

OA.No.170/00742/2017/CAT/BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00742/2017

DATED THIS THE 10TH DAY OF AUGUST, 2018

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

HON'BLE SHRI DINESH SHARMA, MEMBER (A)

T.M. Sampath

S/o late Shri Munisamy Mudaliar

Aged about 62 years

Retired Administrative Officer, NWDA

R/o H.No. 34, 1st Block, IIIrd Main Road,

Banashankari Third Stage

Bangalore – 560 085

.....Applicant

(By Party-in-person)

Vs.

1. Union of India
Through the Secretary to
Government of India,
Ministry of Water Resources,
River Development & Ganga Rejuvenation
Shram Shakti Bhawan
Rafi Marg,
New Delhi

2. The Director General
National Water Development Agency
18-20, Community Centre,
Saket, New Delhi – 110 017

3. Shri S.M. Husain,
Now Member, Central Water Commission
& holding the Charge of Director General, NWDA
Sewa Bhawan, R.K. Puram
New Delhi

....Respondents

(By Shri B.P. Puttasiddaiah, Counsel for the Respondents)

O R D E R (ORAL)

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

Heard. The applicant was appointed on 28.06.1984 as Steno Grade-II.

Thereafter he was given a promotion on 23.04.2001 as Administrative Officer. Thereafter he had not received any promotion or financial upgradation.

2. The reply given by the respondents is that the applicant is a habitual litigant and had filed more than 70 cases against the department and also the applicant was involved in several 138 cases under the NI Act and therefore became ineligible for receiving MACP. But then even though the applicant had retired on 31.07.2015, the applicant had cleared all his debts and paid off everything by 31.08.2015. It is to be noted in this connection that by an extension of legislation only a penal tooth was brought in to the provisions of the Negotiable Instruments Act which is in effect a civil enactment. Just because a penal tooth has been attached to it, it does not *ipso facto* follow that the applicant is under the shadow of doubt permanently to affect his career. As soon as that is cleared, applicant became eligible to be considered for grant of MACP which is a beneficial measure following the Hon'ble Apex Court order that there shall not be any stagnation. Since the applicant had been appointed in 1984 and had continued till 2015, he had completed 31 years of service and therefore the applicant will become eligible for 2 more financial upgradations at that point of time which has relevance in the matter. Therefore there will be a mandate to the respondents to grant the said benefit to him and all consequences of that to follow within 3 months' time.

3. At this point of time the learned counsel for the respondents want to impress upon us the effect of Annexure-R7 which was a letter calling for the applicant to produce documentary evidence of his being discharged under NI

Act. This is a reasonable request. Therefore there will be a further order to the applicant also to produce the said records within the next one month and within 3 months thereafter the applicant will be considered for grant of MACP for 2 instances as the applicant has only been given one promotion in his entire career.

4. The OA is allowed to this limited extent. No order as to costs.

(DINESH SHARMA)

MEMBER (A)

(DR.K.B.SURESH)

MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No. 170/00742/2017

Annexure A1 Copy of the order dated 25.04.2017 passed by Central Administrative Tribunal in O.A. No. 198/2017

Annexure A2 Copies of the representation dated 17.07.2017 and 11.10.2017 of the applicant and letters of respondents dated 11.08.2017 and 04.10.2017

Annexure A3 Copy of order dated 10.11.2017 passed by Hon'ble High Court of Karnataka in Writ Petition No. 51164/2017

Annexure A4 Copy of the order dated 31.01.2014 passed in O.A. No. 215/2013

Annexure A5 Copy of the order dated 27.07.2016 passed in O.A. No. 4513/2015

Annexure A6 Copy of the order dated 27.07.2015 passed in Crl Rev. P 351-52/2014 and orders passed in CA No. 17/14; CC No. 5086 and CC No. 320/14

Annexure A7 Copies of the orders passed by the Tribunal in O.A. No. 1042/2008 and the Hon'ble High Court of Delhi in Writ Petition No 3207/2010 and the order dated 04.08.2016 passed by in O.A. No. 2504/2008

Annexure A8 Copy of the Hon'ble High Court order dated 08.12.2016 in Writ Petition No. 9278/2015

Annexures with reply statement

Annexure R1 Copy of the judgment dated 28.07.2008 passed in O.A. No. 639/2008 on the file of Central Administrative Tribunal, Principal Bench, New Delhi

Annexure R2 Copy of the judgment dated 08.11.2011 passed in LPA 906/11 on the file of Hon'ble High Court of Delhi

Annexure R3 Copy of the judgment dated 08.03.2013 passed in Writ Petition (C) 5124/2012 on the file of Hon'ble High Court of Delhi

Annexure R4 Copy of the order dated 27.07.2016 regarding 3rd MACP on the file of Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 45131/2015

Annexure R5 Copy of the order dated 25.04.2017 passed in O.A. No. 198/17 on the file of Central Administrative Tribunal, Bangalore Bench

Annexure R6 Copy of the status complaint case No. 534/12 on the file of C.M.M Southwest DWK

Annexure R7 Copy of the respondent's letter dated 24.11.2017 addressed to the applicant.

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