(2025) 03 CAT CK 0438

In the Central Administrative Tribunal, Ernakulam Bench, Ernakulam

Case No : Miscellaneous Application No. 180, 525 Of 2024 In Original Application No.180, 385 Of 2022

C.G.Mohanakumaran Nair, S/o.Late. Gopalan Nair — APPELLANT

Vs

Principal Controller Of Defence Accounts (Pension) Draupadi Ghat, Allahabad-211014 & Ors. — RESPONDENT

Date of Decision : 12-03-2025

Acts Referred:

Citation : (2025) 03 CAT CK 0438

Hon'ble Judges : K. Haripal, Member (J)

Bench : Single Bench

Advocate : C .S. Gopalakrishnan Nair, Anil Ravi

Final Decision : Disposed Of

Judgement

K. Haripal, Member J

1. This is an application filed by the Original Applicant in the instant O.A. seeking a direction to the respondents to implement the MA1 order, by which the O.A. was disposed of on 06.03.2023. According to the applicant/petitioner, the Tribunal had directed the respondents to issue authorisation for releasing revised pension, arrears of pension, gratuity and leave encashment within a period of three months from the date of receipt of a copy of the order. The petitioner complained that the respondents have not taken any action to implement the MA1 order. So, the MA has been filed to direct the respondents to implement the order dated 06.03.2023 and issue authorisation for releasing revised pension, arrears of pension, gratuity and leave encashment.

2. The 4th respondent Garrison Engineer filed an objection on 17.08.2024. Paragraphs 2 to 4 of the objection reads as follow:

"2. It is humbly submitted that the individual was appointed as MPA on 17 May 1972 and placed in position as Ref Mech (SK) on 08 Dec 1983 (not considered as promotion) and got promoted to Ref Mech (HS-II) on 15 Oct 1984. He was then promoted to the rank of Ref Mech (HS-I) on 20 Jul 1988 and re-designated as Ref Mech HSG w.e.f 01 Jan 1996. He received 2nd ACP w.e.f 09 Aug 1999. He was promoted to the rank of Ref Mech (MCM) on 20 May 2003. Further claim for 3rd MACP with grade pay of Rs. 4600 was granted and approved vide this office PTO No.25/10/2011 dated 20 Jun 2011 (Annexure MAR1). The arrears for the same was released vide this office letter No. 5000/A/200/ESC dt 17 Dec 2011.

3. It is humbly submitted that the individual filed an OA in Hon'ble CAT Ernakulum Branch for Non Payment of pensionary benefits (in Rs 4600 GP) and revision of pension accordingly. The clarification issued by MoD vide letter No. D (Civ-l) ID No. 11(05)/2009/D(Civ-I) dated 04 Aug 2023 (Annexure MAR2) the the case was re-examined and pension was revised with Grade Pay of Rs 4200/- by granting one increment in the same grade pay on account of 3rd MACP.

4. It is humbly submitted that consequent on re-fixation of Pay his pension would be revised to Rs. 9,140/- w.e.f 01/06/2010 and then Rs. 23,800/- w.e.f 01/01/2016 instead of Rs.9,345/- w.e.f 01/06/2010 and then Rs. 24,500/- w.e.f 01/01/2016 as claimed by the applicant in the OA. On the basis of revised pay fixation, AO GE (M) NAS Arakkonam has verified the pay details and forwarded the claim to CDA Chennai for audit (Annexure MAR3) The claim has been verified and forwarded to PCDA (Pension), Prayagraj vide CDA Chennai letter No. Pay/ Tech/6050/Pen/2024 dated 13 Aug 2024 (Annexure MAR4) for sanction of revised pension. Based on the CDA Chennai letter referred above, the PCDA (P) Allahabad revised PPO generated/issued on 13 Aug 2024 with grade pay Rs 4200 (Annexure MAR5)."

Later, they filed another statement on 23.10.2024. Paragraphs 2 to 6 of the said statement read thus:

"2. It is humbly submitted that this matter was intimated to PCDA (P) Allahabad for re-fixation of pension of the applicant and simultaneously issue the revised PPO in the month of Aug 2022. However due to updation of all pension related matters on SPARSH portal, the case was held up with PCDA(P) Allahabad.

