

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION. NO.170/00228/2016

DATED THIS THE 13TH DAY OF AUGUST, 2018

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

HON'BLE SHRI C.V. SANKAR, MEMBER(A)

K. Haribabu,
S/o K. Narayana,
Aged about 60 years
Retd. Upper Division Clerk,
R/o No. 17/133, Ramaiah Colony,
Near Hussain Nagar,
4th Cross, Bellary – 583101.

...Applicant

(By Advocate Shri K. Hanifa)

Vs.

1.Indian Council of Agricultural Research
Krushi Bhavan,
New Delhi,
Rept. by its Under Secretary.

2.The Head,
Central Soil and Water Conservation Research
and Training Institute,
Cantonment,
Bellary-583104 (Karnataka).

3.Chief Administrative Officer,
Central Soil and Water Conservation Research
and Training Institute,
No.218, Kaulagarh Road,
Dehradun-248195 (Uttarkhand).

4.The Director,
Central Soil and Water Conservation Research
and Training Institute,
No.218, Kaulagarh Road,
Dehradun-248195 (Uttarkhand).

...Respondents

(By Advocate Shri B.A. Chandrashekar)

O R D E R (ORAL)HON'BLE DR K.B. SURESH, MEMBER(J)

Heard. The matter relates to MACP. The applicant was appointed as Typist on 22.2.1980, then was given promotion as Senior Clerk on 19.11.1998. The ACP Scheme came into effect in 1999 and in relation to it he was granted 1st ACP on 11.8.2005. Apparently there had been an allegation against him, which relates to the period 01.04.2010 indicating that he had mis-appropriated farm produce of several types, costing more than 60,000/- and caused loss to the Government. This was enquired into and therefore we had tried to elicit from the party, who is personally present, as to his defence. He is unable to answer what his defence was. The learned counsel for the applicant would say that he had denied it. We could not find anything relating to the denial in the pleadings, other than the fact that the applicant claims that if at all these things are there, it had happened before the 3rd MACP had become due and therefore, according to para 5 of the MACP regulations, this should not be taken into account.

2. Now, MACP and ACP was following the Hon'ble Apex Court Judgment, which held that there cannot be any undue stagnation in Government service and therefore devised the scheme whereby an artificial up-gradation may be given to such persons who are not granted at least three financial up-gradation or promotion in their entire carrier.

3. So, had there been not any such issue, the applicant would not have been compulsorily retired and he would have been eligible for MACP. But then the hidden agenda behind the grant of MACP, would be that applicant must also be eligible for promotion. We find from the records that as early as 01.04.2010 he was allegedly under the cloud of doubt for committing mis-appropriation or infraction much before that. Therefore, the shadow of colour against him has arisen even before the right for MACP has arisen. Therefore it had already tarnished his right for promotion. Therefore, he is not eligible for 2nd MACP, but because he had already retired, we are not imposing any cost for such frivolous contention.

4. OA is dismissed . No costs.

(C.V SANKAR)
MEMBER(A)

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

vmr.

Annexures referred to by the applicant in OA No. 170/00228/2016

Annexure-A1: Copy of the appointment order of the applicant dated 17.03.1980 issued by the Director, Central Soil & Water Conservation Research & Training Institute, Dehradun.

Annexure-A2: Copy of the office order dated 14.12.1998 issued by the Senior Administrative Officer, Central Soil & Water Conservation Research & Training Institute, Dehradun promoting the applicant.

Annexure-A3: Copy of the office order No. 4447/19(2)/82-Adm.Vol.IV issued by the Assistant Administrative Officer, Central Soil & Water Conservation Research & Training Institute, Dehradun granting financial upgradation to the applicant.

Annexure-A4: Copy of Office Memorandum No.35034/3/2008-Estt.(D) dated 19.05.2009 issued by Deputy Secretary to Govt. of India, Ministry of Personnel, Public Grievances and Pensions, New Delhi regarding MACPS for the Central Government civilian employees along with Annexures.

Annexure-A5: Copy of Circular F. No. 33(3)/2009-Estt.I dated 02.03.2010 issued by the Under Secretary, Indian Council of Agricultural Research, New Delhi regarding adoption of MACP Scheme in ICAR.

Annexure-A6: Copy of representation of the applicant dated 05.07.2010 addressed to the 2nd Respondent.

Annexure-A7: Copy of Note File No. 1257/14(1)/08-CRC dated 12.09.2011 issued to the applicant by the Chief Administrative Officer, Central Soil & Water Conservation Research & Training Institute, Dehradun.

Annexure-A8: Copy of Office Note No. F.1(2)/A/13-Adm. dated 25.10.2013 issued by the 2nd Respondent to the applicant.

Annexure-A9: Copy of representation of the applicant dated 13.01.2014 addressed to the 4th Respondent.

Annexure-A10: Copy of reminder of the applicant dated 08.09.2014 addressed to the 4th Respondent.

Annexure-A11: Copy of the Office Note No. F.I/Estt./305/15-Adm dated 04.02.2015 issued to the applicant by the Assistant Admin. Officer. ICAR-IISWC, Bellary.

Annexure-A12: Copy of the Memo No. 11-3/2015-Adm./10372 dated 10.08.2015 issued to the applicant by the Chief Administrative Officer, ICAR-IISWC, Dehradun.

Annexure-A13: Copy of representation of the applicant dated 26.08.2015

addressed to the Chief Administrative Officer, Central Soil & Water Conservation Research & Training Institute, Dehradun.

Annexures with reply statement

Annexure-R1: Copy of office order No. 3846/13(2)/99-Admn dated 18.08.2005 issued by the Senior Administrative Officer, Central Soil & Water Conservation Research & Training Institute, Dehradun

Annexure-R2: Copy of office Note dated 31.08.2004 issued by the Assistant Admin Officer, Central Soil & Water Conservation Research & Training Institute, Dehradun regarding the proceedings of the Departmental Screening Committee meeting held on 31.08.2004.

Annexure-R3: Copy of office Note File No. 847/Pro/ACP/2005 dated 16.08.2005 issued by the Assistant Admin Officer, Central Soil & Water Conservation Research & Training Institute, Dehradun regarding the proceedings of the Departmental Screening Committee meeting held on 10.08.2005 and 11.08.2005.

Annexure-R4: Copy of OM F. No.35034/1/97-Estt(D)(Vol.IV) dated 18.7.2001 issued by Deputy Secretary to Govt. of India, Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training)- regarding ACP Scheme for Central Government Civilian Employees – Clarifications.

Annexure -R5: Copy of Office Memorandum No.35034/1/97-Estt(D) dated 9.9.2010 issued by Director (Estt), Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training), along with Annexure.

Annexure-A6: Copy of order No.6410/15(2)/2011-Admn. Dated 29.11.2012 issued by Disciplinary Authority.

Annexure- A7: Copy of Note dated 11.3.2013 issued by Chief Administrative Officer, Central Soil & Water Conservation Research & Training Institute, Dehradun along with enclosure.

Annexure -A8: Copy of Note File No.1461/MACP(12-3)/13-CRC dated 25.3.2013 issued by Central Soil & Water Conservation Research & Training Institute, Dehradun.

Annexure-A9: Copy of Note File No.2-1/2014-CAO/211 dated 21.12.2014 issued by Central Soil & Water Conservation Research & Training Institute, Dehradun.

Annexures with MA for restoration

Annexure A-14: Medical certificates.

Annexure A-15: Order copy dated 24.8.2017-CAT, Bangalore.

