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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

ORIGINAL APPLICATION NO. 181/00753 of 2018

Monday, this the 30th day of September, 2019

CORAM

**Hon'ble Mr. E.K.Bharat Bhushan, Administrative Member
Hon'ble Mr.Ashish Kalia, Judicial Member**

Shri N.M.Sayed Mohammed Koya,
(office Superintendent (Retired),
Moosankakade House, Androth Island,
Union Territory of Lakshadweep.

... Applicant

(By Advocate Mr. K.K.Mohamed Ravuf)

Versus

1. The Union of India,
Represented by Home Secretary,
Ministry of Home Affairs,
New Delhi – 110 012.
2. The Administrator and Chief Vigilance Officer,
Union Territory of Lakshadweep,
Kavarathy – 682 555.
3. The Director (Services),
Lakshadweep Administration,
(Secretariat Establishment Section),
Kavarathy – 682 555.
4. The Director (Vigilance),
Lakshadweep Administration,
(Secretariat Establishment Section),
Kavarathy – 682 555.

..... Respondents

(By Advocate Shri V.A.Shaji, ACGSC for Respondents-1 and Shri S.Manu for Respondents2-4)

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This application having been heard on 26th September, 2019, the Tribunal on 30th September, 2019 delivered the following :

ORDER

HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER

OA No.753/2018 is filed by Shri K.K. Sayed Mohammed Koya, retired Office Superintendent, Lakshadweep Administration against the delay in sanctioning him 3rd MACP with effect from 01.09.2008, to which he is entitled to. The reliefs sought in the OA are as follows:

- (i) Pleased to issue appropriate direction or order, directing the respondents to disburse the 3rd M.A.C.P., and other consequential benefits with 18% interest per annum from 1/9/2008 till disbursal to the applicant, within a time frame fixed by this Hon'ble Tribunal;
- (ii) Pleased to award cost of this proceedings.
And
- (iii) such other reliefs as this Hon'ble Tribunal deems fit and proper.

2. The applicant had retired from service of Lakshadweep Administration on 30.04.2014 after service of more than 36 years. He was eligible to get the 3rd MACP with effect from 01.09.2008 and consequential financial benefits. The Chairman of the DPC has not taken any action to process his case. It is a fact that the applicant had been issued a show cause notice dated 15.05.2015. However, in the order issued by the competent authority, copy

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of which is at Annexure A1 , the following conclusion is reported:

“..... the Disciplinary Authority gone through the Inquiry report and other materials on record. The Charged Officer was not a party to the Tender Evaluation Committee and was just a member of Quality Inspection Committee.

Now, therefore, keeping all facts and circumstances into account, the Disciplinary Authority hold that the charges against the Charged Officer have not been conclusively proved and liability cannot be fastened to him without sufficient evidence of his involvement in the alleged conspiracy. Under the circumstances, the disciplinary proceedings are closed.

3. On the same allegation, CBI, Cochin had registered a crime as RC 14(A)/2006 on 29.06.2006 implicating the applicant also as accused No.13. However, no charge sheet has been issued against him in the case. Although applicant has been completely exonerated from the charges levelled against him in the departmental proceedings as is seen at Annexure A1, his eligible 3rd MACP is not being sanctioned due to the CBI not reporting clearance in response to the repeated communications sent by the Lakshadweep Administration.

4. The applicant admits that he had been paid salary and all other benefits including pensionary benefits due, but not the 3rd MACP upgradation and consequential benefits as per the revised pay scale of 3rd MACP. He had repeatedly taken up his case through various letters including a Lawyer's notice dated 03.02.2017 (Annexure A2). Respondent-4 has declined to place his case before the screening committee for grant of MACP-III on the ground that he has not received any communication from the CBI, Cochin.

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5. In the reply statement on behalf of the Respondents-2 to 4, the facts of the case are admitted. It is stated that vigilance clearance certificate is necessary for awarding the 3rd MACP upgradation. The 4th Respondent has informed that he is competent to issue vigilance clearance, but the same will be issued after obtaining the status of the case registered by the CBI, Cochin. The position was made known to the applicant through communication at Annexure R2(c).

6. It is further admitted that disciplinary proceedings initiated against the applicant as per Rule 14 of CCS (CCA) Rules, 1965 by issuance of memorandum dated 21.01.2008, Annexure R2(h), had been closed holding that the charges against the applicant have not been proved. It is further stated that as soon as the vigilance clearance has been obtained, the screening committee for grant of 3rd MACP will be convened and further action taken.

7. Heard Shri K.K.Mohamed Ravuf, learned Counsel for the applicant, Shri V.A.Shaji, learned ACGSC for Respondent-1 and Standing Counsel for the Lakshadweep Administration for Respondents-2 to 4. The applicant had retired from service more than five years ago and he is pressing the claim which was due to him with effect from 2008. The single impediment standing in the way of the authority granting the same is the fact that the CBI

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case registered against the applicant in 2006. However, the CBI had not chosen to file a charge sheet against the applicant, as has been done against many others who were arrayed as accused. In the meanwhile, departmental action initiated against the applicant has attained closure with a conclusion that none of the charges have been proved. It is maintained by the respondents that despite their best efforts, they have not been able to get any information from the CBI on the status of the case.

8. The applicant is an elderly pensioner, who retired more than five years ago. There appears to be no reason why a benefit for which he is eligible should be further delayed for the mere reason that the investigating agency is not replying to the respondents' letters. We direct that the MACP benefit due to the applicant may be released as early as possible and in any case within 60 days of receipt of a copy of this order, if he is otherwise eligible. There will be no order as to the interest claimed. OA is disposed of. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures in O.A. No.181/00753/2018

1. Annexure A1 - True copy of the order No.F.No.12/03/2008-Services/1509 dated 15.05.2015 of the Administrator (Disciplinary Authority).
 2. Annexure A2 - True copy of the Lawyer Notice dated 3.2.2017 caused to be issued by the applicant to the respondent 2 and 3.
 3. Annexure A3 - True copy of the Speed post Postal Acknowledgment Cards.
 4. Annexure R2(a) - True copy of the letter F.No.13/8/2010-DHS/893 dated 30.7.2015.
 5. Annexure R2(b) - True copy of the Letter F.,No.5/13/2015-CVO/4 dated 7.1.2016.
 6. Annexure R2(c) - True copy of the letter F.No.19/1/2015-Estt/892 dated 3.3.2016.
 7. Annexure R2(d) - True copy of the letter F.no.19/1/2015-Estt/2260 dated 21.6.2016.
 8. Annexure R2(e) - True copy of the letter F.No.19/1/2015-Estt dated 29.1.2018.
 9. Annexure R2(f) - True copy of the letter F.No.5/35/2016-CVO(Vol.2)/125 dated 14.3.2018.
 10. Annexure R2(g) - True copy of the letter F.No.5/35/2006-CVO(Vol.2)/428 dated 5.11.2018.
 11. Annexure R2(h) - True copy of the Memorandum F.No.12/3/2008-Services dated 21.1.2008.
 12. Annexure R2(i) - True copy of the letter F.No.19/1/2015-Estt dated 13.4.2018.
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