

13

CENTRAL ADMINISTRATIVE TRIBUNAL CUTTACK BENCH: CUTTACK

O.A No.596 of 2011
Cuttack, this the 16th day of May, 2014

CORAM

THE HON'BLE MR.A.K.PATNAIK, MEMBMER (JUDL)
THE HON'BLE MR. R.C.MISRA, MEMBER (ADMN.)

.....

Shri Banshidhar Das, aged about 61 years, Son of Late Muralidhar Das At-Sree Vihar Colony, Near Siba Mandir, Tulasipur, Cuttack-753 008, Retd. SPM, Darлага Bazar, Cuttack.

.....Applicant

(Legal Practitioner – M/s.G.Rath, S.K.Rath, B.K.Nayak-3, D.K.Mohanty)

-V.e r s u s-

1. Union of India represented through its Director General of Posts, Government of India, Ministry of Communications, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. The Chief Postmaster General, Orissa Circle, Bhubaneswar, Dist. Khurda.
3. The Director of Postal Services Office of the Chief Postmaster General, Orissa Circle, Bhubaneswar, Dist. Khurda, PIN-751 001.
4. The Senior Superintendent of Post Offices, Cuttack City Division, Cuttack, PIN-753 001.

.....Respondents

(Legal practitioner – Mr.S.Barik)

O R D E R

A.K.PATNAIK, MEMBER (JUDICIAL)

The case of the Applicant, in nut shell, is that on 13-05-1980, he joined as Postman in the Postal Department and was promoted to the post of Postal Assistant on 16-03-1985. He got

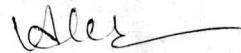
W.A.L

financial up gradation under TBOP, on completion of 16 years of regular service w.e.f. 16.03.2001. Finally he was superannuated from service w.e.f. 31.03.2010. His grievance is that though by the time he had put in a total period of 29 years, 10 months and 18 days service to the Department and was entitled to, as per rules, the 3rd financial up gradation under MACP his prayer was rejected without considering his entitlement in proper perspective. Hence by filing the instant OA he has prayed to quash the order of rejection No. B/G-165/Ch.II, dated 25-02-2011 and consequently to direct the Respondents to grant him the 3rd financial up gradation under MACP by placing him in the grade pay of Rs.4200/- w.e.f. 01.09.2008 besides revising his pay pension and other pensionary dues and to pay him the differential arrears within a stipulated period.

2. Respondents filed their counter in which it has been stated that as per the MACP Scheme, an employee is entitled to three financial up gradation counted from the direct entry grade on completion of 10, 20 and 30 years of regular service. Financial up gradation under the Scheme will be admissible whenever a person has spent 10 years continuously in the same grade pay. In the

Alc

instant case the applicant Shri Bansidhar Das joined the department as a Postman on 13.05.1980 and was promoted to PA cadre on 16.03.1985. On completion of 16 years of service, he was granted financial up gradation under TBOP Scheme w.e.f. 16.03.2001. As per the provisions of MACP, the applicant got his first financial up gradation on 16.03.1985 to the GP Rs.2400/- and then he was granted 2nd financial up gradation on 16.03.2001 when he got TBOP and was placed in the next higher grade pay of Rs.2800/-. While continuing in the GP of Rs.2800/- he retired from service on reaching the age of superannuation on 31.03.2010. It has further been stated that the applicant got one promotion on 16.03.1985 when he was promoted to PA cadre and one financial up gradation on 16.03.2001 under TBOP. Therefore, as per the provisions of MACP the applicant is entitled to the 3rd financial up gradation either on completion of 10 years from the last financial up gradation or on completion of 30 years of service whichever is earlier i.e. on 13.05.2010. As the applicant retired on 31.03.2010 and has rendered less than 30 years of service he was not entitled to 3rd financial up gradation to GP of Rs.4200/- as claimed by him. Accordingly, Respondents have prayed for dismissal of this OA.



16

3. Applicant has filed rejoinder putting emphasis on the provision made in clause 28 of the MACP scheme besides more or less reiterating the stand taken in his Original Application.

4. We have heard Mr. G.Rath, Learned Senior Counsel appearing for the Applicant assisted by Mr.D.K.Mohanty and Mr. S.Barik, Learned Additional CGSC appearing for the Respondents and perused the records.

