

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
O.A. NO.541/2012

Dated this the 8th day of February, 2013.

C O R A M

HON'BLE DR. K.B.S.RAJAN, JUDICIAL MEMBER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

1) K.K.Anandan, S/o Kunju Kunju K, R/o Athira, ANB-53,
Archana Nagar, Pongam Mode, Medical College Post
Thiruvananthapuram-11, Retired Assistant Audit Officer.

2) C.Ananja Perumal, S/o late A.Chithambarathanu
R-5 Raja, Ram Nagar, Pappanamcode, Thiruvananthapuram-18
Retired Assistant Audit Officer.

3) S.Soman, S/o late Sukumaran, Yalmika, Kadakkavur Post
Thiruvananthapuram-11, Retired Assistant Audit Officer.

Applicants

(By Advocate Mr. Govind K.Bharathan)

Vs

1 The Principal Accountant General Kerala (Audit)
O/o Principal Accountant General Kerala
Thiruvananthapuram-695001.

2 The Deputy Secretary to the Govt of India, Ministry
of Personnel, Public Grievances & Pensions,
North Block, New Delhi - 110001.

3 The Secretary to the Govt of India, Ministry of Personnel,
Public Grievances & Pensions, North Block, New Delhi - 110001.

....Respondents

By Advocate Mr. George Joseph, ACGSC for R2&3
and Mr. V. V. Asokan, for R 1

(The application having been heard on 8.2.2013 and the Tribunal delivered the following)

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

This Application is filed by three Pensioners challenging the rejection of financial upgradation under the MACP scheme w.e.f the date of introduction of the same on the basis of 6th Central Pay Commission recommendations.

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2 The brief facts of the case as stated by the applicants are that they superannuated as Assistant Audit Officers in the respondent department on 28.2.2007, 30.4.2007 and 30.9.2006 respectively. The applicants aver that though the recommendations of the 6th Pay Commission including the pay revision were made effective from 1.1.2006, the MACP Scheme which is also a part of the 6th Pay Commission was effected from 1.9.2008. According to the applicants the cut off date for implementation of MACP Scheme to a date posterior from 1.1.2006 is illegal and arbitrary. Therefore the applicants who have retired from service during the interregnum from 1.1.2006 to 31.8.2008 were denied the benefit of MACP Scheme. According to them if the MACP Scheme was implemented from 1.1.2006 when the other recommendations were effected many retired employees would have been benefitted. Therefore the denial of the financial up-gradation under the MACP Scheme by the impugned Annx.A1 & A2 and by Annx.A3 O.M dated 19.5.2009 by which the MACP Scheme was made operational on 1.9.2008 are to be quashed and set aside, with a simultaneous declaration that the MACP Scheme is to be made effective from 1.1.2006.

3 The respondents contested the OA by filing their reply statement. They stated that the applicants were in service when the 6th pay commission was given effect to from 1.1.2006. The MACP Scheme which forms part of the recommendations was given effect from 1.9.2008 only. Therefore the applicants who retired during the period from 1.1.2006 to 31.8.2008 were not given the MACP benefits. It is submitted that the respondent DOPT had clarified by Annx.A2 that the implementation of the MACPS is a conscious decision of the Government. Therefore, it is not possible for the Govt to implement the MACPS on a date anterior to 1.9.2008. The prerogative of the Govt to fix a cut off date is upheld by the Courts in many cases. Therefore the contention of the applicants that the MACP Scheme forming part of the recommendations of the 6th CPC should be effective from 1.1.2006 instead of 1.9.2008 cannot be justified.

4 We have heard the learned counsel for the parties and perused the record.

5 The short issue that comes up for consideration in this case is whether the MACP Scheme of the 6th Pay Commission recommendation which is effected from 1.9.2008, can be given retrospective effect from 1.1.2006, i.e. the date of

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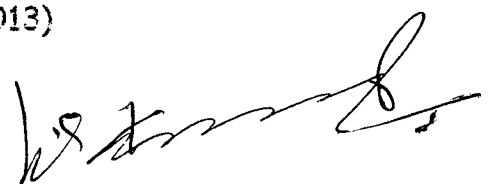
implementation of 6th CPC recommendation.

6 In the past, it is generally seen that there is a timelag of almost two years between the date of implementation of Pay Commission recommendation, the submission of the CPC report and its acceptance by all the Ministries of the Department. It was the case with IV CPC, V CPC and now VI CPC. The pay revision, as recommended by VI CPC and as accepted by the various Govt Departments with modifications if any was implemented in September 2008 but with effect from 1.1.2006. As far as MACPS is concerned, DoPT issued Annx.A3 OM only on 19.5.2009 but the Scheme was given effect to from 1.9.2008. Till 31.8.2008 the issue of financial upgradation was governed by the ACP Scheme as VI CPC report was not ready for implementation. Obviously, ACP Scheme has to be kept operational as during the interregnum from 1.1.2006 to 31.8.2008 many would have become eligible for financial upgradation under ACP. The pay fixation, payment of higher pay and allowances, etc benefitting many cannot be cancelled on a later date. As financial upgradation is given to offset stagnation in promotion, those who are no longer in service cannot aspire for promotion or financial upgradation in lieu of it. Therefore the contention of the applicants that the MACP Scheme forms part of the recommendations of the 6th CPC and it should be effective from 1.1.2006 instead of 1.9.2008 cannot be justified.

7 In view of the foregoing, the applicants have failed to make out a case in their favour. The Original Application lacking in merit is dismissed. No costs.

(Dated 8th February, 2013)


(K.NOORJEHAN)
ADMINISTRATIVE MEMBER


(DR.K.B.S RAJAN)
JUDICIAL MEMBER

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