

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00014/2015

Tuesday, this the 3rd day of April, 2018

CORAM:

Hon'ble Mr. U. Sarathchandran, Judicial Member
Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member

Unnikrishnan E.A., aged 48 years,
 S/o. Ayyapan, Lower Division Clerk,
 Centre for Marine Living Resoruces and Ecology,
 Kendriya Bhavan, VI floor, Kakkanad,
 Ernakulam – 682 037 residing at Qtr. No. B28A,
 GPRA, Kakkanad. **Applicant**

(By Advocate : Mr. U. Balagangadharan)

V e r s u s

1. Union of India, represented by the Secretary, Ministry of Earth Science, Mahasgar Bhavan, Prithiv Bhavan, Block-12, CGO Complex, Lodhi Road, New Delhi – 110 003.
2. The Director, Centre for Marine Living Resources and Ecology, Ministry of Earth Science, Kendriya Bhavan, VI Floor, Kakkanad, Ernakulam – 682 030.
3. The Secretary, Department of Personnel and Training, North Block, New Delhi – 110 001. **Respondents**

(By Advocate : Mr. K. Kesavankutty, ACGSC)

This application having been heard on 13.03.2018, the Tribunal on 03.04.2018 delivered the following:

O R D E R

Per Hon'ble Mr. U. Sarathchandran, Judicial Member –

Applicant is presently working as Lower Division Clerk (for short LDC) in the Centre for Marine Living Resources and Ecology(CMLRE, for

short) at Ernakulam. He is aggrieved by Annexure A6 office order of placing him under the second MACP with effect from 16.10.2012 in PB-1 with Grade Pay of Rs. 2,800/- which according to him ought to have been done by placing him in the Grade Pay of Rs. 4,600/- of the next hierarchical post of Assistant in PB-2. His Annexure A2 representation and Annexure A8 reminder were rejected by the respondents by Annexure A9 OM relying on Annexure A10 OM dated 20.6.2014 issued by the DoP&T and hence he has challenged Annexures A6, A9 and A10 in this OA.

2. Applicant states that he was appointed as LDC on 16.10.1992 on the advice of the Staff Selection Commission in Sagar Sampada Cell , Kochi under the Department of Ocean Development. Sagar Sampada Cell was a subordinate office under the Ocean Development Department which was a part of Home Ministry had an independent cadre and was autonomous in nature and character. He goes on to say that the status of Sagar Sampada Cell was changed and was converted as an attached office to the Department of Ocean Development with effect from 26.12.1995 as per Annexure A2 order and thereafter it is an attached office and a part of the Department and part of the cadre of the Department/Ministry with the advantage of interchangeability of the posts. The Sagar Sampada Cell was thereafter rechristened as CMLRE. The confirmation of the applicant as LDC was issued by the Department of Ocean Development vide Annexure A3 in its capacity as the cadre controlling authority. On completion of 12 years he was granted ACP in the scale of pay of Rs. 4,000-6,000/- in 2004 which is the scale attached to the post of Upper Division Clerk (for short

UDC). As there is no post of UDC in Sagar Sampada Cell, the applicant was granted the scale of pay attached to the post of UDC which is the next higher post of Central Secretariat Clerical Service (for short CSCS). When the VIth CPC recommendations were implemented applicant was given pay band-1 Rs. 5,200-20,200/- with Grade Pay of Rs. 2,400/- which is the replacement scale of Rs. 4,000-6,000/- attached to the post of UDC. On the recommendations of the VIth CPC the applicant was granted second financial upgradation under the MACP scheme by placing him in the next higher Grade Pay of Rs. 2,800/- with effect from 16.10.2010 vide the impugned Annexure A6 order which according to him is not correct. Applicant states that since the CSCS has only the promotional grades of LDC, UDC and Assistant he ought to have been given the next Grade Pay of the Assistant in PB-2 with Grade Pay of Rs. 4,600/. He therefore, prays for :

- “i) Call for the records leading to Annexure A6 and set aside the same to the extend it does not grant financial upgradation to PB2 with GP if Rs. 4,600/- applicable to the post of Assistant in CSCS cadre under MACP scheme.
- ii) Call for records leading to Annexure A9 and Annexure A10 and set aside the same as legally and factually unsustainable.
- iii) Direct the 2nd respondent to grant the applicant second financial upgradation under MACP scheme in PB2 with grade pay of Rs. 4,600/- as per the hierarchy in CSCS cadre of Ministry of Earth Scheme treating the applicant to have been inducted into CSCS cadre with effect from 16.10.2012.
- iv) Declare that the applicant stands inducted to CSCS cadre by virtue of merger of Sagar Sampada Cell as Attached office and he is entitled to be promoted/upgraded under MACPS as per the hierarchy in the CSCS cadre.
- v) Grant such other relief that the Hon'ble Court may feel fit in the facts and circumstances of the case.”