5. Mr.Rath at the outset drew our attention to the provision made in clause 28 of the MACP Scheme issued by the Ministry of Personnel, Public Grievance, Pensions, New Delhi copy of which was forwarded by the Government of India, Ministry of Communications & IT, Department of Posts, New Delhi and subsequent clarification issued thereon vide letter dated 27th October, 2010 and has submitted that as per the provision, the applicant was entitled to 3rd financial up gradation under MACP to the GP of Rs.4200/- w.e.f. 01.09.2009 even though he has not completed 10 years of service in the below Grade Pay or 30 years of total period of service. It has further been contended by him that invoking the aforesaid provision, one Shri Rajkishore Mohapatra, PA Cuttack GPO was allowed the 3rd financial up gradation under

Al

MACP though he had not completed ten years in the grade pay of Rs. 2800/- or 30 years total period of service from the entry grade. As such denial of the said benefit is unjust, improper discriminatory which is in violation of the right enshrined in Articles 14 and 16 of the Constitution of India.

On the other hand Mr. Barik by drawing our attention to the stand taken in the counter has submitted that the applicant was granted financial up gradation in the grade pay of Rs.2800/- on 16.03.2001 and had not completed 10 years in the grade pay of Rs.2800/- as on the date of his retirement 31.03.2010. As per the revised MACP Scheme, an employee is eligible for financial up gradation whenever he has spent 10 years continuously in the same grade. In the instant case since the applicant had not completed 10 years in the grade pay of Rs.2800/- he was not eligible for next financial up gradation. Further it was contended by him that the case of Sri Rajkishore Mohapatra, PA, Cuttack GPO has no relevancy with the present case. As per the clarifications issued by the department, when one official has got one promotion before completion of 10 years of service, it will offset against 1st MACP and on rendering 10 years continuous service in the promotional

Abc

grade or on completion of 20 years' service from the date of entry whichever is earlier, he will be eligible for 2nd MACP. Similarly, an official already been placed in 2nd MACP will be eligible for 3rd MACP on rendering 10 years continuous service in the promotional grade or on completion of 30 years' service from the date of entry whichever is earlier. Shri Rajkishroe Mohpatra entered to the Department as Postman in the years 1997 and was promoted to Postal Assistant Cadre in 2000. Thus on completion of 10 years of service in PA Cadre (GP Rs.2400/-) he was eligible for 2nd MACP in the year 2010. Accordingly he has been granted 2nd MACP vide this Office Memo dated 18.01.2011, which is well within the Rules.

6. We have considered the rival submissions of the parties with reference to the respective pleadings and materials placed on record. The salient feature of the MACP is that there shall be three up gradations under MACP counted from the direct entry grade on completion of 10, 20 and 30 years of regular service. In other words financial up gradation under the scheme is admissible whenever a person has spent 10 years continuous service in the same grade pay. In the instant case the applicant entered to service



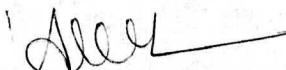
as Postman on 13.05.1980 and was promoted to PA cadre on 16.03.1985. On completion of 16 years of service he was granted financial up gradation under TBOP scheme w.e.f. 16.03.2001. In terms of the provision of MACP he has got first financial up gradation on promotion to the grade pay of Rs. 2400/- on 16.03.1985 and then he was granted 2nd financial up gradation on 16.03.2001 when he has got TBOP and was placed in the higher grade pay of Rs.2800/-^{above}. In view of the ~~here~~ he would have got third financial up gradation either on completion of 10 years from the last financial up gradation or on completion of 30 years of service whichever is earlier i.e. on 13.05.2010. But the applicant retired on 31.3.2010 after ~~re~~^l rendering 29 years ten months and 18 days of service. Thus, the applicant was/is not entitled to third financial up gradation as claimed by him in this OA. In so far as the case of Mohapatra as stated by the Applicant it is the specific ~~respondents~~^l case of the ~~applicant~~ that the said case has no relevance to the instant OA.

7. In view of the above we find no flaw in the decision making process of not granting the third financial up gradation

W. Alley

under MACP. Thus, for the above reason this OA stands dismissed by leaving the parties to bear their own costs.


(R.C.MISRA)
Member (Admn.)


(A.K.PATNAIK)
Member (Judicial)