

F. No. A-23011/35/2020-Ad.II.A
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes & Customs

New Delhi, 24 July, 2020

To,

All Pr. Chief Commissioners/Pr. Director Generals under CBIC
All Chief Commissioners/ Director Generals under CBIC
All Commissioners/Pr. Commissioners under CBIC.

Subject:References/Representations/Court Cases in various CAT/Court in field formations under CBIC for grant of MACPS benefit in the promotional hierarchy – reg.

Sir,


I am directed to enclose the DOPT OM No. 22034/4/2020-Estt.(D) dated 23r March, 2020 alongwith the judgement dated 05.03.2020 of the Hon'ble Supreme Court in Civil Appeal No. 2016 of 2020 arising out of SLP(C) No. 21803/2014 titled Union of India and Others Vs. M. V. Mohanan Nair.

2. The Hon'ble Apex Court, while setting aside the orders of the respective High Courts, has upheld the Govt. policy that benefit under MACP Scheme are to be granted in the standard hierarchy of Grade Pays/Pay Levels and not in the promotional hierarchy. The apex Court has also held that the ACP Scheme, which is now superseded by the MACP Scheme, is a matter of government policy. Interference with the recommendations of an expert body like the Pay Commission and its recommendations for the MACP would have a serious impact on the public exchequer. The recommendations of the Pay Commission of the MACP Scheme have been accepted by the Government and implemented, and there is nothing to show that the Scheme is arbitrary, or unjust, warranting interference. The judgement has also stated that without considering the advantages in the MACP Scheme, the High Courts erred interfering with the Government policy by simply placing reliance upon the Rajpal case, and that the impugned orders cannot be sustained and are liable to be set aside.

3. Accordingly, in terms of the existing MACP guidelines issued by DOPT/CBIC from time to time, and in light of above mentioned order dated 05.03.2020 of the Apex Court, all field formations under CBIC are, therefore, advised to dispose of all pending grievances seeking grant of benefit in promotional hierarchy under MACP Scheme and also to defend the various pending Court cases or to take immediate suitable action for appealing against such judgements which are contrary to the existing policy of MACP Scheme, as upheld by the Hon'ble Apex Court in aforementioned case.

Encl: As above.

Yours faithfully,


24/7/2020
(Gaurav Shukla)

Under Secretary to the Government of India

☎: 011-23095528

No.22034/4/2020-Estt.(D)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

North Block, New Delhi
Dated: 23rd March, 2020.

OFFICE MEMORANDUM

Subject: References/ Representations/Court Cases in various Ministries/ Departments/ Organisations for grant of MACPS benefits in the promotional hierarchy – reg.


In continuation of this Department's earlier O.M. of even number dated 20.01.2016, 01.03.2016 and 17.05.2016 on the above subject, the undersigned is directed to say that the Hon'ble Supreme Court of India *vide* Order dated 05.03.2020 has disposed of the SLP(C) No.21803/2014, UOI & Ors. Vs. M.V. Mohanan Nair case and other cases tagged together.

2. The Hon'ble Apex Court, in its aforesaid judgment, has, *inter alia*, set aside *all the impugned orders* of the High Courts in these batch of appeals arising out of SLP(C) No.21803 of 2014, SLP(C) No.22181 of 2014, SLP(C) No.23335 of 2014, SLP(C) No.23333 of 2014, SLP(C) No.18227 of 2015, SLP(C) No.31125 of 2016 and SLP(C) Diary No.6042 of 2017, and the appeals preferred by the Union of India have been allowed. Further, the appeal arising out of SLP(C) No.33706 of 2016 is also disposed of. **Consequently, the Apex Court has upheld the Govt. policy that benefits under MACPS are to be granted in the standard hierarchy of Grade Pays/Pay Levels and not in the promotional hierarchy.**

3. The Hon'ble Apex Court, while setting aside the orders of the respective High Courts, has held that the ACP Scheme, which is now superseded by the MACP Scheme, is a matter of government policy. Interference with the recommendations of an expert body like the Pay Commission and its recommendations for the MACP would have a serious impact on the public exchequer. The recommendations of the Pay Commission for the MACP Scheme have been accepted by the Government and implemented, and that there is nothing to show that the Scheme is arbitrary, or unjust, warranting interference. The judgement has also stated that without considering the advantages in the MACP Scheme, the High Courts erred in interfering with the government's policy by simply placing reliance upon the Raj Pal case, and that the impugned orders cannot be sustained and are liable to be set aside.

4. Accordingly, in terms of the existing MACP guidelines, and in light of above mentioned order dated 05.03.2020, all Ministries/Departments are, therefore, advised to dispose of all pending grievances seeking grant of benefit in the promotional hierarchy under the MACP Scheme, and also to defend the various pending Court Cases or to take immediate suitable action for appealing against such judgments which are contrary to the existing policy, as upheld by the Hon'ble Apex Court in the instant case.

5. All Ministries/Departments are also requested to upload the above order dated 05.03.2020 on their websites for wider publicity.


(A. Bhattacharya)
Deputy Secretary

To

All Ministries/Departments of the Government of India.

Copy to :-

1. President's Secretariat/Vice President's Secretariat/Prime Minister's Office/ Supreme Court/ Rajya Sabha Secretariat/ Lok Sabha Secretariat/ Cabinet Secretariat /UPSC/ CVC/ C&AG/ Central Administrative Tribunal (Principal Bench), New Delhi.
2. All attached/subordinate offices of the Ministry of Personnel, Public Grievances and Pensions.
3. Secretary, National Commission for Minorities.
4. Secretary, National Commission for Scheduled Castes/Scheduled Tribes.
5. Secretary, Staff Side, National Council (JCM), 13-C, Ferozeshah Road, New Delhi.
6. PS to MOS(PP) for information to Hon'ble MoS(PP).
7. All Staff Side Members of the National Council (JCM).
8. NIC [for uploading this OM on the website of DOPT (ACP)].
9. Hindi Section, DoPT for Hindi Translation.