

125 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP-36736-2019(O&M)  
Date of decision : 18.12.2019

The Union of India and others

..... Petitioners

versus

Krishan Chand and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE  
HON'BLE MR. JUSTICE RAJIV SHARMA

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

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RAVI SHANKER JHA, J.(ORAL)

When confronted with the order passed by this Court on 23.08.2018 in CWP-13924-2018, learned counsel appearing for the Union of India fairly submits that the matter stands concluded by the aforesaid decision of this Court. Order passed by this Court is in the following terms:-

*“The 2<sup>nd</sup> 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 2<sup>nd</sup> 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 2<sup>nd</sup> 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 3<sup>rd</sup> MACP from 03.04.2014 to 03.04.2016. The 2<sup>nd</sup> respondent challenged the order of re-fixation of 3<sup>rd</sup> 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 2<sup>nd</sup> MACP on completion of 10 years of regular service from the date when he was granted selection grade and 3<sup>rd</sup> 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 2<sup>nd</sup> 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 3<sup>rd</sup> 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 2<sup>nd</sup> respondent has been found to be covered under Illustration No.28 as he was granted 1<sup>st</sup> MACP on completion of 8 years' service and 2<sup>nd</sup> and 3<sup>rd</sup> MACP were granted on completion of 10 years services thereafter, respectively. All the MACP were thus admissible and granted to 2<sup>nd</sup> 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.”*

Present petition is also dismissed in terms of the order passed in CWP-13924-2018.

**(RAVI SHANKAR JHA)**  
**CHIEF JUSTICE**

**(RAJIV SHARMA)**  
**JUDGE**

**18.12.2019**  
**sunita**

Whether speaking/reasoned  
Whether Reportable

Yes/No  
Yes/No