



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. MA 350/574/2016
OA 350/1728/2016

Date of order : 6.11.2017

Present: Hon'ble Ms. Manjula Das, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

ANJALI CHAKRABORTY

VS

UNION OF INDIA & ORS.

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

For the respondents : Mr.A.Mondal, counsel

O R D E R

Ms.Jaya Das Gupta, A.M.

The connected MA for condonation of delay was disposed of on 6.11.2017 by way of condoning the delay i.e. MA was disposed of. It was further directed on 6.11.2017 that "Heard both sides on the OA. Detailed order to be passed separately."

2. The applicant Smt. Anjali Chakraborty has approached CAT 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 w.e.f. 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 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 MACP 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 w.e.f. 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.

She has also sought the following interim relief :

"An order directing the respondent authorities to consider the representation made by the applicant pending final decision on this application."

/s/

3. While considering the interim order it is seen that a representation dated **18.9.2015** is on record. It also appears from the record that earlier the applicant along with Smt. Sukla Bhattacharya had appeared in OA 1173/2013 and a Division Bench had passed an order on 12.9.2014 to the effect that a reasoned and speaking order within 3 months in the light of the orders passed by the Tribunal in "Delhi Nurses Union" be considered.

4. Accordingly a speaking order was passed on **23.11.2015** which will apply also to the present applicant Anjali Chakraborty as this order was given in response to OA 1173/2013. The relevant portion of the speaking order is set out below :

"Now therefore, it is ordered as under :

- i) The pay scale of Public Health Nurse Supervisor (PHNS) in AIH&PH, Kolkata will be revised to Rs.15600-39100 with Grade pay Rs.5400/- (PB-3) w.e.f. 1.1.2006;
- ii) The grant of 1st and 2nd MACP to smt. Sukla Bhattacharjee will be regulated as under :

Date of entry	Pay scale granted	Remarks
3.8.88	1640-2900	
As on 1.1.1996	5500-9000 (pre-revised scale)	
1.8.2000, 1 st ACP on completion of 12 years	6500-10500 (pre-revised scale)	To be ignored as laid down in Para 5 of Annexure I of MACP Scheme vide DoPT's OM No. 35034/3/2008-Estt (D) dated 19.5.2009
1.1.2006, 6 th CPC	PB-2, Rs.9300-34800 with Grade Pay Rs.4800	As per MoH&FW's OM No. Z.28015/77/2008-N dated 7.5.2010
1.9.2008, 1 st MACP	PB-2, Rs.9300-34800 with Grade Pay Rs.5400	As per Para 5 of Annexure I of MACP Scheme vide DoPT's OM No. 35034/3/2008-Estt (D) dated 19.5.2009
1.9.2008, 2 nd MACP	PB-3, Rs.15600-39100 with Grade Pay Rs.5400	As per Para 8.1 of Annexure I of MACP Scheme vide DoPT's OM No. 35034/3/2008-Estt (D) dated 19.5.2009

Accordingly, all other applicants in the case will be granted MACP as per their entry in the Government service as Public Health Nurse."

5. The main relief has been sought for setting aside the speaking order dated **23.11.2015**.

6. It is observed that the speaking order was passed on **23.11.2015** which is later than the representation given by the applicant on **18.9.2015** and it

will be taken that the speaking order was passed after taking into account her representation. In accordance with the speaking order an office order was issued on 16.1.2014 (Annexure A/6) where Smt. Anjali Chakraborty had been granted 1st MACP w.e.f. 1.9.2008 at Rs.5400/- in PB-2 and 2nd MACP w.e.f. 1.9.2008 at Rs.5400/- in PB-3.

The above decision was regulated according to the rules and orders contained in Govt. of India, Ministry of Personnel, Public Grievances and Pension OM No. 35034/3/2008-Estt(D) dated 19.5.2009.

7. The applicant had filed a Contempt Petition 45/2015 arising out of OA 1173/2014 and vide order dated 1.9.2016 the CPC was dropped.

8. Hence in the above factual case of the matter the interim order cannot be granted at this juncture. The matter will be decided on merits.

9. Respondents are directed to file reply within 4 weeks. Rejoinder, if any, be filed within 2 weeks thereafter.

10. List on 12.1.2018 before the Registrar's Court for completion of pleadings.

(JAYA DAS GUPTA)
ADMINISTRATIVE MEMBER

(MANJULA DAS)
JUDICIAL MEMBER

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