

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.9606 of 2015

Date of Decision: May 15, 2015

Union of India and others

.....Petitioners

versus

Central Administrative Tribunal, Chandigarh Bench and
another

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.P.C.Goyal, Advocate, for the petitioners.

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1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Surya Kant, J. (Oral)

The order dated 19.12.2013 passed by the Central Administrative Tribunal, Chandigarh Bench accepting the claim of 2nd respondent for the grant of second MACP, is assailed by Union of India through Ministry of Defence and its Western Command.

[2] There is no dispute on facts. The 2nd respondent joined the petitioner-authorities as Refrigerator Mechanic on 01.05.1974. In his service career of 35 years and 9 months, he did not get any promotion till he retired on attaining the age of superannuation w.e.f. 31.03.2010. The 2nd respondent was, however, granted first and second ACPs w.e.f. 24.09.1999 when he had already completed 24 years of service. On the implementation of 6th Pay Commission, the 2nd respondent was placed in the pay-scale of Rs.9300-34800/- with grade pay of Rs.4200/-.

[3] Thereafter came the modified ACP Scheme (MACP) w.e.f. 01.09.2008 whereunder the first and second ACP has to be granted on completion of 10 and 20 years of service respectively.

[4] As the 2nd respondent had completed more than 30 years of service on 01.09.2008, the first ACP (now MACP) was granted to him w.e.f. 01.09.2008 and he was granted the grade-pay of Rs.4600/-.

[5] The case of the 2nd respondent before the Tribunal was that he is entitled to two financial upgradations under the modified ACP Scheme and in this manner, he was entitled to be granted the next higher grade-pay of Rs.4800/- in pay band-2.

[6] The aforesaid claim was contested by the petitioner-authorities as, according to them, the second financial upgradation could be admissible only if one has not been granted the second financial upgradation under the old ACP Scheme.

[7] The Tribunal rejected the petitioners' plea and has accepted the claim of 2nd respondent on the strength of para No.5 of the Modified ACP Scheme circulated on 19.05.2009, the relevant part whereof has been extracted by the Tribunal in para No.5 of its order.

[8] We have heard learned counsel for the petitioners at a considerable length and gone through the record.

[9] We are in full agreement with the view taken by the Tribunal that Illustration-I contained in the modified ACP Scheme dated 19.05.2009 squarely answers the claim of 2nd respondent in his favour. Illustration expressly acknowledges entitlement of two financial upgradations if the claim of a

Government employee falls either in Clause (a) or Clause (b).
The relevant part of the illustration reads as under:-

“Illustration I

The pre-revised hierarchy (in ascending order)
in a particular organization was as under:-

Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500.

- (a) A Government servant who was recruited in the hierarchy in the pre-revised pay scale Rs.5000-8000 and who did not get a promotion even after 25 years of service prior to 01.01.2006, in his case as on 01.01.2006, he would have got to financial upgradations under ACP to the next grades in the hierarchy of his organization, i.e., to the pre-revised scales of Rs.5500-9000 and Rs.6500-10500.
- (b) Another Government servant recruited in the same hierarchy in the pre-revised scale of RS.5000-8000 has also completed about 25 years of service, but he got two promotions to the next higher grades of Rs.5500-9000 & Rs.6500-10500 during the period.

In the case of both (a) and (b) above, the promotions/financial upgradations granted under ACP to the pre-revised scales of Rs.5500-9000 and Rs.6500-10500 prior to 01.01.2006 will be ignored on account of

merger of the pre-revised scales of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500 recommended by the Sixth CPC. As per CCS (RP) Rules, both of them will be granted grade pay of Rs.4200 in the pay band PB-2. After the implementation of MACPS, two financial upgradations will be granted both in the case of (a) and (b) above to the next higher grade pays of Rs.4600 and Rs.4800 in pay band PB-2.....”

(emphasis by us)

[10] It may be seen from the above Illustration that the benefit of second ACP granted to 2nd respondent under the old Scheme has to be ignored as those two financial upgradations granted to him in the pre-revised pay-scale were merged while giving effect to the recommendations of the 6th Central Pay Commission. It is thereafter that on implementation of the modified ACP Scheme that the 2nd respondent is entitled to two financial upgradations.

[11] No case to interfere with the impugned order passed by the Tribunal is made out.

[12] Dismissed.

[SURYA KANT]
JUDGE

May 15, 2015
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[P.B.BAJANTHRI]
JUDGE