

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

REVIEW APPLICATION NO.170/00003 /2018

IN

ORIGINAL APPLICATION NO.170/00249/2017

DATED THIS THE 24TH DAY OF JULY, 2018

HON'BLE SHRI DR. K.B. SURESH, MEMBER (J)

HON'BLE SHRI DINESH SHARMA, MEMBER (A)

1. The Union of India

Represented by its Secretary,
Ministry of Information and Broadcasting,
'A' Wing, Shastry Bhavan,
New Delhi – 110 001.

2. The Chief Executive Officer,
Prasar Bharati, C Wing,
Doordarshan Bhavan,
Mandi House,
New Delhi – 110 001.

3. The Director General,
All India Radio,
Akashvani Bhavan,
Parliament Street,
New Delhi – 110 001.

4. The Station Director,
All India Radio,
Raj Bhavan Raod,
Bangalore – 560 001.

5. The Pay & Accounts Officer,
Ministry of I & B,
IRLA, Soochana Bhavan,
Lodhi Road,
New Delhi - 110 003.

.... Review Applicants

(By Shri VN.Holla , Senior Panel Counsel)

vs.

Anand V.Patil,
Station Director(Retd),
Ninada, No.68, "B",
1st Main Road,
Rani Channamma Nagar,
Dharwad – 580 008.

... Respondent in RA

(By Advocate Shri.N. Obalappa)

O R D E R (ORAL)

HON'BLE DR. K.B. SURESH, MEMBER(J)

1. Heard. The issue is in a very short compass. Apparently, the respondents wanted to treat the upgradation as merger of 3rd MACP. It is not possible. The upgradation granted on merger of pay scale is within the ambit of the employer. But, then once having granted, it becomes the right of the employee to retain it. It has nothing to do with the MACP which is the result of non-stagnation policy inaugurated by the Hon'ble Apex Court. Therefore, these are two different genres which cannot be mixed together at all. Therefore, there is no ground in the RA.

2. At this point of time Shri VN.Holla, on this point would submit that a similar matter is pending before the Principal Bench also. This is absolutely irrelevant, as it is trite law is that there cannot be mixing up of benefits granted due to merger of pay scale and the MACP. Both are distinct and separate from each other. Shri VN.Holla, relies on a judgement of the Hon'ble Apex Court in Government (NCT of Delhi) &

others vs. Grade-I DASS Officers' Association. But, then in which paragraph 14, the Hon'ble Apex Court held that in policy matters there need not be interference unless so specifically warranted. Since there is no question of policy involved in this, even if, it is a policy, even then also we are duty bound to interfere in this because it goes against the rule of proportionality and rationality as well as wednesbury reasonableness. There cannot be any arbitrary policy of the government notwithstanding the fact that there is no policy of the government in this case as policy has to be spelt out in legally recognizable forms. A decision taken by one authority cannot be a policy because it does not have strength of sovereignty behind it. There is no question of any policy involved in this matter.

3. Review application is dismissed. No order as costs.

(DINESH SHARMA
MEMBER (A)

(DR. K.B. SURESH)
MEMBER (J)

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Annexures referred to by the applicant in RA.No.3 /2018

Annexure RA-1: Copy of Final order in OA.249/2017 dated 18.8.2017 passed by CAT, Bangalore Bench.

Annexure RA-2: Copy of Final order in WP.(C)4151/2003 dated 13.7.2017 passed by HC, Delhi

Annexure RA-3: Copy of IPSB,DG, AIR order dated 12.10.17

Annexures referred to by the respondents in reply

Annexure RR-1: Copy of PAO, M/I&B letter dated 31.10.2017

Annexure RR-2: Copy of PAO, M/I&B letter dated 27.10.2017

Annexure RR-3: Copy of Final order in OA.836/2016 dated 10.2.2017 passed by CAT, Bangalore Bench.

Copy of Annexure A-8 dated 8.9.2014