

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

Original Application No.260/00834 of 2015
Cuttack, this the 23rd day of November, 2015

CORAM
HON'BLE MR. R.C. MISRA, MEMBER (A)

Fethful Khaka, aged about 43 years, S/o. Elias Khaka, presently working as S.S.E. (P.WAY), South Eastern Railway, Rourkela.

...Applicant

(Advocate: Mr. S.K. Dash)

VERSUS

Union of India Represented through

1. General Manager, S.E. Railway,
Garden Reach, Kolkata
2. The Divisional Railway Manager,
S.E. Railway, Chakradharpur, Jharkhand.
3. Sr. Divisional Personal Officer,
S.E. Railway, At/P.O. Chakradharpur, Jharkhand.

... Respondents

(Advocate: Mr. T. Rath)

ORDER (Oral)

R.C. MISRA, MEMBER (A)

Heard Mr. S.K. Dash, learned counsel for the applicant and Mr.T. Rath, learned Standing Counsel for the respondents on the question of admission and perused the records.

2. Applicant has approached this Tribunal with a grievance that the respondent-railways have started deduction from his salary from the month of September, 2015 on the ground that he has been given the benefit of 2nd MACP erroneously.
3. It is the case of the applicant that he having completed 20 years of regular service already is entitled to the benefit of 2nd MACP and therefore, the conclusion arrived at by the authorities that he has been granted the benefit of 2nd MACP erroneously ^{is} ~~are~~ not correct. According to applicant, he was issued with a show cause notice on the proposed recovery against which he had submitted a reply/ representation dated 30.7.2015, which has been annexed at A/3 of the O.A. It is the specific allegation of the applicant that without disposing of his reply/representation to the show cause notice, respondents ought not to have deducted from his salary from the month of September, 2015 onwards.



4. On the other hand, Mr.Rath submitted that since the recovery has already been effected from the month of September, 2015, at this stage, no direction should be issued by the Tribunal in this regard. Mr.Rath also submitted that he has no immediate instructions regarding the disposal of reply/representation made by the applicant against the show cause notice.

5. I have considered the rival contentions. Appropriately the respondent-authorities should have in the first instance disposed of the reply to the show cause filed by the applicant on 30.7.2015 and only after a conscious decision being taken by the respondents, recovery from the salary of the applicant should have been effected. That would have been in keeping with the principles of natural justice. Prima facie, respondents have not done so.

6. Having regard to the facts of the matter, at this stage, without going into the matter on merit, I would direct respondent no.3 to consider the reply/representation filed by the applicant to the show cause notice as per the extant rules and provisions of the MACP Scheme, and communicate a decision thereon to the applicant within a period of sixty days from the date of receipt of this order. Until a decision is communicated, no further recovery shall be effected from the salary of the applicant.

7. With the above observation and direction, this O.A. is disposed of at the stage of admission itself. No costs.

8. On the prayer made by the learned counsel copy of this order along with the paper book be sent to res.no.3 by Speed Post at the cost of the applicant for which Mr.S.K.Dash undertakes to file the postal requisites by 24.11.2015.

Free copy of this order be made over to learned counsel for both the sides.


(R.C.MISRA)
MEMBER(A)

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