

25.11.2024
(D/L-16)
Ct. No.4
(Naba)

W.P.C.T. 108 of 2024

**KVIC (Khadi & Village Industries Commission)
Vs.
Anil Biswas & Anr.**

Mr. Rahul Das

... for the Petitioner.

Mr. Bharat Bhushan,
Mr. Atindranath Misra

... for the Respondents.

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.
2. Heard the learned Counsel for the petitioner as well as the learned Counsel for the respondents.
3. The brief facts which are not in dispute are that the petitioner was appointed as a Fitter on 05.06.1981 in the Village Oil Industry under the Khadi & Village Industries Commission. The revised pay scale of the said post was Rs.5200/- to 20200/- + GP Rs.2400/-.
4. Subsequently petitioner was appointed as an Assistant Development Officer on 08.09.1983. Within four years of his appointment as such, he was promoted as a Development Officer on 06.05.1997.
5. In view of the fact that he was granted one promotion, his upgradation of scale under the ACP/MACP Scheme has been granted on

11.01.2017. The petitioner having retired after completing 30 years of service approached the Tribunal with a grievance that he has not been granted the third benefit under the ACP/MACP Scheme. Claiming such financial benefit, he approached the Tribunal which has been allowed by the Central Administrative Tribunal by its Order and Judgment dated 13.06.2023 passed in OA 350/01796/2018.

6. The Union of India is the petitioner in the present proceedings. It is submitted that the Tribunal has erred in allowing the petitioner's claim for grant of the third financial upgradation under the ACP/MACP Scheme. It is submitted that the Tribunal has failed to consider that the petitioner's appointment as Assistant Development Officer on 08.09.1983 was in fact a promotion. He submits that the petitioner has participated in the process of recruitment where employees in service were granted benefit of relaxation of maximum age. It is also submitted that continuity of the service has been maintained since even prior to his appointment as Assistant Development Officer and therefore it is incorrect to say that the petitioner has got only one promotion, and one financial benefit under the ACP/MACP Scheme.

7. On a specific query made as to whether any material was placed before the Tribunal to show that the benefit of his service as a fitter was carried over while the petitioner was appointed as Assistant Development Officer, the learned Counsel is unable to point out any such material or averment made by the petitioners who were respondents before the Tribunal.
8. It is clear from a bare perusal of the memorandum (appointment order) dated 01.07.1983 that petitioner has been addressed by name showing his residential address. He has not been addressed as a fitter. The terms of appointment as manifest from the memorandum dated 01.07.1983 also leaves no room for doubt that appointment as Assistant Development Officer was a fresh/new appointment inasmuch as the same contemplated a period of probation pursuant to which the temporary appointment was to be made permanent. The terms of appointment also required the petitioner to undergo medical scrutiny as a new appointee. The fixation of pay of the petitioner also was done at the minimum of the scale fixed for ADO at Rs.425/- with effect from 08.09.1983 which fact is evident from bare perusal of copy of the service book which is also part of the record.

9. The facts revealed as above, it becomes clear that upon his appointment as Assistant Development Officer on 08.09.1983, the petitioner got one promotion on 06.05.1997 promoting him to the post of Development Officer. In view of the promotion having been granted with effect from 06.05.1997, the only financial upgradation that the petitioner has received subsequent upon his selection/appointment as Assistant Development Officer is on 11.01.2011, being a financial upgradation granted under the ACP/MACP Scheme placing him in the pay scale of Rs.8000/- to 13500/- with effect from 08.09.2007.
10. It thus appears that within 24 years he has been granted two advancements/upgradation in terms of pay. Having served for 30 years he has not been granted the third benefit under the ACP/MACP Scheme.
11. The Tribunal therefore has rightly directed the respondents to grant financial upgradation to the applicant treating his appointment as Assistant Development Officer as a fresh appointment and not promotion.

12. We find no reason to interfere with the directions passed by the Administrative Tribunal in the order dated 13.06.2023 impugned in the present proceedings.
13. The Writ Petition stands dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)