

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Applicaton No.79/2013

Wednesday this the 5th day of August 2015

C O R A M :

HON'BLE Mr.JUSTICE N.K.BALAKRISHNAN, JUDICIAL MEMBER
HON'BLE Mrs.P.GOPINATH, ADMINISTRATIVE MEMBER

P.M.Mathew,
Sub Postmaster,
Sreekaryam, Thiruvananthapuram – 695 017.
Residing at Parapatt, SRA 73, Anchumukku,
Muttada P.O., Thiruvananthapuram – 695 025.Applicant

(By Advocate Mr.Vishnu S Chempazhanthiyil)

V e r s u s

1. The Senior Superintendent of Post Offices,
Thiruvananthapuram North Postal Division,
Thiruvananthapuram – 695 001.
2. The Chief Postmaster General,
Kerala Circle, Thiruvananthapuram – 695 033.
3. Union of India
represented by its Secretary and Director General,
Department of Posts, Dak Bhavan,
New Delhi – 110 001.Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC)

This application having been heard on 24th July 2015 this Tribunal
on 5th August 2015 delivered the following :

O R D E R

HON'BLE Mrs.P.GOPINATH, ADMINISTRATIVE MEMBER

The applicant is presently working as Sub Postmaster at Sreekaryam Post Office. He was initially appointed as a Reserve Trained Pool (RTP for short) Postal Assistant on 12.9.1982. While he was posted as a Postal



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Assistant (RTP) on ad hoc basis he was deputed to APS and granted appointment as a Warrant Officer in Regular Army from 24th December, 1986. While working so in the Army he was appointed as a Postal Assistant on a regular basis with effect from 28.9.1989. He was discharged from Army on 23rd September 1992 and joined back as a Postal Assistant in the Postal Department. The applicant states that he was enrolled in the regular establishment of Army as Warrant Officer and he was a regular employee of the Army Postal Service getting all the admissible service benefits of a regular Warrant Officer of the Army. The applicant was granted Time Bound One Promotion (TBOP for short) as well as Modified Assured Career Progression – II (MACP for short) under the MACP Scheme.

2. The issue of counting regular service under Army Postal Service towards qualifying service for granting TBOP arose for consideration before the Tribunal in O.A.No.708/2008 which was filed by similarly situated RTP Postal Assistants, appointed as Postal Assistants and thereafter deputed to serve in APS and who were regularised as Postal Assistants while serving in APS. The O.A was allowed by the Tribunal on 8.10.2009 declaring that service rendered in Army Postal Service can be counted for the purpose of placement under TBOP.

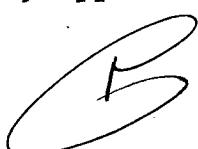
3. The applicant was granted MACP – II on completion of 20 years in the grade of Postal Assistant with effect from 1.9.2008. While granting benefits under MACP – II, the service rendered in APS from 24th December



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1986 was also taken into account. The applicant is now issued with a notice proposing to cancel the said grant of MACP – II taking into account service rendered in APS. Though the applicant has represented against the same, orders are now being passed cancelling the grant of MACP – II effective from 1.9.2008 (Annexure A-8). As an interim order this Tribunal had stayed the recovery on the basis of the impugned order.

4. The applicant states that the Government of India, Ministry of Personnel, Public Grievances & Pension (Department of Postal & Training) issued O.M.No.35034/3/2008 – Estt. Dated 19.5.2009 introducing MACP Scheme providing for three financial upgradation on completion of 10, 20 and 30 years of continuous regular service with effect from 1.9.2008. The MACP Scheme provides that 'regular service' for the purpose of MACPS shall commence from the date of joining in a post in the direct entry grade on a regular basis either on direct recruitment basis or on absorption/re-employment basis. Service rendered on ad hoc/contract basis before regular appointment or pre-appointment training shall not be reckoned. However, past continuous regular service in another Government Department in a post carrying same grade pay prior to the regular appointment in a new department, without a break, shall also be counted towards qualifying regular service for the purpose of MACPS. The applicant's regular service under the regular establishment of Army as Warrant Officer was a post carrying same grade pay as the post of Postal Assistant to which he was regularly appointed by the Department of Post while serving in APS.

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Under these circumstances the applicant filed this O.A seeking the following reliefs :

1. Call for the records leading to the issue of Annexures A-4, A-5, A-6 and A-8 and set aside Annexures A-4, A-5, A-6 and A-8.
2. Declare that Annexure A-2 granting MACP – II to the applicant w.e.f 1.9.2008 under Annexure A-3 scheme is legal and valid and cancelling the same and modifying Annexure A-2 vide Annexure A-8 is patently illegal and arbitrary.
3. Any other further relief or order as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice.
4. Award the cost of these proceedings to the applicant.

5. Respondent in the reply state that the scheme of Reserve Trained Pool for candidates in the cadre of Postal Assistants and Sorting Assistants was introduced in the year 1980 with a view to ensure smooth flow of work in operative offices. As per this scheme the Reserve Trained Pool candidates were recruited as a stand by, over and above the vacancies announced at the time of recruitment, hence these surplus recruited candidates were to be given priority of absorption against vacancies for subsequent recruitment. Thus, the candidates in the reserve list constituted a standing pool of trained reserve, who were to be eventually absorbed as regular employees as and when vacancies arise. They further state that the applicant was initially selected as RTP candidate in Pathanamthitta Division and was given regular appointment in the Department subsequently as and when regular vacancy arose. Before he was given appointment in the Department of Posts against regular vacancy, the applicant had volunteered for being deputed to the Army Postal Service to work as Warrant Officer.



