

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.040/00189/2015

Date of order: This the 06th day of March, 2019

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. NEKKHOMANG NEHSIAL, ADMINISTRATIVE MEMBER

Shri Ramesh Chandra Boro UDC
Muga Silk Warm Seed Organisation
Central Silk Board, Guwahati-38.

...Applicant

By Advocates: Mr. M. Chanda, Mrs. U. Dutta & Ms. S. Begum

-Versus-

1. The Union of India
Represented by the Secretary to the Government of India
Ministry of Textiles
New Delhi.
2. The Secretary
Government of India
Ministry of Personnel and Training
North Block, New Delhi-110001.
3. Central Silk Board
Through Member Secretary
Ministry of Textiles
Govt. Of India
CSB Complex, BTM Layout
Madiwala, Bangalore-560068
4. The Deputy Director (A&A)
Central Silk Board
Ministry of Textiles
Govt. of India
CSB Complex, BTM Layout
Madiwala, Bangalore-560068.

...Respondents

By Advocate: Mr. B.C. Pathak for Central Silk Board

ORDER

NEKKHOMANG NEIHSIAL, MEMBER (A):

Being aggrieved with the impugned letter dated 18.03.2015 issued by the respondent No. 3 whereby claim of the applicant for grant of grade pay of Rs. 2400/- instead of Rs. 2000/-, attached to the post of UDC, which is the next hierarchy of the applicant has been denied while granted benefit of 2nd MACP, the applicant has preferred the instant petition under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief/s:-

- “8.1 That the Hon'ble Tribunal be pleased to set aside the clause 2 of the MACP Scheme dated 19.05.2009 (Annexure-2) wherein DOPT has directed to grant the benefit of MACP in the immediate next higher grade pay in the hierarchy of the recommended revised pay band and grade pay as given in Section-1, Part-A of the 1st schedule of the CCS (Revised Pay) Rules 2008.
- 8.2 That the Hon'ble Tribunal be pleased to set aside and quash the impugned Memorandum bearing letter No. CSB-63(29)/2009-ES-II(Vol-II) dated 18.03.2015 (Annexure-5).
- 8.3 That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to financial upgradation under the MACP Scheme to the next higher grade pay of Rs. 2,400 in accordance with the existing hierarchy in a cadre/category of posts as provided earlier under the ACP Scheme issued under O.M. No. 35034/1/97-Estt(D) dated 09.08.1999.
- 8.4 That the Respondents be directed to grant the Grade Pay of Rs. 2400/- instead of Rs. 2000/- in the pay band of Rs. 5,200-20,200/- to the applicant from 01.09.2008 on which he was granted the benefit of 1st MACP in modification of the order dated 06.03.2010 (Annexure-4)
- 8.5 Costs of the application.
- 8.6 Any other relief(s) to which the applicant is entitled to as the Hon'ble Tribunal may deem fit and proper.”

2. Facts of the applicant in the instant case are that the applicant was initially appointed as Lower Division Clerk on 28.09.1996 in the office of the Central Silk Board, located in the North Eastern Region. On completion of tenure of service, applicant has attained eligibility for grant of 1st MACP in terms of Govt. of India, O.M. No. 35034/3/2008-Estt. (D) dated 19.05.2009, since the MACP scheme came into operation w.e.f. 01.09.2008. The applicant was granted benefit of 1st MACP in the grade pay of Rs. 2000/- in pay band -1 of Rs. 5,200-20,200/- instead of grade pay of Rs. 2400/- in the pay band -1 of Rs. 5,200-20,200/- w.e.f. 01.09.2008. The grievance of the applicant in the instant original application to grant grade pay of Rs. 2400/- in the pay band -1 of Rs. 5,200-20,200/- i.e. the scale and grade pay attached to the promotional post of UDC, but the applicant has been denied the higher grade pay of Rs. 2400/-. Hence the original application.

3. Mr. M. Chanda, learned counsel appearing on behalf of the applicant submitted that being aggrieved for non-extension of the Grade Pay of Rs. 2400/-, applicant submitted representation on 01.09.2014 due and admissible to him w.e.f. 01.09.2008 in terms of Govt. of India OM dated 19.05.2009 which was rejected by the respondent authorities vide letter No. CSB-63(29)/2009-ES-II (Vol.II) dated 18.03.2015 on the ground that the judgment passed by the Chandigarh Bench of the Tribunal in O.A. No. 1038/CH/2010 is in personam and not applicable to others who are not parties to the

case and applicant is also not eligible for financial upgradation under the MACP Scheme dated 19.05.2009.

