



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A.No.3402/2019

This the 1st day of July, 2021

(Through video conferencing)

Hon'ble Mr. Justice L.Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)

Mukesh Kumar Jain, Aged about 63 years,
S/o Late Shri Ved Parkash Jain,
R/o House No. 678, GF, Sector-15
Vasundhara, Ghaziabad-201012 (UP)
Retired on superannuation on 29.02.2016
As Controller of Finance & Accounts in PB 3
From CSIR-NISCAIR,
(aConstituent Establishment of CSIR)
New Delhi-110012. ... Applicant

(Applicant in person)

Versus

1. Union of India through its President,
Council of Scientific & Industrial Research (CSIR),
(DSIR, M/o Science & Technology),
Anusandhan Bhawan, 2 Rafi Marg, New Delhi-110001.
2. The Secretary,
Department of Scientific & Industrial Research
Technology Bhawan,
Ministry of Science & Technology,
New Mehrauli Road, New Delhi-110016.
3. The Joint Secretary, Estt. (D),
Department of Personnel & Training (DOPT),
Ministry of Personnel, Public Grievances &
Pensions, North Block,
New Delhi. ... Respondents

(By Advocates :Shri Praveen Swarup and Sh. RanjanTyagi)



ORDER (Oral)

Hon'ble Mr. Justice L. Narasimha Reddy:

The applicant joined the service of the Council of Scientific and Industrial Research (CSIR) in the year 1985 as Section Officer in the Finance & Accounts Department. Thereafter, he was promoted to the post of Finance and Accounts Officer on 29.05.1989. He earned two more promotions, by the time he retired from service in the year 2016.

2. The applicant contends that there exist three separate establishments in the administration, namely, General Administration, Stores & Purchase, and Finance & Accounts departments and that there existed serious disparity in the promotional avenues. According to him, an intermediary post of Finance and Accounts Officer was discontinued and abolished. On the ground that the applicant got the benefit of three promotions, he was not extended the benefit of any ACP/MACP. He went on making representations claiming the benefit of MACP. He stated that since the promotional post, to which he earned in the year 1989 was abolished, it cannot offset the MACP. The CSIR corresponded with the Department of Personnel & Training (DoP&T) and, ultimately, the applicant was given a reply on 28.12.2018. It was stated that the DoP&T took the view that even if the post was abolished, the upgradation would offset the MACP and that the applicant is not entitled to any MACP. This OA is filed with a prayer to set aside the order dated 28.12.2018, to direct the respondents to ignore the promotion to the post of Finance &Accounts Officer which took place in the year 1989, and to grant him,the benefit of corresponding MACP.



3. The respondents filed a detailed counter affidavit opposing the OA. It is stated that once the applicant has earned three promotions, he was not entitled for any MACP and that in the impugned order, cogent and valid reasons are given.

4. We heard the applicant who argued his case in person and Sh. Praveen Swarup and Sh. Ranjan Tyagi, learned counsel for the respondents.

5. The only issue in this OA is about the entitlement of the applicant to be extended the benefit of third MACP. It is not in dispute that he had the benefit of three promotions and MACP can be granted only when the employee did not get promotion in three spells of ten years each. The basis for the claim of the applicant is that the post to which he was promoted in the year 1989 was abolished and that needs to be ignored in the context of extending the benefit of third MACP.

6. On the face of it, the plea is untenable. Unlike ACP, in case of MACP, even upgradation would offset the MACP. The applicant does not dispute that he was put in higher scale of pay on being promoted in the year 1989. Though the post was abolished, he continued to draw higher scale of pay. Recently, the Hon'ble Supreme Court in the case of ***Union of India vs. M.V. Mohanan Nair***, C.A. No. 2016/2020 decided on 05.03.2020, has put on rest, the controversy about the extension of the benefit of MACP. Their Lordships have categorically held that even a financial upgradation is equivalent to promotion and would offset the MACP. What is

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more important in this case is that the promotion or upgradation of the applicant took place way back in the year 1989 and by no means it can be ignored. Though an attempt is made to convince us that the failure to take the abolition of the post into account would result in a situation where the junior would draw higher scale of pay, when a specific question is asked to the applicant whether any of the juniors was drawing higher scale of pay, the applicant answered in the negative. Therefore, the plea of the applicant is purely speculative, in nature.

7. We do not find any merit in the OA and accordingly, dismiss the same. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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