

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA



Present :Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

1. OA. 1034 of 2020 Chitta Ranjan Saha,
Son of Late Panchanan Saha,
Residing at 156/2, B.T. Road,
Guru Nanak Niswas,
Opp. to Khalsa Mondal School,
Kolkata – 700108.

2. OA. 1035 of 2020 Amal Kumar Mukherjee,
son of Late Jitendra Nath Mukherjee,
residing at 59, Shib Chandra Chatterjee Street,
Post Office – Belur Math,
District : Howrah, Pin – 711202.

3. OA. 1052 of 2020 Debdarsan Dinda,
Son of Late Krishnadas Dinda,
Residing at Bakultala Lane,
Ram Rajatala,
Howrah – 711104.

4. OA. 1053 of 2020 Sudhakar Pal,
Son of Late Bishnupad Pal,
Residing at 179/13, Gopal Lal Tagore Road,
Post Office – Ashokegarh,
Kolkata – 700035.



..... Applicants.

-Versus-

1. Union of India,
through the Secretary,
Ministry of Statistics &
Programme Implementation,
Department of Statistics,
New Delhi – 110001.
2. Director of Head Office,
Government of India,
Ministry of Statistics &
Programme Implementation,
National Sample Survey Office,

Data Processing Division Head Quarter,
164, G.L.T. Road,
Kolkata – 700108.

3. The Deputy Director (CSW),
Government of India,
Ministry of Statistics &
Programme Implementation,
National Sample Survey Office,
Data Processing Division Head Quarter,
164, G.L.T. Road,
Kolkata – 700108.
4. The Additional Director General,
Government of India,
NSSO DPD, HQ, Ministry of Statistics &
Programme Implementation,
National Sample Survey Office,
Data Processing Division Head Quarter,
164, G.L.T. Road,
Kolkata – 700108.
5. The Pay & Accounts Officer,
of 1 Council House Street,
Kolkata – 700001.

.....Respondents.

For the Applicant : None

For the Respondents : None

Heard on : 18.01.2021 Date of order : 5.2.2021

O R D E R

Per Ms.Bidisha Banerjee, JM:

The applicants are retired employees of NSSO who had approached the Hon'ble High Court for granting of 3rd MACP with effect from 01.01.2006, when the writ petition was dismissed with liberty to the applicants to approach before the appropriate forum in accordance with law. Emboldened thereby the applicants have approached this Tribunal to seek the following reliefs:

- "8.a) The Respondents be directed to consider the difference of pay scale as per eligibility.
- b) The Respondents be directed to consider the representations of the Petitioner by passing a speaking and reasoned order and to communicate the same to the petitioner.
- c) The Respondents be directed to transmit and certify before this Hon'ble Tribunal all records and documents relating to the work performed by the Petitioner for a long period in this institution and entitled to get the different of pay scale in the existing Pension Benefit Scheme in terms of 3rd MACP so that the Petitioner may get consonable justice from this Hon'ble Tribunal.
- d) Leave may be granted jointly on behalf of the association Petitioner under Rule 4(5)(b) to the CAT (Procedure) Rule 1985.
- e) The Respondents be directed to consider the arrears of payment of difference of pay scale grade of the Petitioner after taking into account their long period of service in the said Central Govt. Civil Pension Scale under DP-1 Grade scale of pay in the organization.
- f) Pass an Order directing the respondents to act in accordance with the General Policy framed by the Ministry of Statistics Programme Implication Government of India regarding payment of arrears of difference if Grade Pay Scale in the post of DP-1 category of the departmental policy.
- g) To pass such further or other order or orders as to your Lordships may deem fit and proper."



2. Since the nature of grievance and relief prayed for are identical, these OAs are being disposed of with this common order.
3. None appears on behalf of the applicants despite repeated calls. Hence, Rule 15(1) of CAT (Procedure) Rules, 1987 is invoked.
4. It is discernible from the records that a representation was preferred as long back as on 14.08.2018 for 3rd MACP with effect from 01.01.2006 in terms of Supreme Court's judgment in the case of **Balbir Singh Turn & Ors.**, in regard to an Armed Forced Tribunal matter where it was held that MACP was payable from 01.01.2006. The representation dated 14.08.2018 is extracted herein below for clarity:

"Re: - An appeal to grant financial upgradation under 3rd MACP w.e.f. 01.01.2006 in terms of Supreme Court Judgment details 08.12.2017.

