

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA NO.1813/2011

Order reserved on 18.07.2016
Order pronounced on 21.07.2016

HON'BLE SHRI P.K. BASU, MEMBER (A)
HON'BLE DR B.A. AGRAWAL, MEMBER (J)

Sh. Roshan Lal
S/o Late Sh. Duli Chand
R/o D-4/28, Brij Puri,
Post Office, Gokul Puri,
Delhi-110094.

...Applicant

(By Advocate: Shri Ajesh Luthra)

VERSUS

1. Govt. of NCT of Delhi
Through its Chief Secretary,
Play Ground Building,
I.P. Estate, New Delhi.
2. The Director of Education,
Directorate of Education,
Govt. of NCT, Old Secretariat,
Delhi.
3. The Assistant Director,
Directorate of Education,
ACP Cell, Lucknow Road,
Delhi.
4. The Principal,
Govt. Boys Sr. Sec. School No.1,
C-Block, Yamuna Vihar,
Delhi-110053.

...Respondents

(By Advocate: Shri B.N.P. Pathak)

:ORDER:**DR BRAHM AVTAR AGRAWAL, MEMBER (J):**

The applicant, who retired from the post of PGT (English) on 31.07.2010, had joined the respondents as a TGT (Science A) on 01.01.1981, after having served as a TGT (Maths) in Nav Jivan Inter College (an aided autonomous institution) in Meerut (UP) w.e.f. 12.07.1973. He claims that his service for the period from 12.07.1973 to 31.12.1980 be counted for grant of benefits under the ACPS and the MACPS, and the reliefs sought in the instant OA read as under:

- “(i) to direct the respondent to grant the financial upgradation after the completion of requisite length of service under the ACP/MACP scale as the same was granted by this Hon’ble Tribunal in similarly situated persons in OA No.1761/2010 titled as Rati Ram Singh & Ors. vs. Govt. of NCTD & Ors.
- (ii) to direct the respondents to refix the pay scale of the applicant from the date of completion of 2nd ACP i.e. in the year 1996 and thereafter in year 2008 respectively with entire arrears.”

(sic)

2. We have heard the learned counsel for the parties, perused the pleadings and the rulings cited at the Bar, and given our thoughtful consideration to the matter.

3. At the outset, it may be observed that from the OA the date(s) from which the applicant claims financial upgradation(s)

under the ACPS/MACPS is/are not clear, except that first financial upgradation under the ACPS was granted to him w.e.f. 01.01.1993. The applicant mainly relied on this Tribunal's Order dated 21.04.2011 in the OA No.1761/2010 [Rati Ram Singh & Ors. Vs. Govt. of NCT of Delhi & Ors.] (Annexure A-7), whereby had been set aside the respondents' circular dated 29.04.2010 (Annexures A-6 and R-2), which reads as under:

"It is hereby brought to the notice of all concerned that service rendered by any teacher/official in any Aided school, before absorption in the Directorate of Education, shall not be counted for the purpose of grant of financial up-gradation under the ACP/MACP Schemes."

4. The learned counsel for the respondents pointed out that the aforesaid Order of the Tribunal was set aside by the Hon'ble High Court of Delhi, vide its judgment dated 06.03.2013 in WP (C) No.6959/2011 [GNCT of Delhi & Ors. Vs. Rati Ram & Ors.] and though the matter is *sub judice* before the Hon'ble Supreme Court, presently, the said judgment should prevail. The Hon'ble High Court, in the said judgment, has held that the ACPS and the MACPS clearly stipulate that for government employees past service rendered in private and other autonomous bodies other than those established by the Government would be excluded.

5. The learned counsel for the applicant also relied on the respondents' orders dated 11.06.2007 and 31.12.2009

(Annexures A-3 and A-4/R3) extending the benefits under the ACPS and the MACPS to the teaching employees under the respondents and the Government of India, Ministry of Human Resource Development's communication dated 12.07.1988 (Annexure A-8) providing for counting of past service in autonomous bodies under Governments for pensionary benefits. However, the said orders cannot help the applicant as they do not relate to the point involved in the instant OA and the service counted for pensionary benefits cannot for that reason be said to be countable for the benefits under the ACPS and the MACPS.

6. The learned counsel for the applicant further relied on this Tribunal's orders dated 14.05.2010 in the OA No.2121/2009 [Smt. Ramesh Thakkar Vs. GNCT of Delhi and Anr. (Principal Bench)] and dated 09.09.2011 in the OAs Nos.278 and 279 of 2008 [Kusal Kumar Sarma and Anr. Vs. UOI & Ors. (Guwahati Bench)]. The first order does not relate to benefits under the ACPS/MACPS and even for pensionary benefits the past service counted was in State Government. The second one rules about reckoning of service with State Government/High Court for benefits under the ACPS. The past service in question in the instant case was not rendered in State Government/High Court. Therefore, the said reliance can be said to be misplaced.

7. In **Secretary, Govt. of NCT of Delhi & Ors. Vs. Grade-I DASS Officers' Association & Ors.** [2014 (9) SCALE 25], the Hon'ble Supreme Court has held that no benefit under the ACPS can be granted by changing the State Policy underlying the same.

8. In the light of the above, we are of the view that the OA is devoid of merits. The same is, therefore, dismissed. No order as to costs.

(DR. BRAHM AVTAR AGRAWAL)
MEMBER (J)

(P.K. BASU)
MEMBER (A)

/jk/