

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.13924 of 2018.

Date of Decision: August 23, 2018.

The 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 SUDIP AHLUWALIA.

Present: Mr.Praveen Chander Goyal, Advocate, for the petitioners.

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Surya Kant, J. (Oral)

The 2nd respondent was working as a Mason in the petitioner-department. He joined on 03.04.1986 and retired on attaining the age of superannuation on 30.04.2016. Throughout his service career, the 2nd respondent did not get any promotion. He was, however, granted first, second and third MACP under the Assured Career Promotion Scheme as modified w.e.f. 01.09.2008 known as MACP. The third MACP was granted to 2nd respondent on completion of 28 years service, i.e., w.e.f. 03.04.2014. The said order was recalled by the petitioners on 29.09.2015 and re-fixed the date of granting 3rd MACP from 03.04.2014 to 03.04.2016. The 2nd respondent challenged the order of re-fixation of 3rd MACP before the Central Administrative Tribunal, Chandigarh Bench and vide the impugned order dated 28.09.2017, his claim has been accepted.

The Tribunal has, for the purpose of determining the controversy, held as follows:-

“...7. Two questions of law have come for consideration before this Court. Firstly, whether the applicant who has been given selection grade on completion of 8 years of service is to be granted 2nd MACP on completion of 10

years of regular service from the date when he was granted selection grade and 3rd financial upgradation on completion of 28 years of service or not. Secondly, whether the respondents can order recovery of amount which they have paid pursuant to a valid order which has subsequently been rectified by them. To answer first question, it would be appropriate to note down the illustration given in MACP in para 20 and policy which is annexed with this clarification para 28A (I)(II), which reads as under:-

28. Illustrations:-

- A(I) If Government servant (LDC) in PB-1 in the Grade Pay of Rs.1900 gets his first regular promotion (UDC) in the PB-1 in the Grade Pay of Rs.2400/- on completion of 8 years of service and then continues in the same Grade Pay for further 10 years without any promotion then he would be eligible for 2nd financial upgradation under the MACPS in the PB-1 in the Grade Pay of Rs.2800/- after completion of 8+10+10 years).
- (ii) In case he does not get any promotion, then he would get 3rd financial upgradation in the PB-II in Grade Pay of Rs.4200/- on completion of further 10 years service i.e., after 28 years (8+10+10)".

It may thus be seen that the case of 2nd respondent has been found to be covered under Illustration No.28 as he was granted 1st MACP on completion of 8 years' service and 2nd and 3rd MACP were granted on completion of 10 years services thereafter, respectively. All the MACP were thus admissible and granted to 2nd respondent within the service span of 8+10+10 years. The view taken by the Tribunal thus appears to be legally correct. On a query, learned counsel for the petitioners fairly states that the matter involves very minor financial implication. Respondent No.2 is a

retiree.

We are not inclined to interfere with the impugned order on equitable considerations also.

Dismissed.

**[SURYA KANT]
JUDGE**

August 23, 2018
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**(SUDIP AHLUWALIA)
JUDGE**

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No