CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR

O.A.NO.236/2010

Dated this the 24th day of February, 2011

CORAM

HON'BLE MR. JUSTICE S.M.M. ALAM, JUDICIAL MEMBER

Sua Lal Sharma S/o Shri Shiv Charan,
R/o Near Chand Pole, Jodhpur
Dist. Jodhpur (Office Address – RMS Jodhpur
As Sorting /Assistant) working under
Respondent No.4. ...Applicant

(By Advocate Mr. S.P.Singh)

Vs.

1.Union of India through the Secretary
Government of India, Ministry of Communications,
Department of Posts, Dak Tar Bhawan,
New Delhi.

2.The Assistant Director General (S&V)
O/o Chief Postmaster General,
Rajasthan Circle, Jaipur.

3.The Chief Post Master General,
Rajasthan Circle, Jaipur-302 007.

4.Superintendent, Railway Mail Service,
ST Division, Jodhpur. ....Respondents

(By Advocate Mr. M.Godara proxy counsel for Mr.Vinit Mathur)

ORDER

Applicant Sua Lal Sharm working under Respondent No.4 ie., Superintendent, Railway Mail Service, S.T.Division, Jodhpur has preferred this Original Application for grant of following reliefs:

(a) By an appropriate writ, order or direction the impugned order Memo No.Staff/10-24/MACP/20/201 dated 28.4.210 and 4.5.2010 may kindly be quashed and set aside.

(b) The respondent may kindly be restrained from recovery from monthly salary with immediate effect.

(c) The respondent may kindly be directed to refund the recovered amount in pretext of MACP promotion.

(d) That any other direction or orders may be passed in favour of the applicant, which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.

(e) That the costs of this application may be awarded to the applicant.

2. The brief facts of the case are as follows;:

The applicant is working under the respondents and he has completed more than 35 years of service. On completion of 30 years of service the applicant was granted financial upgradation under MACP Scheme vide Memo No.B-2/VIPC/MACPS/T/2009 dated 28.1.2010 (Annexure.A3) and accordingly his pay was fixed in higher scale. The grievance of the applicant is that by order dated 28.4.2010 and the order dated 4.5.2010 (Annexure.A2 and Annexure.A1 respectively) issued from the office of Chief Post Master General, Rajasthan Division, Jaipur, the 3rd financial

upgradation given to the applicant was illegally withdrawn and recovery of the amount paid towards the 3rd financial upgradation under the MACP Scheme was ordered and hence the applicant has filed this Original Application.

3. On filing of the O.A. notices were issued to the respondents and in compliance of the notice the respondents appeared through advocate and filed reply. As per the reply of the respondents this O.A. is premature in view of the fact that the decision of the respondents to withdraw the 3rd financial upgradation given to the applicant under the MACP Scheme is not final and in this regard the office of Chief Post Master General, Rajasthan Division, Jaipur has sought clarification/direction from the Directorate of Posts and Telegraphs and this fact has been mentioned in the letter dated 28.4.2010 itself which has been made Annexure A2 of the OA. Their further contention is that since the applicant was granted one promotion from Group 'D' to Group 'C' post and as such he is not entitled for 3rd financial upgradation under the MACP Scheme.

4. Heard Shri S.P.Singh, learned advocate on behalf of the applicants. Also heard Shri M.Godara, proxy counsel appearing for Vinit Mathur, advocate for the respondents.

5. During the course of hearing of this O.A. both the lawyers submitted that this OA is fully covered by the order dated 23.2.2011 passed in OA 233/2010 and as such this OA can be disposed of in the light of the order passed in the above mentioned OA. I have perused the order dated

23.2.2011 passed in OA 233/2010 and I am convinced that the same facts and law are involved in the present O.A also and so similar order can be passed in this OA as well.

6. In the result this OA is also disposed of with the direction to the respondents/concerned competent authority to finally decide whether the applicant is entitled for 3rd financial upgradation under the MACP Scheme or not within a period of six months from the date of receipt/production of this order. It is further observed that till the final decision of the authority in this regard the respondents shall not make any recovery/refund from the applicants of the alleged excess amount paid towards 3rd financial upgradation under the MACP Scheme. It is further observed that if the authority fails to pass final order within the prescribed period of six months in this regard or if the authority passes any adverse order, the applicant will be at liberty to file fresh O.A. on same ground.

7. In the circumstances of the case, there will be no order as to costs.

Dated this the 24th day of February, 2011

JUSTICE S.M.M. ALAM
JUDICIAL MEMBER

Ks.

दिनांक 21/6/16 के आदेशानुसार
मेरी उपस्थिति में दिनांक 9/6/16
को क्रम-II व III पास किए गए।

अनुभाग अधिकारी
केन्द्रीय प्रशासनिक अधिकरण
जोधपुर न्यायपीठ, जोधपुर