

WP.CT/180/2025

**UNION OF INDIA AND ORS.
VS.
SUBRATA ROY**

Mr. Kalyan Kumar Chakraborty, Adv.
Ms. Ranjana Chatterjee, Adv.

...For the Petitioners

Ms. Subhanwita Ghosh, Adv.
Ms. Ankita Dutta, Adv.

...For the Respondent

Per, Sujoy Paul, ACJ.

1. Parties are represented through their respective counsel.
2. The challenge mounted in this petition filed under Article 226/227 of the Constitution to the order passed by the tribunal on 17th February, 2025, in O.A. No.350/561/2019 whereby the action of petitioner/department in taking away the benefit of MACP scheme unilaterally was disapproved.
3. Shri Chakraborty, learned counsel for the department submits that the benefit of MACP was granted to the respondent on 8th September, 2015, which was withdrawn by order dated 11th February, 2019. He admitted that before passing this order the principles of natural justice were not followed and respondent was not put to notice regarding withdrawal of a benefit which is being enjoyed by the employee. He also admitted that the said order does not state any reason for withdrawal of the benefit. However, he submits that the department has no objection if impugned order of

withdrawal of MACP is quashed only for the aspect of recovery. In other words, no amount shall be recovered from the employee but he is not entitled for the fixation as per MACP because this will enrich him in terms of pensionary benefits for his entire life. Reliance is placed on the Establishment Serial No.67/17.

4. Ms. Ghosh, learned counsel for the respondent supported the impugned order.
5. We have heard the parties on the aspect of admission.
6. The tribunal has based its order on other judgments including O.A. No.848 of 2018. In the said case, the tribunal interfered because the benefit was withdrawn unilaterally and a recovery was sought to be imposed. Despite clear query from the Bench, it could not be pointed out that order passed in O.A. No.884 of 2018 was subject-matter of challenge before any higher forum. This could not also be pointed out that the case of present respondent was distinguishable *qua* the applicant of O.A. No.848 of 2018.
7. The impugned order of rejection reads thus:-

“Order No.6 of 2019

Dated: 11.2.2019

*The Office Order No.14 of 2015 dated 8.9.15 wherein, Sri Subrata Roy, ECRC was granted financial upgradation under MACP scheme w.e.f. 1.9.2008, is hereby treated as cancelled in terms of CPO/GRC's Estt.Srl.No.67/17.
This has the approval of the competent authority."*

8. A plain reading of this order impugned before the tribunal shows that no iota of reason is assigned as to why department cancelled the previous order dated

8th September, 2015, granting MACP benefit. The reasons are held to be heartbeat of conclusions. In absence of reasons, conclusion cannot sustain judicial scrutiny. In **Kranti Associates Private Limited & Anr. v. Masood Ahmed Khan & Ors., (2010) 9 SCC 496**, in

Para 51 it was held thus:-

51. Summarizing the above discussion, this Court holds:

a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

b. A quasi-judicial authority must record reasons in support of its conclusions.

c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

g. Reasons facilitate the process of judicial review by superior Courts.

h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.

i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

j. Insistence on reason is a requirement for both judicial accountability and transparency.

k. If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

l. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.

m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).

n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and **Anya vs. University of Oxford**, 2001 EWCA Civ 405, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".

9. Admittedly, the principles of natural justice were not followed before passing the impugned order dated 11th February, 2019. Impugned order entails civil consequences and could not have been passed without following the principle of audi *alteram partem*.
10. The tribunal applied its previous order passed in O.A. No. 848 of 2018 and no fault could be pointed out in extending such parity.
11. For these cumulative reasons, in our view, tribunal has taken a plausible view which does not warrant any interference by this court.
12. Resultantly, admission is **declined**. Petition is **dismissed**.
13. No order as to costs.

(SUJOY PAUL, ACJ.)

(PARTHA SARATHI SEN, J.)