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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.983 of 2013

Cuttack this the 14th day of November, 2017

CORAM:

THE HON'BLE SHRI S.K.PATTNAIK, MEMBER(J)
THE HON'BLE DR.MRUTYUNJAY SARANGI, MEMBER(A)

Abhimanya Sethy, aged about 63 years, S/o. late Mohan Sethy, Vill/PO-Pandia, Via-Purusotompur, Dist-Ganjam, presently retired Head Goods Clerk, under East Coast Railway, Cuttack.

...Applicant

By the Advocate(s)-M/s.Umakanta Sahoo
G.G.Mohanty

-VERSUS-

Union of India represented through:

1. The General Manager, East Coast Railway, East Coast Railway Sadan, Chandrasekharapur, Bhubaneswar
2. Senior Divisional Commercial manager, East Coast Railway, Khurda Road, Jatni, Dist-Khurda
3. Divisional Commercial Manager, East Coast Railway, Khurda Road, Jatni, Dist-Khurda
4. Senior Divisional Personnel Officer, East Coast Railway, Khurda Road, Jatani, Dist-Khurda

...Respondents

By the Advocate(s)-Mr.N.K.Singh

ORDER

DR.MRUTYUNJAY SARANGI, MEMBER(A):

The applicant is a retired Head Goods Clerk under the East Coast Railway and has filed this O.A. praying for 3rd financial upgradation under the MACP Scheme. The applicant had joined as a temporary Gangman on 3.5.1968. He was appointed as Commercial Clerk/Weigh Bridge Clerk on compassionate ground vide order dated 6.2.1981. He got promoted to Senior Goods Clerk as per letter No.

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DPO/KUR/Comml/GCA/86 dated 14.11.1986 and was promoted as Head Goods Clerk vide Memo No.95/4/Comml.HG.GC.S./Test dated 20.1.1995. As per his own admission, he got promotion from Commercial Clerk to Senior Goods Clerk in December, 1986 and from Senior Clerk to Head Clerk in December, 1995. He retired from Railway service with effect from 31.10.2010. The applicant had filed O.A.No.868 of 2012 before this Tribunal which in its order dated 27.8.2013 had directed the respondents to consider his representation and pass a reasoned order. In compliance with the orders of this Tribunal, the Senior Divisional Commercial Manager, East Coast Railway, Khurda Road (Res.No.2) had considered the representation and passed the impugned order dated 1.11.2013 rejecting his prayer for grant of financial upgradation under MACP Scheme on the ground that he had already availed three promotions in his career as Goods Clerk, Senior Clerk and Head Clerk and therefore, he was not entitled to any financial upgradation under the MACP Scheme as per RBE No.101/09. Aggrieved by this applicant has filed the present O.A. praying for the following reliefs:

- i) To admit the matter and after hearing the parties, be pleased to quash the impugned Order No.5270 dated 01.11.2013 passed by the Respondent No.2 (under Annexure8) and may also graciously be pleased to pass an order commanding to Respondent No.2 to release the financial upgradation under the MACP Scheme with necessary rectification in

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present pension to the applicant within a specific time limit in the interest of justice; and

ii) To pass order(s) commanding to the Respondents that this applicant be exonerated from the charges as well as the punishments forthwith; and

iii) May pass any other appropriate order(s) as the Hon'ble Tribunal deems fit and proper in the interest of justice.

2. As may be seen from Relief(s) Sought, there is a mention about exoneration from the charges as well as the punishments forthwith although there is no mention at all about any charge or punishment in the entire O.A. In view of that error, the present O.A. is confined only to the prayer for financial upgradation under the MACP Scheme. In the rejoinder filed by the applicant on 20.11.2013, the applicant has also submitted that the prayer for exoneration of charges and punishment is infructuous and he prays only for 3rd financial upgradation under the MACP Scheme.

3. Respondents have filed their counter reply on 8.7.2015 and have submitted that the applicant has already got three promotions as Booking Clerk on 12.3.1981, as Senior Goods Clerk on 14.11.1986 and as Head Goods Clerk on 28.12.1995 and is therefore, not entitled to financial upgradation under the MACP Scheme.

5. The applicant filed a rejoinder on 30.11.2015 wherein he has confined his prayer to only financial

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upgradation under the MACP Scheme and reiterated that he has got only two promotions to the post of Senior Booking Clerk and Head Goods Clerk. As per his contention his first posting was only as Booking Clerk on compassionate ground on 12.3.1981 and therefore, he is entitled to 3rd MACP.


6. We heard the learned counsels from both the sides. Assuming that the initial appointment of the applicant was in the cadre of Booking Clerk on 12.3.1981 on compassionate ground, he has completed only 29 years 8 months at the time of his retirement. However, Para-28(B) of the MACP Scheme clearly postulates that a person who has spent more than 10 years in a particular post without getting any promotion is entitled to financial upgradation under the MACP Scheme. For reasons of clarity, Para-28(B) is reproduced below:


"B. If a Railway servant (LDC) in PB 1 in the Grade Pay of Rs.1900 is granted 1st financial upgradation under the MACPS on completion of 10 years of service in PB-I in the Grade Pay of Rs.2000 and 5 years later he gets 1st regular promotion (UDC) in PB-1 in the Grade Pay of Rs.2400, the 2nd financial upgradation under MACPS (in the next Grade Pay w.r.t. Grade Pay held by Railway Servant) will be granted on completion of 20 years of service in PB-I in the Grade Pay of Rs.2800. On completion of 30 years of service, he will get 3rd ACP in the Grade Pay of Rs.4200. However, if two promotions are earned before completion of 20 years, only 3rd financial upgradation would be admissible on completion of 10 years of service in Grade pay from the date of 2nd promotion or at the 30th year of service, whichever is earlier".

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7. As per the above illustration, the applicant who got his last promotion in 1995 had retired from Railway service on 31.10.2010 stagnating for more than 10 years in the said post without promotion. He is, therefore, entitled to 3rd MACP. In view of this, the impugned order dated 01.11.2013(A/8) is quashed. Respondent No.2 is directed to pass the necessary orders granting the applicant 3rd financial upgradation under the MACP Scheme with all consequential benefits in pay and pension with effect from 28.12.2005 within a period of eight weeks from the date of receipt of this order.

8. The O.A. is allowed as above with no order as to costs.


(DR.MRUTYUNJAY SARANGI)
MEMBER(A)


(S.K.PATTNAIK)
MEMBER(J)

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