

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAATI BENCH

Original Application No.040/00245 of 2016

Date of Order: This the 08.03.2019

**THE HON'BLE SMTI MANJULA DAS, JUDICIAL MEMBER
HON'BLE MR.N.NEIHSIAL, ADMIISTRATIVE MEMBER**

Shri Rabha Ram Nath

(T.No.2384)

EX.HSG II

O/O The Officer Commanding

222 ABOD, C/O 99 APO

... ...

Applicant

-AND-

By Advocate: Mr.M.Chanda

1. The Union of India
Represented by the Secretary,
To the Govt. Of India,
Ministry of Defence(D)
2. The Directorate General of Ordnance Services
Master General of Ordnance Branch, Integrated HQ of
Ministry of Defence (Army)

New Delhi-110011.
3. The Commandant,
222 ADV, Base Ordnance Depot
C/O 99 APO, Pin-909222,
Narangi, Guwahati, Assam

4. Headquarter

Eastern command (Ord.)
Fort William, Kolkata-700021
Pin-908542, C/o 99 APO

5. The Controller of Defence Accounts

Udayan Bihar, Narangi
Satgaon, Guwahati-78171.

Respondents

O R D E R (Oral)

Per Mrs. Manjula Das, Member(J):

This O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1987 with the following reliefs:-

“ 8.1 That the Hon’ble Tribunal be pleased to direct the respondents to grant 2nd ACP to the applicant due and admissible w.e.f. 01.07.1999 or w.e.f. 01.01.2006 in the grade pay of Rs.2400 in the pre revised scale of Rs.4000-6000/- by way of review/modification of the benefit of ACP to scheme to which the applicant is legally entitled for with all consequential benefit as well as arrear monetary benefit.

8.2. That the Hon’ble Tribunal be pleased to direct the respondents to grant the benefit 3rd MACP in the grade of pay of Rs.4200/- in the relevant pay band II, w.e.f. 01.07.2005 or w.e.f. 01.09.2008 which is attached to the next promotional post of master craftsman in the light of CCS(revised) pay Rule 2008 and

OM dated 19.05.2009 by way of review/modification of the benefit of MACP scheme to which the applicant is legally entitled for with all consequential benefit as well as arrear monetary benefit with immediate effect along with 18% interest or alternatively any other appropriate higher grade pay as deemed fit and proper by the Hon'ble Tribunal.

8.3 The Hon'ble Tribunal may pleased to direct the respondents to review and grant the pensionary benefit already granted to the applicant after granting him benefit of 2nd ACP in the grade pay of Rs.2400/-w.e.f. 01.07.1999 or w.e.f. 01.01.2006 and 3rd MACP scheme in the grade pay of Rs.4200/- w.e.f. 01.07.2005 or w.e.f. 01.09.2008 which will create a huge increase of financial benefit due and admissible to the applicant on his retirement on superannuation (in the grade pay of Rs.4200/-) w.e.f. June ,2014."

2. Heard Mr.M.Chanda, learned counsel for the applicant perused the pleadings and materials placed before us.
3. Learned counsel for the applicant submits that the applicant praying for a direction upon the respondents to review the benefit of ACP/MACP already extended to the applicant in terms of Govt. Of India O.M dated 09.08.1999

as well as in terms of the Govt. Of India O.M. dated 19.05.2009, in the light of the CCS (Revised) Pay Rules 2008, whereby scale of pay of the feeder post of Mazdoor as well as promotion post of Painter Mate got merged into a single scale of pay in the trade of painter, as such the promotion earned earlier in the trade of Painter Mate, is liable to be ignored for the purpose of granting ACP/MACP in terms of the relevant provision laid down in the Scheme of ACP/MACP with a further direction to grant 2nd ACP in the grade pay of Rs.2400/- w.e.f. 01.07.1999 or w.e.f. 01.01.2006 on completion of 24 years of regular service in the relevant pay band with all consequential service benefit in terms of ACP Scheme dated 09.08.1999 as well as praying for a direction to grant 3rd MACP w.e.f 01.07.2005 or alternatively w.e.f. 01.09.2008 in the grade pay of Rs.4200/- in the relevant Pay Band on completion of 30 years of service, which is attached to the promotional post of Master craftsman, with a further direction to review, refix the pay as well as pensionary benefit as due and admissible to the applicant on his retirement on superannuation in the Month

of June 2014 with all consequential benefit including arrear monetary benefit.

4. Learned counsel further submitted that in partial modification of the 6th CPC recommendation amendment made in Defence Civilian in Defence Services (Revised Pay) Rules 2008, dated 28.08.2009, granted the modified revised scale of pay to the Defence Artisan Staff w.e.f. 01.01.2006.

