

Central Administrative Tribunal
Principal Bench
New Delhi

O.A.No.1855/2012
with
O.A.No.3167/2014

Order Reserved on: 07.09.2016
Order pronounced on 21.09.2016

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Shri K. N. Shrivastava, Member (A)

O.A.No.1855/2012:

T.M.K.Rayudu
S/o Sh. Chandraial
Working as TGT (Social Science) in N.V.Mamnoor
Warangal, Andhra Pradesh
R/o J.N.V.Mamnoor Warangal
Andhra Pradesh. ... Applicant

(By Advocate: Sh.Ranjit Sharma)

Versus

1. Union of India through the Secretary
Ministry of Human Resources Development
Govt. of India, Shastri Bhawan
New Delhi.

2. The Commissioner
Navodaya Vidyalaya Samiti
A-28, Kailash Colony
New Delhi – 110 048. ... Respondents

(By Advocate: Sh. S.Rajappa with Dr. Ch. Shamsuddin Khan)

with

O.A.No.3167/2014:

1. All India Navodaya Vidyalaya
Staff Association (Regd.)
Through its General Secretary, Age 50 years
At Jawahar Navodaya Vidyalaya
Mamnoor, Warangal, Andhra Pradesh.
2. P.Joji Babu, Age 46 years
TGT, JNV Mamnoor, Warangal
Andhra Pradesh. ... Applicants

(By Advocate: Sh. Ranjit Sharma)

Versus

1. The Union of India
through the Secretary
Department of School Education and Literacy
Human Resources Development
Shastri Bhawan, Cannaught Place,
New Delhi-1.
2. The Commissioner
Navodaya Vidyalaya Samiti
B-15, Institutional Area, Sector-62
Noida, Dist: GB Nagar, UP. ... Respondents

(By Advocate: Sh. S.Rajappa with Dr. Ch. Shamsuddin Khan)

O R D E R (Common)

By V. Ajay Kumar, Member (J):

Since the questions of fact and law involved in both the aforesaid
OAs are identical, they are being disposed of by this common order.

2. The Applicant in OA No.1855/2012 and the 2nd Applicant in OA No.3167/2014 are working as TGTs in the Respondent-Navodaya Vidyalaya Samiti (in short, NVS) and the 1st Applicant in OA No.3167/2014 is the All India Navodaya Vidyalaya Staff Association (Regd.) represented by its General Secretary.

3. Both the OAs are filed seeking for a direction to the respondents to extend the Modified Assured Career Progression Scheme (in short, MACP Scheme) benefits to the Teaching Staff of the NVS on par with the Non-Teaching staff of the NVS, from due date, with all consequential benefits.

4. For the sake of convenience, we have taken the facts of OA No.1855/2012 for consideration.

5. The applicant, in OA No.1855/2012, was appointed to the post of TGT (Social Science) on 28.08.1991 and after completion of 12 years service he was granted senior scale and has been continuing as such till date. Though the applicant completed his 20 years of service on 28.08.2011 and became eligible for granting 2nd financial Upgradation under MACP Scheme, on completion of 20 years of service, the same was not granted/extended to him.

6. It is the contention of the applicants that the respondent-NVS has extended the benefit of the MACPS to the Non-Teaching Staff working in NVS but not extended the same to the Teaching Staff, such as the applicants. It is submitted that not granting MACPS benefits to

the applicants and other teaching staff of NVS, on par with Non-Teaching Staff of NVS is arbitrary, illegal and in violation of the MACP Scheme itself, besides violative of Articles 14, 16 and 21 of the Constitution of India.

7. Heard Shri Ranjit Sharma, the learned counsel for the applicants and Shri S.Rajappa with Dr. Ch. Shamusuddin Khan, the learned counsel for the respondents, and perused the pleadings on record.

