

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A. Nos.021/00195, 240, 246, 1575, 1576 and 1604/2015 and
O.A.No.021/00207/2016

&

M.A.No.225/2016 in O.A.No.021/00240/2015

Date of Order :04.06.2019.

O.A. No.021/00195/2015.

Between :

M.Srinivas, s/o M.Sree Rama Rao,
Aged about 48 yrs, Occ:Private Secretary,
O/o DRDL, Kanchanbagh, Hyderabad-500 058. ...Applicant

And

1. Secretary to Government of India,
Dept. Of Defence Research and
Director General R & D, DRDO Hqrs.,
DRDO Bhavan, Rajaji Marg, New Delhi-110 011.

2. The Director, DRDL, Kanchanbagh,
Hyderabad-500 058.

3. The Director and Chairman, Zonal DPC-II,
DMRL, Kanchanbagh, Hyderabad-500 058. ... Respondents

Counsel for the Applicants ... Mr.G.T.Gopal Rao
Counsel for the Respondents ...Mr.T.Hanumantha Reddy, Sr.PC for CG

O.A. No.021/00240/2015 & M.A.No.225/2016

Between :

Chavan Sanjeeva Rao, s/o Chavan Shankar Rao,
Aged about 55 yrs, Occ:Private Secretary,
O/o DLRL, Chandrayanagutta, Hyderabad-500 005. ...Applicant

And

1. Secretary to Government of India,
Dept. Of Defence Research and
Director General R & D, DRDO Hqrs.,
DRDO Bhavan, Rajaji Marg, New Delhi-110 011.

2. The Director, Defence Electronics Research
Labouratory (DLRL), Chandrayanagutta Lines,
Hyderabad-500 005.

3. The Director and Chairman, Zonal DPC-II,
DMRL, Kanchanbagh, Hyderabad-500 058. ... Respondents

Counsel for the Applicants ... Mr.G.T.Gopal Rao
Counsel for the Respondents ...Mr.T.Hanumantha Reddy, Sr.PC for CG

O.A. No.021/00246/2015.

Between :

P.Vijay Kumar, s/o late Sri P.V.Paithanker,
Aged about 55 yrs, Occ:P.A. 'C', Defence Electronics
Research Labouratory (DLRL), Chandrayanagutta Lines,
Hyderabad-500 005. ...Applicant

And

1. Secretary to Government of India,
Dept. Of Defence Research and
Director General R & D, DRDO Hqrs.,
DRDO Bhavan, Rajaji Marg, New Delhi-110 011.

2. The Director, Defence Electronics Research
Labouratory (DLRL), Chandrayanagutta Lines,
Hyderabad-500 005.

3. The Director and Chairman, Zonal DPC-II,
DMRL, Kanchanbagh, Hyderabad-500 058.

4. The Controller of Defence Accounts (R&D),
Kanchanbagh, Hyderabad-500 058. ... Respondents

Counsel for the Applicants ... Mr.G.T.Gopal Rao
Counsel for the Respondents ...Mrs.K.Rajitha, Sr.CGSC

O.A. No.021/01575/2015.

Between :

1. K.S.Rajyalakshmi, w/o Sri K.Natarajan,
Aged 55 yrs, Occ:Private Secretary, O/o DRDL,
Kanchanbagh, Hyderabad-500 058.
2. V.S.Bhoomalakshmi, w/o late Sri V.V.Subramanyam,
Aged about 53 yrs, Occ:Private Secretary, O/o DRDL,
Kanchanbagh, Hyderabad-500 058.
3. K.Usha Devi, w/o Gururaja Rao,
Aged 54 yrs, Occ:Private Secretary,
O/o DRDL,Kanchanbagh, Hyderabad-500 058.
4. E.Annapurna, w/o K.Mallikarjun,
Aged 50 yrs, Occ:Private Secretary, O/o DRDL,
Kanchanbagh, Hyderabad-500 058.
5. G.Suguna, w/o Sri S.Bhaskar,
Aged 51 yrs, Occ:Private Secretary, O/o DRDL,
Kanchanbagh, Hyderabad-500 058.
6. P.Anasuya, w/o Sri P.R.K.Murthy,
Aged 53 yrs, Occ:Private Secretary, O/o DRDL,
Kanchanbagh, Hyderabad-500 058.
7. Shoba Narayanan, w/o C.B.Suriya Narayanan,
Aged 50 yrs, Occ:Private Secretary, O/o RCI,
Vignan Kancha, Hyderabad.
8. M.Anila, w/o M.K.Rajgopal,
Aged 52 yrs, Occ:Private Secretary, O/o ASL,
Kanchanbagh, Hyderabad-500 058.

