

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHENNAI BENCH**

**OA/310/00131/2013**

**Dated the 24<sup>th</sup> day of October Two Thousand Eighteen**

**PRESENT**

**HON'BLE MR. P. MADHAVAN, Member (J)  
&  
HON'BLE MR. T. JACOB, Member (A)**

S.Adimoolam,  
INS Kattabomman,  
Vijayanarayanam,  
Tirunelveli 627119.

....Applicant

By Advocate M/s. V. Vijay Shankar

Vs

1.Union of India,  
rep by the Chief Staff Officer (P and A)  
Head Quarters, Eastern Naval Command,  
Naval Base, Visakapattinam.

2.The Commanding Officer,  
INS Kattabomman,  
Visakapattinam, Tirunelveli.

....Respondents

By Advocate Ms. Shakila Anand

## **ORDER**

**(Pronounced by Hon'ble Mr. T. Jacob, Member(A))**

The applicant has filed this OA seeking the following relief:

“To direct the respondents to reckon the service of the applicant from 1.3.1984 and grant 1<sup>st</sup> ACP to him with effect 9.8.1999 and also grant 2<sup>nd</sup> ACP with effect from 1.3.2009 with all consequential and attendant benefits and pass such other order or orders as may be deemed fit and thus render justice.”

2. The facts of the case as stated by the applicant are as follows:

The applicant initially entered service as Watchman on 1.3.1984 in INS Andaman and later he was appointed as Peon on regular basis w.e.f 1.3.1987. Later, w.e.f June 1991, he was transferred to INS Kattabomman viz the 2<sup>nd</sup> respondent office where he is presently serving. The applicant submits that vide orders issued in 1998, his past services rendered from 1.3.1984 to 28.2.1987 has been regularized for all purposes except seniority. The applicant submits that pursuant to the ACP Scheme which came into force from 1999, the applicant was given one financial upgradation viz 1<sup>st</sup> ACP w.e.f 9.8.1999. Later by show cause notice, dt. 12.3.2009, the 1<sup>st</sup> respondent proposed to cancel the 1<sup>st</sup> ACP given to the applicant. The notice stated that the eligible service for ACP can be counted from the date he reported to the office of the 2<sup>nd</sup> respondent ie only on 3.6.1991 and would be eligible for 1<sup>st</sup> ACP only w.e.f 3.6.2003. The 1<sup>st</sup> respondent vide order dt. 17.1.2011 cancelled the ACP given to the applicant w.e.f 9.8.1999 and modified the same to 3.6.2003. The contention of the applicant is that his service from the initial date of appointment has not been

taken into account for grant of ACP/MACP etc. Therefore, the applicant has submitted a representation on 20.6.2012 to the respondent pointing out that since his services has been regularised for all purposes w.e.f 1.3.1984, the service should be reckoned and therefore the original order granting him ACP w.e.f 9.8.1999 was in order. Now the MACP scheme has come into effect, he should be granted 2<sup>nd</sup> MACP on completion of 20 years of service w.e.f 1.3.2004. No action whatsoever has been taken on the said request of the applicant. Aggrieved by which, he has filed the OA seeking the above mentioned relief.

3. The respondents in their reply submit that the applicant has been on regularisation in the post of Peon against a Government sanctioned billet (barrack) at INS Kattabomman, the applicant was transferred on permanent duty from Fortress Hqrs to INS Kattabomman on 24.5.1991 and he assumed duty w.e.f 3.6.1991. He was placed on probation for two years and the probation period was completed on 3.6.1993. The casual service rendered by the applicant from 1.3.1984 to 28.2.1987 was regularised by condoning the intermittent breaks by grant of earned leave and extended all financial benefits except seniority. According to the respondents the applicant was eligible for 1<sup>st</sup> ACP on completion of 12 years of regular service w.e.f 3.6.2003 and whereas the applicant was erroneously granted 1<sup>st</sup> ACP w.e.f 9.8.1999, the effective date of 1<sup>st</sup> ACP was amended as 3.6.2003 after serving notice on the applicant. The respondents submit that the applicant has not challenged the said order. It is

further submitted that the service of the applicant in the grade of Peon was regularised against a Government sanctioned post at INS Kattabomman w.e.f 3.6.1991 and he had been granted all the benefits of both ACP and MACP scheme as envisaged in the orders / instructions regulating the schemes reckoning his services on regular services against a Government sanctioned post. Since the criteria for promotion is applicable for ACP/MACP, the applicant cannot be extended the benefits by counting the casual service w.e.f his initial appointment and the demand of the applicant is hence not tenable and the respondents would pray for dismissal of the OA.

4. We have heard the learned counsel for the respective parties and perused the pleadings and documents on record.

5. The learned counsel for the applicant would submit that the applicant's earlier service on temporary service from 1.3.1984 has been directed to be counted for all purposes except seniority. Further, the 2<sup>nd</sup> respondent office is a subordinate office of the 1<sup>st</sup> respondent just like INS Andaman. Transfer of service does not result in wiping out the earlier service. Therefore, reckoning his service from 3.6.1991 for the purpose of ACP is illogical, unsound and without any basis. Learned counsel also relied upon the decision of this Tribunal in OA 1191/2014 dt. 18.08.2016.

6. The learned counsel for the respondents would contend that the regular service for the purpose of ACP means the eligibility service counted for regular

promotion and hence the demand of the applicant for grant of ACP reckoning his service from 1.3.1984 is not tenable. The applicant had already been granted 1<sup>st</sup> ACP w.e.f 3.6.2003 and 1<sup>st</sup> and 2<sup>nd</sup> MACPs w.e.f 1.9.2008 and 3.6.2011 respectively. Further, the counsel has submitted that the applicant had already been granted all the benefits of ACP and MACP as per his eligibility by the respondents.

7. On perusal of the material before us, it is seen that the service of the applicant in the grade of Peon was regularised against a Government sanctioned post at INS Kattabomman w.e.f 3.6.1991. The applicant was placed on probation for a period of two years from 3.6.1991 as per the recruitment rules and he did not question the same when he was placed under probation. As per the existing rules, seniority of the applicant is to be reckoned from the date of regularisation of the service against a Government sanctioned post ie., 3.6.1991 which brings eligibility for promotion too. Regular service for the purpose of ACP scheme means the eligibility service counted for regular promotion in terms of relevant recruitment rules. Further, the regular service for grant of benefits under the ACP scheme shall be counted from the grade in which an employee was appointed as a Direct Recruit. Therefore, the service rendered by the applicant prior to 3.6.1991 cannot be counted for seniority as well.

8. The 1<sup>st</sup> respondent having realised the grant of 1<sup>st</sup> ACP on an inadvertent notion served a notice on the applicant and amended the date of grant of ACP as

3.6.2003. The demand of the applicant for grant of ACP reckoning his service from 1.3.1984 is not tenable. The applicant had been granted 1<sup>st</sup> and 2<sup>nd</sup> MACP w.e.f 1.9.2008 and 3.6.2011 respectively reckoning his regular service as Peon. Thus the applicant had already been granted all the benefits of ACP and MACP as per his eligibility by the respondents. Further, the facts of the case in the OA 1191/2014 cited by the learned counsel for the applicant are different from this case.

9. In view of the above, the relief sought for in the OA cannot be granted and accordingly the OA fails and it is hereby dismissed. No costs.

**(T.Jacob)**  
**Member(A)**

**(P.Madhavan)**  
**Member(J)**

**24.10.2018**

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