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WP Nos.25230 & 32732 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30-01-2026

PRONOUNCED ON : 23-02-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

WP No. 25230 of 2024

and

WP No. 32732 of 2024

and

WMP Nos. 27557 & 35573 of 2024

Cause title in W.P.No.25230 of 2024:

1.The Indian Counsel of Medical Research

Represented by its Director General,

Ansari Nagar,

New Delhi 110 029.

2.The Director

National Institute for Research in Reproductive Health (NIRRH) ICMR,

Jehangir Merwanji Street , Parel,

Mumbai - 400 012.

... Petitioner (s)



Vs.

1. R.Karunagaran
2. A Ramasamy

3. Union of India

Represented by Secretary to Government,
Ministry of Health and Family Welfare,
Nirman Bhawan, New Delhi - 110 001.

4. Central Administrative Tribunal,
Chennai Bench,
Rep. by its Registrar,
Madras High Court Compound,
Chennai-104.

R3 deleted as per order dated 14.10.2024 in
W.P.No.25230 of 2024 by ASMJ & GAMJ

..Respondent(s)

Cause title in W.P.No.32732 of 2024:

1. Indian Council of Medical Research
Represented by its Director General,
Ansari Nagar,
New Delhi 110 029.
2. The Director
National Institute for Research in Reproductive
Health (NIRRH) ICMR,



Jehangir Merwanji Street , Parel,
Mumbai - 400 012.

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3. The Director

Vector Control Research Centre,
VCRC Road, Indra Nagar,
Priyadarshani Nagar,
Puducherry - 605 004.

..Petitioner(s)

Vs.

1. B Pandithurai

2. Union of India

Represented by Secretary to Government,
Ministry of Health and Family Welfare,
Nirman Bhawan, New Delhi - 110 001.

3. Central Administrative Tribunal

Chennai Bench,
Rep.by its Registrar,
Madras High Court Compound,
Chennai 600 104.

..Respondent(s)

Prayer in W.P.No.25230 of 2024: This Writ Petition filed under Article 226 of the Constitution of India, in the nature of a Writ of Certiorari, calling for the records from the Central Administrative Tribunal, Chennai, relating to its order dated 06.02.2024 in O.A.No.310/00128/2021 and quash the same as illegal, arbitrary, without jurisdiction.



Prayer in W.P.No.32732 of 2024: This Writ Petition filed under Article 226 of the Constitution of India, in the nature of a Writ of Certiorari, calling for the records from the Central Administrative Tribunal, Chennai, relating to its order dated 19.03.2024 in O.A.No.310/00367/2020 and quash the same as illegal, arbitrary, without jurisdiction.

For Petitioner(s): Mr.K.Srinivasa Murthy, Standing Counsel
in both WPs.

For Respondent(s): Mr.C.Vigneswaran for R1 & R2
in W.P.No.25230 of 2024
R3 – deleted, R4 – Tribunal

Mr.C. Vigneswaran for R1
in W.P.No.32732 of 2024
R2 – Unserved, R3 – Tribunal

COMMON ORDER

(Order of the Court was made by C.V.Karthikeyan J.)

The respondents in O.A.No.128 of 2021 aggrieved by an order dated 06.02.2024 passed by the Central Administrative Tribunal, Chennai Branch, have filed W.P.No.25230 of 2024. The respondents in O.A.No.367 of 2020 aggrieved by an order dated 19.03.2024 passed by the Central Administrative Tribunal, Chennai Bench, have filed W.P.No.32732 of 2024.



2.It is to be noted that in the order in O.A.No.367 of 2020 the Tribunal had extracted the order in O.A.No.128 of 2021 and had merely affirmed that particular order.

3.In view of the fact that the issues raised in both the Original Applications and the grounds raised in both the Writ Petitions are the same, a common order is passed in the two Writ Petitions.

4.O.A.No.128 of 2021 had been filed by two applicants viz., R.Karunagaran and A.Ramasamy who were aged about 63 years at the time of filing of the Original Application seeking a direction against the respondents therein / writ petitioners to implement MBAPS scheme in accordance with the guidelines dated 14.09.2016 and 06.12.2016 and grant consequential benefits with interest till date of payment, as recommended by the Expert Committee.

5.O.A.No.367 of 2020 had been filed by B.Pandithurai again seeking the same relief namely, to grant benefits under MBAPS scheme and consequential benefits with arrears and interest.

