

OA.No.170/00021/2017/CAT/BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00021/2017

DATED THIS THE 23<sup>RD</sup> DAY OF JULY, 2018

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

**HON'BLE SHRI DINESH SHARMA, MEMBER (A)**

Y.C. Jayaveerappa,

Aged about 62 years,

R/a No. S4/12 Aswini Shettihalli Road,

Jalahalli West,

Bangalore 560 015

.....Applicant

(By Advocate Shri N. Obalappa)

Vs.

1. The Union of India,  
Represented by its Secretary,  
Ministry of Information and Broadcasting,

'A' Wing, Shastry Bhavan,  
New Delhi – 110 001.

2. The Director,  
Ministry of Personnel, PG & Pensions,  
Department of Personnel & Training  
North Block,  
New Delhi – 110 001.

3. The Director General,  
Directorate of Air Veterans, India Air Force  
CAMERO Complex, Suborto PARK,  
New Delhi – 110 010.

4. The Chief Executive Officer,  
Prasar Bharati, II Floor,  
PTI Building, Parliament Street,  
New Delhi – 110 001

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

6. The Director General,  
Doordarshan, Doordarshan Bhavan,  
Copernicus Marg,  
New Delhi – 110 001.

7. The Station Director,  
All India Radio,  
Raj Bhavan Road,  
Bangalore – 560 001.

8. The Dy Director General (P)  
Doordarshan Kendra J.C. Nagar,  
Bangalore – 560 006.

9. The Pay & Accounts Officer,  
Doordarshan Kendra,  
Swami Sivananda Salai,  
Chennai

....Respondents

(By Shri V.N. Holla, Senior Panel Counsel)

### O R D E R (ORAL)

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

Heard. The issue is in a very small compass. The applicant had originally joined Airforce as Aircrafts man-2 with effect from 19.02.1974 thereafter he was promoted as Aircrafts man -1 on 01.11.1975 thereafter he was promoted as Leading Aircrafts man on 01.02.1977, then he was promoted as Corporal on 19.02.1979 thereafter he was promoted as Sergeant on 01.04.1985. He was discharged from Airforce on 28.02.1989 thereafter he joined civil service.

2. During the civil service the applicant was engaged at the minimum of the payscale but was permitted to retain the Airforce pension.

3. Vide Annexure-A6, on the applicant applying for it, on 02.07.1998 an order was passed for recovery of amount of Rs.49,595/- being the gratuity, balance of commutation amount and the pension drawn from the military authority to be paid back to the CDA (P), Allahabad in order to count his former military service into civil service. It only means that his past service is counted for his seniority and other benefits and therefore in accordance with the seniority accorded to him on the basis of an appointment ostensibly had been made on 1974 the benefits of the applicant was re-adjusted. That being so, his past service and the present service is a continuation of each other. That being so, the Hon'ble Supreme Court orders relating to non-stagnation of service seems to be satisfied. Therefore the applicant cannot be held to be eligible to receive any further benefits. But then if promotions come in his way in the normal course, he will be eligible to it but then MACP as a non-stagnatory measure will not be available to him. The OA is therefore found to be without merit.

4. At this point of time the learned counsel submits that applicant had been given 15 increments but then his pension was withdrawn from him. It is correct that applicant's service was calculated from 1974 onwards and that is why additional increments were given to him and benefits were granted therefore the law of election will operate. If he chooses A then he cannot get B. It is as simple as that. Since the applicant had chosen the benefit of counting past service then the benefits will be granted in accordance with that. In his earlier service he has got 5 promotions therefore satisfying the dictum laid down by the Hon'ble Apex Court. The OA will not lie.

5. The OA is dismissed. 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. 170/00021/2017**

Annexure A1 Copy of the order dated 03.03.1989

Annexure A2 Copy of the last pay certificate for the month of February, 1989

Annexure A3 Copy of the order No. BAN/10(2)/93 S dated 10.09.1993

Annexure A4 Copy of the order No. BAN-9(2)/94-S dated 20.07.1994

Annexure A5 Copy of the applicant's exercise of option dated 03.06.1995

Annexure A6 Copy of the Memorandum No. 8(YCJ/LDC)/98-A dated 02.07.1998

Annexure A7 Copy of the clarification No. A32016/3/08-S-II dated 03.02.2009

Annexure A8 Copy of the DoPT OM dated 09.08.1999

Annexure A9 Copy of the DoPT OM dated 19.05.2009

Annexure A10 Copy of the representation of the applicant dated 05.03.2012

Annexure A11 Copy of the OM No. 23011/1/2012-P.G. dated 16.03.2012

Annexure A12 Copy of the representation of the applicant dated 04.04.2012

Annexure A13 Copy of the letter No. 906/92/2011 GRC dated 24.04.2012

Annexure A14 Copy of the letter No. 29/1/2010/S-II(A)/(i)/824 dated 15.06.2012

Annexure A15 Copy of the ID Note dated 12.03.2013

Annexure A16 Copy of the letter No BAN1(2)/MACP/2013-S/8534 dated 13.05.2013

Annexure A17 Copy of the letter No BNG/DDK/24/(5)2013/A dated 04.03.2014

Annexure A18 Copy of the order dated 29.04.2014

Annexure A19 Copy of the PPO No. 286601400384 dated 10.05.2014

Annexure A20 Copy of the letter No A-380 03/17/2011-S-II dated 29.01.2015

Annexure A21 Copy of the letter No. DDK/BNG/8(YCJ/LDC)/2015-A dated 18.02.2015

Annexure A22 Copy of the letter No HQ/99799/1/2/DAV/Wel (A&N) dated 12.03.2015

Annexure A23 Copy of the letter by Respondent No. 3 addressed to the 5<sup>th</sup> respondent to consider the combined service and ACP/MACP

Annexure A24 Copy of the letter No. A38013/17/2011-S.II/83 dated 08.01.2016

Annexure A25 Copy of the letter No. BNG/DDK/27(4-PEN)2016-A/413 dated

21.01.2016

Annexure A26 Copy of the representation of the applicant dated 24.02.2016

Annexure A27 Copy of the letter No. DARPG/M/2012/00744 dated 27.04.2016

Annexure A28 Copy of the communication dated 29.04.2016

Annexure A29 Copy of the communication No. A38013/1/2011-S-II/1144 dated 04.05.2016 and 17.05.2016

Annexure A30 Copy of the applicant's Grievance Petition No. DOPPW/E/2016/04396 dated 16.05.2016

Annexure A31 Copy of the letter No. 906/06/2016/GRC dated 01.09.2016

Annexure A32 Copy of the communication No. A38013/17/2011/S.II/2112 dated 30.09.2016 and No. 29/2/2014-S.II(A)/2069 dated 07.11.2016

Annexure A33 Copy of the order passed by the Hon'ble Central Administrative Tribunal, Chandigarh in O.A. No. 060/00216/216 dated 23.11.2016

**Annexures with reply statement**

Nil

**Annexures with rejoinder**

Annexure A34 Copy of the order of Central Administrative Tribunal, Principal Bench in O.A. No. 1445/2010 dated 04.03.2011

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