

B

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

OA No.855 of 2010
Cuttack, this the 9/2 day of February, 2012

Soudamini Mohapatra Applicant
Vs
Union of India & Ors. Respondents

CORAM
THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (ADMN.)
And
THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)

.....
O R D E R
Applicant working as a Staff Nurse in the
Central Hospital, Joda, in the District of Keonjhar has
filed this Original Application seeking to quash the order
under Annexure-A/7 dated 02.12.2010 and the order
under Annexure-A/8 dated 15.2.2010 with further
prayer to direct the Respondents to grant her second
financial up gradation under the MACP scheme as has
been given to other similarly situated persons vide order
under Annexure-A/2. She has also claimed interest @
12% on the arrears which she would be entitled to
consequent upon grant of the benefit of the MACP
retrospectively.

2. In letter under Annexure-A/7 dated 2nd
December, 2010 it was intimated to the Applicant as
under:

L

9

“With reference to the above subject, it is to inform that your request vide application dated 22.10.2010 for grant of financial up gradation under MACP scheme has been examined by the undersigned and already disposed of accordingly vide this office letter No. 2/1/2010-A1 dated 15.02.2010(copy enclosed);

In the meanwhile you have also filed the case before the Hon’ble CAT vide OA No. 128/10 and OA No. 706/10 for the above issue. As per the order of Hon’ble Court, it is further stated that the Departmental Screening Committee constituted for MACP have not recommended your name suitable for 2nd financial up gradation under MACP. As such your case could not be considered and allowed for the 2nd financial up gradation.”

3. In the letter under Annexure-A/8 dated 15th February, 2010 it was intimated to the Applicant as under:

“With reference to her letter dated 30.12.2009, it is to inform that the Departmental Screening Committee constituted for MACP have not recommended her name suitable for Financial up gradation under MACP hence she could not be allowed the 2nd financial up gradation under MACP.”

4. Respondents’ stand in the counter filed in this OA is that as per the procedure prescribed under the grant of MACP scheme, before granting the second financial up gradation under the Scheme, the case of the Applicant was placed before the duly constituted Departmental Screening Committee. In terms of the Scheme grant of financial up gradation is subject to recommendation of the Committee set up for the purpose. But as the Departmental Screening Committee did not recommend the name of the applicant for

10

granting her the second financial up gradation, the Applicant could not be granted the second financial up gradation. It has further been submitted that representation submitted by the Applicant was duly examined but the same was rejected as she could not be found suitable for grant of the second financial up gradation by the Departmental Screening Committee. Hence, the Respondents have prayed for dismissal of this OA.

5. We have heard Learned Counsel for both sides and perused the material placed on record. Learned Counsel for the Applicant strenuously argued that the decision of the Departmental Screening Committee is not sustainable being based on no reason. There was no disciplinary, criminal or vigilance case ever initiated or pending against the applicant. There was no adverse remarks ever communicated to the Applicant. As such holding the applicant unsuitable and thereby depriving her rightful claim is not sustainable in the litmus test of judicial scrutiny. This was opposed by Mr. Dash, Learned ASC appearing for the Respondents by stating that the applicant was found **'fit for three years** but **'unfit for two years** in the assessment of the ACRs by

the Screening Committee and, therefore, she was not recommended by the Screening Committee for grant of second financial up gradation under the ACP/MACP scheme. We have considered the above stand of the Respondents but are not inclined to accept the same. It is strange to make a split assessment about the suitability of the Applicant i.e. declare her 'fit' for three years and 'unfit' for two years. As a matter of fact, the Screening Committee is mandated to make an overall assessment of the ACRs and declare the individual as either fit or unfit for promotion etc. Be that as it may, when the applicant was found fit for three years it cannot be said that the applicant was ineligible to get the second financial up gradation merely because the applicant was found unfit for two years. Admittedly, the applicant was not supplied the short comings in her ACR/CCR for two years she was found unfit by the Screening Committee. Basically the ACP/MACP scheme was introduced by the Government for the benefit of the employees i.e. to eradicate the financial hardship caused to an employee due to stagnation in promotion. Since the overwhelming assessment is deemed to be **Fit (three years)** and **Unfit (two years)**, we are of the view that the

Applicant should not have been deprived of the financial up gradation under ACP/MACP. No rule or instruction could be shown to us by the Learned ASC appearing for the Respondents to the effect that there is any benchmark prescribed for promotion/financial up gradation. No such ground/reason has also been indicated while rejecting the representations under Annexure-A/7, A/8 and not even in the counter filed by the Respondents.

6. In view of the above, we find the letters under Annexure-A/7 & A/8 as unsustainable in the eyes of law. Accordingly, the letters under Annexure-A/7 & A/8 are hereby quashed. The matter is remitted back to the Respondents to consider the grant of the second financial up gradation to the Applicant in the light of the observations made above and issue appropriate orders within a period of 45 days from the date of receipt of copy of this order.

7. With the aforesaid observation and direction this OA stands disposed of. No costs.


(A.K. PATNAIK)
Member (Judicial)


(C.R. MOHAPATRA)
Member (Admn.,