

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. OA 1519 of 2013

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Mr.K.N.Srivastava, Administrative Member

DIPAK SAHA

VS

UNION OF INDIA & ORS.

For the applicant : Mr.A.K.Bairagi, counsel

For the respondents : Ms.R.Basu, counsel

Order on : 4.5.16 .

O R D E R

Ms.Bidisha Banerjee, J.M.

This application has been filed seeking the following reliefs :

"To pass order/direction upon the respondent authorities to grant equal Grade Pay of the applicant at par with Sri M.R.Mondal with retrospective effect by setting aside the order dt. 20.9.13 and 26.7.13 and to pay the arrears which the applicant is entitle das per rule within the stipulated period."

2. The case of the applicant in a nutshell would be that he was appointed as Sr. Laboratory Assistant, Central Drugs Laboratory, Calcutta in the pay scale of Rs.1320-2040/- w.e.f. 1.3.1988. The corresponding pay scale in the 5th CPC in the entry grade of the applicant was Rs.4500-7000/-. The applicant, upon completion of 12 years of continuous service from the date of entry was granted first ACP in the same pay scale of Rs.4500-7000/- and thereafter granted 2nd MACP on completion of 20 years of service w.e.f. 1.9.08 in PB-2 with Grade Pay Rs.4200/- as the corresponding scale of pay Rs.4500-7000/- became Rs.5200-20,2000 with Grade Pay Rs.2800/-.

The applicant would be aggrieved as according to him he was entitled to two financial upgradations under MACP scheme to the Grade Pay of Rs.4200/- and Rs.4600/-. Since the Grade Pay of Rs.4600/- was granted to one Monoranjn Mondal, ^{he} would seek for benefits on par with the said employee.

- 3 The order impugned in the present OA dated 20.9.13 is as under :

"The Grade Pay Rs.2800/- of Sri M.R.Mondal was upgraded to Rs.4200/- w.e.f. 1.1.06 by 6th Pay Commission. Sri Mondal was getting GP of Rs.4200/- on 1.9.08 before granting him Financial Upgradation on 2nd MACP w.e.f. 1.9.08 he was getting GP of Rs.4200/-. He was given GP of Rs.4600/- by granting him 2nd MACP. In the case of Sri Saha, he was getting GP of Rs.2800/- as on 1.1.06 and as on 1.9.08 i.e. before granting him Financial Upgradation on 2nd MACP as on 1.9.08 he was getting GP of Rs.2800/-. Hence he was given GP of Rs.4200/- by granting him 2nd MACP. Sri Mondal and Sri Dipak Saha are in different cadres i.e. Animal House Technician and Assistant Biochemist respectively. Hence the question does not arise to say that Sri Mondal is junior to Sri Saha. It is clear that 2nd MACP was given to Sri Saha w.e.f. 1.9.08 whereas his scale was upgraded from Rs.2800/- to Rs.4200/- w.e.f. 18.5.09 on Hon'ble CAT decision i.e. after grant of 2nd MACP."

4. During the course of hearing Id. Counsel for the applicant would invite our attention to the recommendation made by the Director IC, Central Drugs Laboratory, Kolkata on 19.6.12, as extracted verbatim hereinbelow for clarity :

"Sri Deepak Saha, Asstt. Biochemist was appointed under direct selection post of Sr. Laboratory Assistant on 1.3.1988 in the modified pay scale of Rs.4500-7000/- (5th CPC) Sri Saha was 1st Financially upgraded on 1.3.2000 to his next promotional scale of Rs.5000-8000/-. Subsequently it was detected that the scale of his next promotional post was neither modified nor upgraded for which Sri Saha was reverted to his old existing scale of Rs.4500-7000/- in accordance with the direction of DGHA, New Delhi vide letter No. A11016/2/2003-D dated Nil.

*The corresponding pay scale of Rs.4500-7000/- in 6th CPC is under PB-1 Rs.5200-20200 (+) Grade Pay Rs.2800/-. Therefore, Sri Saha is holding the above pay scale all along since his appointment on 1.3.1988 and never been upgraded to higher scale. Sri Saha has also completed **20 years service on 1.3.2008** and entitled **2 (two)** financial upgradation as per MACP rule introduced on 1.9.08.*

This office has accorded 1st financial upgradation to Sri Saha w.e.f. 1.9.08 and his Grade Pay has been raised to Rs.4200/- from Rs.2800/-. Now 2nd financial upgradation may please be accorded to raise his Grade Pay Rs.4600/- in PB-2 w.e.f. 1.9.08 as per MACP Rule as Sri Saha has completed 20 years service on 1.3.08."

It would be evident from the said recommendation that the ACP benefits that were granted to the applicant on 1.3.2000 in the scale of Rs.5000-8000/- were taken away and so he was put back to the scale of Rs.4500-7000/- that he was already in. Therefore inarguably and irrefutably for the first 24 years of service the applicant was not accorded with any financial upgradation which itself would make him entitled to get two MACPs in the next higher Grade Pays of Rs.4200/- and Rs.4600/- as per the MACP scheme.

5. Per contra the respondents in their reply at para 6 although admitted that the applicant was entitled to two financial upgradations w.e.f. 1.9.08

consequent upon his completion of 20 years service as on 1.3.08 and withdrawal of the first financial upgradation in the scale of RS.5000-8000/- as per directives of DG HS, New Delhi, have failed to clarify why the applicant would not be entitled to two MACPs to the Grade Pay of Rs.4200/- and Rs.4600/-, since the MACP scheme would itself envisage three financial upgradations after every 10 years from the date of entry into the Government service. Annexure R/4 to the reply as cited by the Id. Counsel for the respondents would also manifest that the ACP benefits granted to the scale of Rs.5000-8000/- we.f. 1.3.2000 were ultimately withdrawn on 22.9.03. Further, the reason ^{is} why the incumbent, who ^{were} already in the pay scale of Rs.4500-7000/- would be granted same scale of pay, is conspicuously absent both in the reply as well as in the order impugned.

6. Therefore in the interest of justice we would dispose of the OA with the direction upon the respondents to clarify by way of reasoned and speaking order why -

- (i) ACP was granted to the applicant in the scale of RS.4500-7000/- i.e. the same scale that he was enjoying prior to grant of ACP and whether such grant was in accordance with the tenor of the ACP scheme which clearly envisaged that ACP benefits had to be granted to the next higher scale of pay.
- (ii) Whether withdrawal of ACP benefits granted in the scale of apy of Rs.5000-8000/- and grant of the same in the scale of Rs.4500-7000/- would construe to mean that the applicant was stagnating in the same scale of pay for almost 20 years.
- (iii) Subject to (i) & (ii) above to clarify why the applicant would not be entitled to two MACPs in the corresponding higher Grade Pay of Rs.4200/- and Rs.4600/-.

Let appropriate reasoned and speaking order be issued in accordance with law, within two months from the date of communication of this order. In case the respondents deem it fit to grant two MACPs to the Grade Pay of Rs.4200/- and Rs.4600/- that shall be accorded to the applicant in accordance

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with law within the said period with arrears and interest @ 8% p.a. on such arrears.

7. The OA accordingly would stand disposed of.

8 No order is passed as to costs.

(K.N.SRIVASTAVA)
MEMBER (A)

(BIDISHA BANERJEE)
MEMBER (J)

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