

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.290/00225/2014

Jodhpur, this the 28th day of January, 2016

CORAM

Hon'ble Dr. K.B. Suresh, Judicial Member

Hon'ble Ms. Praveen Mahajan, Administrative Member

Keshav Dev Sharma S/o Late Shri N.C. Sharma, aged 43 years, Posted as LDC at Kendriya Vidyalaya, Chittorgarh (Raj), R/o 166, Sector-4, Gandhi Nagar, Chittorgarh (Raj).

.....Applicant

Mr. Jog Singh, counsel for applicant.

Versus

1. Kendriya Vidyalaya Sangathan, through the Commissioner, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi 110016.
2. Deputy Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Dehradun Region, Salawala, Hathibarkala, Dehradun (UK).
3. Deputy Commissioner, Kendriya Vidyalaya Sangathan (R.O.) 92, Gandhi Nagar Marg, Bajaj Nagar, Jaipur 302015.
4. The Principal, Kendriya Vidyalaya, Chittorgarh (Raj).

.....respondents

Ms. Shivani Vyas for Mr. Avinash Achariya, counsel for respondents.

ORDER (Oral)

Heard. Matter relates to recovery on the assumption that ACP was granted wrongly to the applicant. The applicant was appointed in the year 1996 and was granted ACP w.e.f. 21.09.2008. Apparently, on 09.02.2011, MACP came into force and it was implemented w.e.f. 01.09.2008 in the KV Sangathan with retrospectively.

The MACP is a newly promulgated Scheme and came into force on 09.02.2011 even though w.e.f. 01.09.2008 while the ACP was originally granted on 21.09.2008, which was apparently rightly granted because the applicant has completed 12 years by that time. The MACP will have significance on every 10 years interval and if that retrospectivity is to be correctly to be allowed then MACP has to be granted once again two years prior to that date i.e. from 2006 onwards. This is not the way in which parallel legal situation should be understood, it must be understood rationally and logically. While it was granted, the ACP was granted correctly it has become a part of legitimate expectation for the applicant. It cannot be by a retrospective operation changed to the disadvantage of the applicant. Therefore, the order correcting the date of granting the MACP is quashed along with the recovery order. But the 2nd MACP will, of course be counted from 2006. If any amount is already recovered from the applicant till now then the same be paid back within two weeks next without interest and thereafter with interest at the rate of 10 per cent.

3. The OA is thus allowed with no order as to costs.


[Ms. Praveen Mahajan]
Administrative Member


[Dr. K.B. Suresh]
Judicial Member