...Applicants

And

1. Secretary to Government of India,
Dept. Of Defence Research and
Director General R & D, DRDO Hqrs.,
DRDO Bhavan, Rajaji Marg, New Delhi-110 011.

2. The Director, DRDL, Kanchanbagh,
Hyderabad-500 058.

3. The Director, RCI, Vignan Kancha,
Hyderabad.

4. The Director, ASL, Kanchanbagh,
Hyderabad-500 058.

5. The Director and Chairman, Zonal DPC-II,
DMRL, Kanchanbagh, Hyderabad-500 058.

... Respondents

Counsel for the Applicants ... Mr.G.T.Gopal Rao

Counsel for the Respondents ...Mrs.K.Rajitha, Sr. CGSC

O.A. No.021/01576/2015.

Between :

1. R.Ramakumari, w/o Sri R.V.V.N.Swamy Naidu,
Aged 55 yrs, Occ:Private Secretary,
O/o DRDL, Kanchanbagh, Hyderabad-500 058.

2. B.Kameswari, w/o Ch.Annapurnayya,
Aged 52 yrs, Occ:Private Secretary,
O/o DRDL, Kanchanbagh, Hyderabad-500 058.

3. K.Savithri, w/o T.V.Rama Reddy,
Aged 55 yrs, Occ:Private Secretary,
O/o DRDL, Kanchanbagh, Hyderabad-500 058.

4. G.Deva Kumari, w/o K.Chander Prakash,
Aged 55 yrs, Occ:Private Secretary,
O/o DRDL, Kanchanbagh, Hyderabad-500 058.

...Applicant s

And

1. Secretary to Government of India,
Dept. Of Defence Research and
Director General R & D, DRDO Hqrs.,
DRDO Bhavan, Rajaji Marg, New Delhi-110 011.

2. The Director, DRDL, Kanchanbagh,
Hyderabad-500 058.

... Respondents

Counsel for the Applicants ... Mr.G.T.Gopal Rao

Counsel for the Respondents ...Mrs.K.Rajitha, Sr.CGSC

O.A. No.021/01604/2015.

Between :

P.Anuradha, D/o P.Sundara Ramaiah,
Aged 54 yrs, Occ:Private Secretary,
Chief Construction Engineer (R&D) Estates,
Chandrayanagutta, Kesavagiri P.O.,
Hyderabad-500 005.

...Applicant

And

1. Secretary to Government of India,
Dept. Of Defence Research and
Director General R & D, DRDO Hqrs.,
DRDO Bhavan, Rajaji Marg, New Delhi-110 011.

2. The Director, DRDL, Kanchanbagh,
Hyderabad-500 058.

3. The Chief Construction Engineer (R&D) Estates,
Chandrayanagutta, Kesavagiri P.O., Hyderabad-500 005.

3. The Director and Chairman, Zonal DPC-II,
DMRL, Kanchanbagh, Hyderabad-500 058.

... Respondents

Counsel for the Applicants ... Mr.G.T.Gopal Rao

Counsel for the Respondents ...Mrs.K.Rajitha, Sr.CGSC

O.A. No.021/00207/2016.

Between :

G.Bhavani Shankar, s/o late G.Mallikarjuna Rao,
Aged about 53 yrs, Occ:Private Secretary,
O/o RCI,, Hyderabad-500 069.

...Applicant

And

1. Secretary to Government of India,
Dept. Of Defence Research and
Director General R & D, DRDO Hqrs.,
DRDO Bhavan, Rajaji Marg, New Delhi-110 011.

