

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**ORIGINAL APPLICATION NO. 421 of 2013**Friday this the 11th day of December, 2015**CORAM**

Hon'ble Mr. Justice N.K.Balakrishnan, Judicial Member
Hon'ble Mrs. P. Gopinath, Administrative Member

A.R. Padmanaban,
Instructor (Drawing) (Retired)
S/o M.E. Ragavan,
Ashokalayam, Pananagad PO
Kochi-682506.

...Applicant

[By Advocate Ms. Sneha Rose)

Versus

1. Union of India, represented by the Secretary, Ministry of Agriculture, Department of Animal Husbandry and Dairying, Krishi Bhawan, New Delhi-110 001.
2. The Director, CIFNET, Government of India, Department of Animal Husbandry, Dairying and Fisheries, Fine Arts Avenue, Kochi-682016.
3. Senior Instructor, CIFNET, Government of India, Department of Animal Husbandry, Dairying and Fisheries, Fire Arts Avenue, Kochi-682016.

...Respondents

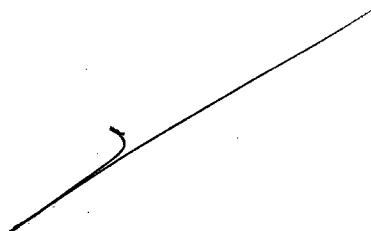
(By Advocate Mr. E.N. Hari Menon, ACGSC)

This application having been finally heard on 03.12.2015, the Tribunal on 11.12..2015 delivered the following:

O R D E R

Per: Justice N.K.Balakrishnan, Judicial Member

This application has been filed seeking a direction to the respondents to restore the 1st financial up-gradation under the MACP



Scheme to the applicant in the Grade Pay of Rs. 4600/- in Pay Band 2 and fix the pensionary and terminal benefits. A further direction is sought to re-fix the entire financial up-gradations under the MACP Scheme granting the 1st MACP in the Grade Pay of Rs. 4800/-, 2nd MACP in the Grade Pay of Rs. 5400/- and the 3rd MACP in the Grade Pay of Rs. 6600/- and to grant the arrears.

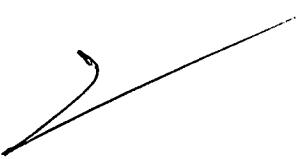
2. Brief facts necessary for the case is stated as under:

The applicant was appointed as Draughtsman in Central Institute of Fisheries Nautical Engineering and Training (CIFNET) on 10.10.1979 in the corresponding pre-revised pay scale of Rs. 5000-8000 (revised to PB-2- Rs. 9300-34800 with GP of Rs. 4200 as per the 6th CPC). The applicant was later promoted to the post of Technical Assistant (Drawing) in the pre-revised scale of of Rs. 5000-8000 (revised to Pay Band PB-2 Rs. 9300-34800 with Grade Pay of Rs. 4200/- . The post was re-designated as Instructor (Drawing).

The applicant was granted the first financial up-gradation under the ACP Scheme, w.e.f. 9.8.1999. On completion of the total service of 24 years he was granted the 2nd ACP benefit w.e.f. 10.10.2003 in the pre-revised pay scale of Rs. 5500-9000 and Rs.6500-10500 respectively. On implementation of the MACP Scheme, the applicant was granted the 1st and 2nd financial upgradation to the Pay Band of Rs. 9300-34800 with Grade Pay of Rs. 4600/- and Rs. 4800/- respectively to take effect from 1.9.2008. The third financial upgradation was given under the same MACP Scheme in the same pay scale with the Grade Pay of Rs. 5400/- w.e.f.

10.10.2009. The applicant retired from service on superannuation on 31.10.2010. As per the earlier order by virtue of the financial up-gradation the pay of the applicant was fixed at Rs. 19120/- with Grade Pay of Rs. 5400/- with effect from 10.10.2009 onwards. Later by an office letter dated 20.8.2010, the applicant's pay was re-fixed withdrawing the first MACP granted to him in the Grade Pay of Rs. 4600/-as a result of which there was reduction in the monthly pension and Rs. 35,000/- in the terminal benefits. The applicant had earlier filed OA183/2012 seeking the same relief. That O.A was disposed of by this Tribunal directing applicant to submit a representation which was directed to be disposed of. Consequent to the same, Annexure A8 representation was filed, which was disposed of by the respondents as per Annexure A9 order which is now under challenge in this OA. The applicant contends that the respondents were not justified in withdrawing the first MACP benefit given to the applicant and as such that order has to be set aside and the respondents should be directed to refix his Grade Pay under the 1st MACP and 2nd MACP. According to the applicant his pay has to be fixed in the Grade Pay of Rs. 6600/- on getting the 3rd MACP.

3. This application is strongly resisted by the respondents contending that the 1st financial up-gradation has been granted to the applicant in the Grade Pay of Rs. 4600/- in PB 2 under the MACP Scheme. That was withdrawn as per Annexure A4, as he was found ineligible for the same. As per the MACP Scheme there shall be three financial up-gradations to a newly appointed Group 'A' , 'B' and 'C' Central Government

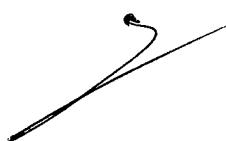


Civilian Employees counted from direct entry on completion of 10,20 and 30 years of regular service respectively. The promotions earned and financial upgradation granted under the ACP Scheme are also to be taken into account while considering the financial upgradation under the MACP scheme. On implementation of the MACP Scheme as per Annexure A1 office order dated 19.1.2010, the applicant was granted three financial upgradations, 1st and 2nd in Rs. 4600/- and Rs. 4800/- respectively in PB-2 and the third financial upgradation in the Grade Pay of Rs. 5400/- in PB-3 w.e.f. 10.10.2009. Earlier financial upgradations granted were ignored while granting the benefits of the MACP Scheme. Thus according to the respondents the applicant is not entitled to get the pay re-fixed as sought for by him. He is also not entitled to get the 3rd MACP as sought for him.