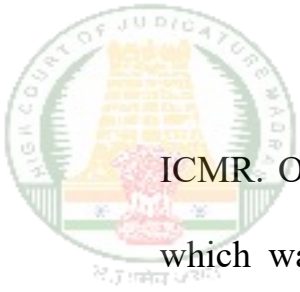
6.The applicants before the Tribunal / respondents herein had been appointed in ICMR at Puducherry in the years 1981, 1982 and 1983 under



regular process for project based posts. It is to be noted that ICMR was an autonomous body under the jurisdiction of the Ministry of Health and Family Welfare and later designated as a Department of Health Research under the control of the said Ministry.

7.It is the contention of the respondents herein that they had been working for a long period about of about 30 years and their services had not been regularized. They were also not granted the benefits of Leave Travel Concession, Time Bound Promotion, Selection Grade, Gratuity or Pension, as that of regular employees. They had, therefore, approached the Tribunal seeking regularization of their services in the year 2011. The Tribunal passed orders regularizing their services from the date of their initial appointment and had also directed that all service benefits should be extended to them. Thereafter, the respondents had been brought into regular service from the date of their initial appointment together with all attendant benefits. The respondents were also granted with pensionary benefits including the benefits under ACP/MACP scheme. They had then attained the age of superannuation and had retired.

8.Thereafter, representations had been given by the Employees Association to implement the recommendations of a Committee headed by Dr.B.Ramamoorthi, wherein he had held that the schemes implemented in CSIR (Centre for Scientific and Industrial Research) must also be implemented in



ICMR. One of the schemes implemented in CSIR was a scheme called IRAS which was not extended to all sections of ICMR, but selectively to certain section alone. Alleging discrimination, the employees again approached the Tribunal seeking implementation of IRAS. The Tribunal passed an order directing implementation. This order was upheld by the Delhi High Court.

9. Thereafter, ICMR had framed guidelines for introducing Merit Based Assessment Promotion Scheme (MBAPS) and issued Office Memorandums and clarifications. The scheme was quite similar to the existing scheme of ACP/MACP to upgrade the pay of an employee who stagnates in a particular post without promotional avenue. However, implementation of MBAPS was conditional on examining ACR and performance of the employees. The respondents had approached the Tribunal seeking extension of the MBAP Scheme to them also, even though they had retired on attaining the age of superannuation much earlier. By the orders which are impugned in the present writ petitions, the Tribunal had directed grant of MBAPS to them.

10. It had been the contention of the writ petitioners that there were guidelines issued by the Government for application of MBAP Scheme for Group-B, C and D technical staff. But however, since, the respondents had already retired on attaining the age of superannuation, it would hardly be possible to examine their ACRs and grant the benefits under the scheme. It was



also contended that the respondents were working in super-numery posts which had been created to accommodate them as there were no vacancies. It had been stated that they had already been extended with the benefits under the ACP and MACP schemes. The Tribunal, however, overlooked that particular submission and allowed the Original Applications, necessitating filing of the present Writ Petitions.

11.Mr.K.Srinivasamurthy, learned Standing Counsel appearing for the petitioners, assailed the order of the Tribunal by pointing out that the respondents had been working on and from 1981, 1982 and 1983 onwards and that directions were issued to regularize their services and super-numery posts were created and they were accommodated in such posts since there were no vacancies available. The learned Standing Counsel stated that the employees had been granted the benefits under the ACP / MACP scheme during their service. They had never raised any objection that they were denied that particular benefit. It had been contended that for project specific employees or even for those holding super-numery posts ACRs were not opened and employees were not assessed on their performance.

12.It was further pointed out that, however, MBAP Scheme should be implemented on assessment of ACRs and since those records were not maintained for the respondents, they were not entitled for the benefits under the



said scheme. It had also been contended that they had also been granted the third ACP upon their retirement. The learned Standing Counsel therefore contended that the Tribunal had misdirected itself in granting the relief without examining the possibility of granting of such relief and without considering the objections raised that the respondents would be granted the same benefits twice over if the directions to the Tribunal were to be implemented.

13.Mr.C.Vigneswaran, learned counsel appearing for the contesting respondents, however, disputed the said contentions. The learned counsel contended that the posts to which the respondents were accommodated did not have any promotional avenues and therefore, they stagnated in the same posts from the date of regularization till their dates of retirement. The learned counsel contended that though ACP / MACP schemes had been implemented, they were not as beneficial as the MBAP Scheme. The learned counsel contended that the respondents were also assessed with respect to their skills and working capabilities and contended that there was no reason to deny them with the benefits of the MBAP Scheme. The learned counsel contended that the Tribunal had assessed all aspects and had held that they should have been granted the option to switch over to the MBAP Scheme, which option was not granted to them till they were regularized. It was therefore contended that the order of the Tribunal must be upheld and the writ petitions must be dismissed.



