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**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH.**

O. A. No. 350/1328 of 2015.

1. Gour Hari Guchhait, son of late Chintamani Guchhait, aged about 56 years, working as Senior Section Engineer (Signal), office of the S & T Training Centre, Liluah, Eastern Railway, Pin : 711 204, residing at 59, Shib Chatterjee Street, P.O. Belurmath, Belur Bazar, Dist. Howrah, Pin : 711 202.
2. Balaram Sheet, son of late Bhanu Bhusan Sheet, aged about 56 years, working as Senior Section Engineer (Signal), RRI/NH, Eastern Railway, Sealdah Division, Sealdah, residing at 3 (2) D. Road, Anandapuri, Shyambandhu Plaza-2, F. No. 3D, P.O. Nonachandanpukur, P.S. Titagarh, Dist. North 24-Pgs., Pin : 700 122.

Applicants.

-Vs-

1. Union of India through the General Manager, Eastern Railway, 17, N. S. Road, Kolkata- 700 001.
2. The Chief Personnel Officer, Eastern Railway, 17, N.S. Road, Kolkata- 700 001.
3. The Divisional Railway Manager, Eastern Railway, Sealdah Division, Sealdah, Kolkata 700 014.
4. The Senior Divisional Personnel Officer, Eastern Railway, Sealdah Division, Sealdah, Kolkata- 700 014.
5. The Divisional Railway Manager, Eastern Railway, Howrah Division, Howrah-711 001.
6. The Senior Divisional Personnel Officer, Eastern Railway, Howrah Division, Howrah- 711 001.

... Respondents.

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

O.A.350/1328/2015
MA 725/2017

Date of Order: 15.05.2020. *ls*



Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Gour Hari Guchhait & AnotherApplicant

Vrs.

Union of India & Ors.....Respondents

For the Applicant(s): Mr. S.K.Datta, Counsel

For the Respondent(s): Mr. A.K.Guha, Counsel

ORDER

Bidisha Banerjee, Member (J):

This application has been preferred to seek the following reliefs:

- "a) An order granting leave to the applicants under Rule 4(5)(a) of the Central Administrative Tribunals (Procedure) Rules, 1987 to move this application jointly.*
- b) An order holding that the appointments of the applicants as Signal Inspector, Grade-III subsequently redesignated as Junior Engineer, Grade-II (Signal) are not promotions but direct recruitment in view of the Railway Board's Circular dated 12.9.2012 at Annexure-A-7 to the original application.*
- c) An order quashing and/or setting aside the communications at Annexure-A-3 collectively to this application.*
- d) An order quashing and/or setting aside the impugned speaking order dated 31.07.2015.*
- e) An order directing the respondents to grant 2nd MACP to the applicants treating their appointments as Signal Inspector, Grade-III subsequently redesignated as Junior Engineer, Grade-II (Signal) as direct recruitment in view of the fact that according to the Recruitment Rules the appointments of the applicants against 20% Intermediate Apprentice quota is an induction.*

f) An order directing the respondents to grant 2nd MACP to the applicants on completion of 20 years of service as Signal Inspector, Grade-III subsequently redesignated as Junior, Grade-II (signal) with all consequential monetary benefits.

g) An order directing the respondents to produce/cause production of all the relevant records.

h) Any other order or further order/orders as to this Hon'ble Tribunal may seem fit and proper."

2. The discernible facts are as under:

The applicant, Sri Gour Hari Guchhait, was initially engaged as Appr. ESM-III under DRM/Dhanbad against a regular vacancy (Direct Recuritment Quota) on 31.01.1984. He earned his 1st promotion as ESM-II (now G.P. Rs. 2400/-) against promotional quota on 20.08.1986. Thereafter, he got 2nd promotion as SI-III (now JE/signal) on 08.12.1988 through LDCE i.e. against promotional quota. The cadres of SI-I & SI-II merged and got redesignated as JE with G.P. Rs. 4200/- in terms of CPO's SI. No. 124/10. Further, he was promoted as SE/Signal which has now been redesignated as SSE/Signal with G.P. Rs. 4600/- and he is presently working as such.

In terms of Para (i) of CPO's SI. No. 109/2012, if the relevant RRs provide for filling up vacancies in a grade by DR, induction of an employee to that grade through LDCE/GDCE may be treated as DR for the purpose of granting upgradation under MACP Scheme and for such case, past service rendered in a lower grade shall not be counted. However, Para (ii) of the said circular specifies that if the relevant RRs prescribe a promotional quota to be filled on the basis of LDCE/GDCE and such appointment would be treated as promotion for the purpose of benefit under the MACPs and cases, past regular service shall also be counted for the further benefits, if any under the MACP Scheme.

In the instant case, Sri Guchhait was promoted to the post of SI-III (now JE/Signal) from the post of ESM-II against the LDCE/GDCE (promotional quota) and past service should also be counted for granting MACP benefit in terms of Para (ii) above.