4. Mr. Chanda has drawn our attention to the order dated 03.04.2014 passed by this Tribunal in O.A. No. **75 of 2013 (Rajini Kanta Deka & Ors. Vs. Union of India & Ors.)** and submitted that the present case is squarely covered with the said case which has been confirmed by the Hon'ble Court of Meghalaya at Shillong vide order dated 04.12.2014 in WP(C) No. 237 of 2014.

5. Mr. Chanda further submitted that this Tribunal in the aforesaid case has already settled the issue following the decision rendered by the Hon'ble Chandigarh Bench of Central Administrative Tribunal in O.A. No. 1038/CH/2010 (Rajpal Vs. UOI & Ors) dated 31.05.2011 which was further confirmed by the Hon'ble Division Bench of the Punjab and Haryana High Court in CWP No. 19387 of 2011 dated 19.10.2011. The SLP No. 7467/2013 filed before the Hon'ble Supreme Court against the said order was also dismissed vide order dated 15.04.2013. According to Mr. Chanda, relying on the aforesaid decisions, the Principal Bench of this Tribunal vide its order dated 26.11.2012 passed in O.A. No. 904 of 2012 directed the respondents to grant Grade Pay attached to the promotional post. Learned counsel, therefore, contended that since the case of the present applicant is squarely covered by the aforesaid decisions, similar direction may be issued in this case also.

6. On the other hand, Mr. B.C. Pathak, learned standing counsel for the Central Silk Board submitted that as per VI CPC, the pay structure comprise of Pay Band (PB) + Grade Pay (GP). As per the said MACP Scheme, a Govt. servant who is in PB I in the GP of Rs. 1,900/- will be granted first financial upgradation on completion of 10 years of service to PB I in the GP of Rs. 2000/-, even though his next promotion to UDC is in the GP of Rs. 2,400/-. Thus, there is a difference between the two schemes, namely, the ACP and the MACP. Under the ACP Scheme, the financial upgradation is to the next promotional hierarchical posts, whereas, in case of MACP Scheme, the financial upgradation is granted in the successive GP in the hierarchy of recommended revised PB and GP and not in the promotional hierarchy. The MACP Scheme provides for 3 financial upgradations at the intervals of 10, 20 and 30 years of continuous regular service. The financial upgradation under the MACP Scheme will be admissible whenever a person has spent 10 years continuous service in the same GP without any promotion. The MACP Scheme provides mere placement in the immediate next higher grade pay in the hierarchy of the revised PB and GP as given in Section 1, Part-A of the First Schedule of the CCS(Revised Pay) Rules, 2008.

7. Mr. Pathak further submitted that as explained hereinabove, the applicant is eligible for the GP of Rs. 2,000 in the PB-1 of Rs. 5,200 w.e.f. 01.09.2008 which has been granted to him

and he is not entitled to GP of Rs. 2,400/- under the MACP Scheme on completion of 10 years service as per the Scheme. However, the case of the applicant had been considered for regular promotion to the posts of UDC in GP of Rs. 2,400/- w.e.f 08.11.2013 in the PB of Rs. 5,200-20,200 as he became eligible for promotion as per C&R Rules of CSB.

8. According to Mr. Pathak, the claim of the applicant as of now, is based on the order dated 03.04.2014 passed in O.A. No. 75/2013 by this Tribunal which is a different case and unconnected with the Central Silk Board. Said order dated 03.04.2014 is based on the order dated 31.05.2011 passed by the Hon'ble CAT, Chandigarh Bench in O.A. No. 1038/CH/2010 in 'Raj Pal-vs- Union of India'. The orders referred to hereinabove, passed by the Hon'ble CAT, Guwahati Bench and Chandigarh Bench pertain to different footing and different departments and is not a case of similarly situated case of employees. Moreover, the fitment given to the applicant under the Scheme in the GP is absolutely based on the MACP Scheme.

