(2014) 07 P&H CK 0009

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. No. 13802 of 2014 (O&M)

Rakesh Bhardwaj APPELLANT

Vs

Central Administrative Tribunal and Others RESPONDENT

Date of Decision : 18-07-2014

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19
Constitution of India, 1950 — Article 226, 227

Citation : (2015) 177 PLR 205

Hon'ble Judges : Satish Kumar Mittal, J;Mahavir Singh Chauhan, J

Bench : Division Bench

Advocate : Pradeep Sharma, Advocates for the Appellant

Judgement

Satish Kumar Mittal, J.—The petitioner has filed the present writ petition under Article 226/227 of the Constitution of India for quashing the order dated 08.10.2013 (Annexure P-1) passed by Central Administrative Tribunal, Chandigarh Bench, Chandigarh, whereby O.A. No. 612/CH/2012 filed by him under Section 19 of the Administrative Tribunals Act, 1985 claiming benefit of MACP from its due date along with arrears and interest, has been dismissed. The petitioner was appointed as Library Clerk in the PGIMER, Chandigarh on 19.05.1999. As per the Modified Assured Career Progression Scheme (in short ''MACP Scheme''), on completion of ten years of service he was entitled for 1st Financial upgradation. The said benefit was due to him in May, 2009. Accordingly, his case for grant of 1st Financial upgradation w.e.f. 19.05.2009 under the MACP Scheme was placed for consideration before the Screening Committee in its meeting on 20.08.2010. The Screening Committee did not find his case fit for grant of 1st Financial upgradation under the MACP Scheme as he did not meet the required ACR benchmark. Again his case was placed before the Screening Committee in its meeting held on 04.01.2012 and his case was recommended for 1st Financial upgradation under MACP Scheme. This time his case was found fit for grant of the said benefit w.e.f. 01.07.2011. Accordingly the said benefit was granted to him w.e.f. 01.07.2011.

2. The petitioner filed the aforesaid Original Application claiming that he should have been granted the 1st Financial upgradation w.e.f. 19.05.2009 instead of 01.07.2011. The contention of the petitioner is that the Screening Committee had also taken into consideration the uncommunicated ACRs while assessing the benchmark for grant of 1st Financial upgradation. Undisputedly, the un-communicated ACRs of the petitioner were not adverse. It is the case of the petitioner that the benchmark should be assessed after ignoring the un-communicated ACRs.

3. We have heard the learned counsel for the petitioner and gone through the record of the case.

4. Undisputedly, in the year 2009, the ACRs of the petitioner were considered to be below the benchmark level by the Screening Committee. However, the petitioner achieved the benchmark level w.e.f. 01.07.2011 on the basis of his ACRs. Undisputedly, the un-communicated ACRs were not the adverse ACRs. These were the good ACRs, which, according to the prevalent rules/guide-lines, were not required to be communicated to the employee before considering his case for financial upgradation under MACP Scheme. The learned Tribunal has rejected the claim of the petitioner after coming to the conclusion that since he did not meet the required ACR benchmark in the year 2009, the petitioner was not entitled for grant of 1st Financial upgradation. However, when the petitioner achieved the required benchmark, he was granted the said benefit w.e.f. 1.7.2011. Before us, learned counsel for the petitioner again raised the same contention that un-communicated ACRs should not have to be taken into consideration. We are not agreeing with this contention of the learned counsel as in our opinion all the ACRs of an employee are to be taken into consideration before grant of Financial upgradation to him. Though the ACRs of the petitioner were good, but the Screening Committee did not find his case fit for grant of 1st Financial upgradation under MACP in 2009 as he did not meet the required ACR benchmark. In the absence of any guidelines or rules prevalent that the contents of good ACRs had to be conveyed to an employee before considering his case for financial upgradation under MACP Scheme, the un-communicated ACRs of the petitioner, though good but did not meet the required ACR benchmark, could not be kept out of consideration. In our opinion, the learned Tribunal has rightly rejected the claim of the petitioner. We do not find any reason to interfere in the said order.

Dismissed.

