

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/550/2011

Jabalpur, this Friday, the 03rd day of August, 2018

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

C.L. Arya S/o Late G.P. Arya
Aged about 62 years
Occupn.Retired Programme Officer
Akashwani Kendra Rewa,
Distt. Rewa (M.P.) PIN NO.486001
Presently R/o C/o Shri Rajesh Kumar Arya
EWS Shastri Vihar Colony, Padra
Distt. Rewa (M.P.) 486001

-Applicant

(Applicant present in person)

V e r s u s

1. Union of India,
Through the Secretary,
Ministry of Information and Communication
Secreteriate, Parliament Street
New Delhi 110002

2. The Director, Prasar Bharti
Akashwani Bhawan
Sansad Marg, New Delhi 11002

3. The Deputy Director,
Akashwani 16 Vidhan Sabha
Bhawan Marg
Lucknow (U.P.) PIN 226003

4. The Director General
Doordarshan Akashwani
Bhawan Sansad Marg
New Delhi PIN 11002

- Respondents

(By Advocate –**Shri D.S. Baghel**)
(Date of reserving the order:01.08.2018)

ORDER**By Ramesh Singh Thakur, JM:-**

This Original Application has been filed by the applicant seeking direction for giving him proforma promotion to the next higher post and its benefits from the date of which he was entitled and accordingly the pensionary benefits be revised for payment of arrears and other benefits along with consequential benefits. He also prayed that he is entitled for ACP and MACP.

2. The applicant in this Original Application has prayed for the following reliefs:-

“8(i) To call for the relevant record pertaining to the subject matter for kind perusal of this Hon’ble Tribunal.

8(ii) To direct the respondents to pay the promotional benefits of service career and arrears of salary be also paid to the applicant with all consequential benefits and accordingly the revised pensionary benefits may kindly be directed to be paid to the petitioner by issuing an appropriate writ order and direction.

8(iii) To issue a further direction to the respondent to pay his arrears of ACP and MACP and also count his past services.

8(iv) Any other relief as the Hon’ble Tribunal deem fit in the circumstances of the case along with cost of this litigation to the applicant.”

3. The facts of the case are that the applicant was initially as U.D.T. in Education Department. He applied in respondent-department and got selection on the post of Assistant Editor (Script), Staff Artist on 15.04.1980 (Annexure A-2) and worked on

the said post from 1980 to 1989. Thereafter he got promoted as Programme Executive in January 1990 and worked up till April 2006. The applicant got one promotion during 28th years of services in All India Radio and retired from service on 31.11.2006. The applicant thereafter filed representation dated 30.05.2006 and 28.08.2006 (Annexure A-3 & A-4) to the respondent-department regarding promotion on ACP as well as MACP. On non consideration of his representation, applicant approached this Tribunal by filing an Original Application No.784/2006 which was dismissed on 16.09.2008 (Annexure A-5) with liberty to take appropriate steps, in case he is of the view that he is entitled to ACP benefits under the scheme in vogue, in accordance with the rules and law. In this regard, the applicant again filed representation dated 20.05.2010 (Annexure A-6) followed by a reminder dated 23.03.2010, 05.01.2011 to the respondent-department. On non receipt of any response, the applicant sought information through Right to Information Act, 2005 vide application dated 06.07.2010 (Annexure A-7) whereby it has been informed that MACP benefits is applicable only to those employees who were in the service till and after 01.09.2008.

4. The respondents in their reply have submitted that this Original Application is primarily based on assumption and hence

premature and it is submitted that no junior of the applicant has been promoted in JTS cadre. He belongs to the erstwhile staff artist category and was promoted on 30.01.1990. The other Programme executives who joined before the applicant are also still working as Programme Executives. As and when the DPC for Programme Executives to JTS is held applicant will be considered for promotion as per rules. It is submitted that the grant of ACP to PEXs is sub-judice before Hon'ble High Court Delhi. Nobody in the grade of Programme Executives has been granted ACP. So far as MACP is concerned, the said scheme was introduced on 01.09.2008 and the applicant stood retired on 31.11.2006 i.e. well before the introduction of the said scheme. Therefore, he is not entitled for financial upgradation under the MACP scheme.

4.1 It has been specifically submitted by the replying respondent that O.A. No.784/2006 was filed by the applicant before this Tribunal and the same was dismissed vide order dated 16.09.2008. So the present Original Application is based on assumption and hence premature.

4.2 It has been specifically submitted by the replying respondents that due to various litigation as O.A. No.399/2001 in C.P. 217/2005 and M.A. 39/2011 filed by AUPO the Programme

Executives who were appointed before the applicant could not get the promotion.

5. The applicant has filed rejoinder and has reiterated its earlier stand raised in the Original Application.

6. We have considered the submissions made by applicant present in person as well as the learned counsel for the respondents and also gone through the documents annexed therewith the pleadings.

7. At the outset, there is no dispute regarding appointment of the applicant in the respondent-department. The preliminary objection raised by the replying respondents that the applicant had earlier filed O.A. No. 784/2006 which was dismissed on 16.09.2008. It is clear from the said order that the case was dismissed on being devoid of any merit. However, liberty is granted to take appropriate steps, in case he is of the view that he is entitled to ACP benefits under the scheme in vogue, in accordance with the rules and law. It is pertinent to mention that in the said O.A. this liberty has been granted by the Tribunal due to the fact that no relief regarding grant of ACP had been sought or raised in the earlier O.A. Therefore, the objection raised by the replying respondents is not sustainable.

8. In the instant case, the applicant is seeking relief regarding ACP/MACP benefits and also counting of his past services. It is clear from the pleadings that the concept of MACP has come into existence on 01.09.2008 and the applicant stood retired on 31.11.2006. So, at the face of it, the applicant is not entitled for MACP at all. In the reply it has been specifically submitted by the respondents that the respondent-department has not granted any ACP benefits to Programme Executives in view of the fact that the matter was sub-judice before the Hon'ble High Court of Delhi. Moreover, it has brought to our notice that O.A. No.399/2001 has already been disposed of by the Tribunal. During the argument the applicant has also showed some documents regarding O.A. No.2660/2013 which was also dismissed as withdrawn. Further it has been specifically submitted by the respondents that the applicant belongs to the erstwhile staff artist category and was promoted on 30.01.1990. The other Programme Executives who joined before the applicant are also still working as Programme Executives. The applicant stood retired on 31.11.2006 and the MACP is not applicable to him as the same came into existence on 01.09.2008. Therefore we are of the opinion that applicant is not entitled for MACP scheme. So far ACP benefit is concerned, the replying respondents has specifically submitted that the applicant

has been promoted to the post of Programme Executives in 1990 and stood retired on 30.11.2006. But as per ACP scheme the applicant is entitled for second promotion after completion of 24 years of service. The applicant has joined the respondent-department in the year 1980 and has been promoted in the year 1990. So, the applicant is entitled after completion of 24 years for second ACP which the respondent-department has failed to do. Mere pendency of the matter before the court is not excused for granting the second ACP.

9. In view of the above, this Original Application is partly allowed and the respondents are directed to grant the applicant second ACP on completion of 24 years of service with all consequential benefits. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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