

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH
CIRCUIT BENCH SITTING
AT KAVARATTI
UT of LAKSHADWEEP

Original Application No.181/00745/2016

Wednesday, this the 20th day of February, 2019

CORAM :

HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER

K.Mohammed Kasim,
 S/o.T.K.Siddique,
 Computer Grade II,
 Lakshadweep Government Press, Chetlat Island.
 Residing at Kunnashada House,
 Union Territory of Lakshadweep, Andrott.

...Applicant

(By Advocate : Mr.Joby Cyriac)

v e r s u s

1. The Administrator,
 Union Territory of Lakshadweep,
 Kavaratti – 682 555.
2. The Secretary,
 Department of Printing and Stationery,
 Union Territory of Lakshadweep, Kavaratti – 682 555.
3. The Director (Services),
 Secretariat, Establishment Section,
 Lakshadweep Administration,
 Union Territory of Lakshadweep, Kavaratti – 682 555.
4. The Secretary,
 Ministry of Personal, Public Grievances and Pensions,
 (Department of Personal and Training),
 Union of India, New Delhi – 1.

...Respondents

(By Advocate : Mr.S.Manu [R1-3] & Mr.N.Anilkumar, SCGSC [R4])

This application having been heard on 15.02.2019, the Tribunal on 20th February 2019 delivered the following :

ORDER

Hon'ble Mr.E.K.Bharat Bhushan, Administrative Member -

O.A.No.181/745/2016 is filed by Shri.K.Mohammed Kasim, Computer Grade II seeking grant of 2nd MACP benefits in line with the directions contained in Government of India O.M.No.35034/3/2008-Estt.(D) dated 19.5.2009. He has been working in a post called Computer Grade Ii in Lakshadweep Government Press (LGP) for the last 15 years continuously without promotion. He had been promoted to the present post on 20.8.2001. He submits that he had completed 10 years in the present post on 20.8.2011 and has been in the same Grade Pay for the whole period. Hence he maintains that he ought to have been granted second financial upgradation under the MACP Scheme with effect from 20.8.2011, but was granted the same only on 30.12.2013. The order of the 2nd respondent granting the benefit is at Annexure A-2. The representation filed by the applicant was rejected by order dated 13.4.2016. He understands that his case was rejected on the basis of a circular issued by the 3rd respondent on 25.2.2016 (Annexure A-4) clarifying that no 'past' case need to be reopened.

2. He maintains that as per the Scheme issued under the Government of India O.M and the illustrations thereof, he is eligible for grant of second financial upgradation on the date he completed 10 years of service. Rejecting his request on the ground that past cases cannot be reopened amounts to denial of justice.

3. Respondent Nos.1-3 filed a reply statement wherein the Scheme has been interpreted in a different way. It is maintained that the applicant has entered into service on 30.12.1993. Thus he had completed 20 years of

service from the date of direct entry only on 30.12.2013 and hence was eligible for the second financial upgradation only with effect from that date. Accordingly he has been granted the same. He had earned his first promotion in 2001 after completing 8 years of service. Since he had obtained his first promotion without completing 10 years he cannot claim eligibility for second financial upgradation under MACP Scheme after merely completing 18 years even though he has spent 10 years in the same Grade Pay since his promotion.

4. We have heard Shri.Joby Cyriac, learned counsel for the applicant and the Standing Counsel for the Lakshadweep Administration. The applicant does have a case as per the illustrations at Para 18 of the Scheme contained in Annexure A-1. It reads as follow :

“28. **Illustrations :**

A.(i) If a Government servant (LDC) in PB-1 in the Grade Pay of Rs.1900 gets his first regular promotion (UDC) in the PB-1 in the Grade Pay of Rs.2400 on completion of 8 years of service and then continues in the same Grade Pay for further 10 years without any promotion then he would be eligible for 2nd financial upgradation under the MACPS in the PB-1 in the Grade Pay of Rs.2800 after completion of 18 years (8+10 years).

(ii) In case he does not get any promotion thereafter, then he would get 3rd financial upgradation in the PB-II in Grade Pay of Rs.4200 on completion of further 10 years of service ie. after 28 years (8+10+10).

(iii) However, if he gets 2nd promotion after 5 years of further service in the pay PB-II in the Grade Pay of Rs.4200 (Asstt. Grade/Grade C) ie. On completion of 23 years (8+10+5 years) then he would get 3rd financial upgradation after completion of 30 years ie. 10 years after the 2nd ACP in the PB-II in the Grade Pay of Rs.4600.”

5. There is no ambiguity in the illustrations above regarding the issue.

The case is squarely covered under the example mentioned at 28 A(i).

Accordingly, the O.A is allowed. The orders in this regard are to be issued by the respondents within a period of one month from the date of receipt of a copy of this order. No costs.

(Dated this the 20th of February 2019)

(Ashish Kalia)
Judicial Member

(E.K.Bharat Bhushan)
Administrative Member

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List of Annexures in O.A.No.181/745/2016

1. Annexure A-1 – True copy of the MACP Scheme dated 19.5.2009.
 2. Annexure A-2 – True copy of the Office Order by the 2nd respondent F.No.1/9/012-lgp/505 dated 15.6.2015 issued by the 2nd respondent.
 3. Annexure A-3 – True copy of the order No.F.No.1/9/2012-LGP(2)/172 dated 13.4.2016 passed by the 2nd respondent.
 4. Annexure A-4 – True copy of the Circular No.F.No.1/6/2014-Estt. (Part-II)/804 issued by the 3rd respondent dated 25.2.2016.
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