

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA /050/00765/2016

Reserved on 25.11.2019

Order dated

CORAM

HON'BLE MR. JAYESH V. BHAIKAVIA, MEMBER (J)
HON'BLE DINESH SHARMA, MEMBER (A)

- 1 Shiv Shankar Sharma, S/o Late Rajdeo Sharma, Resident of Village & P.O. Barharwa, P.S.- Majorganj, District- Sitamarhi.

..... Applicant.

By advocate: Sri Jayant Kumar Karn.

Verses

1. The Union of India through the Secretary, Ministry of Water Resources, RD & GR, Shram Sakti Byhawan, Rafi Marg, New Delhi.
2. The Secretary, Central Water Resources, New Delhi.
3. The Under Secretary to the Government of India, Ministry of Water Resources, River Development & Ganga Rejuvenation, New Delhi.
4. The Under Secretary, (O&M), Government of India, Central Water Commission, Sewa Bhawan, New Delhi.
5. The Chief Engineer, Lower Ganga Basin Organization, CWC, 177-B, S.K. Puri, Patna.
6. The Superintending Engineer (C), Central Water Commission, Lower Ganga Basin Organization, 177-B, Sri Krishnapuri, Patna-1.
7. The Assistant Engineer, Central Water Commission, Middle Ganga Division-4, Arya Kumar Road, Rajendra Nagar, Patna.

..... Respondents.

By advocate: Sri H.P. Singh.

ORDER

JAYESH V. BHAIKAVIA, MEMBER (J)- In the instant OA, the applicant stated to be retired from service from the post of Work Sarkar Gr-II in the Work Charged establishment from Budhi Gandak Sub-Division, Central Water Commission, Muzaffarpur under Lower Ganga Division-I, Central Water Commission, Patna erstwhile Middle Ganga Division-IV on 30.06.2012 (AN) on attaining the age on superannuation.

2 He has filed the instant OA for issuance of direction upon the respondents to grant 3rd MACP on completion of 30 years of service. It is submitted by the applicant that he joined in the department in the year 1972 as a daily rated employee. Subsequently, vide office order dated

11.06.1980 after conducting interview for Central Flood Forecasting Control Room, Darbhanga, he was appointed w.e.f. 15.06.1980 and thereafter continued in the department rendering regular service. After his retirement, PPO was issued in which total length of service of the applicant was recorded from 15.06.1980 to 30.06.2012 which comes to more than 32 years of service (Annexure-A/1). It is further submitted that he has submitted several representations before the respondents for grant of 3rd MACP. However, vide letter dated 03.09.2014 issued by the Under Secretary (O&M), Government of India, Central Water Commission, New Delhi, applicant was informed that he had completed 28 years and 4 months of regular service, as such he could not be granted 3rd MACP as per rules. Thereafter, the applicant had again requested the authority to reconsider his case. In response to it, the respondents vide letter dated 05.11.2014 issued by Section Officer (O&M), Government of India, Central Water Commission, asked certain clarification from the office of Superintending Engineer (C) with respect to grievance of the applicant (Annexure-A/3). In response to it, vide letter dated 13.11.2014, Office of CWC, Patna submitted their report and again reiterated that the period from 15.06.1980 to 29.04.1984 was adhoc period and the same was qualifying service for Gratuity purpose only and the said period cannot be considered for MACP. It is submitted by the applicant that the said report of respondents was erroneous (Annexure-A/4).

3. It is submitted by the applicant that he was regularized w.e.f. 15.06.1980 and rendered continuous service till his retirement on 30.06.2012 as evident from the details stated in the PPO. Again the applicant was informed vide letter dated 15.01.2015 and 06.02.2015 by the Office of Under Secretary (O&M), Government of India, Central

Water Commission, New Delhi and reiterated their stand for not considering the case of the applicant for grant of 3rd MACP. Hence, this OA.

4. On the other hand, respondents have filed their WS and denied the claim of the applicant. Learned counsel for the respondents mainly submitted that as per Service Record of the applicant, he was regularized on 01.03.1984 and retired on 30.06.2012. From 15.06.1980 to 29.02.1984, he worked as Seasonal Khalasi which is purely on ad-hoc basis, therefore, the said period is counted only for gratuity purpose. It is submitted that as per terms of OM dated 19.05.2009 (Annexure-R/1), with respect to consideration of service of the employee for grant of MACP, stipulates that an employee appointed only on adhoc or contract basis shall not be qualified for benefit under MACP Scheme. It is further submitted that the grievance raised by the applicant has been thoroughly examined by the respondent and as per service record of the applicant, suitable reply was communicated vide Annexure-A/4, A/5 and A/6.

5. It is further submitted by the respondents that as per service book of the applicant, the applicant has joined in the department on 15.06.1980 as adhoc and pay scales and allowances were granted as admissible under the rules to such adhoc appointee. His appointment extended on adhoc basis from time to time and subsequently vide order dated 29.03.1985 he was appointed on regular basis as Work Charge Khalashi w.e.f. 01.03.1984 (Annexure-R/2). Therefore, it can be seen that at the time of superannuation, the applicant completed 28 years and 4 months of regular service, which is less than 30 years. Hence, he is not entitled for 3rd MACP as per rules.

6. Heard the parties and perused the materials on record.

7. It is noticed that the respondents have placed entire service record of applicant vide Annexure-R/2. On examination of it, it is clear that the applicant was engaged on adhoc basis on 15.06.1980 as Khalasi, however the admissible pay scale and allowances were paid to the applicant in accordance with rules invoked. It is also not in dispute that the service of the applicant as adhoc appointee was extended time to time and subsequently the service of the applicant was regularized vide order dated 29.03.1985 w.e.f. 01.03.1984. As per the terms stipulated in OM dated 19.05.2009 regarding grant of MACP, the employee who has completed 30 years of regular service can be said to be a beneficiary of the scheme. Since, the applicant for the period 15.06.1980 to 29.02.1984 rendered his service on adhoc basis and thereby he was found to be not qualified for benefits under the MACP Scheme. As such, at the time of superannuation, the applicant has rendered total 28 years and 4 months of regular service, which is less than 30 years.

8. The submission of the applicant that he was granted benefit of gratuity by considering the entire period of his service from 15.06.1980 till his retirement, i.e. on 30.06.2012 and he was granted regular pay scale along with allowances. Therefore, he is entitled for benefit of MACP. The said submission of the applicant is not tenable in view of terms of OM dated 19.05.2009. The respondents have considered the application of the applicant and correctly denied the claim of the applicant vide impugned orders. We do not find any infirmity in the said impugned orders. Hence, the OA is dismissed being devoid of merit.

(Dinesh Sharma)/M(A)
Bp

(Jayesh V. Bhairavia)/(M) J