2. The Director, Research Centre Imarat (R.C.I.),
Vignanakancha, Hyderabad-500 069.

... Respondents

Counsel for the Applicants ... Mr.G.T.Gopal Rao

Counsel for the Respondent ...Mrs.K.Rajitha, Sr. CGSC

CORAM:

**THE HON'BLE MR.JUSTICE L.NARASIMHA REDDY, CHAIRMAN
THE HON'BLE MR.B.V.SUDHAKAR, MEMBER (ADMN.)**

ORAL ORDER

(As per Hon'ble Mr.Justice L.Narasimha Reddy, Chairman)

Since the cause action and the relief prayed for in all these OAs is similar, they are being disposed of through this Common Order.

2. An anti-stagnation measure, introduced by the Government, has given rise to so many complications, which may not have been anticipated. For all practical purposes, it gave rise a separate branch of litigation. The interpretations at various levels on the Scheme have complicated the issue, instead of providing a congenial atmosphere for the Government as well as the employees.

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3. Initially, the Assured Career Progression (ACP) Scheme was introduced, to avoid stagnation of the Central Government employees. It provided that if an employee does not get promotion in the first 12 years of his service even while being eligible, he shall be entitled to be extended the benefit of ACP in the form of upgradation of pay scale, to the next higher level. Similarly, if he stagnates in the next spell of 12 years also, another financial upgradation is extended. Beyond that, there was no other benefit. This was replaced by the Modified Assured Career Progression (MACP) Scheme, on the recommendations of the VI Pay Commission. The modification is that instead of two spells of 12 years each under the ACP, it is 3 spells of 10 years each, under MACP. While actual promotion alone would have offset the benefit under ACP, it can be actual promotion or financial upgradation, under MACP. One more typical feature is that if the pay scale of a post to which an employee has been promoted has been merged with the one at the next higher level as a result of the recommendations of the VI Pay Commission, the promotion or upgradation to such post is to be ignored, for the purpose of MACP.

4. Coming to the facts of the case, the applicants in these OAs were appointed as Stenographers Grade-III between 1984 and 1986. They were

promoted to the next higher post of Stenographer Grade-II between 1990 and 1993, Stenographer Grade-I between 1998 and 1999 and Private Secretaries in the year 2013 and 2014 respectively.

5. The applicants were extended the benefit of two MACPS by the respondents. The Controller General of Defence Accounts (CGDA), who verified the issue, has objected to the same. It was noticed that the applicants and other similarly situated persons were extended the benefit of 3rd MACP on completion of 30 years of service or 10 years of service in the same scale of pay, and the matter was examined further. On being convinced that the 3rd MACP ought not to have been extended to the applicants, show cause notices were issued on 13.08.2014 and on receipt of the same, the applicants submitted their representations dated 01.09.2014. On consideration of the representations, the respondents passed orders dated 16.09.2014 and 18.09.2014 respectively withdrawing the 3rd MACP and proposing to recover the amounts already paid on that account.

6. The only difference in respect of OA.No.246/2015, is that though orders were passed for extending the benefit under 3rd MACP, it was not implemented as of now, by the respondents.

7. The applicants contend that there was absolutely no basis for the respondents in withdrawing the 3rd MACP that was granted to them after consideration of the entire scheme. It is also stated that the interpretation placed by the respondents on the various Government orders is incorrect.

8. The respondents filed detailed reply statements opposing the OAs.

9. It is stated that the applicants got first promotion, which in turn held good vis-a-vis the first ACP, and they were granted the 2nd ACP on finding that the pay scale of the post to which they were at the second stage, has been abolished and merged with a higher one, in 2008. They further submit that the 3rd MACP was wrongly extended to the applicants since they did not complete 10 years of service in the same scale of pay, muchless completed 30 years of service.

10. We heard Mr.G.T.Gopal Rao, learned counsel for the Applicants in all the OAs and Mrs.K.Rajitha, the learned Sr.Standing Counsel and Mrs.C.Vijaya Lakshmi representing Mr.T.Hanumantha Reddy, learned Senior Panel Counsel, appearing on behalf of the Respondents in the respective OAs.

11. The ACP Scheme was plain in its language and purport, and did not pose any problem at all. The MACP, however, has several inherent complications, particularly, in the context of merger of pay scales or reckoning the point of time, at which the benefit becomes extendable.

