



**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**

No. O.A. 350/01020/2016

Date of order: 15.1.2019

**Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member**

Pradip Kumar Sen,
Son of Late Dhirendra Nath Sen,
Working For Gain as L.D. Clerk,
Port Health Organisation,
Ministry of Health & Family Welfare,
Government of India,
Having Its Office at Marine House,
Post Office & Police Station – Hastings,
Kolkata – 700022 &
Residing at 3 No. Chandigarh,
Ward No. 6, Madhyamgram Bazar,
Post Office & Police Station – Madhyamgram,
Kolkata – 700130,
District – North 24 Parganas.

Applicant

Versus

1. Union of India,
Service Through The Secretary,
Ministry Of Health & Family Welfare,
Having Its Office at Nirman Bhawan,
New Delhi – 110 001.
2. The Directorate General Of Health Services,
Ministry of Health & Family Welfare,
Government of India,
Having its Office at Nirman Bhawan,
New Delhi – 110 001.
3. The Director (Administration & Vigilance),
Directorate General of Health Services,
Ministry of Health & Family Welfare,
Government Of India,
Having its Office at Nirman Bhawan,
New Delhi – 110 001.
4. The Deputy Director Administration (AC),
Directorate General of Health Services,
Ministry of Health & Family Welfare,
Government Of India,
Having its Office at Nirman Bhawan,
New Delhi – 110 001.
5. The Port Health Officer,
Port Health Organisation,
Ministry of Health & Family Welfare,

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Government Of India,
Having Its Office at Marine House,
Post Office & Police Station – Hastings,
Kolkata – 700022.

.....Respondents

For the Applicant : Mr. S.K. Das, Counsel

For the Respondents : Mr. B.B. Chatterjee, Counsel

ORDER (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

The applicant has approached the Tribunal for release of third MACP benefits within a specific period of time along with interest accrued thereon.

2. Heard both Ld. Counsel and examined documents on record.

3. The applicant's case, as submitted by his Ld. Counsel, is that the applicant has preferred a number of representations for the grant of 3rd MACP benefits (annexed at A-5 and A-8 to the O.A.). The respondent authorities, however have turned a deaf ear to his appeals and the 3rd MACP has not been granted to him. Ld. Counsel would press the urgency of his case on account of impending superannuation of the applicant.

4. Ld. Counsel for the respondents, however points out that the applicant was issued a memorandum on 30.9.2015 for his derogatory and reckless comments against certain officials of the respondent authority. In response, the applicant replied on 6.10.2015, regretting his inability to offer any explanation as he failed to recall the incident which had happened as early as in 2009. The said response having been found to be unacceptable, the screening committee members agreed that, till the disposal of administrative matter in connection with the issue of such memorandum, grant of MACP with respect to the applicant should be kept pending. The applicant was given an opportunity vide memorandum dated 12th January, 2016, to explain as to why disciplinary action will not be taken against him under CCS (Conduct) Rules, 1964. In response, on 27.1.2016, the applicant defended himself stating that he was only pointing out the

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irregularities/corruption/fake/bogus claim on Government funds in the context of irregularities in conveyance allowance. The respondent authorities did not accept his defence and thereafter the applicant prayed for exoneration apologising for his earlier remarks. Again, on 18.5.2016, as MACP was not granted to him, the applicant revoked his earlier letter on withdrawal of complaints.

A show-cause notice dated 21.6.2016 followed and the respondent authorities withheld his MACP till the administrative matter against the applicant was disposed of.

5. It transpires from records as well as during hearing that, despite the fact that the matter were directed to be dealt with administratively against the applicant as early as on 12.1.2016, and, admittedly, the respondents have not proceeded any further on account of non-receipt of proper explanation from the applicant and also because the matter became subjudiced in the Tribunal, the entire cause of action, namely, the complaint dated 12.11.2009 made by the applicant which gave rise to the consequent sequence of activities, has become dated. The respondent authorities have also not proceeded any further to initiate and complete the disciplinary proceedings despite the lapse of about three years since issue of the show-cause notice.

6. Both the Ld. Counsel agree that no useful purpose will be served by keeping this matter pending for adjudication and that the applicant may be directed to prefer a comprehensive representation praying for his 3rd MACP to the respondent authorities and that the respondent authorities be directed to dispose of the same in accordance with law within a specific time frame.

7. Accordingly, without entering into the merits of the matter and with the consent of the parties, we hereby permit the applicant to prefer a comprehensive representation articulating his grievance on the 3rd MACP within a period of two weeks from the date of receipt of a copy of this order. Once such representation is received, the competent respondent authority shall look into the matter and pass an order in accordance with law and convey the same in the form of a

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reasoned and speaking order to the applicant within a period of six weeks thereafter. While disposing of the same, the respondents should reckon the fact that, as the respondent authorities failed to arrive at any administrative decision with respect to the applicant, his MACP has been withheld.

8. With these directions, the O.A. is disposed of. There will be no orders on costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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