

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/00230/2018

DATED THIS THE 07TH DAY OF NOVEMBER, 2019

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI C.V. SANKAR, MEMBER (A)

K. Guruswamy,
Aged 69 years, S/o Late Karuppan,
Retired sub Post Master,
Mamballi SO, Under Kollegal HO,
Residing at Old Martalli village & Post,
Ramapuram Ghat 571 444, Kollegal Taluk Applicant

(By Advocate Shri B. Venkateshan)

Vs.

1. The Union of India & others,
Reptd. By the Secretary,
Department of Posts, Dak Bhavan,
New Delhi 110 001

2. The Postmaster General,
SK Region, BG GPO Complex,
Bangalore 560 001

3. The Director of Accounts [Postal],
BG GPO Complex,
Bangalore 560 001

4. The Superintendent of Post Offices,
Nanjangud Division,
Nanjangud 571 301

5. The Postmaster,
Kollegal HO, Kollegal 571 440 Respondents

(By Shri N.B. Patil, Counsel for the Respondents)

O R D E R (ORAL)
(HON'BLE DR. K.B. SURESH, MEMBER (J))

Heard. Applicant was appointed as a Group D employee on 11.11.1978. On 17.11.1981, following a departmental examination as a direct recruit, he was selected as Postman. Then on 09.05.1983 he was granted a promotion as Postal Assistant. On 09.05.1999 he was granted TBOP and he was thereafter granted second MACP on 01.09.2008. It was later withdrawn vide Annexure-A5 which we quote:

***“DEPARTMENT OF POSTS
OFFICE OF THE SUPDT OF POS, NANJANGUD DN, NANJANGUD
571 301***

No. B1/MACPS/Dlgs dated at Nanjangud 5711301 the 02/02/2011

In accordance with Directorate's OM No 4-7(MACPS)/2009-PCC dated 18/09/2009 as amended from time to time, the approval of the competent authority is hereby conveyed for financial upgradation under Modified Assured Career Progression Scheme in the case of following LSG officials/Postal Assistants and they are placed in the next Grade Pay, as applicable to each individual as per the existing orders in force and with effect from the dates noted against each:

PA CADRE (DIRECT)

The following Direct Recruit officials who have completed 20 years of qualifying service/10 years of service in the same Grade Pay are placed in the Grade pay of Rs. 4200/- from Rs. 2800/- in the scale of Pay of Rs. 9300-34800 in Pay Band (2) under Modified Assured Career Progression Scheme w.e.f. the dates mentioned against their names.

Sl. No.	Name of the Official	Designation and place where working	Type of Financial Upgradation granted	Date from which Financial upgradation granted	Grade pay to be drawn
1	M. Mallaiah	SPM, SM Halli SO	MACP-II	01-Oct-2008*	4200/-

*** MACP granted to the above official vide this office memo of even number dated 23/06/2010 stands revised to the extent mentioned above.**

PA CADRE (PROMOTEE)

The financial upgradation granted to the below mentioned official vide this office memo of even number dated 23/06/2010 stands withdrawn as the official has already availed the benefit of three promotions i.e., From Group D to Postman, Postman to PA and TBOP in PA Cadre.

<i>Sl. No.</i>	<i>Name of the Official</i>	<i>Designation and place where working</i>
1	<i>Sri K. Guruswamy</i>	<i>Retd SPM, Mamballi SO</i>

The financial upgradation is granted subject to the following conditions that:

- (a) *The officials should exercise an option under FR 22 (1) (a) (i) to get their pay fixed in the higher post/Grade Pay as the case may be either from the date of financial upgradation or from the date of their next increment vis., 1st of July of the year within one month from the date of issue of this order. The letter of option should clearly indicate the memo particulars of financial up-gradation and it should have the date of acceptance of the competent authority. Incomplete options should not be kept in the Service books. Proper care should be taken while fixing pay in respect of officials officiating in higher scale/retired from service on or after the date of financial upgradation. The pay and the date of increment would be fixed in accordance with the clarification no. 2 of Dept. Of expenditure's OM No. 1/1/2008-10 dated 13/09/2008.*
- (b) *There shall be no change in the designation, classification or higher status. The financial upgradation would be on non-functional basis.*
- (c) *Financial upgradation ordered above shall be purely personal to the employee concerned and shall have no relevance to their seniority position. As such there shall be no additional financial upgradation for the senior employees on the ground that their junior employees have got higher pay/grade pay under the MACP scheme.*
- (d) *The officials are hereby informed that the orders for financial upgradation given above are liable to be either modified or*

cancelled at later date, if it is found that they are not fit/not eligible for such financial upgradation under MACP scheme, for any reason.

