

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 101/2015

Reserved on: 24.08.2015
Pronounced on: 11.09.2015

Hon'ble Mr. Justice Syed Rafat Alam, Chairman
Hon'ble Mr. P.K. Basu, Member (A)

1. Vikas Bhutani,
Machinist Skilled,
S/o late Sh. Om Parkash Bhutani,
R/o RZ/B-22, Old Janki Puri,
Uttam Nagar, New Delhi – 110 059.
2. Mukesh Kumar,
Machinist Skilled,
S/o Sh. Chhotu Ram,
R/o 316, VPO Barwala,
Delhi-110 039.
3. Sunil Kumar,
Machinist Skilled,
S/o Sh. Shiv Kumar Prasad,
R/o A-136/4, Mahavir Enclave-II,
New Delhi.

...Applicants

(By Advocate: Shri Tanvir Ahmed Ansari)

Versus

1. Union of India through
Secretary,
Ministry of Defence,
South Block, New Delhi.
2. Commandant,
505, Army Base Workshop,
Delhi Cantt., Delhi.
3. Dte Gen of EME (EME Civ)
MGO's Branch,
Integrated HQ of MOD (Army)
DHQ PO New Delhi – 11.

4. Secretary,
Ministry of Personnel, Public Grievances & Pensions,
Deptt. Of Personnel & Training,
North Block, New Delhi. ...Respondents

(By Advocate: Sh. J.P. Tiwari)

O R D E R

By Hon'ble Mr. P.K. Basu, Member (A):

The applicants were appointed as Machinist Skilled between the period 1998 to 2002 respectively in the pre-revised scale of Rs.3050-4590/-. On implementation of the 6th Central Pay Commission, their revised pay band became Rs.5200-20200 + Grade Pay (GP) of Rs.1900/- w.e.f. 01.01.2006. The MACP Scheme was introduced by the respondents w.e.f. 19.05.2009 which envisages upgradation of pay scales after completion of 10 years, 20 years and 30 years of regular service where an employee does not get regular promotion and keeps stagnating. Accordingly, the applicants are due for their first financial upgradation in the years between 2008 and 2012 respectively.

2. The MACP Scheme envisages upgradations in the immediate next higher Grade Pay. As such, the applicants were granted first financial upgradation and their pay has been fixed by granting GP of Rs.2000/-. The applicants' claim is that they are entitled to the GP of Rs.2400/- as per the judgment of the Punjab & Haryana High

Court in CWP No.19387/2011 decided on 19.10.2011 in which the High Court held as under:-

“The entire objective of introduction of ACP/MACP Scheme is to alleviate stagnation as regards an employee who has a number of regular years of service on the same post without any avenue of promotion. It is under such circumstances that a financial incentive is sought to be granted to an employee upon completion of a certain number of years of service on the same post. Under the ACP Scheme of 199, the financial upgradations were to be granted upon completion of 12 years and 24 years of regular service whereas under the MACP Scheme such financial upgradations are envisaged upon completion of 10/20 or 30 years of service. The contention raised on behalf of the petitioners if accepted would defeat the very objective for which such Schemes have been introduced.”

It is further contended that an SLP [(CC) 7467/2013] filed before the Supreme Court against the aforesaid order of the Punjab & Haryana High Court was dismissed vide judgment dated 15.04.2013 and, therefore, the order of High Court has attained finality. The applicants, therefore, claim that since in the hierarchy of posts, the next grade is that of Machinist (Highly Skilled Grade-II) in PB-1 + GP of Rs.2400/-, they should be granted GP of Rs.2400/- on grant of 1st financial upgradation under the MACP Scheme.

3. The respondents in their counter affidavit have taken the stand that under the MACP Scheme, the applicants are entitled to 1st financial upgradation only in the Grade Pay of Rs.2000/-.

4. Heard the learned counsel for the parties and perused the judgments so produced.

5. In view of the judgment of High Court of Punjab & Haryana in CWP No.19387/2011 (supra) and the Tribunal's order passed in the case of ***Vinai Kumar Srivastav & Anr. V/s. East Delhi Municipal Corporation & Ors.*** [OA No.1586/2014 decided on 08.09.2015], we are of the view that though the MACP Scheme provides for promotion in the next Grade Pay in view of the judgment of Punjab & Haryana High Court, which has also not been interfered by the Supreme Court, now the settled position is that even under the MACP Scheme, financial upgradations would be as per promotional hierarchy. As such, the applicants would be entitled for their first financial upgradation in the GP of Rs.2400/- with effect from the date they have completed 10 years of regular service, if otherwise found eligible. The respondents are, therefore, directed to issue orders accordingly re-fixing the pay of the applicants with all successive increments and arrears due to them.

6. With the above order, the instant Original Application stands disposed of with no order as to costs.

(P.K. Basu)
Member (A)

(Syed Rafat Alam)
Chairman

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