3. It is also submitted that the matter regarding grant of 3rd MACP with Grade Pay of RS 4600/- to industrial staff in the post of MCM was sought by IHQ(Army) with MoD & had issued the following clarifications vide letter No. 15606/11/ MP-4(Civ)(a) dated 14 Dec 2016 which states :-

(a) In the MoD restructuring order vide letter No 11(5)/2009-D (Civ-I) dated 14.06.2010, it was mentioned that the post of MCM shall henceforth be a part of the hierarchy w.e.f 01.01.2006 and that the placement of HS-1 in the grade of MCM will accordingly be treated as promotion. Therefore the promotion post of MCM after 31 dec 2005 is itself in the GP of Rs 4200/- and financial up-gradations under MACP scheme cannot be more than what is allowed to an employee under normal promotion.

(b) Apparently MoD also issued an order vide letter No. MOD/D (Civ-I) ID No

11(05)/2009/D(Civ-I) dated 06.02.2014 (Marked as MAR6) for grant of GP 4600/- to HS/MCM staff who were already drawing the pay scale of Chargeman (RS 5000-8000) upto 31.12.2005 keeping in view that the post of MCM was not in the hierarchy of Artisan staff cadre upto 31.12.2005.

(c) Again the issue was taken up by MoD with Department of Personnel & Training/Ministry of Finance upon which DoPT clarified that the incumbents of the post of MCM (carrying GP of Rs 4200/-) on their financial up-gradation/promotion beyond 31.12.2005 to the post of chageman (in the same GP of Rs 4200/-) will be entitled to pay fixation benefit equal to one increment as available under FR 22(1)(a)(1). The same was conveyed by MoD vide their letter no MoD ID 11(5)/2009-D(Civ I) (PC-II) dated 06.07.16

4. However no proper directions were issued on this matter for implementation & that the case was pending in MoD.

5. Finally clear directions were given by MoD vide letter No. ID No. 11(05)/2009/ D (Civ-I) dated 04 Aug 2023 where para 3(i) of ibid letter states that the MoD order ID No.11(05)/2009-D(Civ) dated 17/02/2021 & 19.10.2016 stands withdrawn with immediate effect & that the Pay/Pension of all concerned & affected artisan employees may be reviewed & refixed. The MoD order ID No.11(05)/2009-D(Civ-I) dated 19.10.2016 is marked as MAR7 Clarifications issued by MoD regarding grant of 3rd MACP with Grade Pay of Rs. 4600/- vide letter No. 15606/11/MP-4(Civ)

(a) dated 14 Dec 2016 is marked as MAR8 MoD order ID No.11(05)/2009-D(Civ-1) dated 17/02/2021 is marked as MAR9 & MoD vide letter No. ID No. 11(05)/2009/D (Civ-I) dated 04 Aug 2023 is marked as MAR10.

6. Consequent upon directions of MoD, the case was examined and pension was revised with Grade Pay by granting one increment in the same grade pay of Rs. 4200/- on account 3rd MACP. Hence the pension was revised to Rs 9140/- w.e.f 01/06/2010 & then Rs.23800/- w.e.f 01/01/2016 instead of Rs.9345/- w.e.f 01/06/2010 and then Rs 24,500/- w.e.f 01/01/2016 as claimed by the applicant in the OA. The same has been implemented & revised PPO was issued by PCDA (P) Allahabad on 13 Aug 2024."

3. That means, as per the last stand taken by the respondents, monthly pension of the applicant is Rs.23,800/- as against Rs.24500/-, which, according to the respondents, is the proper amount. In order to buttress the contention, Annexures-MAR8 to MAR10 were also put forth by the respondents. But, according to the learned counsel for the applicant, MAR8 dated 19.12.2016 is not applicable to him. Such clarifications were there even when the earlier order was passed. The counsel also relied on MA2 OM to his support.

2. The MA is for implementing the order dated 06.03.2023 whereunder the respondents were directed to issue authorisation for releasing the revised pension, arrears of pension, gratuity and leave encashment within three months.

It is important to note that the Tribunal did not adjudicate the question. It is not correct to say that the Tribunal had directed to grant the applicant monthly pension of Rs.9,345/- from 01.06.2010 and Rs.24,500/- from 01.01.2016. Had there been such an adjudication, there is substance in the present contention of the applicant that the respondents did not implement the order. Now, there are divergent views as to what exactly the amount of pension due to the applicant, whether it is Rs.24,500/- or 23,800/- as the parties wanted to project respectively. The correctness of such an aspect cannot be adjudicated in this MA. Both the parties have raised arguments supporting the respective claims, which can be adjudicated only in an appropriate proceedings.

Leaving open that right, the MA is closed.

(Dated, this the 12th March, 2025)