

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BENGALURU**

ORIGINAL APPLICATION NO.170/01043/2019

DATED THIS THE 06TH DAY OF FEBRUARY, 2020

**HON'BLE DR.K.B.SURESH
HON'BLE SHRI C.V.SANKAR**

**...MEMBER(J)
...MEMBER(A)**

M. Prabhu,
S/o H.R. Madaiah,
Aged about 55 years,
Working as ASP (Admn),
Bangalore GPO-560 001,
Residing at No.194, 1st Stage,
4th Main, BEML Layout,
Basaveshwaranagar,
Bangalore-560079.Applicant.

(By Advocate Shri P.Kamalesan)

V/s.

1. The Union of India
Represented by the Secretary,
Department of Posts,
Dak Bhavan,
New Delhi-110 001.

2. Chief Post Master General,
Karnataka Circle,
Bangalore-560 001.

3. Chief Post Master,
Bangalore GPO
Bangalore -560 001.

4. General Manager (PA & F),
Karnataka Postal Circle,
Bangalore -560 001.Respondents

(By Shri V.N. Holla, Standing Counsel for the Respondents)

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

Heard. The matter is in a very short compass. Apparently on 16.06.2011 the applicant was given MACP benefit and in the same year on 29.11.2011 he got promotion as well. So the question is what is the effect of FR 22(1). There cannot be any effect, because in the same year applicant was granted MACP, same benefit was effected on promotion as well. There is no distinction or shouldering of any additional responsibility in the interregnum. Therefore, no merit in the claim.

2. The applicant claims that no recovery should be made from him for the wrong fixation done in view of the Hon'ble Apex Court judgment in the case of *State of Punjab & others vs. Rafiq Masih(White Washer)*. The above judgment is clearly not applicable to him as the pay fixation is done only in January 2019 and this has been sought to be recovered vide Annexure-A8 dtd.29.8.2019. Further he is a Group-B officer and not entitled for any relief in this aspect. As rightly contended by the respondents, the official was granted MACP w.e.f.16.6.2011 itself i.e. much earlier to his regular promotion to ASP on 29.11.2011. On the grant of MACP, the official was given fixation of 3% and also the Grade Pay of Rs.4800 which in fact is the Grade Pay of the promoted post of Assistant Superintendent of Posts(ASP). The MACP provision is that there shall be no further fixation of pay at the time of regular promotion if it is in the same Grade Pay as granted under the MACP and it cannot be assailed at this juncture as it follows the logic that the MACP was basically intended for providing the financial upgradation due to stagnation and

since the applicant has got promotion to the post of ASP w.e.f. 29.11.2011 and the financial benefits for the same had already been given to him due to MACP w.e.f.16.6.2011, there is nothing wrong in the order of the respondents recovering the excess paid to him. The OA is dismissed. No costs.

(C.V.SANKAR)
MEMBER(A)

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

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Annexures referred to by the Applicant in OA.1043/2019

Annexure A-1: Copy of Extract of FR 22(1(a)1.

Annexure A-2: Copy of M/o Finance, D/o Department letter dated 7.1.2013.

Annexure A-3: Copy of M/o Communications, D/o Post letter dated 23.10.2018.

Annexure A-4: Copy of General Manager (PA&f) letter dated 12.7.2019.

Annexure A-5: Copy of Chief Post Master General, Karnataka letter dated 31.7.2019.

Annexure A-6: Copy of Representation letter dated 7.8.2019.

Annexure A-7: Copy of Representation letter dated 16.8.2019.

Annexure A-8: Copy of Chief Post Master General, Karnataka letter dated 29.8.2019.

Annexure A-9: Copy of M/o Personnel & Public Grievances, D/o DoPT letter dated 19.5.2009.

Annexure A-10: Copy of Hon'ble Apex Court order dated 18.12.2014 in CA.No.11527/14.

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