

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.1696/2013

Wednesday, this the 10th day of April 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Mrs. Veena Verma
26, Kali Bari Apartments
Dyan Marg, New Delhi -1

...Applicant

(Mr. Padma Kumar S, Advocate)

Versus

1. Union of India through
Secretary
Ministry of Defence
South Block, New Delhi
2. Office of Joint Secretary (Training)
And Chief Administrative Officer
Ministry of Defence
E Block Hutments
New Delhi – 110 011
3. Secretary,
DoPT, North Block
New Delhi

...Respondents

(Mr. D S Mahendru, Advocate)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicant was extended the benefit of Modified Assured Career Progression (MACP) Scheme through order dated 26.05.2010 w.e.f. 01.09.2008, in the Grade Pay of ₹6600/-, which, however, was withdrawn through order dated 21.02.2013. The reason mentioned therein was that the applicant was already

extended the benefit of upgradation of pay scale on completion of four years and accordingly, he is not entitled for the MACP. After withdrawing the MACP, the salary of the applicant was re-fixed through order dated 05.04.2013. These two orders are challenged in this O.A.

2. The applicant contends that the benefit of MACP is independent of the upgradation of pay scale and there is absolutely no basis for the respondents to pass the impugned orders, that too, without issuing any notice to him.

3. The respondents filed counter affidavit, opposing the O.A. It is stated that MACP becomes extendable only if an employee remained without promotion and upgradation of pay scale for a period of ten years, and in the instant case, the applicant has been extended the benefit of upgradation of pay scale on completion of four years of service in the post.

4. We heard Mr. Padma Kumar S, learned counsel for applicant and Mr. D S Mahendru, learned counsel for respondents.

5. The issue involved in this O.A. was dealt with by us in some detail, in the order dated 29.11.2018 passed in O.A. No.973/2013. It was held that if an employee has been extended the benefit of upgradation of pay scale in the spell of ten years, he

shall not be entitled to be extended the benefit of MACP for that spell. Accordingly, the said O.A. was dismissed.

6. The challenge to the impugned orders, insofar as they have withdrawn the MACP extended to the applicant, cannot be found fault with. The plea of absence of notice may not be of much relevance since the facts are borne out by record. However, in the context of recovery, it needs to be verified as to whether the applicant was extended the benefit by the respondents on their own accord or on the basis of the representation made by the applicant.

7. We, therefore, dismiss the O.A., insofar as it is about challenge to the withdrawal of MACP from the applicant. We, however, direct that the recovery of the amount paid towards MACP to the applicant shall not be effected till a specific order is passed in that behalf, on consideration of representation, which the applicant may make, within four weeks from the date of receipt of a copy of this order.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

April 10, 2019
/sunil/