

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA
(CIRCUIT SITTING AT PORT BLAIR)

No. O.A. 351/01615/2017

Date of order: 26.3.2019

Present : Hon'ble Ms. Manjula Das, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Shri S. Ravindran,
Aged about 57 years,
S/o. Late Sirumani,
R/o. Aberdeen Bazar,
Port Blair,
Working as Mechanical Fitter,
Electricity Department,
Presently posted at Executive Engineer,
South Andaman Division,
Neil Island.

... Applicant

- VERSUS -

1. The Union of India,
Through Ministry of Power,
Urja Bhavan,
New Delhi – 110 001.
2. The Ministry of Finance,
Through its Secretary,
North Block,
New Delhi – 110 001.
3. The Andaman & Nicobar Administration,
Through the Chief Secretary,
Andaman and Nicobar Islands,
Port Blair.
4. The Lieutenant Governor,
Raj Niwas,
Andaman and Nicobar Islands,
Port Blair.
5. The Chief Secretary,
Secretariat,
Andaman and Nicobar Islands,
Port Blair.
6. The Secretary (Power),



Andaman & Nicobar Administration,
Port Blair.

7. The Superintending Engineer,
Electricity Department,
Vidyut Bhavan,
Port Blair.

8. The Assistant Director (Administration),
Department of Electricity,
Andaman & Nicobar Administration,
Port Blair.

.. Respondents

For the Applicant : Ms. A. Nag, Counsel

For the Respondents : Mr. N.A. Khan, Counsel

O R D E R (Oral)

Per Ms. Manjula Das, Judicial Member:

Being aggrieved with the rejection of the benefits of the pay scale as has been granted by the Hon'ble High Court vide WPCT No. 594 of 2012 vide order dated 30.11.2012, the applicant has approached this Tribunal with the following relief:-

"(a) An order be passed quashing the order dated 28.7.2015 issued by the Assistant Director (Admin.) of the Andaman & Nicobar Administration whereby the authorities held that the pay fixation of the applicant is correct.

(b) An order be passed directing the respondent authorities to implement the recommendation of the Assistant Director (Admin.) for the applicant whereby the Assistant Director (Admin.) requested the Andaman & Nicobar Administration to grant the upgraded pay scale of Rs. 5000-150-8000/- with grade pay of Rs. 4200/- to the Chargeman of the electricity department which was directed to be implemented for the chargeman of this department by the Honourable High Court and by this Hon'ble Central Administrative Tribunal.

(c) An order be passed directing the respondent authorities to consider the representation of the applicant dated 1.12.2016.

(d) An order directing the respondent authorities to grant all consequential and monetary benefits to the applicant after granting the financial up-gradation benefits i.e. ACP and MACP in the following manner:-

1. First ACP w.e.f. 15.3.2005 in the scale of pay of Rs. 5000-150-8000.
2. Second MACP in the pay band of Rs. 9300-34800 with grade pay of Rs. 4600 w.e.f. 15.3.2013.

(e) An order directing the respondent authorities to act in accordance with law.

(f) An Order to issue directing the respondents to produce the records of the case before this Hon'ble Tribunal so that conscious able justice may be done.



(g) Such other or further order direction or directions, as your lordships deem fit and proper in the interest of justice."

