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**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH**

Original Application No. 350/00810/2017

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. N. NEIHSIAL, ADMINISTRATIVE MEMBER

Smt. Sukla Chaudhuri, wife of Sri Subrata Choudhuri, aged about 46 years, working as Chief law Assistant in Metro Railway, Kolkata and residing at 18A, Debnarayan Banerjee Road, Kalighat, Kolkata – 700026, West Bengal.



...Applicant.

-Versus-

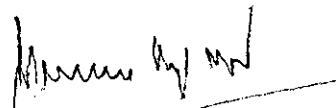
1. Union of India through the General Manager, Metro Railway, Metro Bhavan, 33/1, J.L. Nehru Road, Kolkata – 700071.
2. Chief Personnel Officer, Metro Railway, Metro Bhavan, 33/1, J.L. Nehru Road, Kolkata – 700071.
3. Chief Engineer, Metro Railway, Metro Bhavan, 33/1, J.L. Nehru Road, Kolkata – 700071.

Respondents

For the Applicant: Sri D.K.Mukhopadhyay & Mr B L Gangopadhyay

For the Respondents: Ms S Choudhury

Date of hearing: 27.09.2019 Date of order: 5.12.2019


OA.350/810/2017

ORDER (ORAL)N. NEIHSIAL, MEMBER (A):

In this second round of litigation the applicant is praying for a direction to the respondents to grant third financial upgradation under MACP Scheme on completion of ten years from the date of last promotion she received.



2. In the previous OA. No.350/01540/2016, this Tribunal while disposing of the OA vide order dated 01.12.2016 issued following directions:-

"3. Hence with the consent of the parties and without making any comment on the merits of the case, we are of the view that the applicant will make a detailed representation before the respondent authorities ventilating her grievance within 2 weeks along with the copy of the order passed by this Tribunal. The authorities shall decide the same within a period of two months from the date of production of certified copy of this order in accordance with law and intimate the applicant."

In terms of the above order of this Tribunal the respondents have passed the order no. MRTS/E.336/2/Loose dated 20.02.2017 rejecting the claim of the applicant.

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OA.350/810/2017

3. We have heard both sides and perused the pleadings.

4. The applicant was initially appointed as Traffic Assistant in the pay scale of Rs.975-1530/3200-4900/- on 07.10.1996. She was given ad hoc promotion to the post of Sr. Traffic Assistant in the pay scale of Rs.4000-6000/- on 18.01.1999. Subsequently he was reverted to Clerk Grade II in the pay scale of Rs.3050-4500/- on 16.02.2002 on own volition. Thereafter the applicant was promoted from Clerk Grade-II to Clerk Grade-I in the pay scale of Rs.4500-7000/- on 07.03.2002. She was further promoted to the post of Law Assistant in the pay scale of Rs.6500-10500/- on 09.07.2004 through open selection from amongst eligible categories. Subsequently, the pay scale of Law Assistant has been merged with the pay scale of Chief Law Assistant i.e., Rs.7450-11500/- have been merged in terms of 6th CPC recommendation allowing Grade Pay of Rs.4600/- w.e.f. 01.01.2006. Now the applicant is seeking for 3rd financial upgradation on completion of 10 years from the date of her 2nd promotion i.e., 09.07.2004.



5. It would be seen from the above para that her adhoc promotion to Sr. Traffic Assistant has to be ignored for the purpose of MACP as per RBE No.147/2015 dated 23.11.2015. Besides, the merger of pay scale of higher scale with the previous scale also to be ignored as per the existing orders. The illustration at para 28 of the Modified Assured Career Progression Scheme (MACPS) for Railway Employees is extracted below:-



"28. Illustration:-

B. If a Railway servant (LDC) in PB-1 in the Grade Pay of Rs.1900 is granted 1st financial upgradation under the MACPS on completion of 10 years of service in PB-1 in the Grade Pay of Rs.2000 and 5 years later he gets 1st regular promotion (UDC) in PB-1 in the Grade Pay of Rs.2400, the 2nd financial upgradation under MACPS (in the next Grade Pay w.r.t. Grade Pay held by Railway servant) will be granted on completion of 20 years of service in PB-1 in the Grade Pay of Rs.2800. On completion of 30 years of service, he will get 3rd ACP in the Grade Pay of Rs. 4200. However, if two promotions are earned before completion of 20 years, only 3rd financial upgradation would be admissible on completion of 10 years of service in Grade Pay from the date of 2nd promotion or at the 30th year of service, whichever is earlier."

(emphasis supplied)

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OA.350/810/2017

From the above it is clear that the applicant had got two promotions before completion of twenty years. If that is so, her case is attracted by the above provisions of the MACP scheme as notified by the Railway Board vide RBE No.101/2009 dated 10.06.2009. Since the applicant had completed 10 years from the date of her second promotion, she is entitled to 3rd financial upgradation under the MACPS for Railway employees. The applicant has also pointed out to para 9 of her rejoinder filed on 31.08.2018.



6. Keeping in view the above, the OA is allowed. The respondents are directed to grant 3rd financial upgradation under the MACPS for Railway Employees on completion of 10 (ten) years of service from the date of her second promotion (i.e., on 09.07.2004).

7. There shall be no order as to costs.

(N. NEIHSIAI)
ADMINISTRATIVE MEMBER

(MANJULA DAS)
JUDICIAL MEMBER

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OA.350/810/2017