



*WP No.35465 of 2019*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B. BALAJI

**WP No.35465 of 2019**

Susamma Koshy

: Petitioner

Vs

1.The Union of India

Rep.by Air Officer Personnel

Air HeadQuarters

Vayu Bhawan

New Delhi 110106

2.The Union of India

Rep. by Flag Officer Commanding in Chief

Headquarter Eastern Naval Command

Visakhapatnam 530014

3.The Commander in Chief

Head Quarters, Andaman and Nicobar Command,

Port Blair

4.The Commanding Officer

INS Rajali, Arakkonam – 631006

: Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorarified Mandamus, calling for the records on the file of the Central Administrative Tribunal



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relating to the impugned order of the respondent dated 06.09.2019 passed in OA No.1065 of 2014 and quash the same and consequently direct the respondents to grant ACP/MACP Financial up-gradation to the petitioner reckoning her date of initial appointment as 14.12.1982 instead of 01.03.1987 with all attend financial benefits.

For Petitioner : Mr.Srinivasamurthy,  
for Mr.E.Kannadasan  
For Respondents : Mr.B.Rabu Manohar, SCGSC

**ORDER**

(Order of the Court was made by *D.KRISHNAKUMAR, J.*)

The petitioner has filed O.A. No.1065 of 2014 before the Central Administrative Tribunal.

2. According to the petitioner, she was selected and appointed as Senior Stenographer with effect from 14.12.1982 as a temporary casual worker in the respondent-Department and after continuous service in the Department, her services have been made permanent with effect from 01.03.1987 and thereafter she continued in the service in the respondent-Department. While so, the Government has introduced MACP (Modified Assured Career Progression) Scheme with effect from 01.09.2008, according to which the Government employees, in order to avoid stagnation in service, will have the



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benefit of three financial upgradations on the completion of 10 years, 20 years and 30 years.

3. According to the petitioner, the petitioner has been initially appointed on 14.12.1982 and therefore, the said Scheme will also apply to her from the date of her initial appointment. However, the petitioner's request has been rejected by the respondent. Hence she filed O.A.No.1065 of 2014 before the Tribunal but the Tribunal has dismissed the said O.A. by order dated 06.09.2019. Challenging the said order, she has filed the present writ petition before this Court.

4. Learned counsel for the petitioner has stated that the petitioner is entitled under the MACP Scheme from the date of her initial appointment on 14.12.1982, but the said aspect has not been considered by the respondent department in the proper prospective. According to her, once her service has been made permanent, she becomes eligible to get the benefit of financial upgradation under the MACP Scheme, from the date of her initial appointment on 14.12.1982. Such a claim of the petitioner was rejected by the respondent-department.



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5. According to the respondent, the petitioner is entitled for the benefit under the MACP Scheme only from the date of her permanent appointment with effect from 01.03.1987.

6. Learned Standing Counsel for the respondents submitted that originally the petitioner was appointed on 14.12.1982 as Senior Stenographer as a temporary causal worker and her services have been regularized/ made permanent only on 01.03.1987 and the petitioner has accepted 01.03.1987, to be the date of her permanent appointment, and continued in the services without making any challenge adverse to it.

7. Learned Standing Counsel for the respondent, further submits that the aforesaid MACP Scheme is applicable only to regularly appointed Government employees as per the Government of India Memorandum No.350234/3/2008-EsH (D) dated 19.05.2009, wherein it is clearly stated that casual employees, including those granted temporary status, or appointed on adhoc or contract basis shall not qualify for benefits under the aforesaid Scheme.



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8. According to the petitioner, she being a regular employee, is entitled for the benefit of financial upgradation under the MACP scheme from the date of her initial appointment, which is 14.12.1982, for the reason that though the petitioner has been initially appointed as temporary casual employee in the Department, however subsequently her services have been regularized and she was made permanent with effect from 01.03.1987.

9. The claim of the petitioner that she must be granted the benefit of financial upgradation as per MACP Scheme has been turned down by the Tribunal, relying upon Clause 3.2 of the Memorandum No.35034/1/97-Estt (D), dated 9.8.1999 issued by the Central Government, wherein the regular service for the purpose of calculating ACP Scheme has been clarified in the following manner: 'Regular Service' for the purpose of the ACP Scheme shall be interpreted to mean the eligibility service counted for regular promotion in terms of relevant Recruitment/Service Rules.". Therefore, the Tribunal has come to the conclusion that the petitioner is not entitled for the relief under the Scheme.



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10. Learned Standing Counsel for the respondents, drew the attention of this Court to the Office Memorandum No.350234/3/2008-EsH.(D) dated 19.05.2019, wherein it is clearly stated that the said Scheme does not apply to casual employees, adhoc employees or contract employees. In the light of Clause 9 of the said Memorandum, which clearly states that 'Regular service' for the purposes of the MACPS shall commence from the date of joining of a post in direct entry grade on a regular basis either on direct recruitment basis or on absorption/re-employment basis. Service rendered on adhoc/contract basis before regular appointment on pre-appointment training shall not be taken into reckoning, and therefore the petitioner is not entitled for the financial benefit under the aforesaid scheme. Learned Standing Counsel for the respondents further submits that the petitioner has not also sought for the relief of regularization of her service with effect from her initial appointment.

11. As both the Schemes ACP and MACP announced by the Government are applicable only for the regular service employees, the order of the Tribunal is perfectly valid and does not warrant interference. Therefore, we are not hesitant to reject the claim of



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the writ petitioner and confirm the order of the Tribunal which is perfectly valid and in order. Consequently, the writ petition is liable to be dismissed and accordingly the same is dismissed. There will no order as to costs.

**[D.K.K., J.]                      [P.B.B., J.]**  
**07.07.2023**

Index : Yes/No  
Neutral Citation : Yes/No  
mrn



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