(e) The names above are not arranged in accordance with the seniority of the officials as per the gradation list.

Sd/-
 Superintendent of Post Offices
 Nanjangud Dn., Nanjangud 571 301"

2. But then Shri Venkateshan, learned counsel for the applicant, submits that the matter is covered by the letter of Director General dated 25.04.2011, which was not available to us at that point of time, which we quote:

"No: 4-7/MACPs/2009/PCC
 GOVERNMENT OF INDIA
 MINISTRY OF COMMUNICATIONS & IT
 DEPARTMENT OF POSTS
 PAY COMMISSION CELL

DATED 25-04-2011

To:-
 Director of Accounts (Postal)
 A.P. Circle, Hyderabad 500 001

Subject: MACP to the Group D and Postman in Department of Posts.

Please refer to your letter No: 618/F Sn/PM-II/MACP to Gr.D/Postman dated 03-Nov 2010.

2. In this context, the doubts raised by your office are clarified as under:

Sl. No.	Doubts	Clarification
1.	Whether to consider the appointment to Gr. D cadre as entry grade and to Postmen cadre as one promotion.	In accordance with Para-9 of Annexure-I of MACPS dated 18-Sept 2009, regular service for the purpose of MACPS commences from the date joining of a post in direct entry grade on a regular basis. In the present case before us, the official was selected based on seniority in GDS and joined the Group 'D' post and later, he was
2.	Whether the appointment to the cadre of Postmen Post as entry grade ignoring the Gr. D	

<p>Post held prior to the appointment as the official wrote the Postman examinations from Gr "D" cadre directly, if so, it may also be please clarify whether the services rendered in Gr. D Post may be counts for MACP and Pension benefits.</p>	<p>declared successful in Postman exam, in which he had appeared fulfilling the eligibility condition of Gramin Dak Sevaks and thereafter he was allowed to join in Postman cadre as direct recruit. Accordingly, the official has joined in Postman cadre under the direct recruitment quota on regular basis & as such the regular service for the purpose of MACPS commences from the date of joining in Postman cadre as direct recruit basis. The issue is clarified accordingly.</p>
--	--

3. This issues with the competent authority.

Sd/-
 (Surendra Kumar)
 Assistant Director General (GDS/PCC)"

3. Therefore it appears to us that applicant has actually received only two promotions, that is, as Postal Assistant and then the TBOP. Therefore, without any doubt, he is eligible for the third benefit. Therefore, we will direct the respondents to reconsider this matter in the light of the letter dated 25.04.2011 issued by the DG within the next one month and pass appropriate order. We will also grant liberty to the applicant to challenge it if the order is against him.

4. The OA is allowed to this limited extent. No order as to costs.

(C.V. SANKAR)
 MEMBER (A)

(DR.K.B.SURESH)
 MEMBER (J)

Annexures referred to by the applicant in OA No. 170/00230/2018

Annexure A1: Copy of the certificate of appointment dated 07.12.1981
Annexure A2: Copy of the certificate of appointment issued by the SSPO,
Mysore
Annexure A3: Copy of the memo dated 12.05.2010
Annexure A4: Copy of the SPO, Nanjangud memo dated 23.06.2010
Annexure A5: Copy of the memo dated 02.02.2011
Annexure A6: Copy of the order dated 16.01.2013 in OA No. 66/2011
Annexure A7: Copy of the representation dated 17.06.2017
Annexure A7[a]: Copy of the representation dated nil
Annexure A8: Copy of the letter dated 28.11.2017
Annexure A9: Copy of the letter dated 02.08.2017
Annexure A10: Copy of the Central Administrative Tribunal, Bangalore
Bench order dated 27.11.2017 in OA No. 853/2016
Annexure A11: Copy of the judgment dated 04.02.2015 in WP No.
30629/2015
Annexure A12: Copy of the judgment dated 16.08.2016 in SLP No.
4848/2016
Annexure A13: Copy of the judgment dated 13.09.2017 in RA to SLP
4848/16

Annexures referred in reply statement

Annexure R1: Copy of the OM dated 18.09.2009
Annexure R2: Copy of the corrigendum dated 20.05.2010
Annexure R3: Copy of the judgment dated 02.08.2018
Annexure R4: Copy of the judgment dated 21.08.2017

* * * * *