

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION Nos.364/2013 & 453/2013

Date of Decision: 15th November, 2019

CORAM: R. VIJAYKUMAR, MEMBER (A)
RAVINDER KAUR, MEMBER (J)

Prakash Nath Mahadik
Aged 52 years, presently
working as Compiler in Census Dept,
Mohatta Market Bldg, 4th Floor,
MRA Marg, Mumbai - 400 001.
and residing at
304, Swastik Apartment,
Behind Shivsena Office,
Khopat, Thane (W) - 400 601. ... Applicant
in OA No.364/2013

Pandurang B. Yadav
Aged 56 years, presently
working as Statistical Investigator
Grade II, in the office of Directorate of
Census Operations, Maharashtra
Mohatta Market, 4th Floor,
M.R.A. Marg, Mumbai - 400 001
and residing at Sai Sahara Co-op
Housing Society Ltd., 22/C-7,
Mhada Colony, Mulund (East)
Mumbai - 81. ... Applicant
in OA No.453/2013

(By Advocate Shri Ramesh Rammurthy)

Versus

1. The Union of India, through
the Secretary
Ministry of Home Affairs
Govt. of India, North Block,
New Delhi - 110 001.
2. The Registrar General of
India, Ministry of Home
Affairs, Census Dept.,
2/A Mansingh Road,
New Delhi - 110 011.

3. The Director of Census Operations, Directorate of Census Operations, Maharashtra, Ministry of Home Affairs, Govt. of India, Exchange bldg., 2nd floor, Sir Shivsagar, Ramgulam Marg, Ballard Estate, Mumbai - 400 001.
4. The Secretary Department of Personal and Training Ministry of Personnel, Administrative Reforms & Pensioners Welfare Government of India, North Block, New Delhi - 110 011. *Respondents*

(By Advocate Shri V.S. Masurkar)

ORDER (ORAL)

Per : Shri R. Vijaykumar, Member (A)

These OAs have been filed on 08.05.2013 challenging the grading given to the applicants which were below the bench mark for the years 2002-2003, 2003-2004, 2004-2005 and 2005-2006 and rejecting his representation in their replies dated 17.02.2012, 13.03.2012 and 09.02.2012 conveying in brief order that they have considered the remarks and grading granted to the applicant in OA No.364/2013 and the applicant in OA No.453/2013 as just and appropriate and that it was not necessary to consider modification or changes in the grading/remarks.

2. The applicants have challenged these orders in their respective OAs and sought the following reliefs:

" OA No.364/2013

8(a) That this Hon'ble Tribunal be pleased to quash and set aside the impugned orders dated 25.10.2012, 10.10.2012 and 14.09.2012 (Annexure A-1 to A-3) passed by the respondents.

(b) That this Hon'ble Tribunal be pleased to direct the respondents to upgrade the grading in the ACR for 2002-2003, 2003-2004, 2004-2005 and 2005-2006 in cas eof the applicant and direct the respondents to treat the grading in the ACR's of the said four years up to the bench mark for all purposes.

(c) that this Hon'ble Tribunal be pleased to direct the respondents to grant the applicant the benefit of the ACP and MACP financial upgradation in pursuance of prayer clauses (a) and (b) above from the due date and with all other consequential service benefits flowing there from, including arrears of pay and interest @18% p.a. On the said arrears from the due date till payment.

(d) That this Hon'ble Court be pleased to hold and declare that the DoPT OM dated 13th April, 2010 in so far as it directs communication of below bench mark grading for the reporting period prior to 2008 as bad in law to that extend and this Hon'ble Court be pleased to quash and set aside the said DOPT OM dated 13th April, 2010 to that extent;

(e) That this Hon'ble Court be pleased to direct the respondent Nos.1 to 3 to reconsider the case of the applicant by ignoring adverse material including below bench mark grading for the period from 2002 onward till date and any other adverse material which was not communicated immediately after reporting year and grant the applicant all consequential service benefit by holding review DPC/DSC including the benefit of ACP/MACP scheme from the due dates with interest at the rate of 18% per annum on the said amounts from the due date till payment.

(f) That such other and further order or orders be passed as the facts and circumstances of the case may require.

(g) That costs of this original application be provided for."

OA No.453/2013

"8(a) That this Hon'ble Tribunal be pleased to quash and set aside the impugned orders dated 25.07.2012 (Annexure A-1), 13.04.2010 (Annexure A-2) and 26.12.2005 (Annexure A-3) be quashed and set aside.

(b) That this Hon'ble Tribunal be pleased to direct the respondents to upgrade the grading up to the bench mark in the ACR of the applicant for the years 2002-2003 and 2003-2004.

(c) That in pursuance of prayer clauses 9(a) and (b) above, this Hon'ble Court be pleased to direct the respondents to reconsider the representation of the applicant to grant second ACP benefit from 18.08.2004 and MACP benefit from the due date with all consequential benefit including fixation of pay, full arrears and all other admissible service benefits along with interest at the rate of 18% p.a. on such arrears from the due date till payment.

(d) That this Hon'ble Court be pleased to quash and set aside the DOPT OM dated 13th April, 2010 to the extent it directs communication of adverse grading in the ACR prior to the reporting period, 2008

(e) That this Hon'ble Court be pleased to direct the respondent Nos.1 to 3 to reconsider the case of the applicant while ignoring the said adverse below bench mark grading or any other adverse material in the ACR's of the year 2002-2003, 2003-2004 or in any other relevant reporting years and grant the applicant benefits under the ACP and MACP scheme with all consequential service benefit included fixation of pay, arrears upon such fixation and interest @18% per annum on the said arrears from the due date till payment.

(f) That such other and further order or orders be passed as the facts and circumstances of the case may require."

(g) That cost of this original application be provided for."

3. Although the ACRs of each individual differ in respect of individual performance and based on specific conduct and performance of the concerned individual, in the present cases, after hearing the learned counsel for the applicants and respondents, it is found that the replies furnished by the respondents, after receiving the representations filed by the applicants in response to the below benchmark ACRs that had been communicated to them, are expressed in very short and brief terms without giving any justification for their rejection. It is only such justification that could be adjudicated by this Tribunal and in its absence, it is necessary to direct the respondents to review, at the appropriate level of the respondents' hierarchical system, all these connected ACRs which are below benchmark for each individual and to pass a reasoned and speaking order in respect of each ACR separately for each applicant. Such orders shall be passed by the respondents within eight weeks from the date of receipt of a certified copy of these orders and they shall communicate these

orders to the applicants within two weeks thereafter.

4. These Original Applications stand disposed of in the aforesaid terms, without any order as to costs.

(Ravinder Kaur)
Member (J)

(R. Vijaykumar)
Member (A)

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