14. We have carefully considered the arguments advanced and perused the material records.

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15. The respondents herein had been working as Social Workers / Drivers in various projects of ICMR at Puducherry. They were employed till the completion of their particular projects. They had all been employed in the years 1981, 1982 and 1983 onwards. They were continuously working in temporary posts without being regularized. They had therefore approached the Tribunal seeking regularization. The Tribunal had allowed their applications and directed that they should be regularized from the date of their initial appointment and should also be extended with service and monetary benefits. They were then accommodated under various branches or departments of ICMR.

16. However, since there was a compulsion to absorb them to regular posts and there were no vacancies available, super-numery posts were created to accommodate them. They were then granted all necessary benefits including GPF, Pension, ACP/MACP etc. They were also paid under the regular pay scale. Thereafter, they were also given the first ACP and also the second MACP. The 7th Central Pay Commissioner revision of pay was also extended to them. The respondents then retired on attaining their age of superannuation. They were also paid the third ACP/MACP. The matters should have rested at that.



17.However, a Committee headed by Dr.B.Ramamoorthi had given a report that the schemes implemented in a parallel organization / CSIR should also be implemented for the benefit of the employees of ICMR. This also included extending the benefits under a different scheme / MBAPS. Naturally, this would require assessment of merit. This could be done only by examining the ACRs maintained with respect to each employee. It is the contention of the writ petitioners that since the respondents were working in super-numery posts, ACRs had not been opened and that therefore there was no possibility of assessing their merit.

18.It is seen from the records that the respondents had been granted the benefits of the first and second ACP and MACP during their periods of service and had also been extended with the third ACP/MACP after their retirement. The Tribunal had however examined the Office Memorandum dated 06.12.2016 which provided the guidelines for implementation of MBAPS for technical staff of ICMR. It was provided that it would come into effect from 01.01.1987 notionally and with actual benefits w.e.f 01.01.1996. The first assessment would be of those employees who completed requisite years of service as on 31.03.1992. With respect to the technical staff to which the respondents belong, they will have the option to switch over to MBAPS within 7 days from the date of the issuance of these guidelines.



19.It is seen from the records that the respondents did not opt to switch to that particular scheme within that particular period.

20.With respect to the contention that they were working in super-numery posts, it is seen that the super-numery posts could often be termed as a shadow posts namely, a post to which no specific duties are attached. The employees who are absorbed in a super-numery posts will have to perform the duties of a post which is vacant. However, care should be taken that it does not create excess number of staff. This is created with the ultimate aim of absorbing the employee into regular service.

21.The respondents had been extended with all benefits including GPF, Pension, Gratuity and Time Scale of Pay as regular employees. The ACP / MACP scheme was also extended to them. Those schemes were in existence were they were in employment. After their retirement, they were also extended with the third ACP / MACP. It is thus seen that all the requisite benefits had been extended to the respondents.

22.The Tribunal had however held that the respondents were not given the option to change over to MBAP Scheme and that since they had been directed to be regularized, there was no distinction between employing them or



accommodating them in super-numery posts or in regular posts since the pay scale was equal and other service conditions were also equal.

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23. We find from the records that one crucial difference between holding a super-numery post and being accommodated in a sanctioned vacancy is the promotional avenue which are available to an employee accommodated in a sanctioned vacancy. To offset that imbalance and in order to alleviate the hardship of being stagnated in a particular post without promotional avenue, ACP/MACP schemes had been implemented and there is no quarrel that they were not implemented to the respondents. It is also to be noted that the MBAP Scheme was introduced subsequent to the retirement of the respondents by attaining the age of superannuation. It was brought into effect notionally from 01.01.1987 to existing technical staff. But they would have to give an option to come into that scheme within a period of 7 days. The implementation of such scheme to the respondents would be impossible since they were not assessed and ACRs had not been maintained.

24. We therefore hold that the Tribunal had misdirected itself in directing implementation of the said schemes to the respondents also. The respondents had all benefits extended to them during their period of service. They cannot have grievance over non-implementation of any existing benefit to them.



25. In view of these reasons, we hold that the Writ Petitions should succeed and accordingly, they are allowed. The directions issued by the Tribunal in the Original Applications are set aside. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

(C.V.K.,J.) (K.B.,J.)
23-02-2026

smv

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No



To

1.The Secretary to Government,

Union of India,

Ministry of Health and Family Welfare,

Nirman Bhawan, New Delhi - 110 001.

2.The Registrar,

Central Administrative Tribunal

Chennai Bench,

Madras High Court Compound,

Chennai 600 104.



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**C.V.KARTHIKEYAN J.
AND
K.KUMARESH BABU J.**

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Pre-delivery orders made in
WP Nos.25230 & 32732 of 2024

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