
(2020) 03 CAT CK 0020

In the Central Administrative Tribunal

Case No : Original Application No. 2728 Of 2014

Ramesh Chander Sharma

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 04-03-2020

Acts Referred:

Citation : (2020) 03 CAT CK 0020

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

Bench : Division Bench

Advocate : S.N. Kaul, Ashok Kumar

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J

1. The applicant joined the service of the Ministry of Home Affairs as Stenographer Grade III in the year 1971. He was promoted to the next higher post in the year 1976 and still higher post, in the year 1989. His further promotion in 1989 was to the post of Private Secretary (PS). One post in that cadre was upgraded to the post of Senior PS, with the pay scale of Rs. 7500-12000 and the applicant was extended that benefit through order dated 19.01.2009. At a later stage, the benefit was extended to him w.e.f. 11.04.2001.

2. Consequent upon the implementation of the recommendations of the VIth Central Pay Commission (CPC), the pre revised pay scale of 7500-12000 was equated to PB-2, with Grade Pay (GP) of Rs. 4800/-. There also existed a provision for upgradation of the pay scale of the post of PS on completion of four years of service. While under the pre revised pay scale, it was to the scale of 8000-13500, after the VIth CPC, it is to the GP of Rs. 5400/-. The applicant retired from service in February, 2011.

3. He made repeated representations for extension of the benefit of 3rd MACP as well as the upgradation to GP of Rs. 5400/- on completion of four years of

service in the GP of Rs. 4800/-. The respondents, however, rejected the claim of the applicant. It was mentioned that the extension of GP of Rs. 4800/- to the applicant is in the form of an upgradation and it accounts for 3rd MACP. As regards the claim of the upgradation on completion of four years of service, they rely upon the communication dated 06.11.2009 issued by the Department of Expenditure, which is to the effect that the proposal was not accepted.

4. This OA is filed with a prayer to direct the respondents to extend the benefit of 3rd MACP and the GP of Rs. 5400/- on completion of four years of service in the GP of Rs. 4800/-. Prayer is also made for the payment of arrears.

5. The respondents filed counter affidavit accepting the particulars of service furnished by the applicant but denying the claim made by him. It is stated that the upgradation of the post of PS to Senior PS has accounted for 3rd MACP. It is stated that the 3rd MACP cannot be granted to the applicant since he was upgraded to the GP of Rs. 4800/-.

6. We heard Sh. S.N. Kaul, learned counsel for the applicant and Sh. Ashok Kumar, learned counsel for the respondents.

7. The brief particulars of the applicant are furnished in the preceding paragraphs. Having been appointed in the year 1971, he earned two promotions in the years 1976 and 1989. The benefit of ACP for the first spell of twelve years and the next spell up to 24 years got subsumed on account of the two promotions. It is true that under the OM dated 19.05.2009, through which the MACP Scheme was introduced, an employee who completed 24 years of service, is entitled for 3rd MACP despite the fact that, he got the ACP/Promotion during the two spells of 12 years each. In the instant case, the applicant was upgraded to the post of Senior PS from the pay scale of Rs. 6500-10500/- to Rs. 7500-12000/- after 24 years of service. That naturally accounts for the 3rd upgradation. Though the respondents mention in their communication dated 05.05.2011 (Annexure R-1) that the upgradation to the GP of Rs. 4800/- accounts for 3rd MACP, it is referable to the upgradation of the post itself. GP of Rs. 4800/- is only fitment and not a new benefit extended to the applicant. We, therefore, find that the claim of the applicant for 3rd MACP cannot be accepted.

8. Now remains the question of the upgradation on completion of four years of service. This is not a benefit which, was introduced for the first time under the recommendations of the VIth CPC. It existed even before that, when the Vth CPC recommendations were in force. An employee in the pay scale of Rs. 7500-12000/- was entitled to be put in next higher scale of Rs. 8000-13500/- on completion of four years of service. Under the VIth CPC, this upgradation is in the form of the movement from GP of Rs. 4800/- to Rs. 5400/- in Pay Band-II.

9. The reply given by the respondents reads as under:

"MHA may please refer to their notes at pre-page regarding grant of non-functional pay scale of Rs. 8000-13500 (pre-revised) to the Section Officers and

Private Secretaries of CISF at par with CSS/CSSS on completion of 4 years of regular service in the lower grade.

2. The matter has been examined in this department and the same has not been agreed to. Further, the pay scale recommended in para 3.1.14 of the report of 6th CPC will be applicable in the case.

3. JS(Pers) has seen."

10. This could have been accepted, in case, what is relied upon by the applicant is only the recommendation. What we find is, that way back on 29.08.2008, the Government published the Central Civil Services (Revised Pay) Rules, 2008, and the concerned entry reads as under:

II OFFICE STAFF WORKING IN ORGANISATIONS OUTSIDE THE SECRETARIAT

1.

Head Clerk/Assistant s/Steno Gr. II/equivalent

4500-7000 5000-8000

6500- 10500

PB-2

4200

3.1.14

2.

Administrative Officer Grade II/S Private Secretary/equivalent

7500-12000

7500- 12000(entry grade for fresh recruits)

8000- 13500(on completion of four years)

PB-2

4800

5400(on completion of 4 years)

3.1.14

II OFFICE STAFF WORKING IN ORGANISATIONS OUTSIDE THE SECRETARIAT

11. When this is part of the rules framed by the Government, the so called non acceptance by the Department of Expenditure, does not come in the way. The judgment of the Hon'ble High Court of Delhi in WP (C) No. 9357/2016 (Hari Ram & anr. Vs. Registrar General, Delhi High Court) dated 20.12.2017, supports this view.

12. We, therefore, partly allow the OA holding that the applicant is entitled to the upgradation to the Grade Pay of Rs. 5400/- on completion of four years of service in the Grade Pay of Rs. 4800/-. However, in view of the delay in approaching the Tribunal for pursuing the claim, we deny him the arrears and the benefit shall be reflected in the form of last pay drawn, and thereby the revision of pension. This exercise shall be completed within a period of three months from the date of receipt of copy of this order, and the revised pension shall be paid prospectively.

There shall be no order as to costs.