5. Learned counsel further submitted that in clause – vi of the Govt. Of India, Ministry of Defence letter dated 14.06.2010, the earlier provision of restructuring laid down in the Govt. Of India, Ministry of Defence letter dated 20.05.2003 stand amended. It is abundantly clear that the amendment of provision laid down in the re-structuring order dated 20.5.2003 is amended and the benefit of modified revised scale has been directed to be extended w.e.f. 0101.2006. Moreover, the respondent did not extend the benefit of MACP Scheme when the applicant had acquired a valuable legal right for grant of 3rd MACP in Grade Pay of Rs.4200/- in the PB II of Rs.9300-34800 which is

attached to the next promotional post of Master Craftsman available to the applicant, on completion of 30 years of regular service on 01.7.2005, as such, it is obligatory on the part of the respondent to review and grant the applicant benefit of MACP due and admissible to the applicant in the light of CCS revised Pay Rules 2008 and also in the light of MACP Scheme dated 19.5.2009.

6. Learned counsel further submitted that the 2nd ACP of the applicant is due and admissible w.e.f. 01.07.1999 or w.e.f. 01.01.2006 in the grade pay of Rs.2400 in the pre revised scale of Rs. 4000-6000/- on completion of 24 years of service. similarly 3rd MACP is due to the applicant in the grade pay of Rs. 4200/- in the relevant pay band II w.e.f 01.07.2005 or w.e.f 01.09.2008 instead of Grade Pay of Rs. 2400/- by way of review in the light of CCS (revised) Pay Rule 2008 and also in the light of Govt.of India OM dated 09.08.1999 and 19.05.2009.

7. Learned counsel for the applicant relied the decision of **CAT, Ernakulam Bench in O.A. 175 of 2001 decided on 12.04.2002 rendered in the case of M.K.Rajan, vs. Union of India & Ors** is under:-

“ In the light of what is stated above, we find that the applicant is entitled to succeed in this application. We accordingly, allow this application, set aside the impugned order Annexures A5, A8 and A10 and direct the respondents to consider the applicant for grant of the scale of Rs.6500-10500 as first ACP with effect from 9.8.99 and the second ACP in the scale of Rs.7450-11500 w.e.f. 15.9.2000 as the applicant had on these dates become eligible for the first and second ACPs respectively and issue the consequential order. The above directions shall be complied with the financial benefits flowing therefrom shall be made available to the applicant as expeditiously as possible at any rate not later than two months from the date of receipt of a copy of this order. No costs.”

8. The Respondents have filed written statement. In their written statement, the learned counsel for the respondents further submitted that two financial upgradations under the ACP Scheme in the entire

Government Service career of an employee shall be counted against regular promotions (including in-situ promotion and fast-track promotion availed through limited departmental competitive examination) availed from the grade in which an employee was appointed as a direct recruit. This shall mean that two financial upgradations under the ACP Scheme shall be available only if no regular promotions during the prescribed periods (12 and 24 years) have been availed by an employee. If an employee has already got one regular promotion, he shall qualify for the second financial upgradation only on completion of 24 years of regular service under the ACP Scheme.

9. Learned counsel further submitted that as per recommendations of 6th Central Pay Commission , merger and re-designation of various common category posts was issued vide Government of India, Ministry of Defence letter dated 27th February, 2013 (Annexure-R-2), wherein posts of Labourer, Mazdoor (2550-3200) and Tradesman Mate (2650-4000) stands merged with Tradesman Mate and both

erstwhile posts given common designation as Tradesman Mate in Pay Band-1 with Grade Pay Rs.1800/-with effect from 01 Jan 2006. As such, the policy dated 27th Feb, 2013 on merger and re-designation of Various common category /posts got signed, the applicant was in Highly Skilled Grade (with effect from 01 March 2006).

10. Learned counsel further submitted that the benefit of condition of ignore merger of pay scale of Rs.2550-3200/-

and Rs.2650-4000/- with effect from on or after 01 January, 2006 is only applicable to MACP scheme and not for ACP Scheme. The Respondents have stated as hereunder:

"The applicant already got three regular promotions before introduction of MACPs. Further, the applicant retired from service with effect from 30 Jun 2014 in the rank of Painter Highly Skilled Grade i.e before completing his 10 years of service in same grade (Painter Highly Skilled Grade) which is mandatory requirement for grant of benefits of MACP Scheme. As such, the applicant was not entitled for the benefits of MACP Scheme."

11. Such a contention of the respondents have already been dealt by the coordinate bench, CAT, Ernakulam, in 2002(2) ATJ 619 i.e M.K. Rajan, Vs.Union of India & Ors.(O.A.No.175 of 2001) which was decided on 12.4.2002 wherein it was held that in the event of merger of two posts in the same scale of pay, such merger of two posts in the same scale of pay, such merger is required to be ignored for the purpose of even granting benefit under ACP Scheme.

12. In view of the above, it is considered appropriate at this stage in the interest of speedy justice that the respondents be directed to treat this O.A. along with the representation of the applicant dated 23.12.2015 to re-examine the grievance of the applicant for extending him benefit under ACP/MACP Scheme and also that the respondents dispose of the same by passing a speaking order not later than three months from the date of receipt of this order.

13. With the above observations and directions, O.A. is disposed of. There will be no order as to costs.

(N.NEIHSIAL)
ADMINISTRATIVE MEMBER

(MANJULA DAS)
JUDICIAL MEMBER

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