केन्द्रीय प्रशासनिक अधिकरण (प्रक्रिया) ... नियम, ... के अधीन नि: शुल्क प्रति

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Jodhpur this the 7th day of October, 2014

CORAM

Hon'ble Mr.Justice Kailash Chandra Joshi, Member (Judicial),
Hon'ble Ms. Meenakshi Hooja, Member (Administrative)

Original Application No. 184/2013 with Misc. Application No.86/2013

Dua Lal Dave s/o Late Shri Mani Shankar Dave, aged about 64 years, b/c Brahman r/o Vill + Po-Akoli, District-Jalore (Office Address:- Retired on 31.3.2009 as Postal Assistant, last posting as SPM Dhansa Post Office, Postal Department)

.....Applicant

By Advocate: Mr S.P.Singh

Versus

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

2. The Secretary, Government of India, Ministry of Personnel, Public Grievances and Pensions, Dept. of Personnel and Training, New Delhi.

3. The Director Postal Services (HQ), O/o Chief Postmaster General, Rajasthan Circle, Jaipur

4. Superintendent of Post Offices, Sirohi Division, Sirohi.

.....Respondents

By Advocate : Ms K. Parveen.

Original Application No. 348/2013 with Misc. Application No.290/00157/14

Daulat Ram Chandani s/o late Shri Tirath Das, aged about 59 years b/c Sindhi r/o H.No.10/74, Chaupasani Housing Board, Jodhpur, District Jodhpur (Office Address :- Working as Sorting Assistant in the office of SRM ST Division Jodhpur)

.....Applicant

By Advocate: Mr S.P.Singh

Versus

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

2. The Secretary, Government of India, Ministry of Personnel, Public Grievances and Pensions, Dept. of Personnel and Training, New Delhi.

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

4. Superintendent of RMS, ST Division, Jodhpur.

.....Respondents

By Advocate : Ms K. Parveen.

Original Application No. 568/2013 with Misc. Application Nos. 351/2013 and 290/00217/14

Veerma Ram s/o Shri Hairaj Ram Chaudhary, aged about 59 years, b/c Jat, r/o Vill+ Po-Rawatsar, District Barmer (Office Address:- Working as Postman at Post Office Barmer)

.....Applicant

By Advocate: Mr S.P.Singh

Versus

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

2. The Chief Post Master General, Rajasthan Circle, Jaipur

3. The Director, Post Master General, Western Region, Jodhpur

4. Superintendent of Post Offices, Barmer Division, Barmer.

.....Respondents

By Advocate : Ms K. Parveen.

ORDER (Oral)

Per Justice K.C. Joshi, Member (J)

All the three OAs bearing Nos. 184/2013, 348/2013 and 568/2013 are being decided by this common order because in all these OAs the common question involved is whether the employees of the Postal Department when they initially entered on the post of Mailguard or Group 'D" servant and were further selected on the various higher posts of Sorting Assistant/Postal Assistant/Postman were entitled to get the benefit of 3rd MACP scheme on completion of 30 years of service.

2. We have considered Misc. Application Nos. 86/2013 in OA No.184/2013 and 351/2013 in OA No.568/2013 for condonation of delay in filing the OAs. In our opinion, to decide any case on merit always advances the cause of justice and rather to decide such an application on technical grounds of delay, it would be better to decide the case on merit. Therefore, in view of facts narrated in the application, we are allowing the applications for condonation of delay.

3. In OA No.184/2013, the applicant was initially appointed as Group 'D' employee and later on selected to the post of Postal Assistant and appointed as such on 28.8.1978. After completion of 16 years' service, he was granted upgradation under TBOP from the entry grade as in the same cadre of Postal Assistant. Thereafter respondents awarded benefit under BCR on 1.1.2005 and third financial upgradation on completion of 30 years of service, but vide

Memo dated 30.01.2012, the applicant has been deprived the grade pay of Rs. 4600/- as the 3rd MACP granted in the same cadre is withdrawn.

3. Applicant in OA No.348/2013 was initially appointed as Mailguard and after selection to the post of Sorting Assistant, he was appointed on 15.6.1982. The applicant has completed 16 years of service in Postal Assistant cadre and got benefit of upgradation under TBOP and BCR on completion of 26 years service, but the benefit of BCR was withdrawn. The respondents withdrew MACP-II and granted MACP-III and, therefore, deprived the grade pay of Rs. 4600/- despite rendering more than 30 years of service.

In OA No.568/2013, applicant was appointed as Group-D employee. He appeared in the selection for the post of Postman and declared successful. The respondents granted benefit of second MACP on completion of 20 years of service in the same cadre and counted service from entry grade as Postman. Subsequently, the respondents withdrew the benefit of second MACP for the reason of counting the service of Group-D which was not in the same cadre.

5. By way of filing reply to OAs, the respondents have denied the right of the applicants. The respondents have submitted that the applicants have availed the benefit of three financial upgradation from their entry grade, but due to wrong interpretation of the provisions by

the competent authority, the applicants were granted 3rd financial upgradation, which was rightly withdrawn by the respondents.

6. Heard both the parties. Counsel for the applicants contended the matter is no longer res-integra and the same has been decided vide order dated 13.9.2012 by this Tribunal in a similar controversy that arose in OA No.137/2012, 361/2012, 362/2012, 20/2012, 21/2012, 22/2012, 29/2012, 210/2011, 211/2011, 408/2011 and 294/2012, wherein while interpreting various provisions of the rules, the third MACP granted to the similarly situated persons has been held to be legal and the order of withdrawal of the third MACP has been quashed. Counsel for the applicants further contended that in another similar controversy in OA No. 82/2012 and other similar matters vide order dated 9.5.2013 this Bench has also followed the ratio decided vide earlier order dated 13.9.2012. Counsel for the applicants has also relied upon a recent judgment dated 5.8.2014 of the Division Bench of Hon'ble Delhi High Court, whereby the same view has been taken by the Hon'ble Division Bench.

7. Per contra, counsel for the respondents vehemently defended the impugned orders and reiterated the views and stand taken in the replies.

8. We have considered the record and also the orders/judgments dated 13.9.2012 and 9.5.2013 of this Bench as also the judgment of the Division Bench of Hon'ble Delhi High Court cited by the counsel for

the applicants. Since the issue has already been settled by this Tribunal vide earlier orders, as cited supra, and the matter in issue being the same, therefore, we are allowing all these OAs in the light of the judgment dated 9th May, 2013 passed in OA Nos. 82, 299, 301, 319, 320, 329, 453, 454, 455 of 2012 and OA Nos. 35 and 92 of 2013 and in the light of the judgment of the Division Bench of Delhi High Court dated 5.8.2014 in WP (C) 4131/2014 and accordingly while allowing the OAs quash the impugned orders whereby the upgradation of 3rd MACP was withdrawn, qua the applicants.

9. In view of the order passed in the OAs, no order is required to be passed in MA Nos. 290/00157/14 and 290/00217/2014 for deleting respondent No.1 from the array of respondents and these are disposed of accordingly.

10. All the OAs stand disposed of accordingly with no order as to costs.

[Meenakshi Hooja]
Administrative Member

[Justice K.C.Joshi]
Judicial Member

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CERTIFIED TRUE COPY
Dated 15/10/2014
Section Officer (Judl.)
Central Administrative Tribunal
Jodhpur Bench, Jodhpur

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