

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00558/2016

Friday, this the 4th day of January, 2019

CORAM:

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member
Hon'ble Mr. Ashish Kalia, Judicial Member

Sri C. Gopinathan, S/o. N.P. Krishnankutty Nair, aged 63 years,
MES/212653, Master Craftsman(Retd.), Krishnalayam, PO (Maruthur),
(via) Mele Pattambi – 679 306, Palakkad District. **Applicant**

(By Advocate : Mr. P.K. Madhusoodanan)

V e r s u s

1. The Chief Engineer (NW), Kataribagh, Naval Base PO,
Kochi – 682 004.
2. The Commander Works Engineer (NW), Military Engineer Services,
Kataribagh, Naval Base PO, Kochi – 682 004.
3. The Engineer-in-Chief, Army Head Quarters, DHQ Post,
New Delhi – 110 011.
4. Union of India, represented by its Secretary,
Ministry of Defence, New Delhi – 110 001.
5. The Principal Controller of Defence Accounts (Pensions),
Allahabad. **Respondents**

(By Advocate : Mrs. P.K. Latha, ACGSC)

This application having been heard on 20.12.2018 the Tribunal on
04.01.2019 delivered the following:

ORDER

Hon'ble Mr. Ashish Kalia, Judicial Member –

The relief claimed by the applicant are as under:

“(a) Set aside Annexure A8.

- (b) Issue necessary directions to the respondents to grant and pay the applicant 2nd ACP and 3rd MACP Scheme upgradation benefits in accordance with law, with all attendant benefits arising therefrom notionally refixing his pay and retiral benefits accordingly, within a time limit to be fixed by this Hon'ble Tribunal.
- (c) Declare that the denial of ACP and MACP scheme upgradation benefits to the applicant alleging that he has three promotions before 9.8.1999 is bad in law.
- (d) Issue necessary directions to the first respondent to consider and dispose of Annexure A9 on merit and in accordance with law, within a time limit to be fixed by this Hon'ble Tribunal.
- (e) Issue necessary directions to the 5th respondent to refix his (applicant's) pension benefits in Annexure A3 on refixing his pay and disburse the consequential benefits, arising therefrom without any further delay.
- (f) Issue necessary directions to the respondents to grant and pay to the applicant the benefit of 2nd ACP and 3rd MACP scheme benefits as granted to similarly situated like Sri Skariah Raju and Sri Babu, on implementation of the Annexure A2 and as per eligibility as explained in Annexure A7 refixing the pay and retiral benefits of the applicant notionally and disburse all consequential benefits, including monetary arrears, arising therefrom.
- (g) Award costs of these proceedings.

And

- (h) Grant such other and further reliefs as this Hon'ble Tribunal deems fit and proper in the interest of justice.”

2. The brief facts of the case are that the applicant while working as Master Craftsman under the Garrison Engineer (Naval Services), Kochi retired from service on superannuation on 30.9.2012 after 30 years unblemished service. He is aggrieved by the denial of his due ACP/MACP scheme benefits in GP 4,600/- which will prejudicially affect his retiral benefits including monthly pension.

3. The applicant was appointed as Valveman (Semi-skilled) in MES with effect from 23.10.1972 with pay scale of Rs. 210-290/- (pre-revised).

