

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/21/473/2018

HYDERABAD, this the 16th day of March, 2020

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. B.V. Sudhakar, Admn. Member



P. Ramachander Rao, aged 60 years,
Group -C S/o. Sri Madava Rao,
Retd. Chief Commercial Inspector,
S C Railway,
Presently residing at Flat No.501,
Kalyani Towers, Near Gold Age Home,
Sankeswara Bazar, Saroor Nagar,
Hyderabad - 500 059.

... Applicant

(By Mr. P. Ramachander Rao, P-I-P))

Vs.

1. Union of India,
Ministry of Railways,
Rep. by its Chairman,
Railway Board, Railsina Marg,
New Delhi - 110 011.
2. Union of India,
South Central Railway
Rep. by its General manager,
3rd floor, Rail Nilayam,
Secunderabad - 500 071.
3. Senior Divisional Personnel Officer,
Secunderabad Division, S.C. Railway,
IV floor, Sanchalan Bhavan,
Secunderabad - 500 071.
4. Senior Divisional Commercial Manager,
Secunderabad Division,
S.C. Railway, I Floor,
Sanchalan Bhavan,
Secunderabad - 500 071.

... Respondents

(By Advocate: Mr. S.M. Patnaik, SC for Rlys.)

ORDER (ORAL)**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman**

The applicant joined the service of South Central Railway as Commercial Clerk in the year 1981. He was promoted to the post of Senior Commercial Clerk in the year 1986. Further promotion was to the post of Commercial Supervisor in the year 1995. Since he got two promotions within a period of 12 years, the benefits of both ACPs are off set against them.

2. The VI Pay Commission recommended replacement of the ACP Scheme with MACP Scheme. Accordingly, O.M. dated 10.06.2009 was issued. The Railways introduced the MACP Scheme w.e.f. 01.09.2008. According to this, such of the employees, who did not earn promotion for a period of 10 years, would be entitled to the benefit of MACP and, such benefit is available in spells of 10 years each, up to completion of 30 years. It is also mentioned that in case an employee had earned two promotions or got the benefit of ACP up to the completion of 24 years of service, he would be eligible to be considered for 3rd MACP thereafter. The applicant was extended the benefit of 3rd MACP on 01.09.2008. However, his claim is that the benefit should be extended w.e.f. 01.01.2006, the date on which the recommendations of VI CPC were implemented.

3. The respondents filed a reply statement, opposing the O.A. It is stated that when the MACP Scheme is operative w.e.f. 01.09.2008, the question of extending the benefit with effect from a date earlier to that, does not arise.

4. We heard Sri P. Ramachander Rao, the applicant appearing in person and Sri Ashok Kumar representing Sri S.M. Patnaik, learned counsel for the respondents.



5. The ACP Scheme was introduced in the year 1999, providing for extension of the benefit of pay scale attached to the next higher post, in case an employee did not earn promotion within a span of 12 years, even while being otherwise eligible, due to want of vacancy or promotional avenues. Same facility is available in the next 12 years. In case of the applicant, the benefit of 1st & 2nd ACPs were off set against his promotions to the post of Senior Commercial Clerk and Commercial Supervisor.

6. The ACP Scheme was replaced by the MACP Scheme w.e.f. 01.09.2008. In other words, the ACP Scheme was in operation till 01.09.2008 and thereafter MACP Scheme came into force. Though the applicant is viewing the issue from his point of view, a serious anomaly would arise, in case his contention is accepted. For example, an employee became eligible for 2nd ACP, on completion of 24 years w.e.f. 05.08.2008, and he was found otherwise eligible. There is no reason why he shall be denied the benefit of ACP, which is nothing short of the pay scale attached to the next higher post. If the contention advanced by the applicant is accepted, the employee would draw MACP w.e.f. 01.01.2006, and what is available to him is only the benefit in the form of the next higher grade, as against the pay scale attached to the next higher post. In other words, the ACP on the one hand and the MACP on the other hand, would be in operation between the period from 01.01.2006 & 01.09.2008. This can never be the intention of the rule making authority.

7. Be that as it may, there are orders passed by the Tribunal as well as certain Honøble High Courts, taking a different view. As of now, the matter is pending before the Honøble Supreme Court in S.L.P. No.12114/2019. We are informed that the next date of the case is 12.05.2020.

8. We, therefore, dispose of the O.A., leaving it open to the applicant, to avail the benefit in terms of the orders which, the Honøble Supreme Court, may pass. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

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