

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No.180/01112/2014

Thursday, this the 5th day of April, 2018

CORAM:

Hon'ble Dr.K.B.Suresh, Judicial Member
Hon'ble Mr.E.K.Bharat Bhushan, Administrative Member

1. M.S Sabu
S/o.M.K.Sivaraman Nair
Store Keeper Grade II
Canteen Stores Department, Gandhi Nagar
Kochi, residing at Devi Kripa, Karumaloor
Manakkappady, Ernakulam 683 511
 2. Viswambaran N.N
S/o.N.K.Narayanan
Store Keeper Grade II, Canteen Stores Department
Gandhi Nagar, Kochi, residing at B6,
CSD residential complex, Gandhi Nagar
Kochi – 682 020
- **Applicants**

(By Advocate – Mr.M.R.Hariraj)

V e r s u s

1. Union of India, represented by the Secretary
Ministry of Defence, New Delhi-110 001
 2. General Manager
Canteen Stores Department
Adelphy, 119, MK Road, Mumbai-400 020
 3. Area Manager
Canteen Stores Department, Gandhi Nagar
Kochi- 682 020
- **Respondents**

(By Advocate – Mr.N.Anil Kumar, Sr.PCGC(R))

This Original Application having been heard on 5.4.2018, the Tribunal on the same day delivered the following:

O R D E R (ORAL)

Per: Dr.K.B.Suresh, Judicial Member

Heard. The matter relates to the pre-revised pay scale of Rs.4000-6000, 5000-8000 and other pay scales which were merged into a single Pay Band 2 with Grade Pay of Rs.4200 and Rs.4600 respectively with retrospective effect from 1.1.2006. The benefit claimed is for the interregnum period between 1.1.2006 and 31.8.2008 when the actual benefit of MACP was made available to the applicant and the interregnum period between thereof as ACP & MACP. Therefore, in answer to a query whether the benefits of ACPs would be allowed in respect of isolated cases due between 01.01.2006 and 31.8.2008 where the pre-revised pay scales of Rs.5000-8000 & Rs.5500-9000 and Rs.6500-10500 & Rs.7450-11500 have been merged into single grade pay of Rs.4200 and Rs.4600 respectively w.e.f 01.01.2006?, the DoP&T has given an answer like this:

Yes. Since the pre-revised Rs.5000-8000 & Rs.5500-9000 and Rs.6500-10500 & Rs.7450-11500 (isolated cases) have been merged into single grade pay of Rs.4200 and Rs.4600 respectively w.e.f 01.01.2006, the benefits of 1st and 2nd financial upgradation under the ACPs should be considered/allowed in the grade pays of Rs.4600 and Rs.4800 in PB-2, as the case may be, due between 01.01.2006 and 31.8.2008 in respect of isolated cases in terms of para 5 of Annexure -1 of MACPs dated 19.5.2009.

2 In the counter affidavit, respondents submit that the second financial upgradation of the applicant has been given from the pay scale of Rs.4000-100-6000 to the pay scale of Rs.5000-150-8000 w.e.f 16.5.2007. The clarification regarding merger of pay scales of Rs.5000-8000 and Rs.5500-9000 is applicable only to a government servant who has been recruited in

the hierarchy in pre-revised pay scale of Rs.5000-8000 and who did not get a promotion even after 25 years of service prior to 1.1.2006. But that does not appear to be so, as per the explanation given by the DoP&T. It also do not stand to reason. When the ACP was superimposed by MACP, there must be necessarily happened to be an interregnum period of implementation. The ACP canvased that benefits under the promotional hierarchy would be granted to him. Therefore, as soon as the applicant becomes eligible even though which is within that interregnum period, the applicant becomes eligible for the ACP and even though the MACP was actually fallen in that part of payment by the negative visit of MACP. In that respect this principle cannot be allowed to adjudge the stated right of the applicant as MACP was brought in retrospectively and therefore, the explanation given by the DoP&T would have the field. Therefore, it is hereby declared that the applicants are eligible to get their pay fixed in Pay Band 2 plus Grade Pay of Rs.4600 with effect from 16.5.2007 and 18.5.2007 respectively and subsequent pay fixations/financial upgradations also should be modulated in accordance with law.

3. The Original Application is allowed with the limited relief explained as above. This order shall be complied with by the respondents within three months from the date of receipt of a copy of this order. No costs.

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

(DR.K.B.SURESH)
JUDICIAL MEMBER

List of Annexures

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| Annexure A-1 | - | A true copy of Order No.3/Pers/AGM(P)/1190(Gp C&D)/1153 dated 26.9.2007. |
| Annexure A-2 | - | A true copy of representation dated 25.6.2012. |
| Annexure A-3 | - | A true copy of letter no.3/Pers/A-2(PFC)/PN-2373/760 dated 2.8.2012 issued for second respondent. |
| Annexure A-4 | - | A true copy of letter No.15306/2/MP4(Civ)(a) dated 7.8.2012. |
| Annexure A-5 | - | A true copy of representation, dated 20.12.2012. |
| Annexure A-6 | - | A true copy of representation dated 22.8.2013. |
| Annexure A-7 | - | A true copy of order no.3/Pers/A2-(PFC)/PN-2373/923 dated 30.10.2013 issued for second respondents. |
| Annexure A-8 | - | A true copy of 3/Pers/A2(PFC)/1216(Gp C)/977 dated 14.11.2013. |

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