

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOKATA BENCH, KOLKATA
CIRCUIT BENCH AT PORT BLAIR**

O.A./351/00204/2015

Orders Reserved on : 18th June, 2018

Date of orders : 20th June, 2018

CORAM

HON'BLE MR.S.K.PATTNAIK, MEMBER (J)
HON'BLE DR. NANDITA CHATTERJEE, MEMBER (A)

Shri Gandhi Behera, aged about 57 years, S/o Late N.K.Behera, R/o Dollygunj, Port Blair, working as Leading Fireman, Naval Transmitting Station, Teyralabad, Port Blair.

.....Applicants

By Advocate : Ms. A.Nag/Ms. S. Mondal

Versus

1. The Union of India represented by the Secretary, Govt. of India, Ministry of Defence [NAV] [DCP], New Delhi – 110 011.
2. The Chief of Naval Staff, Naval Head Quarters, Ministry of Defence [NAV] [DCP], New Delhi – 110011.
3. The Commander-in-Chief, Head Quarters, A&N Command, Port Blair, Haddo – Post.
4. The Chief Administrative Officer, Command Civilian Personnel Officer, Eastern Naval Command, Naval Base, Visakhapatnam – 530014.

.....Respondents.

By Advocates: Mr. V.D.S. Balan

ORDER

Per S.K.Pattnaik, Member (J):- The applicant has filed this OA for a direction to the respondents to grant him three MACPs with effect from 2007, 2008 and 2010.

2. The respondents contested the case citing difficulties in granting MACP on the ground that the applicant was involved in criminal case in the Court of Judicial Magistrate, vide C.R. Case No. 1393/2000. The respondents further pleaded that the applicant was involved in another CBI case which is pending before the Special Judge, Andaman and Nicobar Command, Port Blair [RC No.1212016A0002]3.

3. In course of argument, the learned counsel for the applicant drew the attention of the Bench to the rejoinder, wherein it has been specifically pleaded that the applicant was discharged from the criminal case initiated by the CBI. The applicant has filed Annexure-A-1 [GR No. 24/2013], copy of the order dated 10.12.2015 passed by Special Judge [Andaman & Nicobar Islands], Port Blair, wherein final report [closer report] has been accepted and the case was dropped and the accused persons were discharged, wherein the name of the present applicant Gandhi Behera finds place, who has ultimately been discharged. The applicant has also annexed copy of the judgment passed by Chief Judicial Magistrate in G.R. Case No. 1393/2000 TR No.191/2000 [Anexure-A-5], wherein the present applicant, Gandhi Behera was found not guilty and in view of acquittal from both the criminal cases initiated by the CBI and State, MACP cannot be denied on the ground of pendency of criminal case. Had the applicant been convicted in the criminal trial or criminal case, the matter would have been different.

4. In view of the changed scenario after acquittal by Chief Judicial Magistrate, South Andaman at Port Blair and CBI Court, the respondents are directed to consider the entitlement of the applicant for MACP if no other criminal case is pending against him.

5. The OA is disposed of accordingly. The entire exercise be completed taking into consideration the orders passed by the Criminal Courts, within a period of three months from the date of receipt of a copy of this order. No costs.