

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No.39/2012

*Tuesday*..... this the <sup>12<sup>th</sup></sup>.....day of February 2013.

CORAM

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER  
HON'BLE Ms. K.NOORJEHAN, ADMINISTRATIVE MEMBER

Jiju Varghese  
Son of P.L.Varghese  
Commercial Clerk, Southern Railway  
Mavelikara.  
Residing at Chirackumel Puthenveedu  
Kadappa, Mynagappally PO  
Kollam-690519.

Applicant

[By advocate: Mr.M.P.Varkey)

Versus

1. Union of India represented by  
General Manager  
Southern Railway  
Chennai-600003
2. Senior Divisional Personnel Officer  
Southern Railway, Trivandrum Division  
Thiruvananthapuram-695014.
3. Senior Divisional Finance Manager  
Southern Railway,  
Trivandrum Division  
Thiruvananthapuram-695014

Respondents.

[By advocate: Mr.V.V.Joshy]

✓ This Original Application having been heard on 7<sup>th</sup> February 2013, this Tribunal on <sup>12<sup>th</sup></sup>.....February, 2013 delivered the following:

ORDERHON'BLE DR.K.B.S.RAJAN, JUDICIAL MEMBER

The question for consideration in this O.A. is as to whether the applicant, who, on unilateral transfer from one Railway has got his transfer to another in a lower rank would be entitled to the first financial upgradation under the Modified Assured Career Progression Scheme (MACPS, for short). The case also involves whether the order or clarification given by the Nodal Ministry (DOPT) would automatically apply to the Railways.

Brief facts:

2. The applicant was appointed in the Secunderabad Division of the South Central Railway on 01-09-1999 as a Commercial Clerk on compassionate ground. The pay scale attached to the said post was Rs 3200-4900. He had applied for inter Zonal Transfer to Southern Railway in 2000. While the said application was pending, he was promoted as Senior Commercial Clerk in the scale of pay of Rs 4,000-6000/- . His transfer order was approved in 2005, but the applicant was relieved in 2007 and he joined the Trivandrum Division as Commercial Clerk in the grade of Rs 3,200-4900/- on 27-03-2007. Prior to his move from South Central Railway to Southern Railways, his pay in the pay scale applicable to the post of Sr. Commercial Clerk was Rs 4,100/-. As he had to be placed in a lower pay scale, his pay was fixed at Rs 4,050/- plus 50 PP, the personal pay to be adjusted against future increments. With the introduction of the Revised Pay Rules 1997 effective from 01-01-1996, the pay of the applicant in scale of Rs 5,200-20,200 before his transfer was Rs 7,750 plus G.P. Of Rs 2800/- and his pay after transfer in the same pay scale Rs 5,200-20,200 in the post of Commercial Clerk was Rs 7,700 plus GP of Rs 2000/-. Thus, on his posting on unilateral transfer, his pay got depleted by Rs 800/-. The applicant was also placed in the bottom seniority as per the extant rules.

3. The Railways had introduced the provisions of MACPS effective from

01-09-2008. The order reflects that the authority for the same is the DOP&T OM No. 35034/3/2008 – Estt(D) dated 19<sup>th</sup> May, 2009. According to the same, there shall be three financial upgradations under the MACPS, counted from the direct entry grade on completion of 10, 20 and 30 years of service respectively. (Past continuous regular service in another Government/Department, in a post carrying the same Grade Pay prior to regular appointment in a new Department without a break, shall also be counted towards qualifying regular service for the purposes of MACP). The benefit under the MACPS is placement in the immediate next higher Grade Pay in the hierarchy and the benefit of pay fixation available at the time of regular promotion shall also be allowed at the time of financial upgradation under the Scheme. Thus, the pay shall be raised by 3% of the total pay in the Pay Band and the Grade Pay drawn before such upgradation in addition to the higher Grade Pay. There shall, however, be no further fixation of pay at the time of regular promotion if it is in the same Grade Pay as granted under the MACPS. If there be difference in Grade pay for the promotional post, then only the difference of Grade Pay would be available at the time of pay fixation on promotion.

4. In case, an employee after getting promotion/ACP seeks unilateral transfer on a lower post or lower scale, he will be entitled only for the second and third financial upgradation on completion of 20/30 years of regular service under the MACPS, as the case may be, from the date of his initial appointment to the post in the new organization. (clause 24 of the Scheme)

5. Later on, vide RBE No. 188 of 2010 (dated 28-12-2010) at Annexure A-4, it has been held -

*"..... in case of transfer including 'unilateral transfer on request, regular service rendered in previous organization/office shall be counted along with the regular service in the new organization/office for the purpose of getting financial upgradation under the MACPs. "*

6. The above provision had been introduced in the Railways on the basis of the order of the Nodal Ministry (DOPT) vide O.M. Dated 01-11-2010 filed as Annexure MA-1 by the applicant.

7. In yet another OM dated 04-10-2012, vide Annexure MA-2 filed by the applicant, the DOPT has stated -

*"..... It is now further clarified that wherever an official, in accordance with terms and conditions of transfer on own volition to a lower post is reverted to lower Post/Grade from the promoted Post/Grade before being relieved for the new organization/office, such past promotion in the previous organization/office will be ignored for the purpose of MACPS in the new organization/office"*

8. Just as the DOPT's order of 19<sup>th</sup> May 2009 and 01-11-2010 have been adopted by the Railways, the above order has not so far been adopted.

