

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH.

O. A. No. 350/ 01238 of 2016.

Smt. Sukla Bhattacharjee, wife of Ambika
Nath Bhattacharyya, aged about 62
years, Retired Public Health Nurse, Urban
Health Centre, Chetla, Office of the All
India Institute of Hygiene & Public
Health, 110, C. R. Avenue, Kolkata- 700
073, residing at GE 6 KMDA Plot, 855,
Rajdanga Main Road, P.S.Kosba, Kolkata-
700 107.

... Applicant.

-Vs-

1. Union of India through the Secretary to
the Govt. of India, Ministry of Health &
Family Welfare, Nirman Bhawan, New
Delhi- 110 108.
2. The Director General of Health Service
(PH), CDL Section, Nirman Bhawan, New
Delhi- 110 108.
3. The Director, All India Institute of
Hygiene & Public Health, 110, C. R.
Avenue, Kolkata- 700 073.

... Respondents.

Sukla Bhattacharjee.

[Signature]

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No.O.A.350/01238/2016

Date of order : 16.01.2017

Present : Hon'ble Mr. A.K. Patnaik, Judicial Member

SUKLA BHATTACHARJEE

VS.

UNION OF INDIA & ORS.
(M/O Health & F.W.)

For the applicant : Mr. S.K. Datta, counsel

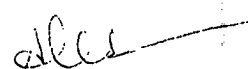
For the respondents : None

ORDER(ORAL)

Heard Mr. S.K. Datta, Id. counsel for the applicant.

2. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- "a) An order quashing and/or setting aside the speaking order dated 23.11.2015 so far as fixation of pay of the applicant is concerned;
- b) An order holding that the applicant was entitled to the benefits of Grade Pay of Rs.5400/- in PB-3 with effect from 1.1.2006 and consequent MACP benefits in the Grade Pay of Rs.6600/- in PB-3 with all consequential benefits and accordingly, the applicant prays for a further order to grant the said benefits along with all consequential monetary benefits as well as consequential post retirement benefits with arrears as well as with interest within a period as to this Hon'ble Tribunal may seem fit and proper;
- c) An order holding that the denial of ACP benefits/withdrawal of ACP benefits earlier granted to the applicant by speaking order dated 23.11.2015 is bad in law, arbitrary and misconceived and accordingly, the applicant is entitled to the benefits of ACP as was granted and consequent fixation of pay in the Grade Pay of Rs.5400/- in PB-3 with effect from 1.1.2006 with all consequential benefits.
- d) An order directing the respondents to produce/cause production of all relevant records.
- e) Any other order or further order/orders as to this Hon'ble Tribunal may seem fit and proper."



Mr. S.K. Datta submitted that earlier the applicant has approached this Tribunal by filing O.A.No.1173 of 2013 and the same was disposed of vide order dated 12.09.2014 with the following observations:-

"8. From the pleadings of the respondents we see no reason in not granting the Pay Band and Grade Pay as claimed by the applicants. Their claim is absolutely justified. However, we find that the respondents have refused the claim on the ground that their entry grade in the grade pay was Rs.4800/- in PB-2 w.e.f. 1.1.06 and consequently the applicants are entitled to get financial upgradation under MACP scheme w.e.f. 1.9.08 in the grade pay Rs.5400/- in PB-2 as 1st MACP, Rs.5400/- in PB-3 as 2nd MACP and Rs.6600/- in PB-3 as 3rd MACP after completion of their qualifying service of 10, 20 and 30 years, as per the notified rule of MACP and since the matter with regard to implementation of 7.5.2010 OM to the present applicants is under active consideration of the Ministry, the matter should be left at the hands of the Ministry to take a decision first.

9. In such view of the matter and with the consent of the parties we direct the respondent No. 2 or any other competent authority to appropriately liaise with the Ministry for implementation of the 6th CPC recommendations as contained in OM dt. 7.5.2010 while granting the MACP benefits to the present applicants and to issue a reasoned and speaking order within 3 months in the light of the orders passed by the Tribunal in Delhi Nurses Union case being OA 141/12. In case the applicants are found entitled for higher pay w.e.f. 1.1.06 after implementation of revised pay structure as granted on 7.5.10, appropriate benefits be accorded to them within a further one month's time."

4. In obedience to the said order passed on 12.09.2014 in O.A.1173/2013 the respondents' department has passed an office order dated 25.08.2015 under Annexure A-3 which reads as under:-

"In pursuance of Ministry of Health & Family Welfare's (Nursing Section) letter No.A11021/1/2013 dated 20.07.2015 with the approval of Ministry of Finance, Department of Expenditure vide O.O. No.17(1)/E.III(B)/2015 dated 14.07.2015 and subsequent MOH&FW (Nursing Section) letter No.A 11021/1/2013-N dated 14.8.2015 with the approval of Ministry of Finance, Department of Expenditure vide O.O.No. 17(1)/E.III(B)/2015 dated 10.08.20.....(not legible), the pay scale for the post of Public Health Nursing (Supervisor) of A.I.I.H & P.H. is upgraded to the scale of PB-3 with grade pay of Rs.5400/- with effect from 1.1.2006."



5. Mr. Datta drawing my attention to the said Office Order dated 25.08.2015(Annexure A-3) submitted that a speaking order was issued on 23.11.2015 in which the benefits to which the applicant was entitled as per the said Office Order dated 25.08.2015(Annexure A-3) has not been accepted by the departmental respondents.

6. On being questioned whether the applicant has ventilated his grievances before the appropriate authority pinpointing such lacunae, Mr. Datta fairly submitted that as a representation was submitted on 29.09.2015 and a speaking order was passed on 23.11.2015, the applicant has not made any further representation and straightway approached this Tribunal.

7. In my considered view the applicant after receipt of the speaking order dated 23.11.2015 should have approached the authorities bringing to their notice the irregularities/illegality whatsoever that have been committed as per his assessment, but such opportunity has not been availed by the applicant.

8. Mr. Datta fairly submitted that liberty can be granted to the applicant to ventilate her grievances specifically pinpointing the lacunae.

9. Accordingly liberty is given to the applicant to ventilate her grievances to the appropriate authority i.e. the Respondent No.2 pinpointing the lacunae as stated above within 20.02.2017. The respondent No.2 is hereby directed to consider the representation of the applicant keeping in mind the Office Order dated 25.08.2015 (Annexure A-3) and communicate the result thereof by way of a well reasoned order within a period of one month from the date of receipt of this order. If after such consideration the applicant is found entitled to the benefits, then expeditious steps be taken to extend such benefits to her within a

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further period of two months. It is made clear that I have not expressed any opinion in the matter and I left it to the authorities to consider the representation as per rules and regulation.

10. With these observations, the O.A. stands disposed of. No order as to cost.

11. A free copy of this order be given to Mr. Datta, Id. counsel for the applicant who shall send a copy of this order along with the paper book of this O.A. to Respondent No.2 and 3 by speed post. Mr. Datta undertakes to file postal receipt of the same by coming Monday.

(A.K. PATNAIK)
Judicial Member

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