

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

O.A. No.4211/2013

Thursday, this the 2nd day of May 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Shri Dinesh Upadhya
s/o late Shri Vibhuti Narayan
Assistant Engineer
Shoharatgarh Project Sub Division
Gorakhpur Project Division
CPWD, Shoharatgarh
Distt. Siddharath Nagar (UP)

..Applicant

(Mrs. Meenu Mainee, Advocate)

Versus

Union of India through

1. Secretary
Ministry of Urban Development
Nirman Bhawan, New Delhi
2. Director General
Central Public Works Department
Nirman Bhawan, New Delhi

3. Respondent No.3 is deleted vide order dated 13.10.2014.
..Respondents
- (Mr. Ashok Kumar, Advocate)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicant is working as Assistant Engineer (Civil). In the context of extension of benefit of 3rd Modified Assured Career Progression (MACP) to him, the Screening Committee met on 27.12.2012. On finding that the Annual Confidential

Reports (ACRs) of the applicant for 3 years in the relevant period were not up to the level of 'very good', as required under the relevant Office Memoranda, his below benchmark ACRs were communicated to him. The applicant, however, contends that according to the practice *in vogue* in the Department, it would be sufficient if the ACRs of at least 2 ½ years are up to the benchmark and such a treatment was not accorded to him. This O.A. is filed challenging the action of the respondents denying the benefit of 3rd MACP.

2. The respondents filed counter affidavit opposing the O.A. It is stated that the case of the applicant was considered in the year 2012 and the ACRs of the 5 years backward, commencing from 2009-10, were taken into account. It is also stated that since the ACR of the applicant for the year 2007-08 was incomplete and that of 2006-07 was not available, they had to move backward for the ACRs of the years 2003-04 and 2004-2005. According to them, 3 ACRs for the period, i.e., 2003-04, 2004-05 and 2005-06 were below benchmark and they were communicated, enabling him to submit representation.

3. We heard Mrs. Meenu Mainee, learned counsel for applicant and Mr. Ashok Kumar, learned counsel for respondents, at some length.

4. The applicant is under the impression that he has been declared unfit for extending the benefit of 3rd MACP. However, by the time the O.A. was filed, such an exercise did not take place at all. The Screening Committee, in his case, met on 16.09.2013 and Department addressed a letter dated 18.06.2014 communicating the ACRs of the years 2003-04, 2004-05 and 2005-06 to enable him to make a representation. His ACRs for the years 2008-09 and 2009-10 are 'very good' and part of the ACR for the year 2007-08 is also up to the level of 'very good'. If the applicant is able to convince the competent authority for upgradation of at least one of his three ACRs, referred to above, namely, of 2003-04, 2004-05 and 2005-06, he would become eligible to be extended the benefit of 3rd MACP.

5. We, therefore, dispose of the O.A., leaving it open to the applicant to make a representation for upgradation of his ACRs for the years 2003-04, 2004-05 and 2005-06, within a period of four weeks from the date of receipt of a copy of this order, if not already done. On such a representation, the competent authority shall examine the matter in accordance with the prescribed procedure and pass appropriate orders within four weeks thereafter. As a result of the exercise indicated above, if the ACR of at least one year is upgraded as 'very good' or the ACRs for more than 2 ½ years are found to

be up to the level of ‘very good’, he shall be extended the benefit of 3rd MACP.

There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

May 2, 2019
/sunil/