12. The undisputed facts of the present case are that the applicants got a promotion to the post of Stenographer Grade-II around 1990 and Stenographer Grade-I around 1998. Both these promotions were at a time when the ACP Scheme was in force. Since the applicants did not complete 12 years of service by the time the first promotion was ordered, the benefit of 1st ACP was not extended to them. By the time the applicants completed 24 years of service, the MACP benefit came into force. One of the significant features of the MACP is stated in Para 5 of the Annexure.A-II (page 32-A of OA.No.1575/2015) thereof, which reads as under:

“5. Promotions earned/upgradations granted under the ACP Scheme in the past to those grades which now carry the same grade pay due to merger of pay scales/upgradations of posts recommended by the Sixth Pay Commission shall be ignored for the purpose of granting upgradations under Modified ACPS.”

From the above, it is clear that if a particular post, to which the employee has been promoted is merged with another post with higher scale of pay on account of the implementation of the recommendations of the VI Pay

Commission, such promotion or upgradation is to be ignored, in the context of extending the benefit of MACP. In the case of the applicants, the promotion to the post of Stenographer Grade-I was ignored promptly enough, and they were extended the benefit of 2nd MACP in the year 2008, by placing them in the relevant grade pay. The 3rd MACP became due to the applicants either when they have completed 30 years of total service or on stagnation for a period of 10 years provided, they did not earn promotions during that period.

13. The applicants did not complete 30 years of service by the year 2010. Secondly, they were put in the higher scale of pay in the year 2008 by extending the benefit of 2nd MACP and hardly they spent one year in that pay scale. However, by placing an interpretation on the relevant rules, the respondents have extended the benefit of 3rd MACP in the year 2010 itself. This, naturally was objected to by the CGDA. To be fair enough to the applicants, the respondents have issued show cause notices and taking the explanations into account, passed the impugned orders. One significant objection mentioned in the impugned order dated 16.09.2014, (Annexure-I page 12 of O.A.No.1575/2015) reads as under:

“3. In the instant case, neither you have completed 30 years regular service from the date of appointment to the direct entry grade nor spent 10 years service in the same

Grade Pay either on grant of promotion or financial upgradation during the period, while holding the non-gazetted post of PA-C, as on 15.06.2010.”

The applicants are not able to demonstrate that the statement made above, is incorrect. They did not complete 30 years of regular service from the date of appointment to the direct entry grade, nor spent 10 years service in the same Grade Pay as on 15.06.2010.

14. At the end of the day, one has only to keep in mind that the MACP is only anti-stagnation measure and if it is found that the benefit is wrongly extended, an employee cannot be permitted to enjoy the same uninterruptedly.

15. It is brought to our notice that the applicants have been extended the benefit of promotion to the post of Private Secretary (C) in the year 2013 and 2014 respectively. Therefore, the applicants cannot be said to have been put to any injustice or hardship or illegality.

16. We, however, find that the direction for recovery of the amount cannot be sustained in law. It is not as if the applicants have made any misrepresentation with a view to get the 3rd MACP extended to them. It

was only on the basis of misrepresentation and wrong understanding of the Scheme on the part of the respondents, that the benefit was conferred. Therefore, the impugned order, in so far as it directs recovery of the amounts already paid to the applicants towards 3rd MACP cannot be countenanced.

17. We, therefore, partly allow all these OAs directing that –

(a) The impugned orders in so far as they relate to withdrawal of the 3rd MACP from the applicants, do not suffer from any illegality or infirmity.

(b) The impugned orders in so far as they relate to recovery of the amounts already paid towards the 3rd MACP shall stand set aside.

18. As the main OA.No.240/2015 is disposed of with directions, the MA.No.225/2016 seeking vacation of interim order dated 19.02.2015 stands dismissed.

19. There shall be no order as to costs.

Sd/-

(B.V.SUDHAKAR)
MEMBER (ADMN.)

Sd/-

(JUSTICE L.NARASIMHA REDDY)
CHAIRMAN

Dated: this the 4th day of June, 2019

Dictated in the Open Court

Dsn.