

**Central Administrative Tribunal
Madras Bench**

OA/310/01605/2017

Dated Monday the 5th day of November Two Thousand Eighteen

P R E S E N T

Hon'ble Mr. R.Ramanujam, Member(A)

&

Hon'ble Mr.P.Madhavan, Member(J)

P.Moorthy,
S/o Parvatham,
Senior Education Officer(SG),
Seenandal Village,
Kanthapalayam Post,
Kalasapakkam Taluk,
Thiruvannamalai District-PIN 606901. .. Applicant
By Advocate **M/s.M.Rajendiran**

Vs.

1. Union of India, rep by its
Seretary,
M/o Labour,
Govt. of India, Shram Shakti Bhavan,
Rafi Marg, New Delhi 110001.
2. The Director,
Central Board for Workers Education,
North Ambazari Road, Nagpur 440033.
3. The Zonal Director (South Zone),
Garment Complex,
Thiru Vi.Ka.Industrial Estate,
Guindy, Chennai 600 032.
4. The Regional Director,
Central Board for Workers Education,
11, 2nd Floor, Arul Malar Convent Road,
K.K.Nagar, Madurai 620020. .. Respondents

By Advocate **Mr.G.Dhamodaran**

ORAL ORDER

[Pronounced by Hon'ble Mr.R.Ramanujam, Member(A)]

Heard. The applicant has filed this OA seeking the following relief:-

“to call for the records of the order in order No.A20011/156/2001 dated 06.10.2017 passed by the second respondent and quash the same and consequently direct the 2nd respondent to conduct the DPC to give promotion to the applicant and pass such further or other orders as this Tribunal may deem fit and proper in the facts and circumstances of the case and thus render justice.”

2. Learned counsel for the applicant would submit that the applicant is similarly placed as the one in OA 170/01738 and 01739/2016 which was decided by the Bangalore Bench of this Tribunal by an order dated 06.9.2016. Accordingly the applicant would be satisfied if a similar order is passed in this case and the applicant granted financial upgradation under the MACP Scheme pending resolution of the alleged pay anomaly by the Hon'ble Kolkatta High Court which is seized of the matter.
3. Learned counsel for the respondents would submit that the applicants in the aforesaid cases had only been granted a limited relief of disposal of their representation subject to the decision in the WP pending before the Hon'ble Kolkatta High Court. In the light of the limited relief granted in the case, the Bench was not inclined to examine the merits of the entitlements of the applicants therein for financial upgradation.
4. It is further submitted that the Bangalore Bench of this Tribunal had recorded the undertaking of the applicants in the above case that if any revised MACP benefit was granted to them pending disposal of the Hon'ble Kolkatta High Court and in if the decision of the Court went against the applicants, they would be willing to repay the difference of amounts within a period of two months from the date of the order of the Hon'ble Kolkatta High Court in WPTC No.85/2010. Accordingly, the respondents would have no objection to a similar order being passed in the instant case subject however to the condition that in the event of the order of the Hon'ble Kolkatta High

Court going against the applicant, he would not invoke the order of the Hon'ble Apex Court in Rafiq Masih (White Washer) case and the OM of the DoPT dated 02.3.2016 issued in pursuance thereof.

5. Learned counsel for the applicant would submit that the applicant was ready to give such an undertaking.

6. Keeping in view the above submission, the OA is disposed of with a direction to the competent authority to consider the representation of the applicant for MACP upgradation pending resolution of the issues by the Hon'ble Kolkatta High Court subject to the condition that the applicant would repay the difference of amount paid in excess, if any, within a period of two months from the date of the order of the Hon'ble Kolkatta High Court should its decision go against him, without invoking the order of the Hon'ble Apex Court in Rafiq Masih (White Washer) case.

7. OA is disposed of with the above directions. No costs.

(P.Madhavan)
Member(J)

05.11.2018

(R.Ramanujam)
Member(A)

/G/