4. The points for consideration are whether the respondents are to be directed to restore the first financial upgradation granted to the applicant under the ACP Scheme in PB-2 with GP of Rs. 4600/- and whether the applicant is entitled to get the 1st financial upgradation with GP of Rs. 4800, 2nd financial upgradation with GP of Rs.5400 and 3rd financial upgradation with GP of Rs. 6600/-?

5. We have heard the learned counsel appearing for the parties and have gone through the pleadings and documents.

6. In the earlier application, OA 183/2012 the applicant sought for a direction to be given to the respondents to restore the 1st financial upgradation granted under the MACP Scheme to the Grade Pay of Rs. 4600/- in PB2. In that case the subsequent withdrawal was challenged. A

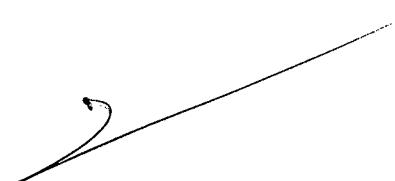


further direction was also sought for grant of arrears of pensionary benefits from 20.8.2010. The further direction sought in that case was that the applicant is entitled to get the pay re-fixed in the Pay Band 2 at Rs. 9300-34800 with Grade Pay of Rs. 4600/- w.e.f. 1.9.2008. The learned counsel for respondents would submit that in fact no reduction was caused in the Grade Pay granted to the applicant, namely the 1st, 2nd or 3rd MACP benefits. The 1st MACP was allowed granting a Grade Pay of Rs. 4600/- w.e.f 1.9.2008, the 2nd MACP was granted which was also on the same date to the Grade Pay of Rs. 4800/-. Therefore, the applicant is entitled to the Grade Pay of Rs. 5400/- consequent to the grant of 3rd MACP. The learned counsel for the applicant referred to clause 5 of the MACP Scheme which reads as follows:-

"5. promotions earned/upgradations granted under the ACP Scheme in the past to those grades which now carry the same grade pay due to merger of pay scales/upgradations of posts recommended by the Sixth Pay Commission shall be ignored for the purpose of granting upgradations under Modified ACPS."

It is not in dispute that the applicant was granted the 1st ACP in 1999 and the 2nd ACP in 2003 on completion of 24 years of service. That was granted in the pay scale of Rs. 6500-10500. Since the MACP Scheme was introduced in 2008, according to the applicant, the 1st and 2nd up-gradation were given in 2009. The applicant admittedly retired from service on 31.10.2010.

7. The applicant was granted 1st financial up-gradation under the ACP Scheme w.e.f. 9.8.1999 to the pre-revised scale of pay of Rs.5500-

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9000. He was granted the 2nd ACP in the pre-revised pay scale of Rs. 6500-10500. It is not in dispute that there was merger of two pay scales (given under the ACP Scheme) on the implementation of the 6th CPC recommendations. According to the respondents on implementation of MACP Scheme applicant was granted 1st financial up-gradation under the MACP Scheme to PB-2- Rs.9300-34800 with a GP of Rs. 4600/- . He was also granted the 2nd financial upgradation w.e.f. 1.9.2008 in the same Pay Band with the Grade Pay of Rs. 4800/- . Therefore, when he is granted the 3rd financial upgradation on completion of 30 years of service on 10.10.2009 the applicant was given the Grade Pay of Rs. 5400/- w.e.f. 10.10.2009. The learned counsel for respondents would submit that as mentioned in Clause 5 of MACP Scheme, the financial upgradation given under the ACP Scheme was ignored while granting the benefit under the MACP Scheme.

8. It is seen that earlier on implementation of MACP Scheme the applicant was granted the 1st financial upgradation in PB-2 of Rs. 9300-34800 with Grade Pay of Rs. 4600/- . The 2nd MACP was granted giving a Grade Pay of Rs. 4800/. Both these financial upgradations were granted w.e.f. 1.9.2008. There is no case for the applicant that he had submitted any option statement for fixation of his pay under FR 22 (I)(a)(1) as directed under Annexure A2. The 3rd financial up-gradation which the applicant is entitled to get would be Rs. 5400/- w.e.f. 10.10.2009. The case advanced by the applicant that he is entitled to get the 1st MACP with a Grade Pay of Rs. 4800, 2nd MACP with a Grade Pay of Rs. 5400/- and

the 3rd MACP with the Grade Pay of Rs. 6600/- is without any basis. Annexure A1 order dated 19.1.2010 is found to be correct.

9. In the light of what is stated above, the Grade Pay which the applicant is entitled to get under the 1st MACP would be Rs. 4600/-. On grant of 2nd MACP, the Grade Pay of applicant would be Rs. 4800/-. It shall be w.e.f 1.9.2008. By the grant of 3rd MACP, the Grade Pay of applicant would be Rs. 5400/- which shall be w.e.f. 10.10.2009. Consequential variation, if any, in the fixation of pension and other retirement benefits shall be worked out and effected without delay.

Original Application is disposed of accordingly. No order as to costs.


(P.Gopinath)
Administrative Member

kspps


(N.K. Balakrishnan)
Judicial Member