

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 463 of 2011

wednesday, this the 13th day of March, 2013

CORAM:

Hon'ble Mr. Justice P.R. Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

1. M.S. Jose, S/o. M.C. Simon,
 (Senior Travelling Inspector of Accounts,
 Southern Railway, Ernakulam),
 Residing at Kavanal House,
 Sachivothamapuram PO, Kottayam.
2. Gigy Kuriakose, S/o. K.C. Kuriakose,
 (Senior Travelling Inspector of Accounts,
 Southern Railway, Alwaye),
 Kallaiparambil House, Nellikuzhi PO,
 Kothamangalam, Ernakulam-686 691.

..... **Applicants**

(By Advocate – Mr. M.P. Varkey)

V e r s u s

1. Union of India, represented by General Manager,
 Southern Railway, Chennai-600 003.
2. Financial Advisor & Chief Accounts Officer,
 Southern Railway, Chennai-600 003.

..... **Respondents**

(By Advocate – Mr. K.M. Anthru)

This application having been heard on 27.02.2013, the Tribunal on

13-03-13 delivered the following:

ORDER

By Hon'ble Mr. K. George Joseph, Administrative Member-

The applicants who joined as Clerk Grade-I in the Accounts Department of Southern Railway were promoted as Accounts Assistant in the scale of Rs. 1400-2600/- in the year 1987. They were posted as an Officiating



Stock Verifier in the same scale of pay for a short period of less than one month. They were promoted as Travelling Inspector of Accounts in the pay scale of Rs. 1640-2900/- in the year 1990. Having got two promotions they were not eligible for any financial upgradation under the ACP scheme of 1999 but with the introduction of MACP Scheme with effect from 1.9.2008 they were eligible for the 3rd financial upgradation but the same was denied on the ground that their posting as Stock Verifier was a promotion. Their representations for the 3rd financial upgradation were of no avail. Aggrieved they have filed this Original Application for the following reliefs:-

- “a) Declare that Annexure A-3 order is unjust, illegal, opposed to Annexure A-1 MACPS and without jurisdiction and; quash the same.
- b) Declare that the applicants are entitled to the 3rd financial upgradation under MACPS with effect from 1.9.2008, will all consequential benefits and; direct the respondents accordingly.
- c) Award cost of and incidental to this application.
- d) Pass such other orders or directions as deemed just fit and necessary in the facts and circumstances of the case.”

2. The applicants submitted that as they earned two promotions before completion of 20 years of service they are eligible for 3rd financial upgradation with effect from 1.9.2008 as per illustration in paragraph 28-B of MACP Scheme as they have completed more than 10 years service continuously in the same grade pay. Two similarly placed persons were given the 3rd financial upgradation. The posting of the applicants as Stock Verifier was not a promotion as there was no consequential increase in their pay, hence, cannot be set off against MACPS.

3. The respondents in their reply statement submitted that merely because the scale of pay of Accounts Assistant and that of Stock Verifier happened to



be the same it cannot be stated that posting of Stock Verifier is not promotion. It was stated in Annexure R1 letter dated 29.10.2010 that promotion earned in the post carrying same grade pay in the promotional hierarchy as per recruitment rules shall be counted for the purpose of MACPS. In the light of the above the applicants are not eligible for financial upgradation under the MACP Scheme as they have already earned three promotions. Upgradation granted under MACP Scheme to two employees cited by the applicants were due to a bonafide mistake which was already withdrawn.

4. In the rejoinder statement the applicants submitted that all promotions earned/upgradations granted under the ACP scheme in the past to those grades which now carry the same grade pay shall be ignored for granting financial upgradation under the MACP Scheme, as per paragraph 5 of the Scheme. Therefore, the alleged promotion of the applicants as Stock Verifier in Rs. 1400-2600/- has to be ignored. Paragraph 8 of Annexure A1 MACP scheme read with paragraph 8(1) thereunder deal with the posts carrying the same grade pay. This unique position is available in respect of the grade pay of Rs. 5400/- only. Paragraphs 8 & 8.1 cannot be applied to the case of the applicant who are coming under paragraph 5.

5. We have heard the learned counsel for the parties and perused the records.

6. The respondents have denied the 3rd financial upgradation to the



applicants on the ground that they were promoted as Stock Verifier in the pay scale of Rs. 1400-2600/- in the year 1990 and further promoted in the same scale as Travelling Inspector of Accounts in the same unit. They rely on the Annexure R1 letter according to which promotions earned in the post carrying same grade pay in the promotional hierarchy as per recruitment rules shall be counted for the purpose of MACPS. But the respondents have misread the MACP Scheme. Paragraph 5 of the MACP Scheme reads as under:-

“5. Promotions earned/upgradations granted under the ACP scheme in the past to those grades which now carry the same Grade Pay due to merger of pay scales/upgradations of posts recommended by the Sixth Pay Commission shall be ignored for the purpose of granting upgradations under Modified ACPS.”

6.1. The pay scales of Accounts Assistant and the Stock Verifier were same as Rs. 1400-2600/-. It was revised to Rs. 5000-8000/- as per the recommendations of the 5th Pay Commission. The pay scale of Rs. 5000-8000/- was given the common pay band of Rs. 9300-34800/- with grade pay of Rs. 4200/- in PB-2. Hence, even if the posting of the applicants as Stock Verifier is treated as promotion, the promotions earned by the applicants as Accounts Assistant and Stock Verifier are to be ignored for the purpose of granting financial upgradation under MACPS as per paragraph 5 of the scheme. The respondents have misread paragraphs 8 & 8.1. Paragraphs 8 & 8.1 are also reproduced hereunder:-

“8. Promotions earned in the post carrying same Grade Pay in the promotional hierarchy as per Recruitment Rules shall be counted for the purpose of MACPs.

8.1 Consequent upon the implementation of Sixth CPC's recommendations, Grade Pay of Rs. 5400 is now in two Pay Bands viz., PB-2 and PB-3. The Grade Pay of Rs. 5400 in PB-2 and Rs. 5400 in PB-3 shall be treated as separate Grade Pays for the purpose of grant of upgradations under MACPS.”

6.2. Rs. 15600-39100/- in PB-3 with grade pay of Rs. 5400/- is the promotional post in the hierarchy of PB-2 of Rs. 9300-34800/- with grade pay of Rs. 5400/-. Paragraph 8.1 is the illustration of paragraph 8. There is no other grade pay which is common to two pay bands. Therefore, paragraphs 8 and 8.1 will not be applicable to the case of the applicants. The illustration in paragraph 28-B of the MACP Scheme makes it clear that the applicants are eligible for financial upgradation with effect from 1.9.2008 when the MACP Scheme was made operational. Therefore, the applicants are entitled to the 3rd financial upgradation under the MACP Scheme with effect from 1.9.2008 with all consequential benefits. Accordingly it is ordered as under:-

Annexure A3 order dated 7.3.2011 is quashed. The respondents are directed to grant the 3rd financial upgradation under the MACP Scheme with effect from 1.9.2008 with all consequential benefits to the applicants within a period of two months from the date of receipt of a copy of this order.

7. The Original Application stands allowed as above. No order as to costs.


(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER


(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

“SA”