6. The MACP Scheme was introduced in the Department of Posts vide Annexure A-3 Office Memorandum dated 18.9.2009. According to this Scheme, employees who have completed regular service of 10/20/30 years reckoned from their date of entry in the initial grade are eligible for placement in the immediate next higher grade pay in the hierarchy of revised Pay Bands and Grade Pay as given in Section 1 of Part A of the First Schedule of the Central Civil Services (Revised Pay) Rules, 2008. Paragraph (9) of Annexure I to the Annexure A-3 order for implementation of MACPS provides that "regular service" for the purpose of MACPS shall commence from the date of joining of a post in the direct entry grade on a regular basis either on direct recruitment basis or on absorption/re-employment basis. It further lays down that service rendered on adhoc/contract basis before regular appointment or pre-appointment training shall not be reckoned for the purpose of grant of financial up gradation under the MACP. As per Annexure A-6 Postal Directorate letter dated 12.4.2012 circulated by the Senior Superintendent of Post Offices, Kottayam Division, it was clarified that although the benefit of counting adhoc service rendered in the APS by RTP personnel for the purpose of grant of financial upgradation under the earlier TBOP Scheme was allowed vide Directorate letter No.93-25/2003-SPB.II dated 21st July 2010 in compliance with the judgment dated 9.6.2006 of the Hon'ble Supreme Court of India in C.A.No.5739 of 2005 in the case of UOI v. Shri.Mathivannan wherein the Apex Court has allowed the benefit mainly due to the fact that the orders for implementation of the TBOP Scheme did not mention the



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requirement of "regular service" in para (1) of the Scheme, the benefit of counting the adhoc service rendered by the RTP candidates in APS prior to their regular appointment in the civil side as PA/SA cannot be counted for promotion, seniority and grant of MACP in view of the judgment dated 1.8.1997 of the Apex Court in C.A.No.80-123 of 1996 in the case of UOI v. K.N.Sivadas & Ors. and also the provisions contained in the Annexure A-3 orders which clearly specifies that service rendered on adhoc/contract basis before regular appointment shall not be reckoned for the purpose of grant of financial upgradation under the MACP Scheme. The applicant who belonged to the Reserve Trained Pool in the Department was given a technical promotion as PA on a purely temporary and adhoc basis and sent on deputation to the APS. The adhoc appointment given to the applicant, ignoring his seniority in the Reserve Trained Pool, was merely a technical formality to enable him to be sent on deputation to the APS.

7. We have heard the learned counsel appearing for both parties and also gone through the documents/annexures produced by the parties. The applicant was appointed as a Warrant Officer to the regular establishment of Army Postal Service on 24.12.1986 by a Presidential Order and he was in receipt of all the admissible service benefits of the post he held on a regular basis till he was regularized as a Postal Assistant on 28.9.1989. He was discharged from the Army Postal Service on 23.9.1992 and joined back as Postal Assistant in the Postal Department. Thus he qualifies the MACP provision of regular service as there was no break in service between

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service as a Warrant Officer in APS and Postal Assistant in Department of Posts. He was not holding the post of Warrant Officer on adhoc or contract basis before his regular appointment as a Postal Assistant. The MACP II is, therefore, admissible to the applicant. The O.A is allowed with no order as to costs.

(Dated this the 7th day of August 2015)



P.GOPINATH
ADMINISTRATIVE MEMBER



JUSTICE N.K.BALAKRISHNAN
JUDICIAL MEMBER

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CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Contempt Petition No. 180/00061/2017
in
Original Application No. 79 of 2013

Friday, this the 21st day of July, 2017

CORAM:

Hon'ble Mr. U. Sarathchandran, Judicial Member

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member

P.M. Mathew, Sub Post Master, Sreekaryam,
 Thiruvananthapuram – 695 017, Residing at
 Parappatt SRA-73, Anchumukku, Muttada PO,
 Thiruvananthapuram – 695 025.

..... **Petitioner**

(By Advocate : Mr. Vishnu S. Chempazhanthiyil)

V e r s u s

1. Mohandas, (age and father's name not known to the petitioner),
 The Senior Superintendent of Post Offices, Thiruvananthapuram
 North Postal Division, Thiruvananthapuram – 695 001.
2. Anjali Anand, (age and father's name not known to the petitioner),
 Chief Postmaster General, Kerala Circle, Thiruvananthapuram-
 695 033.
3. Anantha Narayana Nanda, (age and father's name not known to the
 petitioner), The Secretary & Director General, Department of Post,
 Dak Bhavan, New Delhi – 110 001. **Respondents**

(By Advocate : Mr. N. Anilkumar, Sr. PCGC ®)

This contempt petition having been heard on 21.07.2017, the Tribunal
 on the same day delivered the following:

O R D E R (Oral)

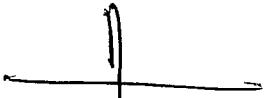
Per Hon'ble Mr. U. Sarathchandran, Judicial Member -

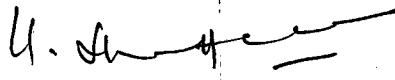
Learned counsel for the petitioner submitted that the contempt petition
 can be closed as the financial upgradation has been restored to the petitioner



with consequential benefits. Accordingly the contempt petition is closed.

Notice discharged.


(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER


(U. SARATHCHANDRAN)
JUDICIAL MEMBER

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