He was given upgradation as Fitter Pipe (Skilled) on 10.3.1979 in the very same scale of pay of Rs.210-290/- and no fixation of pay benefit was granted to him. Further he was granted promotion as Fitter Pipe HS II in scale of pay of Rs. 260-400/- (pre-revised) w.e.f. 29.8.1990 and was granted upgradation/promotion as Fitter Pipe HS-I in pay scale of Rs. 4000-6000/- w.e.f. 14.9.1994. He was granted promotion as Master Craftsman on 2.6.2003. On restructuring of cadre of Artisan staff the Highly Skilled-II and Highly Skilled-I were merged as a common category of Highly Skilled in scale of pay of Rs. 4000-6000/-. therefore, the promotions granted to the applicant as Fitter Pipe HS-II and HS-I can only be considered as a single promotion. On retirement from service the applicant was issued PPO indicating his pay band as Rs. 9,300-34,800/- plus Grade Pay as Rs. 4,200/-. The applicant had completed 30 years regular service and he was not granted the 3rd MACP. As per MACP scheme those who are appointed in the skilled category and have completed 30 years of service and drawing pay in scale of Rs. 5,000-8,000/- prior to 2008 were eligible to Grade Pay of Rs. 4,600/- w.e.f. 1.1.2008. The applicant preferred representation dated 1.11.2014 requesting to grant him Grade Pay of Rs. 4,600/- w.e.f. 1.1.2008. However, the claim of the applicant was rejected vide Annexure A8 order dated 10.7.2015 stating that the applicant has already got three promotions prior to ACP comes into effect on 9.8.1999. Further Shri P. Babu who had been granted appointment as Valveman on 10.9.1979 were granted promotions by upgradation as Fitter Pipe (HS) on 1.10.1996, Fitter Pipe HS II on 6.1.2008 and as Fitter Pipe HS I on 1.5.2008. He was also granted 1st ACP and 2nd ACP w.e.f. 9.8.1999 and 3rd MACP w.e.f. 1.9.2010. Aggrieved

the applicant has approached this Tribunal with the above prayers.

4. Notices were issued to the respondents. They entered appearance through Mrs. P.K. Latha, ACGSC who contended that the applicant had got three promotions during his service career. Applicant also could not be granted Grade Pay of Rs. 4,600/- as the employee drawing the pay scale of Rs. 5,000-8000/- as on 31.12.2005 are alone eligible for the replacing scale with the said Grade Pay. The applicant was drawing the scale of pay of Rs. 4,500-7,000/- as on 31.12.2005 and as such he could not be given the Grade Pay of 4,600/- but the corresponding replacement scale of Rs. 9,300-34,800/- with Grade Pay of Rs. 4,200/- was duly granted to him. Initially the applicant was appointed in the category of Valveman on 23.10.1972 in the pay scale of Rs.75-95/-. Consequent on the order of this Tribunal in OA No. 455 of 2005 his pay was fixed at Rs.260/- as Valveman in the pay scale of Rs. 260-400/- w.e.f. 16.10.1981. The applicant was promoted to the post of Fitter Pipe HS-II w.e.f. 10.9.1990 in the pay scale of Rs. 1200-1800/-, Fitter Pipe HS-I w.e.f. 13.8.1994 in the pay scale of Rs.1320-2040/-. The said scale of pay of Rs. 1320-2040/- was revised to Rs. 4000-6000/- with effect from 1.1.1996 consequent to the implementation of 5th CPC. He was further promoted as MCM w.e.f. 2.6.2003 in the pay scale of Rs. 4,500-7,000/-. The pay scale of Rs. 4500-7000/- was revised to Rs. 5,000-8,000/- and later to Rs.9,300-34,800/- plus Grade Pay of Rs. 4,200/- w.e.f. 1.1.2006. The applicant is not eligible for 3rd MACP in the Grade Pay of Rs. 4,600/- as the same is eligible only to those HS workers/MCM who were granted the pay scale of Rs. 5,000-8,000/- as on 31st December, 2005 in the pre-revised

scale as per 5th CPC. Respondents also contend that Shri P. Babu, Fitter Pipe HS-I was initially appointed in the category of Valveman in pay scale of Rs. 210-290/-. Consequent on the verdict of course case filed by him he was granted Skilled grade w.e.f. 16.10.1981 and subsequently granted 1st ACP and 2nd ACP in the pay scale of Rs. 4,000-6,000/- and Rs.5,000-8000/- respectively w.e.f. 9.8.1999 on completion of 12 and 24 years of service and his pay was revised as per Annexure A4. Further Shri P. Babu was drawing the pay in the pay scale of Rs. 5,000-8,000/- as on 31.12.2005 and as such he had been granted GP of Rs. 4,600/-. Shri P. Babu was also given the 3rd MACP on completion of 30 years of service. Respondents pray for dismissing the OA.