3. Respondents refuted the contention of the applicant stating that the CMLRE has never been included in CSCS because as per DoP&T

guidelines no outsider could be included in CSCS as LDC except recruitment through (i) by direct – 80%, (ii) by limited departmental competitive examination amongst Group-D staff of CSCS offices – 10%, (iii) by promotion of Group-D employees of CSCS offices – 5% and (iv) sports quota – 5%. The change of status of an office from a subordinate to an attached office does not make the regular LDCs of that office entitled for induction to CSCS service and therefore, the claim of the applicant that he ought to have been granted pay of Assistant in CSCS cannot be agreed to.

4. We have heard Shri U. Balagangadharan, learned counsel appearing for the applicant and Shri K. Kesavankutty, ACGSC learned counsel appearing for the respondents. Perused the argument notes produced by the applicant as well as the record.

5. Before getting into the legal intricacies as to whether the MACP is to be given in the next Grade Pay in the hierarchy of Grade Pay or that in the hierarchy of promotional post, in this particular case, it is highly essential to decide whether the applicant who is currently working as LDC in CMLRE is having the promotional post of Assistant in the former Sagar Sampada Cell or even in the clerical cadre of the rechristened CMLRE. The respondents are emphatic when they state that although CMLRE is an attached office under the Department of Ocean Development, the staff of CMLRE never gets the status of CSCS. Applicant himself admits that there is no post of Assistant in the clerical cadre of CMLRE. Therefore we feel that the applicant was not successful in establishing that he is part of CSCS

cadre and that he cannot place reliance on the promotional post of Assistant for the purpose of granting him financial upgradation to the grade pay/ promotional scale of **Assistant** under the MACP Scheme. Therefore, needless to say that the very foundation on which the applicant has built up his claim crumbles.

6. Nevertheless, we suggest that the respondents may treat the post of LDC in CMLRE as an isolated post for which a separate mechanism for financial upgradation may be devised in consultation with respondent No.3 and Finance ministry to alleviate the drudgery of stagnation.

7. The Original Application is disposed of with the above observations. No order as to costs.

**(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER**

**(U. SARATHCHANDRAN)
JUDICIAL MEMBER**

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APPLICANT'S ANNEXURES

Annexure A1 – True copy of the appointment order NO. DOD/44-Estt/86/91, dated 27.10.1992 of the applicant issued by Department of Ocean Development, New Delhi.

Annexure A2 – True copy of the order DOD/44-Estt/72/88 dated 3.1.1996 issued by Department of Ocean Development, New Delhi.

Annexure A3 – True copy of the order DOD/44-Estt/87/95 dated 22.6.2001 issued by Department of Ocean Development, New Delhi.

Annexure A4 – True copy of the order DOD/21/2/02-Estt dated 11.10.2004 issued by Department of Ocean Development, New Delhi.

Annexure A5 – True copy of Office Memorandum No. 35034/3/2008-Esst-(D) dated 19.5.2009 issued by 3rd respondent.

Annexure A6 – True copy of order No. MoES/25/23/2009-Estt dated 12.3.2012 issued by 1st respondent.

Annexure A7 – True copy of the covering letter dated 14.10.2013 to the Ministry of Earth Science enclosing therewith a copy of representation.

Annexure A8 – True copy of the reminder representation dated 16.4.2014 to Jt. Secretary to the Govt. of India, New Delhi.

Annexure A9 – True copy of Office Memorandum MoES/21/02/2014-Estt. Dated 14.7.2014 issued by the first respondent.

Annexure A10 – True copy of Office Memorandum No. 22034/4/2013-Estt.D dated 20.6.2014 issued by 3rd respondent.

Annexure A9(a)- True copy of the Recruitment Rules of Central Secretariat Service, 2009.

Annexure A10(a)-True copy of the schedule of revised pay scales ranging from fourth CPC to seventh CPC.

Annexure A11 – True copy of the order dated 21.12.2015 of the Department of Personnel.

Annexure A12 – True copy of the notification dated 10.11.2017 of Ministry of Earth Sciences.

RESPONDENTS' ANNEXURES

Annexure R1 – True copy of Order No. DOD/44-Estt/86/91 dated 27.10.92 of the Department of Ocean Development, Government of India, pertaining to the applicant.

Annexure R2 – True copy of DOPT OM No. 35034/1/97-Estt(D) dated 9.8.1999 of the Ministry of Personnel, Public Grievances and Pension, Government of India.

Annexure R3 – True copy of Department of Ocean Development (Order No. DOD/21/02-Estt. Dated 11.10.2004), Government of India.

Annexure R4 – True copy of DOPT OM No. 35034/03/2008-Estt (D) dated 19.05.2009 of the Ministry of Personnel, Public Grievances & Pension, Government of India.

Annexure R5 – True copy of Office Order No. MoES/25/23/2009-Estt. Dated 2.3.2012, Ministry of Earth Sciences, Government of India relating to the applicant.

Annexure R6 – True copy of the Department of Personnel and Training ID No. 20/27/2000-CS.II(Part) dated 20.10.2000.

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