

**Central Administrative Tribunal
Madras Bench**

OA/310/01777/2013

Dated Thursday the 10th day of January Two Thousand Nineteen

P R E S E N T

Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)

1. G.Renganathan
2. K.Kumar
3. D.Rajasekaran
4. Jamuna Rani
5. V.Ramesh .. Applicants

By Advocate **M/s.V.Vijay Shankar**

Vs.

1. The Union of India, rep by the
Joint Director(Personnel Civilian),
Air Headquarters,
Vaiyu Bhavan, New Delhi-11.
2. The Air Officer Commanding,
Air Force Station,
Tambaram,
Chennai-46. .. Respondents

By Advocte **Mr.M.Kishore Kumar**

ORAL ORDER

Pronounced by Hon'ble Mr.P.Madhavan, Member(J)

The applicants have filed this OA seeking the following relief:-

“to direct the respondents to grant 2nd ACP to the applicants w.e.f. April 2009 on completion of 24 years of service under the ACP scheme with all consequential and attendant benefits by extending the ratio of the judgement in OA 818/2011 dated 06.11.2013 rendered by this Tribunal and pass such other order or orders as may be deemed fit and thus render justice.”

2. According to the applicants, they joined as Lower Division Clerk in Military Engineering Service. On the basis of independent representation from the applicants for transfer from Military Engineering Service to MTI, Air Force, they were transferred and their seniority was fixed from the date of joining the transferred place at Air Force, Tambaram. The applicants were granted financial upgradation under ACP Scheme and their pay were fixed in the next higher pay scale of Rs.4000-6000. They were granted promotion to the post of UDC but they were not granted pay fixation benefits as they were already granted ACP benefits. It is submitted that since the applicants have completed 24 years of service in April 2009, in terms of the ACP Scheme of 1999, they are entitled to get the 2nd financial upgradation/2nd ACP and get fitment in the pre-revised scale of Rs.5500-9000/-. Whiles, MACP Scheme was introduced in 2009 which envisages grant of 3rd financial upgradations on completion of 10, 20, and 30 years of service instead of 12 and 24 as prevailing earlier. As the MACP Scheme of 2009 was not advantageous to the applicants, they made representation for grant of ACP under 1999 scheme, which is still pending for

consideration of the respondents. It is also submitted that all their seniors were granted 2nd ACP under the 1999 ACP Scheme on completion of 24 years of service, whereas the applicants are deprived of the said benefit which is arbitrary and violative of articles. Further, a similar claim in OA 818/2011 was allowed by this Tribunal holding that the applicants therein having completed 24 years of service are entitled to get 2nd ACP w.e.f. April 2009 on completion of 24 years of service. The applicants herein being identically placed persons in all respects, they are entitled to grant of 2nd ACP w.e.f. April 2009. Hence they have filed this OA seeking the above mentioned relief.

3. The respondents have filed a reply explaining their stand.

4. When the matter is taken up, learned counsel for the applicants would submit that against the order of this Tribunal in a similar issue in OA Nos. 818/2011, 1170/2012, 437/2013 Writ Petitions had been filed before the Hon'ble High Court of Madras and they were dismissed, confirming the order of this Tribunal. Therefore, the respondents may be directed to consider the applicants' claim in the light of this order.

5. Learned counsel for the respondents would, however, submit that the point of law on this issue is yet to be settled finally and the matter is pending before the Hon'ble Apex Court in SLP Nos.10811-10813/2018 and the Hon'ble Apex Court in the meantime has stayed the contempt proceedings.

6. As the point of law on which relief was granted earlier does not seem to have been settled finally and the matter is still pending before the Hon'ble Apex Court, we

are of the view that no useful purpose will be served by keeping the matter pending in this Tribunal. We, therefore, deem it appropriate to direct the respondents to finally dispose of the claim of the applicant in terms of the judgment/order in SLP Nos.10811-10813/2018 before the Hon'ble Apex Court as and when it is passed.

7. Therefore, the OA is disposed off with a direction to the respondents to review their stand in the light of the order that will be passed in the SLP referred supra, if the applicants are similarly placed, without dragging them to the Tribunal again. No costs.

(T.Jacob)
Member(A)

10.01.2019

(P.Madhavan)
Member(J)

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