

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.121 OF 2018

Dated this Monday, the 12th day of February, 2018

CORAM:- HON'BLE SHRI ARVIND J. ROHEE, MEMBER (J)
HON'BLE SHRI R. VIJAYKUMAR, MEMBER (A)

Musa Papa Khan, Age : 64 yrs.
 (M.E.S. - 170316)
 Son of Shri Papa Khan,
 Assistant Engineer (Civil), (Retd.),
 (R/at : S. No.2/4, Mamta Nagar,
 Lane No.3, Old Sangvi, Pune 411 027.
 (By Advocate Shri S.P.Saxena)

.. Applicants

Versus

1. The Union of India, through The Secretary,
 Ministry of Defence, DHQ,
 P.O. New Delhi – 110 011.
2. The Engineer-in-Chief,
 Army Headquarters, Kashmir House,
 New Delhi 110 011.
3. The Chief Engineer,
 Southern Command, Camp,
 Pune 411 001.
4. The Chief Engineer (AF),
 Nekwade Patie, Chiloda Post, C.R.P.F. Camp,
 Gandhinagar 382 042.
5. C.W.E. (A.F.) Lohegaon,
 Air Port Road, Pune 411 032.
6. The Garrison Engineer (A.F.),
 Lohegaon, Pune 411 032.

.. Respondents.

O R D E R (ORAL)

Per:- Hon'ble Shri A.J.Rohee, Member (Judicial)

Today when the matter is called
 out for admission, heard Shri S.P.Saxena,

learned Advocate for the applicant. We have carefully perused the case record.

2. The applicant, who retired as Assistant Engineer (Civil) while working under respondent No.6, approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs :-

“8(a) To allow the Application,

(b) To hold and declare that the applicant is entitled to be given 2nd Financial Upgradation benefit w.e.f. 30.04.2001 under the ACP Scheme and his pay is required to be fixed in the pay scale of Executive Engineer w.e.f. 30.04.2001,

(c) To hold and declare that the applicant is also entitled to be granted 3rd Financial Upgradation under the MACP Scheme w.e.f. 01.09.2008, when he had already completed 30 years of regular service.

(d) To direct the respondents to refix applicant's pay in the pay scale of Executive Engineer in M.E.S. w.e.f. 30.04.2001 as per FR 22(1)(a)(i),

(e) To further direct the respondents to grant annual increments etc. in the scale of pay of the Executive Engineer in M.E.S. w.e.f. 30.04.2001 onwards as per the Rules.

(f) To direct the respondents to revise applicants pay fixation w.e.f. 01.01.2006 on the basis of revised pay scale effective due to 6th CPC recommendation.

(g) To direct the respondents to refix applicant's pay w.e.f. 01.09.2008 as per

MACP Scheme and grant annual increments thereafter till he retired on 31.10.2012,

(h) To grant consequential benefits including arrears of pay and allowances arising out of prayer clause – 8(d) to 8(g),

(i) To direct the respondents to refix pensionary benefits of the applicant,

(j) To grant 12% interest on the arrears of pay and allowances and arrears of pensionary benefits,

(k) To pass any other orders which may be considered necessary in the facts and circumstances of the case,

(l) To award the cost of application.”

3. The applicant was initially appointed as Lower Division Clerk under respondents on 30.04.1977. He qualified Diploma in Civil Engineering in the year 1982. Thereafter, he was selected and appointed to the post of Superintendent Grade II in pay scale of Rs.425-700 under the respondents in September, 1985 as direct recruit and not by way of promotion through DPC. The said post was subsequently redesignated as Junior Engineer.

3. On 09.08.1999 DoPT introduced Assured Career Progression (ACP) Scheme.

The applicant completed 24 years of service without any promotion on 30.04.2001. As such, he was entitled to second financial upgradation under ACP Scheme by fixing his pay in the promotional cadre of Executive Engineer (C) i.e. Rs.10,000-15,200/-. However, the said benefit was not granted to the applicant.

4. From 01.01.2006 the pay scale applicable to the post of Executive Engineer was revised in Pay Band III with Grade Pay of Rs.5,400/-. The applicant completed 30 years of service on 30.04.2007 and thereafter, the Modified Assured Career Progression (MACP) Scheme was introduced by DoPT w.e.f 19.05.2009. The applicant was then promoted to the post of Assistant Engineer (Civil) on 01.07.2009. The respondents, however, granted second financial upgradation belatedly to the applicant w.e.f 01.10.2007 vide order dated 14.08.2009 and placed him in the pay scale of Rs.10,000-15,200/-.

5. The applicant superannuated on attaining age of 60 years on 31.10.2012. On completion of 30 years of service, the applicant was entitled to get the benefit of MACP III, however, it was not granted.

6. The applicant submitted representations in August, 2011 followed by reminder in April, 2013 for redressal of his grievance. However, nothing has been heard from the other end.

7. Considering the above facts, it is obvious that there is no impugned order as such denying the claim made by the applicant in the OA. Hence, we are of the considered view that ends of justice will be better served in case appropriate directions are issued in the matter.

8. The Competent Authority from respondents Nos.1 to 6 is, therefore, directed to consider and pass a reasoned and speaking order on the pending representations of August, 2011 and April, 2013 of the applicant in accordance with law, within a period of six weeks from the date of receipt of certified copy of this

order.

9. The order so passed shall then be communicated to the applicant at the earliest, who will be at liberty to approach the appropriate forum in case his grievance still persists.

10. The OA stands disposed of with the aforesaid directions at the admission stage, without issuing notice to the respondents or without making any comments to the merits of the claim and keeping the legal plea regarding limitation open.

11. Registry is directed to forward copy of this order to both the parties for taking appropriate steps in the matter.

12. *Dasti.*

(R. Vijaykumar)
Member (Administrative)

(Arvind J. Rohee)
Member (Judicial)

*kmg**