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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O.A No.207 of 2010
Niranjan Nayak Applicant
Vs
UOI & Ors. Respondents
.....

Order dated –19-08-2011.

CORAM:
THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)
AND
THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)
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In this OA the prayer of the Applicant is to quash the order under Annexure-A/3 dated 13.03.2010 in which the benefit of financial up gradation granted to the applicant under MACP Scheme was withdrawn as also the order under Annexure-A/7 dated 20.4.2010 in which the representation of the Applicant submitted against the order under Annexure-A/3 dated 13.3.2010 was rejected.

Respondents through counter have brought to the notice of this Tribunal that the Applicant although was not entitled to any financial up gradation under MACP, had been granted such benefit erroneously. The mistake having been pointed out was rectified vide order under Annexure-A/3. The reason assigned in support of their claim that the applicant was not entitled to the financial up gradation under MACP as was granted to him is that on 18.3.1989 the applicant was promoted to Painter III and on 18.7.1991 to Painter II and on

(Signature)

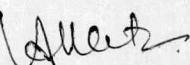
1.3.1993 to Painter I. In support of the above stand they have filed copy of the Service Book at Annexure-R/I.

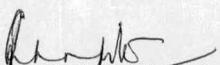
A rejoinder and reply to the rejoinder has been filed by the Applicant and Respondents respectively.

Having heard Learned Counsel for both sides, we have gone through the materials placed on record.

The benefit of financial up gradation under MACP is granted in lieu of stagnation. The scheme of MACP envisages that there shall be three financial up-gradations, counted from the direct entry grade on completion of 10, 20 and 30 years service respectively. Financial up-gradation under the Scheme will be admissible whenever a person has spent 10 years continuously in the same grade-pay. Since the applicant has already got three promotions as stated by the Respondents supported by the Service sheet at Annexure-R/1 and the authority has every power and competence to rectify its mistake at any point of time, we see no merit in this OA in so far as the prayer of the applicant to quash the order under Annexure-A/3 and the order of rejection of the representation of the Applicant at Annexure-A/7 is concerned. However, in view of the decisions of the Hon'ble Apex Court in the cases of **B.J.Akkara v Government of India** (2007) 1 SCC (L&S) 529 (para 27), **Sahib Ram v State of Haryana**, 1995 SCC (L&S)

248, **Shyam Babu Verma v Union of India**, (1994) 2 SCC 521, **Union of India V M.Bhaskar** (1996) 4 SCC 416 and **V.Gangaram V Regional Joint Director**, (1987) 6 SCC 139 and in absence of the stand that the applicant had any contribution in getting the financial up gradation under MACP, it is ordered that there shall be no recovery of the amount paid to the applicant by way of financial up-gradation which was subsequently withdrawn under Annexure-A/3. With the aforesaid observation, this OA stands disposed of. No costs.


(A.K.PATNAIK)
Member (Judl.)


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