

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION No.108/2018

Dated this Friday the 16th day of October, 2019

CORAM: DR. BHAGWAN SAHAI, MEMBER (A)
RAVINDER KAUR, MEMBER (J)

Suresh Udhavdas Shahdadpuri,
Hindu, aged about 65 years and
residing at B-2403 Mahendra Splendour,
LBS Road, Bhandup West,
Mumbai - 400 078 ... **Applicant**

(By Advocate Shri R.S. Lulla)

VERSUS

1. Union of India, Through
The Secretary,
Ministry of Health & Family Welfare,
Nirman Bhavan,
New Delhi - 110 001.
2. The Indian Council of Medical Research (ICMR)
Represented by its Director General &
Secretary to Department of Health
Research, V. Ramlingswami Bhawan,
Ansari Nagar, New Delhi - 110 029.
3. Enterovirus Research Centre (ERC)
represented By Director,
Haffkine Institute Compound,
Acharya Donde Marg, Parel,
Mumbai - 400 012. ... **Respondents**

(By Advocate Shri A.V. Shinde)

ORDER

PER: RAVINDER KAUR, MEMBER (J)

Vide present OA the applicant has claimed
the following reliefs:-

"8.1 It be declared that denying legitimate & automatic
promotion to the applicant under MACPS Scheme was

colourable exercise of powers by the respondents, in gross violation of the salutary provisions of said MACPS Scheme.

8.2 This Hon'ble Tribunal be graciously pleased to order the respondent to give deemed promotion to the applicant in the next grade of pay from 01.10.2009 with enhanced salary & allowances fitments until retirement with all consequential reliefs & benefits appurtenant & attendant thereto including, but not limited to, arrears & interest thereon @12% p.a. and in the terminal benefits like provident fund, gratuity, pension etc.

8.3 Costs of this Application be provided for.

8.4 Any other & further orders to which this applicant is found entitled to in the nature & circumstances of the case."

2. The applicant joined the services of Indian Council of Medical Research (ICMR) - respondent No.2 as direct Accounts Officer w.e.f. 01.10.1999 in the pay scale of Rs.8000-275-13500/- translated to PB-3 Rs.15600-39100 + Rs.5400 at National Institute for Research in Reproductive Health (NIRRH) vide Office Memorandum dated 20.10.1999 (Annex A-1). Thereafter, the applicant applied for the post of Administrative Officer for another center of ICMR viz. Enterovirus Research Centre (ERC) - respondent No.3 in the same pay scale of the Accounts Officer referred above with pay protection vide Memorandum dated 16.11.2006 (Annex A-2). In terms of Memorandum dated 29.11.2006 issued by NIRRH, the applicant submitted his technical resignation and he was relieved w.e.f 31.03.2007 in terms of letter dated 16.03.2007 (Annex A-4) to join the new

post at ERC w.e.f. 01.04.2007. The applicant made representation dated 02.05.2012 followed by reminder dated 09.08.2012 (Annex A-5 colly) addressed to Director General, ICMR seeking first financial upgradation on completion of 10 years on 30.09.2009 under MACPS-2009 Scheme. However, he did not receive any response to the same. Hence issued legal notice dated 23.04.2013 (Annex A-6) which was replied by respondent No.3 vide letter dated 08.05.2013 (Annex A-7). Vide Annex A-8 dated 14/19.03.2014, the applicant was denied the grant of first MACP as claimed by him on the ground that he was not eligible for MACP as he had joined the service of EVRC, Mumbai on 02.04.2007 and will be completing 10 years of service in April, 2017, whereas he was due for retirement on 30.09.2012 i.e. before becoming eligible for MACP. It is in these circumstances, the applicant has filed the present OA seeking direction to the respondents to grant him the benefit of first MACP alongwith all its consequential benefits.

3. The respondents have filed their affidavit in reply dated 08.10.2018 (wrongly

mentioned as additional affidavit) whereby it has been categorically stated that during the pendency of these proceedings, respondent No.2 - Director General, ICMR, New Delhi vide letter No.333/Legal Cell/2017 dated 01.08.2018 has conveyed to respondent No.3 i.e. National Institute of Virology (NIV), Pune that as per rules the competent authority has approved the grant of MACP benefits to the present applicant. The respondents have placed on record a copy of Office Memorandum dated 30.03.2019 whereby the present applicant has been granted first MACP financial upgradation from pay in PB-3 Rs.15600-39100 + G.P. 5400 to the next higher grade pay in PB-3, Rs.15600-39100 + G.P. Rs.6600 w.e.f. 01.10.2009 on recommendations of the Screening Committee meeting held at NIV, Pune on 06.03.2019, which has subsequently been approved by the council vide office letter No.Staff Matters/ERC/2004/ECD-I dated 15.03.2019.

4. We have heard the arguments addressed by learned counsels for the parties and perused the pleadings available on record.

5. In view of the order passed by the respondent No.2 dated 30.03.2019, the claim of the applicant stands satisfied. Learned counsel for the applicant has submitted that though he has been granted MACP w.e.f. 01.10.2009, however, on account of delayed payment, he has lost the amount of interest which would have been earned in case he was granted the upgradation in time. On the other hand, learned counsel for the respondents has opposed the request of the applicant for interest on the delayed payment. However, in the facts and circumstances of the case, we find that delay in grant of first MACP cannot be attributed to the applicant. Therefore, loss of interest suffered by the applicant due to delayed grant of MACP benefits w.e.f. 01.10.2009 cannot be denied by the respondents. There is delay of more than 9 years. Consequently, to meet the ends of justice, the respondents are directed to make the payment due to the applicant with interest at the rate applicable to GPF. This exercise be completed within a period of six weeks from the date of receipt of certified copy of this order.

6. With these directions, the Original Application is disposed of. MA Nos.438/2018 & 609/2018 stand closed. No order as to costs.

(Ravinder Kaur)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

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JN
23/10/19