

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

OA No. 3081/2014

This the 26th day of September, 2019

**Hon'ble Mr. R.N. Singh, Member (J)
Hon'ble Ms. Aradhana Johri, Member (A)**

Nirupama Gupta
W/o. Dr. R.P. Gupta,
R/o 274, SFS, DDA Flats,
Dr. Mukherjee Nagar,
New Delhi – 110009.
Group 'A', Aged- 66 yrs.
Head of Department (Electronics)

...Applicant

~(By Advocate: Sh. Sourabh Ahuja)

VERSUS

1. GNCT of Delhi
Through its Chief Secretary
Delhi Secretariat, IP Estate,
New Delhi-110002.
2. Principal Secretary/Secretary
Department of Training & Technical Education
GNCT of Delhi
Muni Maya Ram Marg,
Pitam Pura, New Delhi-110088.
3. Pay & Account Officer,
PAO XII, Fire Brigade Building,
Shanker Road, Delhi 110012.
4. Lt. Governor of Delhi
GNCT of Delhi
Raj Niwas, Shamnath Marg,
New Delhi.
5. Department of Personnel & Training
Through its Secretary
Union of India

North Block, New Delhi.

...Respondents

(By Advocate: Sh. Kapil Agnihotri)

ORDER (Oral)

Hon'ble Mr. R.N. Singh, Member(J):

Heard the parties.

2. The applicant, who had retired on attaining the age of superannuation w.e.f. 31.03.2013 while working as Head of Department (Electronics) under the respondents, has filed the present OA seeking the following reliefs:-

"In view of the above mentioned facts and grounds mentioned in Para 4 & Para 5 of the OA respectively, the Applicant most respectfully prays that this Hon'ble Tribunal be graciously be pleased to:-

(a) Direct the respondents to grant the benefit of 1st financial up-gradation under MACP scheme to the Applicant w.e.f. 01/09/2008 along with all consequential benefits viz. difference of pay, arrears of pay, interest @ 18% p.a. on the arrears, re-fixation of retiral benefits, re-fixation of pension etc. and

(b) direct the respondents to grant the benefit of 2nd financial up-gradation under MACP scheme to the Applicant w.e.f. 24/10/2010 (completed 20 years of regular service as Lady HOD (Electronics)) along with all consequential benefits viz. difference of pay, arrears of pay, interest @ 18% p.a. on the arrears, re-fixation of retiral benefits, re-fixation of pension etc. and

(c) Award cost in favour of the Applicant and against the respondents.

And/or

(d) Pass any further order, which this Hon'ble Tribunal may deem fit, just equitable in the facts and circumstances of the case."

3. Learned counsel for applicant submits that applicant has made various representations [Annexure-1 (colly)] for redressal of her grievances raised in the present OA. However, vide letter dated 06.05.2014 (Annexure-9), the respondents have informed the applicant that her case regarding grant of MACP has been sent to DoPT for advice and as and when the advice of DoPT is received appropriate action will be taken by the respondents.

4. In response to the notice issued by this Tribunal, respondents have filed their counter reply and in para 4.2, thereof, respondents have submitted as under:-

"4.2 The contents of para 4.2 is partly matter of record. It is submitted that MACP scheme come into force on 01/09/2008 to grant MACP benefits to group 'A' Non Organised Cadre post. The scheme will also be available to all post belonging to Group 'A' whether isolated or not. However, organized group 'A' service will not be covered under the scheme. It is further submitted that pay scales in r/o HODs posted in polytechnic under DTTE, are being governed by All India Council of Technical Education (AICTE). AICTE issued guidelines time to time in this regard. Since post of HODs (Electrical) in polytechnic is Group 'A' post. So, this deptt has sent the MACP case to DoPT, GOI for advise/clarification through MHA, GOI. In response to this department query, the MHA GOI opined that "the matter has been examined in consultation with DOPT GOI which has mentioned that the Post of HOD (Electrical) is classified as General central service- Group A – Non Ministerial and this is not an organised service

and advised to deal with this case accordingly." Therefore constrained by this opinion this department has taken the matter with AICTE for clarification for grant of MACP to this cadre officers and reply is awaited. On receipt of the reply the matter shall be processed accordingly. However it is felt that AICTE may be roped in to explain their position."

5. Learned counsel for applicant submits that the respondents have been changing their stand as it is evident from the aforesaid facts. Once they have got the advice of the DOP&T, they have changed their stand and they are relying upon the notification issued by AICTE dated 05.03.2010 and letter of clarification for grant of MACP to HODs/Principals under DTTE (Respondent No. 2) dated 16.03.2015.

He further submits that such notification and clarification will not be applicable in the case of the claim of the applicant.

6. However, be that as it may, we are of the considered opinion that on various representations made by the applicant, no final view has been taken by the Competent Authority, i.e., Respondent No. 2 and the applicant has also not made any submission with regard to the applicability of the advice of DoPT and/or that of the

AICTE in her claim, by way of any representation to Respondent No. 2.

7. In view of the aforesaid, we are of the considered view that the OA can be disposed of with liberty to the applicant to make a comprehensive representation to the Respondent No. 2 within three weeks from today and in case such representation is received by the Respondent No. 2 within the time stipulated herein, they are directed to consider the case of the applicant and dispose of the same by passing a reasoned and speaking order within eight weeks of receipt of such representation. We may add that we have not expressed any opinion on the merit of the claim of the applicant in the present OA.

8. The OA is disposed of with aforesaid directions.

9. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

/akshaya/

(R.N. Singh)
Member (J)