in the year 2000. The 2nd financial upgradation was extended to them in the year 2011 and 2013 respectively in the pay scale of Rs.9300-34800, with Grade Pay of Rs.4800. According to the applicants, the 2nd upgradation needs to be granted in the pay scale of Rs.15600-39100 with Grade Pay of Rs.6600.

2. They filed this OA with a prayer to direct the respondents to grant them the pay scale of Rs.15600-39100 with Grade Pay of Rs.6600 in PB-3 towards 2nd MACP, and for consequential benefits.

3. The applicants contend that once the 1st MACP was to the pay scale attached to the next higher post, the 2nd MACP ought to have been granted in the similar manner. It is also stated that in certain cases, the benefit of same nature was granted whereas it he was denied to them.

4. The respondents filed counter affidavit. It is stated that there is a distinction between ACP on the one hand and MACP,

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on the other, and the benefit under the latter is only to the next stage of the pay scale and not to the one attached to the next higher post.

5. The applicants seem to have taken, away the file from Mr. M. K. Bhardwaj, learned counsel. Today, Mr. Kamesh Chand Sharma, applicant No.1, himself argued the case. We heard Shri Arun Birbal and Shri Sanjay Singh, learned counsel for the respondents.

6. The applicants were extended the benefit of 1st ACP in the year 2000. The ACP Scheme itself contemplated the upgradation of the pay scale of an employee to that of the next higher post, in case, he did not get any promotion in a span of 12 years, even while being otherwise eligible, and there existing, the promotional avenue. Similar benefit was available for the next span of 12 years. The ACP was replaced by MACP on the recommendations of the 6th Central Pay Commission. The distinguishing feature of the MACP is that it is extendable in 3 spells of 10, 20 and 30 years. In case the employee did not get any promotion in those spells, the upgradation is to the next stage of the pay and not to the one, attached to the next higher post.

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7. Different views were expressed by various benches of the Tribunal as well as the High Courts, on this issue. While some held that the upgradation shall be to the pay scale, attached to the next higher post, others were of the view that it should only be to the next stage of the pay scale. The controversy in this regard was resolved by the Hon'ble Supreme Court in the recent past in its judgment on 05.03.2020 titled ***Union of India vs. M.V. Mohanan Nair***. Their Lordships held that the MACP shall be only to the next stage of the pay scale. Therefore, the claim made by the applicant cannot be accepted.

8. The OA is accordingly dismissed. There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/sd/pj/vb/akshaya/