5. Heard Shri P.K. Madhusoodanan learned counsel appearing for the applicant and Mrs. P.K. Latha, ACGSC learned counsel appearing for the respondents. Perused the records.

6. The question to be decided in this case is whether the applicant who retired after completion of 30 years service have got 3 financial upgradation or not? As per the applicant he had received only two upgradations and had not been given the 3rd financial upgradation on completion of 30 years service as has been granted to similarly situated persons.

7. The applicant was appointed as Valveman in the pay scale of Rs. 75-95/- which was re-fixed as Rs. 210-290/- in the year 1981. He was promoted to High Skilled category-II with pay scale of Rs. 1,200-1,800/-,

later on in 1994 as Highly Skill Gr-I Rs. with pay scale of Rs. 1,320-2,040/-. However, these two categories have merged w.e.f 01.01.1996 and become one category with pay scale of Rs. 4,000-6,000/-. Thus this is neither promotion or upgradation and thereafter applicant got MCM scale of Rs. 4,500-7,000 in the year 2003. The respondents submitted that the applicant got second promotion in the scale of pay of Rs. 1,320-2,040 in the year 1994 and he got MCM in scale of Rs. 4,500-7,000 in the year 2003. Therefore, he is not entitle for the 2nd ACP. Further as the applicant has never reached in the pay scale of Rs. 5,000-8,000/- he is not entitle for 3rd MACP when he retired.

8. The counsel of the applicant has drawn our attention to Annexure A1 order dated 20th May 2013 of Ministry of Defence in regard to restructuring of cadre of Artisan Staff of Defence Establishments in modification of recommendation of 5th CPC. The relevant portion is extracted hereunder:

“2. The grade structure in the industrial as well as in the non-industrial trades wherever already available and the pay-scales of the Defence artisan staff shall stand modified w.e.f. 1.1.1996 as under:-

- | | | |
|-------------------------------------|---|-----------------|
| (i) Skilled | : | Rs. 3,050-4,590 |
| (ii) Highly Skilled
(HS-I+HS-II) | : | Rs. 4,000-6,000 |
| (iii) Master Craftsman | : | Rs. 4,500-7,000 |

3. (a) Wherever the grade structure in the Industrial as well as in the Non-Industrial trades is already existing in the ratio of 65:20:15, in the erstwhile Skilled : HS-II : HS-I, the merger of HS-II and HS-I shall be treated to have come into effect from 1.1.96 and the grade structure of Skilled and Highly Skilled categories shall be in the ratio of 65:35(20+15).

(b) The post of Master Craftsman shall not be part of the hierarchy and the placement in this grade will not be treated as promotion for High Skilled Grade either under normal promotion rules or under ACP Scheme.

(c) The selection from Highly Skilled grade to the grade of the Master Craftsman shall be 10% of Highly Skilled cadre (i.e. 10% of 35% of the Skilled and the placement in this grade shall be w.e.f. 1.1.96 and up to the

date of the issue of these orders.

(d) The placement of the individuals in the posts retiring from the restructuring and ratio revision, shall be made w.e.f. 1.1.96, in relaxation of the conditions, if any, i.e. trade test etc., as one time measure.

(e) The above provisions may also be made applicable, as a special case in relaxation of the existing rules/instructions to the employees who have either retired or died after 1.1.96.

4. (i) From the date of issue of these orders, all the trades classified as Skilled (including left out trades) in the Industrial as well as in the non-industrial trade shall now be modified in the following inter-grade ratio:-

1.	Skilled (Rs. 3050-4590)	:	45%
2.	Highly Skilled (Rs. 4000-6000)	:	55%
3.	Master Craftsman (Rs. 4500-7000)	:	25% of the Highly skilled grade posts will be placed in the grade of the Master Craftsman They will however, not be a part of the hierarchy.

(ii) The above mentioned inter-grade ratio shall be worked out based on the sanctioned/authorized strength.

(iii) Since the post of Master Craftsman is not part of the hierarchy the placement in this grade shall not be treated as promotion for Highly Skilled Grade either under normal promotion rules or under ACP Scheme.

(iv) The post of Master Craftsman shall continue to be considered as highly skilled grade for the purpose of promotion to the grade of Chargeman-II (Rs. 5000-8000).