3. The applicant has claimed that his promotion to Signal Inspector Grade III ought not to be treated as promotion to offset one MACP and sought for quashing of speaking order dated 31.07.2015.

4. Per contra, the respondents have stated that the applicant earned the following promotion:

Category	Scale	Date of Apptt./Promotion	Remarks
Appr. ESM/III	260-400/-	03.01.83 (Appr.)	As Apprentice
ESM/III	260-400/-	31.1.84 (Regularized) now in GP Rs. 1900/-	Regular
ESM-II	330-480/-	20.8.88 (now in GP Rs. 2400)	1 st Promotion
SI/III now JE/Sig.	1400-2300/-	8.12.88 (now in GP Rs. 4200/-)	2 nd Promotion (against 20% Intermediate Appr. Quota)
SI/II now JE/Sig. merged	1600-2660/-	1.1.94 (now in GP Rs. 4200/-)	SI/III & SI/II merged & shown as JE(Sig) inn GP Rs. 4200/-
SE/Sig.	6500-10,500/-	13.8.01 (now merged with erstwhile SSE in GP Rs. 4600/-)	Designated as SSE/Sig. (3 rd Promotion)

It is evident from the above chart that he has already earned three regular promotions and, according to the respondents, as per CPO/KKK's SI. Circular No. 102/09 maximum three financial upgradations are extendable under MACPS (Annexure-R/2 of the reply) at an interval of 10, 20 & 30 years continuous regular service to an employee in one's service career, had one not been enjoyed any upgradation/regular promotion in

his service career. Hence, the question of extending further financial upgradation under MACPs in faovur of the applicant does not arise.

5. This Tribunal sought for clarification. The respondents have stated that Para-147 of IREM Vol-1 1989 envisages 20% by induction of Intermediate Appointment from amongst maintainers possessing the qualification of Matriculation with three years service and below 45 years of age. Further, the applicant was regularized as ESM Gr.III on 31.01.1984. He was promoted as ESM Gr.II on 20.08.1986 and promoted as SI Gr.III (now JE/Signal) on 08.12.1988 after passing departmental 20% IA Quota examination. He completed 3 years service and passed the required qualification matriculation and has age was 28 years i.e. required age below 45 years as per criteria.

6. We noted the rival contentions and perused records.

7. Para 147 (1) of IREM is extracted hereunder for clarity:

" 147. (1) The vacancies in the category of Signal Inspectors Grade-III in scale Rs. 1400-2300 will be filled as under:-

(i) 40% by direct recruitment through the Railway Recruitment Board.

(ii) 20% by induction of Intermediate Apprentices from amongst Maintainers possessing the qualification of matriculation with three years service and below 45 years of age; and

(iii) 40% by promotion by selection from Maintainers in the immediate lower grade."

It is the 20% quota against which the applicants were inducted.

We would further note that 40% quota is explicitly the promotional quota, whereas nothing has been mentioned as against 20% quota. However, it is not

expressly spelt out as DR quota.

8. Board, vide its letter dated 17.12.2013 has clarified as under:

No PC-V/2011/M/3/AIRF

New Delhi, dated 17.12.2013



The General Secretary
Railway Board
1, Airline Enclave, Post,
New Delhi-110055

Sir

Sub:-Treatment of employees selected under LDCE Scheme/GDCE Scheme.

The undersigned is directed to refer to AIRF's letter No.AIRF/MACP (260), dt. 07.10.2013 on the above subject and to state that the financial upgradation under MACP Scheme is purely personal to the employee and determined on the basis of personal service particulars of the concerned employee viz. date of joining of a post on direct recruitment basis, subsequent promotions earned as well as method of selection/promotion, intervals at which these promotions were earned etc. In terms of para 4 of Board's policy instructions on MACP Scheme dt.10-5-05 "regular service for the purpose of MACPS shall commence from the date of a joining of a post on a direct recruitment basis". Evidently, an employee who has selected/promoted to a post having element of Promotion Quota cannot be treated at par with DR recruits under LDCE/GDCE.

Further, attention is invited to the instructions contained in Board's letter dated 12-9-12 regarding regulation of MACPS in case of employees who selected under LDCE/GDCE which demonstrates that "if the relevant Recruitment Rules provide for filling up the vacancies in a grade by Direct Recruitment, the induction of an employee to that grade through LDCE/GDCE may be treated as Direct Recruitment and if the RRs prescribe for 'Promotion Quota' through LDCE/GDCE, such appointment would be treated as promotion for MACPS purpose.

Yours faithfully,

(for Secretary/ Railway Board,

9. The "induction" of applicants being not expressly or by necessary implication a direct recruitment, the claim for treatment as such fails.

10. O.A. is therefore dismissed. M.A. 725/2017 also stands disposed of. No costs.

(Dr. Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

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