



WEB COPY



Writ Petition No.1438 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.01.2024

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Petition No.1438 of 2024
and W.M.P.Nos.1465 & 1466 of 2024**

1.Union of India,
Represented by Directorate General of Ordnance Services,
Master General of Ordnance Branch,
Integrated Headquarters of
Ministry of Defence (Army),
New Delhi – 110 011.

2.The Commandant,
Ordnance Depot, Avadi,
C/o 56 APO,
Pin – 600 055.

3.The Controller of Defence Accounts,
No.618, Anna Salai, Teynampet,
Chennai – 600 018.

4.The Local Audit Officer (S),
Ordnance Depot, Avadi,
IAF (Post),
Chennai – 600 055.

... Petitioners

Vs



Writ Petition No.1438 of 2024

1.E.Radhakrishnan

2.The Registrar,
Central Administrative Tribunal,
Chennai Bench, Chennai – 600 104.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for records pertaining to the order dated 13.10.2022 passed in O.A.No.1361 of 2015 on the file of the 2nd respondent, viz., the Hon'ble Central Administrative Tribunal, Chennai Bench and quash the same.

For Petitioner : Mr.A.R.Sakthivel

For Respondents : Mr.Karthik

JUDGMENT

(Order of the Court was made by Mr.K.KUMARESH BABU.,J.)

This Writ Petition had been filed by the Union of India challenging the order passed by the Central Administrative Tribunal quashing the order of the 3rd petitioner herein and directing the 2nd petitioner to restore the 3rd MACP granted to the applicant.

2. Heard Mr.A.R.Sakthivel, learned counsel for the petitioner and Mr.Karthik, learned counsel for the 1st respondent.



Writ Petition No.1438 of 2024

3. Mr.A.R.Sakthivel, the learned counsel for the petitioner would submit that the 1st respondent was originally appointed as a Mazdoor in the year 1982 in the Grade Pay of Rs.1800/-. Thereafter, he was promoted as a Fitter Auto Semi Skilled in the year 1990 with the same Grade Pay. Thereafter, the petitioner was promoted as a Fitter Auto Skilled in the year 1993 with a higher Grade Pay of Rs.1900/-. The 1st respondent was again promoted as AFV/Elect HS-II in the year 2000 with a Grade Pay of Rs.2400/- and again the 1st respondent was promoted as AFV/Elect HS-I in the year 2006 with a Grade Pay of Rs.2800/-. During his service, the 1st respondent has been granted four promotions. However, the first promotion from Mazdoor to Fitter Auto Semi Skilled in the year 1990 was ignored for the purpose of MACP since, the promoted post carried the same Grade Pay. The further promotions granted to the 1st respondent in the year 1993, 2000 and 2006 were all counted in as promotions and therefore, the 1st respondent had been given three promotions and therefore, they were all counted in for the MACP. Therefore, the petitioner would not be entitled to any MACP much less the 3rd MACP. But, however, a mistake committed by the Department, the petitioner was given a benefit of 3rd MACP. This mistake



Writ Petition No.1438 of 2024

had been found out only in the year 2014 and therefore, the order impugned before the Tribunal came to be passed, withdrawing the 3rd MACP granted to the 1st respondent in the year 2013. The Tribunal without considering the facts had held that due to the restructuring of the Highly Skilled Grade – I, which came to effect in the year 2010 with retrospective effect from 01.01.2006, the promotion that had been granted to the 1st respondent in the year 2006 as AFV/Elect HS-I, should not be counted as promotion and thus, the benefit of MACP 3 should be extended to the petitioner and therefore, had held that the impugned order withdrawing the MACP granted to the petitioner is erroneous. He would submit that the same promotion was already granted before the restructuring had taken place and therefore promotions would have to be counted in denying the 1st respondent this MACP. Hence, he would seek interference of the order passed by the Tribunal.

4. Countering his arguments, Mr.Karthik, learned counsel for the 1st respondent would submit that the claim of the 1st respondent is that he had granted promotion in the year 2006 as AFV/Elect HS-I is totally contrary to



Writ Petition No.1438 of 2024

the facts on record. He would submit that there was an up gradation that had taken place of all persons working under the AFV/Elect HS-II as Grade – I enmasse in the year 2010 with retrospective effect from 01.01.2006. Such enmasse upgradation cannot be termed as a promotion. In that context, he would rely upon a judgment of the Co-ordinate Bench of this Court in a Batch of Writ Petitions in W.P.No26447 of 2016 etc., dated 24.06.2019 and contend that such enmasse upgradation cannot be treated as a promotion and that MACP scheme only contemplates promotion and not enmasse upgradation. He would submit that the Division Bench, while dismissing the Writ Petitions filed by the Union in respect of the very same Department, had directed the petitioner/ Union to pay the benefit of the employees within a period of two months from the date of receipt of a copy of the said order. Therefore, he would submit that the order impugned is not only contrary to the order passed by the Division Bench, it is also against the MACP Scheme and therefore, he would submit that no interference is required in this Writ Petition.



Writ Petition No.1438 of 2024

5. We have considered the rival submissions made by the learned counsels appearing on either side and perused the materials available on record.

6. At the outset, we feel that it is imperative to analyse the Coordinate Bench judgment of this Court referred to by the learned counsel appearing for the 1st respondent.

7. A perusal of the aforesaid judgment would show that various persons had approached the Tribunal seeking for grant of MACP as per the Scheme. The employees therein were also similarly placed persons as that of the 1st respondent. They were all enmasse upgraded as Highly Skilled Grade – I in the year 2010 with retrospective effect from 01.01.2006. The Coordinate Bench had held that there has been no process of selection involved and further, there was no rule of reservation also followed. Therefore, the movement from Highly Skilled Grade – II to Highly Skilled Grade – I pursuant to the said restructuring cannot be construed as one of promotion for the purpose of the Scheme. For better appreciation, the relevant



paragraph of the said judgment is extracted hereunder:-

WEB COPY

“7. There is no dispute that the process adopted by the petitioners was one of upgradation simplicitor. There was no process of selection involved. In case it is promotion, the petitioners have to follow the rule of reservation. Here in the subject case, there was no such process involved. The movement from Highly Skilled to Highly Skilled Grade I pursuant to restructuring cannot be construed as one of promotion for the purpose of MACP Scheme.”

8. After factually recording so, the Co-ordinate Bench had held that the MACP Scheme contemplates promotion and not enmasse upgradation and therefore, had upheld the decision of the Tribunal in directing application or MACP Scheme to such upgraded employees.

9. In the present case also, it is the case where the 1st respondent had been upgraded in the higher post and the same cannot be considered as a promotion. Therefore, we find no infirmity in the order impugned before us.



Writ Petition No.1438 of 2024

10. The learned counsel appearing for the petitioner would submit that against the aforesaid order a Special Leave Petition had been preferred.

But, however, he is not in a position to provide any details of such S.L.P.

11. In fine, this Writ Petition is dismissed. However, the same shall be revisited if the Hon'ble Apex Court interferes with the order of the Co-ordinate Bench which we have placed reliance also. However, there shall be no order as to costs.

(R.S.K.,J.) (K.B., J.)
30.01.2024

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

gba

To

The Registrar,
Central Administrative Tribunal,
Chennai Bench, Chennai – 600 104.



WEB COPY



Writ Petition No.1438 of 2024

R.SURESH KUMAR., J.
and
K.KUMARESH BABU.,J.

gba

Writ Petition No.1438 of 2024

30.01.2024