

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 339 of 2013

Tuesday, this the 11th day of February, 2014

CORAM:

**HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER
HON'BLE Dr. K.B. SURESH, JUDICIAL MEMBER**

**Veena Sulochanan,
Senior Commercial Clerk,
Angamaly Railway Station,
Angamaly, Ernakulam District**

... Applicant.

(By Advocate Mr. C S G Nair)

v e r s u s

**1. Union of India represented by
The General Manager,
Southern Railway, Chennai – 400 003**

**2. Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Thiruvananthapuram : 695 001**

**3. Senior Divisional Finance Manager,
Southern Railway, Trivandrum Division,
Thiruvananthapuram : 695 001**

... Respondents.

(By Advocate Mr. Thomas Mathew Nellimoottil)

This O.A having been heard on 11.02.2014, the Tribunal on the same day delivered the following:

ORDER

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

According to the applicant, she joined the service as Commercial Clerk on 24.02.1992. She was granted the 1st financial upgradation under the ACP Scheme with effect from 10.05.2004 instead of 24.02.2004. She was promoted as Senior Commercial Clerk in the year 2009. The applicant was

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not granted the 2nd financial upgradation under the MACP Scheme as on 24.02.2012 on completion of 20 years of service. Her representations did not yield any result. Aggrieved, the applicant has filed this O.A on 10.04.2013 for the following reliefs:

- (i) To declare that the applicant is entitled for 2nd financial upgradation under MACP Scheme with effect from 24.02.2012 in PB2 with grade pay of Rs. 4200/-;
- (ii) To direct the respondents to grant 2nd financial upgradation to the applicant with effect from 24.02.2012 in PB2 with grade pay of Rs. 4200/- with all consequential benefits including arrears of pay and allowances within a stipulated period;
- (iii) To direct the respondents to pay interest @ 12% per annum for the delayed payment of 2nd financial upgradation under MACP Scheme;
- (iv) Grant such other relief or reliefs that may be prayed for or that are found to be just and proper in the nature and circumstances of the case;
- (v) Grant cost of this O.A.

2: During the pendency of this O.A, vide order dated 29.08.2013, the 2nd financial upgradation to the grade pay of Rs. 4200/- with effect from 10.05.2012 and consequent fixation of pay has been issued. Hence what remains for determination in this case is whether the applicant is entitled to get the 2nd financial upgradation under the MACP Scheme with effect from 24.02.2012 or not.

3: The parties were heard and documents perused.

4: According to the respondents, the applicant joined the post of Commercial Clerk on 10.05.1992 after undergoing training prescribed for the

post which commenced from 24.02.1992. This training period, which is pre-appointment in nature, shall not count as regular service for the purpose of grant of financial upgradation under the ACP Scheme. The applicant had accepted the 1st financial upgradation granted with effect from 10.05.2004. On the contrary, the applicant submits that the fact that she did not challenge the grant of 1st financial upgradation under the ACP Scheme with effect from 10.05.2004 instead of 24.02.2004, does not mean that she had forfeited her right. Date of joining is the criteria for counting service. Training is imparted after joining service, which is a part of service. This training period is counted as service for all purposes. The applicant was granted annual increments based on the date of joining service. Therefore, she is entitled for the 2nd financial upgradation under the MACP Scheme with effect from 24.02.2012.

5. The contention of the applicant that she was granted annual increments based on the date of joining service, i.e. 24.02.1992, has some merit. Neither the applicant nor the respondents had produced the order of appointment based on which she joined duty on 24.02.1992 or the order deputing her for the training. If the applicant was deputed for training after joining service and if she was paid salary of the Commercial Clerk from 24.02.1992 onwards, her service from that day is to be counted as regular service for the purpose of granting the 2nd financial upgradation under the MACP Scheme.

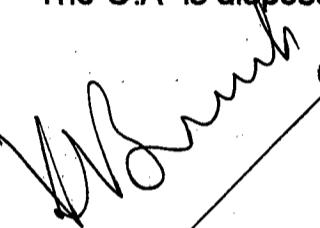
6. In the peculiar facts and circumstances of the case, we are of the considered view that ends of justice would be met if the 2nd financial upgradation under the MACP Scheme is granted to the applicant with effect from 24.02.2012 if she was paid the salary of the post of Commercial Clerk



with effect from 24.02.1992 instead of stipend during the period of training. The respondents are directed to verify whether the applicant has been paid salary of the Commercial Clerk with effect from 24.02.1992 and if so, she should be granted the 2nd financial upgradation under the MACP Scheme with effect from 24.02.2012, within a period of two months from the date of receipt of a copy of this order.

7. The O.A is disposed of as above with no order as to costs.

(Dated, the 11th February, 2014)


(Dr. K B SURESH)
JUDICIAL MEMBER


(K. GEORGE GOSEPH)
ADMINISTRATIVE MEMBER

CVR.