

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 245 of 2009

.....Friday....., this the 22nd day of January, 2010

CORAM:

**HON'BLE DR. K.B.S. RAJAN, JUDICIAL MEMBER
HON'BLE MS. K. NOORJEHAN, ADMINISTRATIVE MEMBER**

P.G. Ravindra Panicker,
Fire Engine Driver Grade II,
Fire Station,
I.N.S. Venduruthy, Naval Base,
Kochi – 4,
Residing at Perathottathil,
Kuttattukulam, Ernakulam : 686 662

(By Advocate Mr. Johnson Gomez)

versus

1. Union of India represented by
The Secretary,
Ministry of Defence,
South Block, Delhi.
2. The Flag Officer in Commanding-in-Chief,
Headquarters, Southern Naval Command,
Naval Base, Kochi – 682 004
3. The Chief Staff Officer (P.C.A.),
Headquarters, Southern Naval Command,
Cochin – 682 004

... Respondents.

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

The Original Application having been heard on 13.01.2010, this Tribunal on 22-01-10 delivered the following :

O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

An interesting question arises in this O.A. The substitution of current Modified Assured Career Progression (MACP) takes effect from 01st September, 2008 and the earlier Assured Career Progression would be operated till 31st August 2008. If the date of initial appointment of the applicant is taken as 11th June 1984, his second financial upgradation would fall prior to 31st August 2008, whereas if his date of initial appointment is reckoned from 17th October, 1985, the applicant would be covered for the second and subsequent financial upgradations only as per the MACP. The claim of the applicant is that his date of initial appointment shall have to reckon from 11th June 1984 in view of the order dated 20th September, 2002 by this Tribunal in OA No. 755 of 2000.

2. The objection of the respondents is that the applicant would be eligible for the second ACP only on 17th October, 2009.

3. Counsel for the applicant argued that the period from 11th June 1984 having been regularized under the Court order, the date of initial appointment gets advanced to that date. As the applicant was promoted in 1994, he would be entitled to the second financial upgradation only and the same is on completion of 24 years of service from the date of initial appointment, and thus, he completed 24 years as on 11th June, 2008, which is anterior to the introduction of the MACP Scheme. Hence, his second



financial upgradation w.e.f. 11th June 2008 should be considered under erstwhile ACP scheme and not under the MACP.

4. Counsel for the respondent submitted that the MACP stipulates that erstwhile ACP ceases to exist w.e.f. 01-09-2008.

5. Arguments have been heard and documents perused. The decision by the Tribunal in OA No. 755 of 2000 is a judgment in rem and is applicable to all especially, when the same had been filed by the All India Naval Clerk's Association. It has been fairly admitted by the respondents in their counter vide para 3 that the service of the applicant from 11th June 1984 to 17th October 1985 had been regularized and consequential benefits flowing from regularization extended. The exact wordings of the respondents in the said para are as under:-

"With regard to the contentions mad in paragraph 4(a) to (i) it is humbly submitted that the applicant was initially appointed as Fireman Grade II with effect from 11th June 1984 on casual basis and subsequently absorbed against the said post on 17th October, 1985. Therefore, later on, the casual service rendered by the applicant from 11th June 1984 to 16th October 1985 had been regularized and all consequential benefits flowing from regularization were extended."

6. Once the above admission has been made, there is no question of ignoring the period from 11th June 1984 to 16th October, 1985 for working out the period of 24 years. Thus, the applicant did complete 24 years as on 11th June 2008 itself, which is evidently anterior to the date of introduction of the MACP Scheme.



7. In view of the above, the O.A. allowed. It is declared that the applicant is entitled to be considered for grant of 2nd ACP effective from 11th June 2008 subject to fulfillment of conditions prescribed for the same under the erstwhile ACP Scheme. Respondents are, therefore, directed to hold necessary DPC and implement the decision of the DPC. If the applicant is found suitable for grant of ACP, needless to mention that he would be entitled to the consequential benefits, i.e. the arrears of pay and allowances. This drill shall be performed within a period of three months from the date of communication of this order.

8. No costs.

(Dated, the 22nd January, 2010)


K. NOORJEHAN
ADMINISTRATIVE MEMBER


Dr. K B S RAJAN
JUDICIAL MEMBER

CVF.