

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.040/00238/2016

Date of order: This the 08th day of February, 2019

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. NEKKHOMANG NEHSIAL, ADMINISTRATIVE MEMBER

Shri Tarit Kumar Sinha
Vehicle Mechanic
T/No. 131
Office of the Officer Commanding
Station Workshop (EME), Dist – Kamrup (M)
Narengi Cantt., Guwahati – 781171.

...Applicant

By Advocates: Mr. M. Chanda, Mrs. U. Dutta & Mr. A.K. Das

-Versus-

1. The Union of India
Represented by the Secretary
Ministry of Defence, New Delhi – 110011.
2. The Controller of Defence Accounts
Udayan Vihar, Narangi
Guwahati – 781171.
3. The Officer Commanding
Station Workshop, EME
Guwahati, Pin – 900328
C/O 99 APO.
4. The Local Audit Officer (Army)
Narangi, Guwahati – 781027, Assam.

...Respondents

By Advocate: Mr. V.K. Bhatra, Sr. Standing Counsel.

ORDER (ORAL)

MANJULA DAS, JUDICIAL MEMBER:

Being aggrieved for non-extension of Grade Pay of Rs. 4200/- w.e.f. 01.07.2013 on account of 1st MACP granted to him instead of Rs. 2000, the applicant approached this Tribunal with the following relief/s:-

- 8.1 That the Hon'ble Tribunal be pleased to declare that the applicant is legally entitled to benefit of 1st MACP in the grade pay of Rs. 4200/- (in the pre revised scale of Rs. 5000-8000/-) or in any other higher grade pay as deemed fit and proper by the learned tribunal either w.e.f. 01.07.2013 i.e. on completion of 10 years of service with all consequential benefit including arrear monetary benefit by way of review/modification of the relevant orders MACP issued earlier.
- 8.2 That the Hon'ble Tribunal be pleased to declare that granting of 1st MACP in the grade pay of Rs. 2000/- instead of grade pay of Rs. 4200/- in the relevant PB of Rs. 9300-34800/- at least w.e.f. 01.02.2010 is not sustainable in the eye of law in terms of prayer No. 8.1.
- 8.3 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper."

2. Facts of the applicant in the instant case are that he was initially appointed as Civilian Vehicle Mechanic w.e.f. 01.07.2003 in the scale of Rs. 3050-4590/- under the Ex Serviceman quota, there after till date, no regular promotion has been earned by him. The next avenue of promotion available to the applicant is in the grade of Supervisor in the grade pay of Rs. 4200/- (pre revised 5000-8000/-)

in the relevant pay band. The 1st MACP benefit is given to the applicant in the grade pay of Rs. 2000/- vide DO Part II order No. 24 dated 25.09.2013 whereas he ought to have been granted the benefit of 1st MACP w.e.f. 01.07.2013 in the grade pay of Rs. 4200/- i.e. in the scale of pay of Rs. 9,300-34,800/- which is attached to the next avenue of promotional post of Supervisor in the pre revised scale of Rs. 5000-8000/- (revised grade pay of Rs. 4200/- in Pay Band II of Rs. 9300-34800) in the light of the Govt. of India OM dated 09.08.1999 read with Govt. of India OM dated 19.05.2009 and also in the light of CCS (Revised) Pay Rules 2008.

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. 4200/-, applicant submitted representation on 14.12.2015 due and admissible to him w.e.f. 01.07.2013 in terms of Govt. of India OM dated 19.05.2009 by way of review and fixation of pay. But to no result.

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. V.K. Batra, learned Sr. Standing counsel who entered appearance on behalf of the respondents submitted that as the similar issue has already been settled by this Bench along with other Co-ordinate Bench of Central Administrative Tribunal, hence, there is no other issue to be raised for passing a different order. However, submitted that regular promotion of civilian employees working under EME directly controlled by Head of Department and the next avenue of promotion respect of the applicant as per Corps of EME (Industrial Recruitment Rules 2014 is

highly skilled Grade-II with Grade Pay Rs. 2400/- and not directly as Supervisor.

7. 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/-.”

8. We have gone through the written statement filed by the respondents on 07.02.2017 as well as rejoinder filed by the applicant on 17.07.2018. In the written statement as well as rejoinder, it is apparent that the promotion of the applicant is available to the post of Vehicle Mechanic Highly Skilled Grade – II from the post of Vehicle Mechanic Skilled and therefore, applicant is entitled to benefit of 1st MACP on completion of 10 years of service on 01.07.2013 in the Grade Pay of Rs. 2400/- in the relevant pay band-I.

9. 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 grant Grade Pay of Rs. 2400/- to the applicant w.e.f. 01.07.2013 with all consequential benefits. 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.

10. 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)