

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 181/00079/2017

Thursday, this the 7th day of March, 2019

CORAM:

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member
Hon'ble Mr. Ashish Kalia, Judicial Member

Chandran V.K., aged 61 years, S/o. Choyi,
 Assistant Sub Inspector of Police (Retired),
 Lakshadweep Police, Union Territory of Lakshadweep,
 Residing at Patteri House, Perumalpuram,
 PO Tikkoti, Kozhikode – 673529.

..... **Applicant**

(By Advocate : Mr. B. Harish Kumar)

V e r s u s

1. The Administrator,
 Union Territory of Lakshadweep,
 Kavaratti – 682 555.
2. The Superintendent of Police,
 Union Territory of Lakshadweep,
 Kavaratti – 682 555.

..... **Respondents**

(By Advocate : Mr. S. Manu)

This application having been heard on 28.02.2019 the Tribunal on
 07.03.2019 delivered the following:

ORDER

Hon'ble Mr. Ashish Kalia, Judicial Member –

The relief claimed by the applicant are as under:

- “I) To call for the records leading to Annexure A12 office memorandum passed by the respondent administration and set aside the same.
- II) To direct the respondent administration to grant one increment on fixation of pay from 1.1.2006 with all consequential benefits and to revise the pay of the applicant accordingly.
- III) To direct the respondents to disburse the arrears of pay and

allowances to which the applicant is entitled to consequent on such revision.

IV) Any other appropriate order or direction as this Hon'ble Tribunal deem fit in the interest of justice.”

2. The applicant is aggrieved by Annexure A12 office memorandum denying one increment on fixation of pay from 1.1.2006. The applicant was granted 1st ACP as per Annexure A4 in accordance with Annexure A1 statement of fixation and Annexure A3 representation. While granting financial upgradation under MACP scheme the applicant was denied one increment on fixation of pay from 1.1.2006. Aggrieved the applicant preferred Annexures A9 and A11 representations before the respondent administration. The respondent administration rejected the claim of the applicant and stated that as per existing rule on awarding financial upgradation under 1st ACP the employee can give an option within one month from the date of appointment or from the date of his next increment in the older post. The applicant is not entitled to get one increment on fixation of pay from 1.1.2006 onwards as he had not submitted his option. Annexure A12 is illegal, arbitrary, discrimination and against Annexure A2 scheme and violative of Articles 14 and 16(1) of the Constitution of India.

3. Notices were issued to the respondents. They entered appearance through Shri S. Manu, who filed a statement contending that the applicant commenced his service as Constable on 5.8.1979 and later he was promoted as Head Constable on 3.7.2009. Further he was promoted as Assistant Sub Inspector on 2.2.2015. The applicant was granted 2nd financial upgradation

under ACP scheme vide order dated 10.7.2001 according to the option exercised by him. He was further granted 3rd MACP vide order dated 14.8.2010 but since he did not submitted any option the respondents were constrained to fix his pay as per the existing Rule. The records in the Pay and Accounts Office, Kavaratti were also verified and it was confirmed that the applicant had not submitted any option request at the relevant time. Therefore, it is clear that the applicant failed to exercise his option at the relevant time which resulted in non-grating of the benefit to him. Respondents pray for dismissing the OA.

4. Heard the learned counsel appearing for the parties. Perused the records.

5. While going through the records we find that the applicant has given his option vide Annexure A3 dated 18.8.2000 where he opted to fix his pay from August, 2000 i.e. the date of his increment in the old scale as it will be beneficial to him. Therefore, the contention of the respondents that he had not given any option is incorrect.

6. Accordingly, in view of the above the Original Application is disposed of directing the respondents to fix the pay of the applicant on the basis of the option given by the applicant as per Annexure A3 dated 18.8.2000 with regard to his ACP benefits and grant him all consequential benefits including arrears of pay and allowances. Annexure A12 office memorandum dated 7.9.2016 passed by the respondent administration is set

aside. The above exercise shall be completed by the respondents within a period of three months from the date of receipt of a copy of this order. No order as to costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

“SA”

Original Application No. 181/00079/2017

APPLICANT'S ANNEXURES

- Annexure A1** - True copy of the statement of fixation of pay under revised the pay rules submitted by the applicant.
- Annexure A2** - True copy of the scheme dated 9.8.1999 issued by the Government.
- Annexure A3** - True copy of the representation submitted by the applicant on 18.8.2000.
- Annexure A4** - True copy of the order dated 13.12.2000 issued by the 2nd respondent.
- Annexure A5** - True copy of the order dated 10.7.01 issued by the 2nd respondent.
- Annexure A6** - True copy of the order dated 3.7.2009 issued by the 2nd respondent.
- Annexure A7** - True copy of the order dated 4.5.2010 issued by the respondent administration.
- Annexure A8** - True copy of the order dated 14.8.2010 issued by the 2nd respondent.
- Annexure A9** - True copy of the representation dated 12.3.2013 submitted by the applicant.
- Annexure A10** - True copy of the order dated 2.2.2015 issued by the 2nd respondent.
- Annexure A11** - True copy of the representation submitted by the applicant on 8.4.2015.
- Annexure A12** - True copy of the office memorandum dated 7-8/9/16 issued by the 2nd respondent.

RESPONDENTS' ANNEXURES

Nil

-X-X-X-X-X-X-X-X-