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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK.

O.A. No.205/2010

Sk. Imam Hussain.....Applicant
Vrs.
Union of India & OthersRespondents

ORDER DATED 3rd OF MARCH, 2012

Coram:

HON'BLE MR. C.R. MOHAPATRA, ADMINISTRATIVE MEMBER
&
HON'BLE MR. A.K. PATNAIK, JUDICIAL MEMBER

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Heard Sri N.R. Routray, Ld. Counsel appearing for the applicant and Sri S.K. Ojha, Ld. Standing Counsel for the Respondents/Rlys. and perused the materials placed on record.

2. In this Original Application the prayer of the applicant is to quash the order under Annexure-A/3 dated 13.03.2010 in which the benefit of financial up gradation granted to the applicant under MACP Scheme was withdrawn. Through counter Respondents have brought to the notice of this Tribunal that the applicant was not entitled to financial up gradation under MACP as was granted to him as he had already got three promotions first one on 30.11.1983 to Tech. III, second one on 19.08.1986 to Tech. II and the third one on 01.03.1993 to Tech. I. In support of this the Respondents have also filed copy of the Service Book as at Annexure-R/1. Applicant has filed rejoinder and reply to rejoinder has also been filed by the Respondents.



3. The benefit of financial up-gradation under MACP is granted in lieu of stagnation. The scheme MACPS envisages that there shall be three financial up-gradations, counted from the direct entry grade on completion of 10, 20 and 30 years service respectively. Financial up-gradation under the Scheme will be admissible whenever a person has spent 10 years continuously in the same grade-pay. Since the applicant has already got three promotions as stated by the Respondents supported by the Service sheet at Annexure-R/1 and the authority has every power and competence to rectify its mistake at any point of time, we see no merit in this O.A. in so far as the prayer of the applicant to quash the order under Annexure-A/3 is concerned. However, in view of the decisions of the Hon'ble Apex Court in the case of **B.J. Akkara v. Government of India** (2007) 1 SCC (L&S) 529 (Para 27), **Sahib Ram v. State of Haryana**, 1995 SCC (L&S) 248, **Shyam Babu Verma v. Union of India**, (1994) 2 SCC 521, **Union of India v. M. Bhaskar** (1996) 4 SCC 416 and **V. Gangaram v. Regional Joint Director** (1987) 6 SCC 139 and in absence of any stand that the applicant had contribution in his getting the financial up gradation under MACP, it is ordered that there shall be no recovery of the amount paid to the applicant by way of financial up-gradation which was subsequently withdrawn under Annexure-A/3. With the aforesaid observation, this O.A. stands disposed of. No costs.

Allo
(A.K. PATNAIK)
JUDL. MEMBER

Chak
(C.R. MOHAPATRA)
ADMN. MEMBER