8. With an intention to remove stagnation, the Government of India introduced Assured Career Progression Scheme (in short, ACP Scheme) vide DoPT OM dated 09.08.1999. In pursuance of the recommendations of the 6th Central Pay Commission, the Government, vide DoPT OM dated 19.05.2009, in supersession of the ACP Scheme, introduced Modified Assured Career Progression Scheme (MACPS). Under the new MACPS, there shall be three financial upgradations counted from the direct entry grade on completion of 10, 20 and 30 years service respectively. It envisages merely placement in the immediate next higher Grade Pay in the hierarchy of the recommended Pay Bands and Grade Pay as given in Session-I, Part-A of the 1st Schedule of the CCS (Revised) Pay Rules, 2008. The paras of the MACPS, relevant for the present OAs, are as under:

"13. Existing time-bound promotion scheme, including in-situ promotion scheme, Staff Car Driver Scheme or any other kind of promotion scheme existing for a particular category of employees in a Ministry/Department or its offices, may continue to be operational for the concerned category of employees if it is decided by the concerned administrative authorities to retain such Schemes, after necessary consultations or they may switch-over to the MACPS. However, these Schemes shall not run concurrently with the MACPS.

14. The MACPS is directly applicable only to Central Government Civilian employees. It will not get automatically extended to employees of Central Autonomous/Statutory Bodies under the administrative control of a Ministry/Department. Keeping in view the financial implications involved, a conscious decision in this regard shall have to be taken by the respective Governing Body/Board of Directors and the administrative Ministry concerned and where it is proposed to adopt the MACPS, prior concurrence of Ministry of Finance shall be obtained."

9. The respondents vide their counter submit that the MACP Scheme has been adopted by the NVS in respect of its non-teaching employees with the approval of the Ministry of HRD vide its letter No.F.17-67/2009-UT.I dated 22.12.2010. The MACPS has been introduced in supersession of the previous ACP Scheme. The Teaching Staff of NVS were not covered under the previous ACP Scheme and as such the MACPS was also not extended to them. Instead, the teaching staff have been granted senior scale/selection scale under separate Scheme vide Samiti's Communication No.2-119/99-NVS(Estt.) dated 06.11.2000, which is not available to the non-teaching staff of NVS. Since the teaching staff of NVS were provided with senior scales and selection scale, to remove stagnation among them, they are not entitled for extension of MACP Scheme. Further, the stand of the Government of India in respect of MACPS is that the same is extended to the staff, who had got the benefit of ACP Scheme.

10. However, the learned counsel for the applicant while not denying that the teaching staff, when compared to the non-teaching staff, are enjoying the benefit of senior and selection scales, however, submits that under the MACPS upgradation of Grade Pay is automatic on completion of 10, 20 and 30 years of service to all the eligible persons,

whereas the senior and selection scales are subject to the promotion norms and the selection scale is restricted to 20% of the total strength of a Cadre, and hence, the benefits of both are not comparable.

11. It is not in dispute that the respondent-NVS is an autonomous body under the Government of India and the MACPS was not automatically extended to its employees. The respondent-NVS like other central autonomous/statutory bodies under the administrative control of the Ministry/Department were given liberty to take a conscious decision about the adoptability of the MACPS keeping in view the financial implications involved and other circumstances specific to the said organization.

12. It is also not in dispute that the ACP Scheme dated 09.08.1999, was not made applicable to the applicants and other Teaching Staff of NVS. It is also not in dispute that the MACP Scheme is applicable to those categories for which the ACP Scheme was applicable. The applicant and other Teaching Staff of NVS are having the benefit of senior scale and selection scales, which are not available to the Non-Teaching Staff of NVS. Hence, there is a difference between the service conditions of the Teaching Staff and the Non-Teaching Staff of the NVS.

13. Hence, we cannot find fault with the conscious decision taken by the respondent-NVS in not extending the benefit of MACPS to the Teaching Staff of the respondent-NVS.

14. Accordingly, both the Original Applications are dismissed being devoid of any merit. No costs.

(K. N. Shrivastava)
Member (A)

(V. Ajay Kumar)
Member (J)

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