2. Heard Ms. A. Nag, Ld. Counsel for the applicant and Mr. N.A. Khan, Ld. Counsel for the official respondents.

3. The facts, in brief, as narrated by the applicant in the present case is that the applicant is at present working as Mechanical Fitter in the Department of Electricity, Andaman & Nicobar Administration. The applicant was initially appointed as Fitter (Mechanical) as DRM on contract basis for a period of three months vide order dated 15.3.1993. Thereafter, the applicant continued on temporary basis and subsequently the service was confirmed vide order dated 24.2.2007. It was submitted by the Ld. Counsel for the applicant that the first ACP was granted to the applicant w.e.f. 15.3.2005 in the scale of pay of Rs. 4500-125-7000/-. Thereafter, the 2nd MACP was also granted to the applicant. The applicant came to know regarding the decision of the Hon'ble High Court in WPCT No. 594 of 2012 wherein the Hon'ble High Court vide its order dated 30.12.2012 directed the respondents to extend the benefits of recommendation of Fifth Central Pay Commission to the petitioners of the said Writ Petition from the date as and when they became entitled for the pay scale of Chargehand in the Electricity Department within March 31, 2013 including arrears. Now, the claim of the present applicant is that the benefits of Chargehand scale as per Fifth Central Pay Commission will be applicable in this case and consequent benefits of MACP with Grade Pay be also extended to the applicant.

4. The respondent authorities thoroughly negated the statement made in the O.A. and in the counter para 3(e) it has been stated as under:-

"(e) It is submitted that as per the Recruitment Rule for the post of Chargehand (Mech.), the pay scale is Rs. PB-5200-20200 + Grade Pay Rs. 2800/- and promotion amongst the Fitter (Mech.)/Switch Board cum Engine Operator (Mech) in the pay in PB-I with Grade Pay Rs. 1900/- having 13 years regular service in the respective grade. The applicant has been given all the financial upgradation as per ACP on completion of 12 years regular service w.e.f. 15.3.2005 in the scale of pay Rs. 9300-34800 + GP of Rs. 4200/-, therefore, the applicant is not entitled the relief as claimed by him."

Now, the denial of the benefits as claimed by the applicant is that the qualifying period of 13 years regular service in the respective grade.

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5. Mr. N.A. Khan, Ld. Counsel appearing on behalf of the official respondents submitted that the applicant was not eligible for grant of the scale of pay as he did not complete 13 years of regular service.

6. Now, the question arises if the applicant was not eligible for grant of 1st ACP in the year of 2005, how the Department had granted the said benefits to him.

7. We have perused the ACP Scheme of 1999 introduced by the DOP&T vide which the benefits of 1st and 2nd financial upgradations was to be granted on completion of 12 as well as 24 years of regular service respectively. But there is a condition in the said Scheme that the said benefits will be granted subject to the fulfillment of the bench mark/eligibility criteria.

8. In the present case, we note that the applicant was not eligible for grant of 1st ACP in 2005, then how the 1st ACP was granted to him prior to completion of the residency period. It is not disputed by the respondent authorities or the Counsel that the first ACP was ever withdrawn and that the applicant has been enjoying such benefits till date. When no such decision had been taken by the respondent authority till date, then, at the juncture, the stand of the respondents to deny the benefits of extending the pay scale of Rs. 5000-8000/- as per 5th Pay Commission as has been granted by the Hon'ble High Court to the applicant is not justified.

9. We further note that once the applicant was granted the benefits of 1st financial upgradation under ACP, the respondents cannot take a plea that the applicant has not completed 12 years of working experience in the post.

10. The Hon'ble High Court has held that once the similarly situated employees approached this Tribunal vide O.A. No. 182/AN/2010, the Hon'ble High Court in WPCT No. 594 of 2012 vide its order dated 30.11.2012 set aside the order of this Tribunal and passed an order by directing the respondents to extend the benefits as per Fifth Central Pay Commission. As per Fifth Central Pay Commission i.e. from 1.1.1996, the pay scale of Chargeman of Transport

Department is Rs. 5000-8000/- which is claimed by the litigants in O.A. No. 182/AN/2010 of the Electricity Department.

11. By taking into account the entire conspectus of the case, we are of the view that the applicant is entitled to the grant of the scale of Fifth Central Pay Commission of Chargeman in case of Electricity Department, so extended by the Hon'ble High Court. Accordingly, the said benefit shall be extended to the applicant also w.e.f. 15.3.2005 along with all consequential benefits within a period of four months from the date of the receipt of this order.

12. The O.A. stands allowed. No order as to costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Manjula Das)
Judicial Member

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