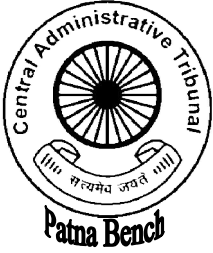


**CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH, PATNA  
O.A. No. 051/00035/2021  
M.A./051/00026/2021**

Date of Order: 22<sup>nd</sup> January, 2021

**C O R A M**

**HON'BLE MR M.C. VERMA, MEMBER [J]  
HON'BLE MR. SUNIL KUMAR SINHA, MEMBER [A]**



Kanhaiya Kumar Ojha, Male, Aged about 59 years, Son of Late Umeshwar Ojha, Posted as Commercial Traffic Inspector (C.T.I.), in the Office of Divisional Railway Manager, Dhanbad (Commercial Section), Resident of Railway Colony, Jhumri Tilaiya, P.O. & P.S. – Jhumri Tilaiya, District – Koderma, PIN Code – 825409 (Jharkhand) Presently residing in the House of Sri S.N. Sahu, Luby Circular Road, Manoram Nagar, Near Baker Bandh, P.O. – Manoram Nagar, P.S. – Dhanbad, District - Dhanbad, PIN Code – 826001.

..... Applicant.

By Advocate :- Shri Raju Giri.

-Versus-

1. The Union of India through the General Manager, East Central Railway, Hajipur, P.O. – Digghi Kalan, P.S.- Hajipur (Sadar), District – Vaishali, PIN Code-844118 (Bihar).
2. The Chief Commercial Manager, East Central Railway, Hajipur, P.O. – Digghi Kalan, P.S.- Hajipur (Sadar), District – Vaishali, PIN Code-844118 (Bihar).
3. The Divisional Railway Manager (Personnel), East Central Railway, Mukunda Kasturba Nagar, Dhanbad, District –Dhanbad, PIN Code-826001.
4. The Senior Divisional Personnel Officer, East Central Railway, Mukunda Kasturba Nagar, Dhanbad, District –Dhanbad, PIN Code-826001.

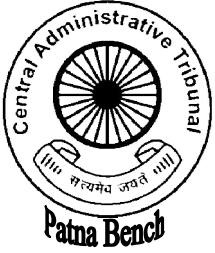
..... Respondents.

By Advocate :- Shri Prabhat Kumar.

**ORDER (ORAL)  
Per M.C. Verma, Member [Judl.]**

1. The matter is at notice hearing stage. Having received the advance copy of OA, Shri Parbhat Kumar Advocate has appeared for the respondents.

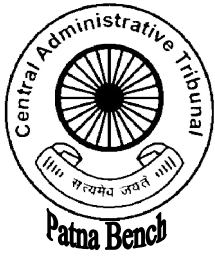
2. In instant OA applicant has made prayer to quash order dated 7/6/2018 & 14/5/19, with further prayer to direct the respondents to grant 2<sup>nd</sup> MACP from the date of its eligibility. It is stated in order dated 7/6/2018 that he has already earned three promotion before the completion of 30 years Railway service and hence can't be granted further benefit of MACP and giving same reason in order dated 14/5/19 financial up gradation has been denied.



3. Heard. Ld. Counsel for applicant urged that after entered into service applicant through Limited Departmental Competitive Examination Assistant Commercial Traffic Inspector, it was a fresh recruitment and hence cannot be treated as promotion and the submission that it is a fresh recruitment has been countered by counsel for respondents.

4. Considered the submissions made at Bar. The facts as has been set out in the O.A., precisely are that applicant was appointed as T.C. on 27.05.1985, promoted to the post of T.T.E., Group-C in the year 1991, he thereafter appeared in the Limited Departmental Competitive Examination and after being declared successful and after completion of training, he was promoted and posted as Assistant Commercial Traffic Inspector, Group-B in the grade pay of Rs.4,200/- on 13.09.1999. That in year 2002 he was promoted to the post of Commercial Traffic Inspector. Applicant on 23/5/18 represented for second M.A.C.P and on 11/9/18 financial up

gradation but his said representations' were rejected vide order dated 7/6/18 & vide order dated 14.05.2019 stating that he is not eligible as he has already earned three promotions within 17 years of regular service. Applicant has assailed said orders in instant O.A. and his contention mainly is that his appointment to the post of Assistant Commercial Traffic Inspector (PL), which was through Limited Departmental Examination was in fact a fresh appointment and not promotion from his previous post and therefore MACP after 12 years continuous service is required from the date of his appointment as ACTI and not from his initial appointment as T.C. That reveals respondents had treated this promotion to ACTI as per promotional post and have counted the service from his initial induction in the Railway.



5. From the pleading of the O.A. and the annexed documents thereto, including the impugned order, it appears indisputable that the applicant entered into the service of the respondent department as T.C in year 1985 and thereafter after first promotion in year 1991, he on the basis of Limited Departmental Competitive Examination was promoted to the post of A.C.T.I in year 1999. He is manning the post of A.C.T.I since year 1999.

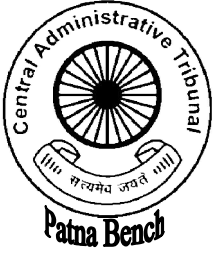
6. Para-1 Modified Assured Career Scheme, as has been circulated, vide RBE No.101/2009 dated 10.06.2009 of the said M.A.C.P. Scheme for sake of brevity is reproduced herein & it reads:-

*“There shall be three financial upgradation under the MACPS, counted from the direct entry grade on*

*completion of 10, 20 and 30 years of service respectively.*

***Financial upgradations under the Scheme will be admissible whenever a person has spent the same grade pay.”***

7. Modified Assured Career Scheme, as has been circulated, vide aforesaid RBE No.101/2009 dated 10.06.2009, provides three financial up-gradation in service career of any employee if he is not promoted. It also provides financial up-gradation whenever a person remains 10 years continuously in same grade pay. This second aspect has neither been taken note of either by the applicant or by the respondents department nor there is any whisper in the pleadings.



8. During hearing attention of learned counsel for applicant and learned counsel for respondents was invited to this aspect and fairly it has been admitted that this aspect remains to be taken note of. It is submitted, at this stage by both the counsel that matter may be remitted back to the respondent authority to reconsider the matter afresh taking into consideration the entirety of the facts of the applicant's case and the M.A.C.P. Scheme in its true spirit.

9. Having taken note of submissions made, impugned orders, dated 07.06.2018 & 14.05.2019 stand quashed. Respondents are directed to consider the case of the applicant afresh with open mind and the totality of the facts in the light of the M.A.C.P. Scheme. Said decision must be taken within a period of one month from the

date of receipt of a copy of this order. O.A. stands disposed of accordingly.

10. M.A. filed by the applicant for condonation of delay also stands disposed of.

Sd/-

[Sunil Kumar Sinha]

Member [A]

sks/-

Sd/-

[M.C. Verma]

Member [J]

