

CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH
(CIRCUIT BENCH AT SHIMLA)

O.A.NO.063/01193/2017

Orders pronounced on: 22.11.2018
(Orders reserved on: 11.10.2018)

CORAM: **HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MS. AJANTA DAYALAN, MEMBER (A)**

1. Sangat Ram S/o Sh. Kesru,
resident of Village Bnali,
Post Office Bihani,
Tehsil Thunag,
District Mandi, H.P.

2. Purushotam Ram
S/o Sh. Sagru Ram,
resident of Village & Post Office Jassal,
Tehsil Karsog,
District Mandi, H.P. Group D.

Applicants

By: **MR. RAJIV RAI, ADVOCATE.**

Versus

1. Indian Council of Forestry Research & Education (ICFRE),
through its Secretary,
Dehradun, U.K.
2. The Director, Himalayan Forest Research Institute (HFRI),
Conifer Campus,
Panthaghati, Shimla-171009, H.P.

Respondents

By : **MR. ANSHUL BANSAL, ADVOCATE.**

O R D E R

(O.A.No. 063/01193/2017
Sangat Ram & Anr Vs. ICAR etc.)

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

1. The applicants have filed this Original Application under section 19 of the Administrative Tribunals Act, 1985, inter-alia, for quashing the orders dated 3.5.2016, 9.5.2016 and 9.6.2016 respectively, vide which benefit of enhanced grade pay of Rs.2800 on account of 3rd MACP granted to them on completion of 3 years has been withdrawn and their pay has been re-fixed in lower grade pay of Rs.2400/-.

2. The facts leading to the filing of the instant Original Application (OA), are that the applicant no.1 was appointed as Mali, in the pay scale of Rs.196-232 on 27.4.1984 and was designated as Forest Guard (Group D) on 14.6.1991. He was promoted as Forester (Group C) on 23.11.2001 and then Deputy Ranger (Group C) on 1.8.2007. Similar are the facts of applicant no.2 as well. Their pay was fixed in Pay Band of Rs.5200-20200 + grade pay of Rs.2400/-. They completed 30 years of regular service as such they were granted 3rd financial up gradation under MACP in the said pay band in Grade Pay of Rs.2800/-, vide office order dated 29.5.2014 (Annexure A-1). However, all of a sudden impugned orders were passed withdrawing that benefit. Initially, the applicant filed O.A. No. 063/00059/2016 in which only recovery part was stayed on 2.6.2016. On a challenge to that order in CWP No.1505/2016, the Hon'ble High Court of H.P. directed to decide the O.A. within weeks. The O.A. was dismissed as withdrawn on 9.3.2017 with liberty to avail departmental remedy. Representations filed by the applicants were rejected. That is how, we are seized of the matter.

3. The case in brief, in so far as relevant, is that the applicants claim benefit of MACP in grade pay of Rs.2800 on the premise that their service since initial date of entry has to be taken as eligibility service for the purpose of financial up-gradation, which has not been done by respondents resulting into lowering down of their grade pay. Another

O.A. No. 063/00927/2017 was also filed which was dismissed as withdrawn, hence the instant O.A.

4. The respondents have opposed the claim of the applicants. They submit that initially the applicants were appointed as Mali/Khalasi in pay scale of Rs.196-232 and then as Group D employee on 27.4.1984. The pay scale of Rs.196-232 was revised to Rs.750-870. They were appointed as Forest Guard in same pay scale of Rs.750-870 in 1991. This pay scale was revised to Rs.2550-3200. The applicant were granted 1st financial up gradation under ACP Scheme in pay scale of Rs.3050-4590. They were promoted to the post of Forester in pay scale of Rs.3050-4590 in 2001. They were promoted as Deputy Ranger, in the pay scale of Rs.4000-6000. Upon introduction of MACP Scheme and considering their service since initial appointment as Mali/Khalasi, they were allowed 3rd financial up-gradation in grade pay of Rs.2800. Another employee claimed similar benefit in whose case a clarification was given that the eligible service is to be taken from the date of appointment as Forest Guard and not as Mali. Thus, the benefits were withdrawn from the applicants.

5. The applicants have filed a rejoinder to the reply filed by the respondents.

6. We have heard the learned counsel for the parties at length and examined the pleadings on file.

7. It is not in dispute that the very aim and intention of the ACP/MACP Scheme is to grant financial up-gradations, in lieu of promotion to the employees who stagnate, if denied promotional avenues. Para 5 of Annexure I, attached to MACP issued vide OM dated 19.5.2009 (Annexure R-1), provides as under :-

"5. Promotions earned / up-gradations granted under the ACP Scheme in the past to those grades which now carry the same grade pay due to merger of pay scales / up gradations of posts

recommended by the Sixth Pay Commission shall be ignored for the purpose of granting up-gradations under Modified ACPs”

8. It is, thus, apparent that if any promotion is earned in same pay scale, then that promotion has to be ignored for the purpose of financial upgradations. In this case, the revised pay scale of Forest Guard w.e.f. 1.1.2016 is Rs.5200-20200 + grade pay of Rs.1800/-. The next grade pay is Rs.1900, Rs.2400 and Rs.2800/- under MACP Scheme. The applicants were granted 1st financial up-gradation from Rs.2550-3200 to the pay scale of Rs.3050-4590. They were promoted to this pay scale as Forester w.e.f. 2001. They were promoted/upgraded (2nd MACP) in pay scale of Rs.4000-6000 i.e. in revised grade pay of Rs.2400. So, practically, they got only two financial upgradations in terms of promotions / upgradations and third MACP for them was in pay scale of Rs.2800/- which was rightly granted by the relevant committee. It is only upon a clarification being sought by respondents from higher authorities as to whether eligible service is to be counted from initial date of appointment or from appointment to the post of Forest Guard that the fiasco has taken place. It appears that the clarification has been given by the authorities without having regard to para extracted above, due to which impugned orders have been passed, which apparently are illegal and cannot sustain.

9. In view of the above discussion, this O.A. is allowed. The impugned orders qua the applicants are quashed and set aside. Consequential benefits to follow. The parties are left to bear their own costs.

(SANJEEV KAUSHIK)
MEMBER (J)

(AJANTA DAYALAN)
MEMBER (A)

Place: Chandigarh.
Dated: 22.11.2018
HC*

(O.A.No. 063/01193/2017
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