

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BENGALURU**

ORIGINAL APPLICATION NO.170/000456/2017

DATED THIS THE 16TH DAY OF JANUARY, 2019

**HON'BLE DR.K.B.SURESH
HON'BLE SHRI C.V. SANKAR**

**...MEMBER(J)
...MEMBER(A)**

D. Xaviour,
Aged about 60 years,
S/o Shri Late D. Aaron,
Retired as Research Associate (Physical),
Office of Anthropological Survey of India
Southern Regional Centre,
Mysore-26.
Residing at Door No.11 3, 2nd Main,
Railway Layout, Bogadi,
Mysore-570 026..

..Applicant.

(By Advocate Shri Izzhar Ahmed)

Vs.

1.Director,
(Head of Office)
Ministry of Culture,
Anthropological Survey of India,
Indian Museum Complex,
27, Jawahar Lal Nehru Road,
Shashtri Bhawan, Kolkatta-700016.

2.Deputy Director,
(Head of Office)
Anthropological Survey of India
Ministry of Culture,
Department of Culture,
South Regional Centre,
Bogadi 2nd Stage North,
Mysore-570 026..

3.Union of India
Through the Secretary,
Ministry of Culture,
Department of Culture,

C Wing, Dr. Rajendra Prasad Road,
Shastri Bhawan,
New Delhi-110 001.

...Respondents

(By Standing Counsel Shri V.N. Holla for Respondent)

ORDER (ORAL)

HON'BLE DR.K.B.SURESH **...MEMBER(J)**

Heard. We discussed the matter at the bar in great detail with the learned counsel. The issue is in a small compass. Under the Rules, if a person refuses the promotion, he will not be considered for promotion again for a period of one year, but thereafter he assumes a right to be considered for promotion. Apparently the applicant's right for MACP had come before the promotion. Therefore, if whether or not the applicant had accepted the promotion or not, the punishment under the rules is only with relation to non-grant of promotion for one year. That will not in any way affect the right for MACP, which has arisen earlier. Therefore, it is hereby declared that the applicant is eligible for MACP on the date on which he has assumed. It will be granted to him with all consequences within one month next.

2. OA allowed. No costs.

(C.V. SANKAR)
MEMBER(A)

(DR.K.B.SURESH)
MEMBER(J)

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Annexures referred to by the Applicant in OA No.170/00456/2017

1. Annexure A1 : Copy of office order 1st ACP dated 22.5.2000.
2. Annexure A2 : Copy of office order 2nd MACP dated 17.5.2010
3. Annexure A3 : Copy of promotion order dated 11.3.2014
4. Annexure A4 : Copy of representation dated 26.3.2014
5. Annexure A5 : Copy of letter dated 30.5.2014.
6. Annexure A6 : Copy of representation dated 06.6.2014.
7. Annexure A7 : Copy of representation dated 19.6.2014.
8. Annexure A8 : Copy of letter dated 10.7.2014.
9. Annexure A9 : Copy of representation dated 14.7.2014.
10. Annexure A10 : Copy of letter dated 28.7.2014.
11. Annexure A11 : Copy of representation dated 05.9.2014.
12. Annexure A12 : Copy of memorandum dated 3.11.2014.
13. Annexure A13 : Copy of representation dated 07.11.2014.
14. Annexure A14 : Copy of letter dated 10.11.2014.
15. Annexure A15 : Copy of letter dated 05.12.2014.
16. Annexure A16 : Copy of representation dated 19.07.2016.
17. Annexure A17 : Copy of office order of 3rd MACP dated 30.12.2016.
18. Annexure A18 : Copy of impugned letter dated 04.01.2017.
19. Annexure A19 : Copy of representation dated 12.01.2017.
20. Annexure A 20 : Copy of representation dated 17.02.2017.
21. Annexure A 21 : Copy of impugned order dated 11.04.2017.
22. Annexure A 22 : Copy of DoP&T's OM dated 10.04.1989.
23. Annexure A 23 : Copy of DoP&T's OM dated 19.05.2009.
24. Annexure A 24 : Copy of DoP&T's OM dated 28.09.2016.
25. Annexure A 25 : Copy of guidelines of DPC of DoP&T.
26. Annexure A 26 : Copy of recruitment rule dated 03.04.1967.
27. Annexure A 27 : Copy of DoP&T's OM dated 08.04.20211.
28. Annexure A 28 : Copy of DoP&T's OM dated 11.07.2011.
29. Annexure A 29 : Copy of order dated 02.11.2011 in OA.4111/2011.
30. Annexure A 30 : Copy of order dated 04.05.2006 in OA.579/2006.

Annexures referred to in the Rejoinder

15. Annexure A 31 : Copy of seniority list dated 01.10.2013.
