

Central Administrative Tribunal
Principal Bench
New Delhi

O.A.No.3810/2012

Order Reserved on: 06.10.2015
Order pronounced on 27.10.2015

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

Krishna Kumari
House No.374
Sector 14 Rohtak
Haryana – 194001. ... Applicant

(By Advocate: Ms. Kiran Singh)

Versus

1. Union of India through
Secretary, Ministry of Defence
Seventh Block
New Delhi.
2. The Director General, NCC
West Block No.IV
R.K.Puram,
New Delhi. ... Respondents

(By Advocate: Sh. A.K.Singh)

ORDER

By P. K. Basu, Member (A):

The applicant's claim is that she joined in Respondent-
Office as Whole Time Girl Cadet Instructors, SMI Grade-I on

21.04.1980. She has completed 30 years, and, therefore, her claim is that she is entitled to 3rd financial upgradation under Modified Assured Career Progression Scheme. As the respondents have not granted the same, she has filed this OA with the following relief(s):

- a) To direct the respondents to grant MACP-III from 21/04/80 (30yrs) of service.
- b) To direct the respondent to modify the order dated 22.07.2011 in respect of the date of joining of applicant as it is mentioned as 5 September 1983 instead of 21/04/1980.
- c) Any other order may also be passed in the acts and circumstances of the case in favour of the applicants.

2. According to the applicant, in OA No.1592/2006, this Tribunal in its order dated 24.08.2007, had decided the ratio that if a period is reckoned for the qualifying service for pension, they are to be reckoned for the purposes of ACP also. It is stated that the applicant's date of joining is mentioned in service as 05.09.1983 erroneously rather than 24.10.1980.

3. The respondents in their counter have stated that the applicant was appointed as Whole Time CGirls Cadet Instructor (SMI-Grade I) on temporary basis vide order dated 15.03.1980. She was given employment on permanent basis vide Order dated 05.09.1983. As per para 9 of Annexure I of DoPT's Office Memorandum dated 19.05.2009, which pertains to the conditions for grant of the financial upgradation under the MACP Scheme, 'Regular Service' is defined as follows:

"9. '**Regular service**' for the purposes of the MACPS shall commence from the date of joining of a post in direct entry grade on a regular basis either on direct recruitment basis or on absorption/re-employment basis. Service rendered on adhoc/contract basis before regular appointment on pre-appointment training shall not be taken into reckoning."

4. The guidelines further stipulate that only period of regular service will be counted for the purpose of MACP. It is, therefore, stated that the applicant does not complete the 30 years of regular service counting from 05.09.1983 as she retired from service w.e.f. 31.08.2010. Therefore, she is not

entitled to 3rd MACP. As regards OA No.1592/2006, the respondents states that this pertains to ACP Scheme, and not MACP Scheme, and moreover, the applicant is not even a party in the said OA.

5. The Judgement of the Hon'ble Supreme Court in **Haryana Power Generation Corporation Limited and Others v. Harkesh Chand and Others**, Civil Appeal No.100 of 2013, decided on 07.01.2013, placed before us, in which the claim was that inclusion of training period as apprentice should also be counted as working period for the purpose of ACP benefits, also would not apply in the present case as the present case relates to MACP Scheme.

6. Heard both the learned counsel and perused the pleadings on record.

7. The Guidelines of 19.05.2009 are very clear. As cited by the respondents, the MACP benefits are earned on the basis of regular service, which does not include period spent on ad hoc/contract basis pre-appointment training before regular appointment. Since the applicant's service between

24.10.1980 and 05.09.1983 is not a regular service, that period cannot be included for the purposes of MACP benefits. Therefore, the respondents' decision cannot be faulted with and accordingly the OA is liable to be dismissed.

8. In the result, the OA is dismissed. No costs.

(P. K. Basu)
Member (A)

(Justice Syed Rafat Alam)
Chairman

/nsnrvak/