Dear Sir,

I the undersigned ex-employee, of NSSO HQ unit / Kolkata beg to lay before you the following fact for your kind and sympathetic consideration please.

That I retired from service from the said organization in between the period of 01.01.2006 to 30.08.2008 i.e. on 30th Nov 2006 without getting the opportunity to have financial upgradation under MACP as per the Department of Personnel and Training (DOPT)'s letter no. 35034/3/2008, ESH (D) dated 19.05.2009 due to date of effect of MACP was implemented w.e.f. 01.09.2008.

That being aggrieved by Sri Balbir Singh Turn & Ors. filed a case before the Armed Forces Tribunal (AFT) with the prayer that they are entitled to the benefit of MACP w.e.f. 01.01.2006 instead of 01.09.2008. Upon hearing the Hon'ble AFT vide impugned order dated 21.05.2014 held that the benefit of ACP granted to an employee is part of the pay structure which will not only affect his pay, Grade pay but also his pension and therefore, held that the ACP is not an allowance but a part of pay and therefore in terms of Govt. resolution the MACP was payable w.e.f. 01.01.2006.



That the UOI made an appeal being Civil Appeal Diary no. 3744/2016 before the Hon'ble Supreme Court which was finally heard and the Hon'ble Supreme Court was pleased to dispose of the matter finding no merit in the appeal confirming MACP applicable from 01.01.2006 vide judgment dated 08.12.2017. Copy of Judgment is enclosed herewith as Annexure-A.

That consequent upon the Judgment of the Hon'ble Supreme Court the President is also pleased to make the following amendment:-

For - "The scheme would be operational w.e.f. 01.09.2008."
Read - "The scheme would be operational w.e.f. 01.01.2006."

Vide under secretary to the Govt. of India letter dated 25.07.2018.
 The letter is placed as Annexure - B.

That I being the ex-employee under your organization had been deprived of the benefit of financial upgradation of 3rd MACP being the similarly placed as the PBOR of the Indian Army and consequently suffering from huge financial loss.

That under the circumstances nothing is left but to depend upon you quick kind consideration of our appeal.

Thanking you."

5. In reply, the Deputy Director (CSW) communicated vide letter dated 18.09.2018 which reads as under:

"Subject: Request for grant of 3rd Financialupgradation under MACP scheme with effect from 01.01.2006 instead of from 01.09.2018 Reg.

Sir,

Attention is invited to your letter dated 14.08.2018 requesting for grant of 3rd Financial upgradation under MACP scheme with effect from 01.01.2006 instead of from 01.09.2018 based on the Hon'ble Supreme Court judgment dated 08.12.2017 in Civil Appeal Diary No. 3744/2016 and subsequent Ministry of Defence Letter no. 14(1)/99-D(AG) dated 25.07.18 for implementation of said Supreme Court order.

In this regard it is to inform that the matter has been examined in light of the above orders and the request could not be acceded to at this stage, since DOPT has not yet issued any order regarding implementation of the said Hon'ble Supreme Court order in respect of Civilian employees."

6. Annexure A-4 letter dated 14.06.2000 is an Office Order which is explicit that 2nd ACP benefits have been granted to the applicants in the scale of pay Rs. 7450/- 11500/- with effect from 09.08.1999.

7. Further, Annexure A-3 to the OA demonstrates that one Nipendra Mohan Basuh an employee who retired on 31.05.2008, has been granted revised pay band with Grade Pay in accordance with rule 7 of CCS(RP) Rules, 2008 with effect from 01.07.2006 as revised pay became effective retrospectively.

8. It is discernible that the MACP scheme was introduced with effect from 01.09.2008. In the event it is made effective from 01.01.2006 that is retrospectively and from a date prior to its introduction, when ACP was operational, would open a flood gate of litigations. No circular/rule or decision has been placed on record to substantiate the claim of the applicants that they were entitled to MACP benefit from a date prior to introduction of the scheme.

9. The Respondents have already replied as quoted supra that DOPT has not been issued any order in favour of the civilian employees.

10. Therefore, the present OAs are disposed of with liberty to the applicants to approach the authorities with a comprehensive representation annexing DOPT's



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order in favour of civilian employees that they would be entitled to grant of MACP benefit with effect from 01.01.2006. In the event such representation is preferred, the same shall be disposed of within a period of 4 months. No costs.

(Dr.NanditaChatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

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