9. We have heard the learned counsel for both the parties. Perused the pleadings, materials placed on record and the decisions relied upon. The aforesaid matter is no longer res integra. We find that the identical issue has been dealt with by the Chandigarh and the Principal Benches of the Tribunal as well as by

the Hon'ble High Court of Punjab and Haryana and the Apex Court. The Chandigarh Bench of the Tribunal in O.A. No. 1038/CH/2010 (Rajpal Vs. Union of India & Ors.) has passed the following observation and orders:-

“13. It has also been settled that the ACP would be granted on completion of the required years of service in the hierarchy of posts for the posts of LDC/Hindi Typists, and not in the next higher scale in the recommended scales. The same principle would have to be applicable in regard to grant of MACP to the applicant. The only difference is that while in case of ACP two financial upgradations were granted on completion of 12 and 24 years of service, in case of MACP, three upgradations on intervals of 10, 20 and 30 years of service.

14.

15. Be that as it may, the principle enunciated and settled by the Tribunal/High Court for grant of ACP cannot be changed and the same principle would apply for grant of MACP to him. The only difference is of number of years required to be completed. We find no justification to take a different view in the matter.

For the foregoing reasons, the impugned order dated 9.8.2010, qua the applicant, fixing his pay in PB-1 with grade pay of FR 2400/- under the second MACP, and the order dated 10.8.2010 are hereby quashed and set aside. Consequently, the respondents are directed to grant second financial upgradation to the applicant under the MACPS from due date fixing his pay in the hierarchy of posts decided in his case earlier and to pay the resultant arrears without interest, within a period of 2 months from the date of receipt of a copy of this order.”

The respondents therein have challenged the aforesaid order before the Hon'ble High Court of Punjab and Haryana at Chandigarh in CWP No. 19387/2011. The Hon'ble High Court vide judgment and

order dated 19.10.2011 while dismissing the said CWP has observed as under:-

“...the contention raised by the learned counsel for the petitioners to the effect that the earlier scheme of ACP stood superseded by MACP Scheme is being noticed only to be rejected. The entire objective of introduction of the ACP/MACP Scheme is to alleviate stagnation as regards an employee who has a number of regular years of service on the same post without any avenue of promotion. It is under such circumstances that a financial incentive is sought to be granted to an employee upon completion of a certain number of years of service on the same post. Under the ACP Scheme of 1999, the financial upgradations were to be granted upon completion of 12 years and 24 years of regular services whereas under the MACP Scheme such financial upgradations are envisaged upon completion of 10/20 or 30 years of service. The contention raised on behalf of the petitioners if accepted would defeat the very objective for which such Schemes have been introduced.”

The SLP preferred before the Apex Court was dismissed on 15.04.2013. The Principal Bench in a similar matter being O.A. No. 904/2012 vide its order dated 26.11.2012 held as under:-

“8. In fact, respondents have wrongly interpreted the terms and conditions mentioned in the MACP Scheme, issued by the Deptt. Of Personnel & Training, in the case of the applicants. By the said Scheme, the eligible government servants are to be placed in the immediate next higher grade pay in the hierarchy of the recommended revised pay bands and grade pay and not merely in the next higher scale of pay as per the recommendations of the 6th Pay Commission. In the hierarchy after the scale of UDC, the next scale is that of Assistant. Therefore, the respondents should have given the next higher grade pay and pay band attached to the next promotional post in the hierarchy, namely, the Assistants carrying the pay scale of Rs. 9300-34800 and grade of Rs. 4200/-.”

10. We have gone through the written statement filed by the respondents as well as rejoinder filed by the applicant. From the perusal of records, it is observed that the applicant is entitled to Grade Pay of Rs. 2400/- which is the Grade Pay of the hierarchical promotional post of UDC.

11. Considering the above fact and following the decision of Co-ordinate Bench of CAT, Chandigarh Bench which was confirmed by the Hon'ble Punjab and Haryana High Court as well as Hon'ble Supreme Court and the decision of this Tribunal rendered in the case of **Rajini Kanta Deka (supra)** which has been confirmed by the **Hon'ble Court of Meghalaya at Shillong**, we direct the respondents to decide the present issue in accordance with aforesaid precedents after examining the case of the applicant and if they are found similarly situated, similar benefits be granted to the present applicant also. The said direction shall be complied with by the respondent authorities within a period of three months from the date of receipt of a copy of this order.

12. With the above observations and directions, O.A. stands disposed of accordingly. No order as to costs.

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)