

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.08.2018
DELIVERED ON : 06.09.2018

CORAM:

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.25783 of 2017

1. Union of India
rep. by the Secretary
Ministry of Urban Development
Nirman Bhawan
New Delhi.
2. The Director General
Central Public Works Department
Ministry of Urban Development
Nirman Bhawan
New Delhi.
3. The Superintendent Engineer
Central Public Works Department
Chennai Central Circle
Chennai - 600 006. ... Petitioners

Vs.

1. The Central Administrative Tribunal
rep. by its Registrar
Madras Bench, Chennai - 104.
 2. T.K.Sankaranarayanan .. Respondents
- PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Certiorari to call for the records of the impugned order dated 23.8.2016 made in O.A.No.1760 of 2013 on the file of the first respondent and quash the same.

For Petitioners : Mr.C.V.Ramachandramurthy
Senior Central Government
Standing Counsel

For Respondents : Mr.L.Chandrakumar
for 2nd respondent

R1 : Tribunal

ORDER

The Chief Justice

The petitioners have preferred this writ petition against the order of the Central Administrative Tribunal, Madras Bench, dated 23.8.2016 passed in O.A.No.1760 of 2013. By the said order, the Original Application preferred by the second respondent came to be allowed. The prayer of the second respondent in the Original Application was to grant him 3rd MACP and to direct the petitioners to extend the Grade Pay of Rs.7,600/- to him with effect from the date when his juniors were upgraded.

2. It is not in dispute that the second respondent joined service as Junior Engineer in the year 1976 and he was thereafter promoted as Assistant Engineer in the year 1997 and he retired on 30.9.2008. As the second respondent was appointed as Junior Engineer in the year 1976, he completed his 30 years of service on 25.7.2006. Hence, according to the second respondent, he became eligible for grant of 3rd MACP benefit with effect from 1.9.2008.

3. According to the petitioners, for being eligible for grant of 3rd MACP, the benchmark was grading of "Very Good". The Screening Committee decided to take more than 2.5 years of ACRs having gradings of "Very Good" out of previous five years for considering the grant of 3rd MACP benefit.

4. Mr.C.V.Ramachandramurthy, learned Standing Counsel appearing for the petitioners drew our attention to the details of ACR gradings of the second respondent, which are as under:

Name	D.O.B.	Years of ACRS				
Shri T.K. Sankaranarayanan	22/09/48	2002-03 AVERAGE	05.05.03 to 31.03.04 Good	2004-05 Good	01.04.05 to 24.11.05 Good 25.11.05 to 31.03.06 Good	01.04.06 to 14.07.06 VG 16.7.06 to 31.03.07 Good

5. On the basis of the above chart, the learned Standing Counsel appearing for the petitioners submitted that as the second respondent had not satisfied the condition of having grading of "Very Good" for more than 2.5 years out of previous five years, he was not considered fit for grant of 3rd MACP upgradation. He further pointed out that in the year 2002-2003, the ACR grading of the second respondent was "Average" and

hence, the second respondent ought not to have been granted 3rd MACP by the Tribunal.

6. As far as the grading of "Average" for the year 2002-2003 is concerned, it is not disputed that the same was not communicated to the second respondent. However, the learned counsel for the petitioners submitted that in the year 2002-2003, there was no necessity of communicating the "Average" ACR to the person concerned.

7. As far as ACR gradings are concerned, the Supreme Court in the case of Dev Dutt v. Union of India and others, reported in AIR 2008 SC 2513, has observed that even "Average" grading has to be communicated to the person concerned. Even though decision in the case of Dev Dutt, supra, is a recent decision, at the time of consideration of the claim of the second respondent by the Tribunal, the said decision was very much in existence, hence, the Tribunal was right in relying on the same and holding that as the ACR grading of "Average" for the year 2002-2003 was not communicated to the second respondent, the same could not have been taken into consideration by the petitioners for rejecting the claim of the second respondent for grant of 3rd MACP.

8. Thereafter, the learned Standing Counsel for the petitioners submitted that the second respondent for being eligible for grant of 3rd MACP upgradation should have ACR grading of "Very Good" for more than 2.5 years out of the previous five years and as per the chart, extracted above, it is clear that the second respondent had only one ACR grading of "Very Good" for the period from 1.4.2006 to 14.7.2006. Hence, even otherwise the second respondent did not fulfil the criteria of having ACR grading of "Very Good" for more than 2.5 years out of previous five years.

9. As far as the above contention is concerned, we would like to refer to the Modified Assured Career Progression Scheme (MACPS), which is at page (4) of the typed set of papers. Clause 17 of the said Scheme is as under:

"17. The financial upgradation would be on non-functional basis subject to fitness, in the hierarchy of grade pay within the PB-1. Thereafter for upgradation under the MACPS the benchmark of 'good' would be applicable till the grade pay of Rs.6600/- in PB-3. The benchmark will be 'Very Good' for financial upgradation to the grade pay of Rs.7600 and above."

10. The second respondent is seeking extension of Grade Pay of Rs.7,600/- to him. In such case, the benchmark will have

to be "Very Good" for more than 2.5 years. Even if the ACR of "Average" for the year 2002-2003 is excluded from consideration, the second respondent does not satisfy benchmark of "Very Good" for more than 2.5 years. On a perusal of the above chart, it is seen that the second respondent had secured the grading of "Very Good" only for the period from 1.4.2006 to 14.7.2006. In such case, he would not be entitled for financial upgradation to the Grade Pay of Rs.7,600/-.

11. In view of the above facts, the order of the Tribunal directing the petitioners to grant the benefit of 3rd MACP to the second respondent, cannot be sustained. Hence, the order of the Tribunal is set aside.

In the result, the writ petition is allowed in above terms. No costs. Consequently, W.M.P.No.27206 of 2017 is closed.

Sd/-
Assistant Registrar (VIII)

// True Copy//

Sub Assistant Registrar

sasi

To:

1. The Registrar
Central Administrative Tribunal (Madras Bench)
High Court Buildings, Chennai.

+1cc to Mr.L.Chandrakumar, Advocate SR.No.61701

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W.P.No.25783 of 2017

RR(CO)
RMP(19/09/2018)

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