

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA 3297/2013

Order reserved on: 10.12.2015

Order pronounced on: 16.12.2015

Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. P.K. Basu, Member (A)

Mrs. Kamlesh Sharma
Group B
Age 62 years
W/o Shri Rajeshwar Dayal
R/o 2/118, Sundar Vihar
New Delhi-110087

... Applicant

(Through Shri Arun Nischal, Advocate)

Versus

South Delhi Municipal Corporation
Through its Commissioner
Civic Centre, New Delhi

... Respondents

(Through Shri R.K. Shukla, Advocate)

ORDER

Mr. P.K. Basu, Member (A)

The applicant joined as Assistant Teacher in Municipal Corporation of Delhi (MCD) in 1971. She, therefore, completes 24 years' of service in the year 1995 and was due for second upgradation under Assured Career Progression Scheme (ACPS) introduced in MCD with effect from 9.08.1999. She was granted second upgradation under ACPS with effect from 9.08.1999. Her pay scale was revised to PB-3 in the revised pay scale of

Rs.15600-39100/- with Grade Pay of Rs.5400/- with effect from 1.01.2006.

2. Thereafter, the Modified ACPS was introduced from 1.09.2008 and the applicant became due for 3rd upgradation of pay scale after 30 years of completed service (2001). The respondents granted her the third MACP upgradation in PB-3 with Grade Pay of Rs.6600/-. However, while fixing pay, the effective date was erroneously determined as 1.01.2006 instead of 9.08.1999.

3. The applicant made a representation for giving upgradation benefit from 9.08.1999 instead of 1.01.2006. While the respondents corrected the date to 9.08.1999, they reduced the Grade Pay granted under third upgradation under MACPS from Rs.6600/- to Rs.5400/-. The applicant claims that the respondents have granted the Grade Pay of Rs.6600/- to similarly placed teachers in South Delhi Municipal Corporation (SDMC).

4. The learned counsel for the applicant states that the applicant's grievance is that she has been meted out with hostile discrimination as similarly placed Teachers/ Principals have been granted Grade Pay of Rs.6600/- by SDMC. In fact, North Delhi Municipal Corporation (NDMC) has also granted Grade Pay of Rs.6600/- to similarly placed and thus reducing her Grade Pay to Rs.5400/- is discriminatory and violative of Articles 14 and 16 of the Constitution of India.

5. The counter affidavit of the respondents does not throw much light on the issue as it does not answer point-wise the questions raised by the applicant viz.:

- (i) Reasons for reducing the Grade Pay to Rs.5400/- from Rs.6600/- other than stating that it is a policy decision. What is the reason behind the policy decision and how the respondents arrived at such a decision is not clear at all.
- (ii) It is also not clear how third MACP could be in the same Pay Grade of PB-3 and Grade Pay of Rs.5400/- nor the respondents can take shelter of para 8.1 of MACP guidelines which read as follows:

“8. Consequent upon the implementation of Sixth CPC’s recommendations, grade pay of Rs.5400 is now in two pay bands viz. PB-2 and PB-3. The grade pay of Rs.5400 in PB-2 and Rs.5400 in PB-3 shall be treated as separate grade pays for the purpose of grant of upgradations under MACP Scheme.”

Clearly such a situation arises when the next pay grade in the hierarchy of pay grade is in PB-3 and the lower pay grade is PB-2. In this case, both the pay grades are PB-3; and

- (iii) There is no reply to the fact as to how the same pay grade of Rs.6600/- is being given to other teachers in the MCD and not the applicant.

The reply of the respondents, therefore, is of no assistance to us.

6. We have heard the learned counsel for the parties and gone through the pleadings available on record.

7. The third upgradation under MACP is earned at the end of 30 years of service and the upgradation is to the next higher pay grade/ Grade Pay in the hierarchy of pay grades and Grade Pay of Sixth Pay Commission. Clearly, the applicant is eligible keeping in view that she has completed 30 years' of service as on 1.09.2008. As per the MACPS, the applicant should have, therefore, got upgradation in the next level i.e. PB-3 Grade Pay Rs.6600/-, which was rightly fixed by the respondents, initially. We also note the fact that both the orders dated 28.07.2015 by South Delhi Municipal Corporation and 28.01.2013 by North Delhi Municipal Corporation grant Grade Pay of Rs.6600/- under 3rd upgradation under MACP.

8. Lastly, as pointed out earlier, para 8.1 of the guidelines does not apply in the present case in the light of the facts placed before us.

9. In the above circumstances, the OA succeeds and is allowed. There shall, however, be no order as to costs.

10. Before we part, we would like to draw attention of the respondents that in this case neither their reply nor the arguments of the learned counsel for the respondents, Shri R.K.

Shukla were of any assistance to this Tribunal. In fact, they could not even address the basic issues raised by the applicant in her OA. Let a copy of this order be sent to the Chief Secretary, Government of National Capital Territory of Delhi so that he may take suitable steps in this regard for future.

(P.K. Basu)
Member (A)

(V. Ajay Kumar)
Member (A)

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