

**Central Administrative Tribunal Lucknow Bench
Lucknow**

Original Application No. 80/2011

This the 18th day of August, 2011

**Hon'ble Justice Shri Alok Kumar Singh, Member (J)
Hon'ble Shri S. P. Singh, Member (A)**

Girja Shanker,
Aged about 62 years,
Son of Late Shri J. P. Srivastava,
Resident of MS-1/32,
Sector A, Sitapur Road Scheme,
Lucknow.

Applicant

By Advocate Shri Praveen Kumar.

Versus

1. Union of India, Secretary,
Ministry of Information and Broadcasting,
Principal Accounts Office, 701-A Wing,
Shastri Bhawan,
New Delhi.
2. The Chief Controller of Accounts,
Ministry of Information and Broadcasting,
Principal Accounts Office, 701,-A Wing,
Shastri Bhawan,
New Delhi.
3. The Senior Accounts Officer (Group B),
Office of the Controller General of Accounts,
Department of Expenditure,
Ministry of Finance,
New Delhi.
4. The Senior Accounts Officer,
Pay and Accounts Office,
Ministry of Information and Broadcasting,
H Block, Tropical Building, Cannought Place
New Delhi.

Respondents

By Advocate Shri Rajendra Singh.

Order (Dictated in Open Court)

By Hon'ble Justice Shri Alok Kumar Singh, M(J)

1. This O.A. has been filed with the following relief(s):
 - A. To quash the impugned letter dated 27.7.2010
contained as Annexure No. A-1 to this O.A. with all
consequential benefits.

AC

- B. To expunge the un-communicated adverse remarks awarded for the year 2004-05, 2005-06 and 2006-2007.
- C. To release the benefits of MACP Scheme and refix the pay and pensionary benefits of the applicant raising the pay of the applicant from Grade Pay Rs. 4800/- to Rs. 5400/- in Pay Band-2 Rs. 9300-34800 with effect from 01.01.2008 after ignoring the aforesaid adverse remarks.
- D. To release arrears of pay and other pensionary benefits along with interest @ 12% PA.
- E. Any other relief, which this Hon'ble Tribunal may deem fit, just and proper under the circumstances of the case, may also be passed.

2. The applicant's case is that while working on the post of Assistant Accounts Officer, he retired from service on 30.09.2009 after attaining the age of superannuation. A new pay structure was introduced by means of 6th Pay Commission, on account of which, MACP scheme also came into force in which, one has to be given three financial upgradation i.e. 10 years, 20 years, and 30 years during his service career. In the present case, MACP pertaining to 30 years is relevant. When he did not receive any communication from the end of respondents, he made a representation on 11.3.2010 and 12.3.2010 for grant of benefits of MACP Scheme. Subsequently, he came to know that adverse remarks have been indicated in his ACRs from 01.04.2004 to 31.03.2007 on account of which, no decision could be taken on MACP. He therefore moved an application under RTI Act for providing the alleged remarks and then only, the respondent No. 2 issued direction to the respondent No. 3 vide letter dated 22.04.2010 to communicate the adverse remarks to the applicant. Ultimately, the adverse remarks were communicated

AC

vide letter dated 27.7.2010 (Annexure-A-1) informing him about the adverse remarks made in the year 2004-05, 2005-06 and 2006-07 for the first time. He immediately submitted a reply on 19.08.2010. But his reply/representation was kept pending. Ultimately, he had to file this O.A. It is only when an interim order dated 24.2.2011 passed by this Tribunal that his representation was disposed of on 20.4.2011 and the decision was communicated by office Memorandum dated 20.06.2011 and the office order dated SCR-1 and SCR-II.

3. The respondent Nos. 1 and 2 have admitted the aforesaid facts in their short counter affidavit. They have categorically stated that adverse remarks have been expunged and not only that the benefits of MACP scheme has also been given to the applicant w.e.f. 01.09.2008. Thus, both the main reliefs have already been granted.

4. In view of the above, we are left only with the relief pertaining to payment of actual arrears of pay and other pensionary benefits along with interest @ 12% per annum.

5. The respondents can be directed to pay interest only when some delay is found on the part of the respondents. Admittedly, the benefit of MACP was available w.e.f. 1.9.2008 to the applicant which was denied on account of aforesaid ACRs of four years 2004-05, 2005-06 and 2006-07 which were not communicated to the applicant in accordance with the procedure within time. The pleadings in this regards contained in the O.A are uncontroverted that it is only when the applicant went to seek information under RTI Act in respect of these ACRs on 9.4.2010, then only the entries of 2004 to 2007 were communicated for the first time on 27.7.2010. Thereafter, the applicant promptly submitted his representation dated 19.8.2010. But that too was kept pending. It is only when a specific interim order was passed by this Tribunal on 24.2.2011 directing the respondents to dispose of his representation dated 19.8.2010

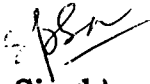
AC

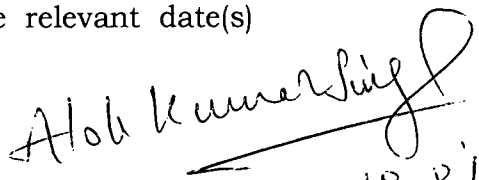
expeditiously preferably within three weeks, then only the representation was disposed of in favour of the applicant and the entries were expunged. As the aforesaid adverse remarks were the only impediment in awarding the benefits of MACP scheme, after expunction of remarks, this benefit was also awarded vide order dated 7.7.2011 i.e. only in the last month.

6. From the aforesaid facts and circumstances, we come to conclusion that there was a delay on the part of the respondents on account of which, the applicant is entitled to get the payment of consequential arrears along with interest particularly because this delay could not be explained satisfactorily. As far as, the rate of interest is concerned, we are of the opinion that the ends of justice would be met, if simple interest is awarded @ 6% per annum from the relevant date(s).

7. In view of the above, this O.A deserves to be allowed and accordingly it is so ordered. The respondents are directed to do the needful in respect of the remaining reliefs expeditiously. It is further directed that the applicant would be entitled to have simple interest @ 6 % per annum from the relevant date(s)

8. No order as to costs.


(S.P. Singh)
Member (A)


(Justice Alok Kumar Singh) 18.8.11
Member (J)

vidya