(v) The benefit of the first and second ACP to the Skilled workers will be as per the orders issued by the DOP&T under their OM dated 9.8.99 and subsequent clarifications issued on the subject.

(vi) Where there is direct recruitment at the level of HS-I/HS-II in Defence Estts., the number of Master Craftsmen (not exceeding 25% of Highly Skilled may be decided considering the functional requirements by the concerned administrative Sections in the Ministry of Defence in consultation with their concerned Integrated Finance.

(vii) The placement of the individuals in the posts resulting from the above restructuring and ratio revision shall be made from the date of issue of the orders in relaxation of the conditions, if any, as one time measure.

(viii) The procedure for selection to the grade of Master Craftsman shall be as laid down in para-2 & 3 of Ministry of Defence letter No. 1(20/80/D(Civ.I) dated 21st September, 1982, as amended with the exception that the number Master Craftsmen in cash trade shall be up to

25% of the total number of sanctioned posts in the Highly Skilled grade in each organization instead of 10% as was provided for in para-2(i) of aforesaid Ministry of Defence letter.

(ix) The existing recruitment rules for the Tradesmen may be amended accordingly.”

9. So it is quite clear that HS-II & HS-I is one category in the pay scale of Rs. 4000-6000/- and therefore, upgradation to HS-II to HS-I shall not be treated as promotion/upgradation. Hence, respondents are at error in treating it as upgradation from HS-II to HS-I. In the case of applicant it is part of restructuring benefit which is given to everybody. The placement in the grade of MCM (Master Craftsman) shall also not be either treated as promotion or upgradation under ACP Scheme. Resultantly it can be said that the respondents have committed serious error by not granting the 3rd upgradation to the applicant under MACP Scheme, though he is entitle to it. The reason given by the respondents that he has not reached before retirement to the pay scale of Rs. 5000-8000/- also is a erroneous belief. No rules to this effect had been placed on record.

10. In the conspectus of the circumstances of the present case, we hold that the applicant is entitle from 2nd ACP in pay scale of Rs. 5000-8000 in the year 1999 and 3rd financial upgradation under the MACP in Grade Pay of Rs. 4600/- from the due date in 2003. Since the applicant only approached only after retirement in year 2016, he shall be granted the same from the due date i.e. completion of 30 years of his service notionally and the monetary benefits shall be granted to him 3 years prior to the filing of this Original Application. He is also entitled to get his pension re-fixed

accordingly. The present OA is allowed. There shall be no order as to costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

“SA”

Original Application No. 180/00558/2016**APPLICANTS' ANNEXURES**

- Annexure A1** - True copy of the letter No. II (1)/2002/D(Civ.I), dated 20.5.2003.
- Annexure A2** - True copy of the Special PTO dated 25.6.2013 issued by the GE (NS) Kochi.
- Annexure A3** - True copy of the pension payment order issued to the applicant from the office of the 5th respondent in Pay Band Rs. 9300-34,800/- Grade Pay Rs. 4,200/-.
- Annexure A4** - True copy of the PTO No. 7 dated 21.6.2013 issued to applicant's junior by 7 years, Sri P. Babu.
- Annexure A5** - True copy of the representation dated 1.11.2014 submitted by the applicant before the 3rd respondent.
- Annexure A6** - True copy of the letter dated 13.3.2015 by the 2nd respondent.
- Annexure A7** - True copy of the representation dated 21.4.2015 submitted by the applicant to the 1st respondent.
- Annexure A8** - True copy of the letter No. 10310/MACP/729/E1NB dated 10.7.2015 of the 2nd respondent.
- Annexure A9** - True copy of the representation dated 29.7.2015 submitted by the applicant before the 1st respondent.
- Annexure A10** - True copy of the PTO No. 14 dated 6.4.2015.

RESPONDENTS' ANNEXURES

- Annexure R1(a)** - E-in-C's Branch letter dated 10.3.2014.
- Annexure R1(b)** - Order of CAT Chandigarh Bench dated 1.12.2015 in OA No. 61/67 of 2015.