

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

O.A.No.918 of 2014

Cuttack this the 5<sup>th</sup> day of December, 2018

CORAM:

THE HON'BLE MR. GOKLUL CHANDRA PATI, MEMBER(A)

THE HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER (J)

Sri Harish Chandra Das, aged about 56 years, S/o. of Sri Mahendranath Das, presently working as Technical Officer-C, Proof & Experimental Establishment, Chandipur, At/PO-Chandipur, Dist-Balasore-756 025.

...Applicant

By the Advocate(s)-M/s.S.K.Ojha  
S.K.Nayak

-VERSUS-

Union of India represented through:

1. The Secretary, Ministry of Defence, South Block, New Delhi-110 011
2. Department of Defence Research & Development, Ministry of Defence represented through its Secretary-cum-Director General, DRDO & Scientific Adviser to Rakshya Mantri, DRDO Bhawan, Rajaji Marg, new Delhi-110 105
3. Director, Directorate Human Resource & Development, DRDO Bhawan, Rajaji Marg, New Delhi-110 105
4. Director, Directorate of Personnel, Room No.266, DRDO Bhawan, Rajaji Marg, New Delhi-110 105
5. Director, Proof & Experimental Establishment, Ministry of Defence, Chandipur-756 025
6. Secretary, Ministry of Personnel, Public Grievances & Pension(Department of Personnel & Training), 3<sup>rd</sup> Floor, Laknaya Bhawan, Khan Market, New Delhi-110 003

...Respondents

By the Advocate(s)-Mr.L.Jena

ORDER(Oral)

SWARUP KUMAR MISHRA, MEMBER(J):

The applicant was working as Technical Officer –C in Proof & Experimental Establishment, Ministry of Defence, Chandipur at the time of filing the O.A. In this O.A. he has prayed for the following reliefs:

- i) To quash the order No.PXE/CC/260/00508/14/MACP dated 17.10.2010(Annex.A/10) holding the same as illegal and contrary to the law.
- ii) To direct the Respondents to apply the principles laid down in the O.A.No.1020/2013 passed by the Bangalore Bench and extend the 2<sup>nd</sup> financial upgradation to the applicant w.e.f. 07.11.2007 in Grade Pay Rs.6600/- and 3<sup>rd</sup> financial upgradation under the MACP scheme w.e.f. 07.11.2013 in Grade Pay Rs.7600/- withal consequential benefits.
- iii) To direct the Respondents to pay the arrears with interest as due and admissible.
- iv) Let any other appropriate order/orders, direction/directions may kindly be passed which would be deemed fit and proper in the facts and circumstances of the case.

2. Respondents have filed their counter contesting the claim of the applicant, inter alia mentioning that the Directorate of HRD, DRDO HQ, New Delhi vide their letter No.DHRD/76213/MACPS/C/M/01 dated 22.12.2009 and letter dated 23.07.2014 (R/4 series) has specifically clarified about the applicability of MACPS to DRTC Cadre which states that ACP Scheme promulgated in 1999 has not been made applicable to DRTC due to merit based promotion under Limited Flexible Complementing Scheme. Therefore, the MACPS is also not applicable to DRTC.

3. During the course of hearing, learned counsel for the applicant drew our attention to the order dated 25.05.2018 passed by this Tribunal in O.A.No.1098/2014 and submitted that the grievance of the applicant in the present O.A. is set at rest by that decision.

4. We have gone through the decision of this Tribunal as relied upon by the learned counsel for the applicant and we find that the facts of that case are quite akin to the facts of the present O.A. In O.A.No.1098/2014 the issue of

applicability of MACP was considered and after noting the observation of Hon'ble Karnata HighCourt, it was held as under:

"8. The Hon'ble High Court of Karnataka at Bengaluru vide common judgment dated 13.2.2017 W.P.Nos.61691 and 61692/2016 & also upheld the decision of CAT, Bengaluru Bench in O.A.No.1020/2013. At Paragraphs-5 and 6 of the Hon'ble HighCourt observed as follows:

"5. The aforesaid shows that though initially ACP scheme was not applicable to the FCS, but subsequently by the office memorandum dated 10.9.2010 read with office memorandum dated 1.5.2012, it has been made applicable.

6. Under the circumstances, it is not possible to accept the contentions of the learned counsel for the petitioners that the MACP scheme is not at all applicable".

9. The issue of the applicability of the ACP and MACP having been conclusively established by the above orders of the CAT, Bengaluru Bench as upheld by the Hon'ble High Court of Karnataka at Bengaluru and subsequently the SLP filed by the Union of India having been dismissed by the Hon'ble Supreme Court, we follow the identical ratio and quash the impugned order dated 25.8.2014(A/5) which has been passed solely on the ground that the ACP of 1999 has not been made applicable to DRTC due to merit based promotion under Limited Flexible Complementing Scheme and after 6<sup>th</sup> CPC, the ACP Scheme has been modified as MACPS which is also not applicable to DRTC. The Respondents are directed to reexamine the case of the applicant in the light of the eligibility under the MACP Scheme by constituting an Assessment Board and consider the case of the applicant for financial upgradation under the MACP Scheme within a period of three months from the date of receipt of this order.

5. In view of the above, to maintain consistency, certainty and uniformity in the administration of justice, we are not inclined to make a departure from the view already taken in an identical case. Therefore, following the *ratio decidendi* in O.A.No.1098/14 (supra), we make the following order.

- i) The impugned order dated 17.10.2014(Annex.A/10) is quashed and set aside.

- ii) The Respondents are directed to reexamine the case of the applicant in the light of the eligibility under the MACP Scheme by constituting an Assessment Board and consider the case of the applicant for financial upgradation under the MACP Scheme within a period of three months from the date of receipt of this order.

6. The O.A is disposed of with the above direction with no order as to costs.

(SWARUP KUMAR MISHRA)  
MEMBER(J)

(GOKUL CHANDRA PATI)  
MEMBER(A)

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