

(2020) 11 CAT CK 0057

In the Central Administrative Tribunal

Case No : Original Application No. 1379 Of 2018

Anita Rani Sondhi

APPELLANT

Vs

Delhi Development Authority & Others

RESPONDENT

Date of Decision : 17-11-2020

Acts Referred:

Citation : (2020) 11 CAT CK 0057

Hon'ble Judges : L. Narasimha Reddy, J;A.K. Bishnoi, Member (A)

Bench : Division Bench

Advocate : G L Verma, Sriparna Chatterjee

Final Decision : Dismissed

Judgement

L.Narasimha Reddy, J

1. The applicant joined the service of Delhi Development Authority (DDA) as Stenographer in the year 1977. Over the years, he earned certain

promotions as well as ACP/MACP as the case may be. He attained the age of superannuation on 30.11.2017. Through an order dated 14.07.2017 he

was extended the benefit of 3rd MACP w.e.f. 01.09.2008. It is stated that the applicant came to know about the reason for denial of benefit from

2008 only in the year 2017 when his juniors were extended it from an earlier date. According to him the ACRs for the years 2003-2004, 2004-2005

and 2005-2006 were graded as "Good" and the one 2002-2003 was graded as "Very Good" and by treating the ACRs for the years as

below bench mark the benefit was denied to him. The applicant contends that the ACRs for the three years were not communicated to him and in that

view of the matter, they ought not to have been taken into account at all, for denying the benefit.

2. The respondents filed a detailed counter affidavit. It is stated that the extension of benefit of MACP is dependent on the evaluation by a Committee and on finding that the ACRs of the applicant for the relevant years are below bench mark it was denied and thereafter it was found that the ACRs

for the relevant years are upto the bench mark, the benefit was extended from 2010 onwards.

3. The applicant filed rejoinder contradicting the stand taken by the respondents. Reliance is placed upon the following judgements of the Honâ??ble

Supreme Court:

â??Central Administrative Tribunal has held in catena of cases. Applicant has placed heavy reliance on the ratio of the following decided cases:

(I) Dev Dutt Vs. UOI 2008 (8) SCC 725

(II) Hari Prasad Vs. Sh. Ajai Tyagi

(iii) Abhijit Ghosh Dastidar Vs. U.O.I. and Others (2009) 16 SCC 146

(IV) Sukhdev Singh Vs. U.O.I. and others CA 5892 of 2006

(v) Rukhsana Shahneen Khan Vs. U.O.I. & Ors CA No.32 of 2013

4. We heard Sh.Verma, learned counsel for the applicant and Smt. Sriparna Chartarjee, learned counsel for the respondents.

5. The dispute in this OA is about the date with effect from which the 3rd MACP must be extended to the applicant. The respondents extended the benefit from the year 2010, whereas the applicant wants it from 01.09.2008.

6. It is fairly well known that the benefit of MACP is extended only on evaluation by the Committee almost on par with the DPC for promotion. The

bench mark adopted by the Committee was â??Very Goodâ??. The ACRs of the years 2003-2004, 2004-2005 and 2005-2006 became relevant. They

were graded as â??Goodâ?? , whereas the bench mark was â??Very Goodâ??. The applicant became eligible only in the year 2010 and accordingly

the benefit was extended.

7. There was no adverse entry against the applicant. It is only when the entry is adverse that it is required to be communicated. The obligation to

communicate the ACRs even if they are not adverse arose only in the date of the judgement of the Honâ??ble Supreme Court in Dev Duttâ??s

case. In the OM dated 14.05.2009, the DOPT has indicated that the communication of a below bench mark ACRs shall be an obligation prospective in

operation. Assuming that there was a failure or delay on the part of the respondents in communicating the below bench mark ACRs for the relevant years, the only course open to the applicant was to seek upgradation thereof and the respondents were under the obligation to consider the same despite the delay in submission of the representation.

8. The applicant however did not chose to make any representation. On the other hand, she straightaway made a request for preponement to the date of 3rd MACP. That cannot be acceded to, at all.

9. We do not find any merit in this OA and the same is accordingly dismissed. There shall be no order as to costs.