

(2014) 11 MAD CK 0142

In the Madras High Court

Case No : Writ Petition No. 5863 of 2013 and M.P. No. 1 of 2013

Union of India

APPELLANT

Vs

C. Selvaraj

RESPONDENT

Date of Decision : 10-11-2014

Acts Referred:

Citation : (2014) 11 MAD CK 0142

Hon'ble Judges : Satish K. Agnihotri, J;K.K. Sasidharan, J

Bench : Division Bench

Judgement

1. The challenge in this writ petition is to the order dated 08.02.2011 passed by the Central Administrative Tribunal, Madras Bench in O.A.No. 605 of 2010, whereunder the application filed by the first respondent seeking to quash the order dated 20.11.2009 and to restore the pay, was allowed.

2. The first respondent / applicant before the Tribunal had completed 24 years of service with the Indira Gandhi Centre for Atomic Research, Department of Atomic Energy, Kalpakkam, as Clerk. He received the second financial upgradation under the old Assured Career Progression (ACP) Scheme from 09.11.2008. Thereafter, the Modified Assured Career Progression Scheme (in short 'MACP Scheme') came into force vide office order dated 19.05.2009. The said scheme provides for grant of financial upgradation on completion of 10 years, 20 years and 30 years. Thereafter, the first respondent received an order dated 28.10.2009 on the basis of MACP scheme, which was prejudicial to the interest of the first respondent. By order dated 28.10.2009, the financial upgradation granted earlier was revised under MACP scheme in the Pay Band Rs. 5200-20200 + Grade Pay Rs. 2800/- with effect from 1.9.2008. The first respondent was initially granted the second financial upgradation under the old ACP scheme in the pay scale of Rs. 9300-34800 with Grade Pay of Rs. 4200/-. Thus, the first respondent questioned the change of his pay scale pursuant to the MACP scheme and preferred the original application before the Tribunal.

3. The case of the first respondent was that under the MACP Scheme dated

19.05.2009, it is clearly provided under Clause 11 that no past cases would be reopened. Further, while implementing the MACP Scheme, the differences in pay scales on account of grant of financial upgradation under the old ACP Scheme (of August 1999) and under the MACP Scheme within the same cadre shall not be construed as an anomaly. Thus, the subsequent modification by order dated 28.10.2009 and also the order dated 20.11.2009 deserve to be quashed.

4. The case of the petitioners / respondents therein was that the MACP scheme was introduced vide Office Memorandum dated 19.05.2009 with effect from 1.9.2008. The financial benefit was granted to the first respondent under the old scheme with effect from 09.11.2008. Thus the same was rightly revised vide order dated 14.05.2009 and order dated 20.11.2009.

5. The learned Tribunal, having considered various provisions and the contents of both schemes, held that financial upgradation granted to the first respondent vide order dated 15.4.2009 shall not be disturbed in view of the clarification given in para 11 of the OM dated 19.5.2009 and consequently, the impugned order dated 20.11.2009 was quashed.

6. The Union of India has preferred the instant writ petition, questioning the legality of the order passed by the Tribunal.

7. We have heard the learned counsel appearing for parties and perused the pleadings with relevant documents.

8. Admittedly, the first respondent was granted benefit of second financial upgradation under the old ACP scheme vide order dated 15.4.2009 with effect from 09.11.2008. Thereafter, a new MACP Scheme came into force vide Office Memorandum dated 19.5.2009. Clause 11 of the said Scheme reads as under :

11. It is clarified that no past cases would be re-opened. Further, while implementing the MACP Scheme, the differences in pay scales on account of grant of financial upgradation under the old ACP Scheme (of August 1999) and under the MACP Scheme within the same cadre shall not be construed as an anomaly.

9. After introduction of the new MACP, the first respondent was informed about the revision of his financial upgradation under the MACP Scheme in the pay band of Rs. 5200-20200 with Grade Pay of Rs. 2800/- with effect from 1.9.2008. Subsequently, vide office order No. 79/2009-R, dated 20.11.2009, the pay was fixed accordingly with the pay band of Rs. 10770/- plus grade pay of Rs. 2800/-.

10. Needless to state that the first respondent was granted second financial upgradation benefit under the old scheme by order dated 15.04.2009. The MACP Scheme came into effect subsequently on 19.05.2009. Thus the contention of the writ petitioner that the MACP scheme was brought into effect from 1.9.2008 and therefore, the earlier upgradation granting benefit to the employees were rightly revised, does not merit acceptance. The benefit granted to the first respondent under the old scheme is protected under Clause 11 of the MACP

Scheme. The Tribunal has rightly examined the case and quashed the orders impugned before the Tribunal. We do not find any error, inconsistency or irregularity in the impugned order of the Tribunal, warranting interference in this writ petition.

11. As a sequel, the writ petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.