9. The applicant's grievance is that he had applied for first financial upgradation under the MACPS on completion of 10 years of service as on 01-09-2009 but the same has been rejected quoting para 24 of the MACP Scheme extracted above. Annexure A-2 refers. It is against this order that the applicant has filed this OA. The relief sought is as under:-

1. *"Declare that the Annexure A-2 letter is unjust, illegal and opposed to para 24 of MACPS and Annexure A-4 clarification on the said para 24 and quash A-2.*
2. *Declare that the applicant is entitled to the first financial upgradation under MACPS with effect from 1.9.2009 with all attendant benefits and direct the respondents accordingly.*
3. *Pass such other orders or directions as deemed just fit and necessary in the facts and circumstances of the case."*


10. Respondents have contested the OA. They have maintained vide para 7 of their reply that paragraph 24 categorically says that such employees would be entitled only for the 2<sup>nd</sup> and 3<sup>rd</sup> financial upgradation on completion of 20/30 years of regular service from the date of initial appointment. Accordingly the applicant would be entitled to the second and third MACP after completion respectively of 20 and 30 years.

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11. In his rejoinder, the applicant maintained that the promotion he was afforded could be enjoyed by him just for 18 months and against that he cannot be made to suffer for 10 years. Reference has also been made to the order in OA No. 809 of 2005 providing for MACP benefits to inter-divisional transfers which have been upheld by the High Court in W.P. (C) No. 34884 of 2007(S). This order was passed after holding that the same is the position under the MACP Scheme also since para 24 thereof stands modified by RBE No. 188 of 2010.

12. Respondents have reiterated their contention as in the counter and added that in so far as OA No. 805 of 2005 is concerned, Railways have proposed to seek review of the same and hence the same be not relied upon.

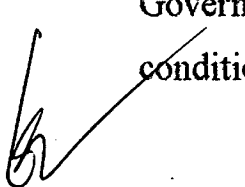
13. Counsel for the applicant argued that the applicant got his promotion in 2005 while he had applied for his inter-zonal transfer in 2000. His inter-zonal transfer materialized only in 2007 (within 18 months of his promotion) and on his joining the post of Commercial Clerk, he has been placed in the grade pay of Rs 2000 which is less than that of the grade pay admissible for Senior Commercial Clerk by Rs 800/-. His claim now is for MACP which would take him to the next higher grade pay of Rs 2,400/- as against his higher grade pay meant for the post of Senior Commercial Clerk (i.e. Rs 2800). The counsel further argued that it is imperative on the part of the Railways to immediately issue corresponding orders to the DOPT order dated 4<sup>th</sup> October, 2012, as otherwise, it would be discriminatory compared to other individuals. The counsel further submitted that his pay fixation was made at the time of his promotion in 2005 and on his having moved to Trivandrum Division, his pay had no doubt been protected but with the rider that the personal pay of Rs 50/- was to be adjusted in the future increments. That means that for the subsequent year his actual increment would be less by Rs 50/-. The increased pay at the time of promotion and the pay protection are all as per the statutory provisions and



thus, his statutory right cannot be taken away and thus, the entitlement of the applicant to MACP cannot wipe out this right of the applicant. Rule 1313 of the IREM also has been referred to by the applicant. Thus, the applicant is entitled to the benefit of the first MACP which would be one increment in the pay coupled with grant of higher Grade Pay.

14. Counsel for the respondents on the other hand submitted that the provisions contained in DOPT would not ipso facto be applicable to the Railway employees. It is only when the Railways extend the same to the Railway servants by passing an independent order, albeit, the authority for the same is the earlier DOPT orders, it would be applicable. Thus, when initially the ACP was introduced, the same had been introduced in the Railways by way of a separate order. So is the case with reference to modifications to the scheme. Thus, when certain modification had taken place in the DOPT instructions, vide Annexure MA-1 dated 01-11-2010, it was after issue of Annexure A-IV by the Railways only that the said provisions were extended to all the Railway Servants. Provisions of MA 2 dated 04-10-2012 which ignore the promotion granted to a person prior to unilateral transfer from higher to a lower post dilute the provisions of Clause 24 of the main MACP Scheme. The said provisions would only when extended to the Railways by a separate order, apply to the Railway servants. Till then, the provisions of clause 24 would continue to apply, according to which the applicant is not entitled to the first financial upgradation. The counsel further argued that the applicant is already enjoying the pay protection which he earned on his promotion as Senior Commercial Clerk, though his pay scale and grade pay may not be the same.

15. Arguments were heard and documents perused. The both ACP Scheme and the present MACP Scheme are welfare measures introduced by the Government/Railways and are financial upgradations, subject to certain conditions, granted to the employees who are stagnating in the same post



without any promotion. For a person who is in the same Division, and who slogs in the same post, when the provisions of the Scheme are applied, the same poses no problem. However, when a person of his own volition gets a unilateral transfer from higher to a lower post, he has to pay certain price for the advantage of being posted to a choice station, i.e. loss of seniority gained while in the earlier Division. This is to ensure that the seniority position of others who are already in the transferred Division do not get affected. The person so transferred, however, gets his pay protected. This again is to ensure that his right to draw the same pay is protected when he joins the lower post on transfer, if need be by providing for personal pay, which gets adjusted in the subsequent increment. Counsel for the applicant submitted that this higher pay which he got on application of Rule 1313 of the IREM is a statutory right and cannot be diluted when considering the grant of MACP. Thus, if his pay in 2009 is at a particular stage, he is entitled to MACP as per the Scheme by grant of one increment and grant of higher grade pay. Here exactly would arise the anomaly vis-a-vis those who are borne the same division right from the beginning. The same is explained as hereunder:-

16. The initial date of appointment of the applicant as Commercial Clerk is 01-09-1999 in South Central Railway. If on the same day another one was appointed in the present Trivandrum Division and if he continues to be as Commercial Clerk, his pay would certainly be less than that of the applicant, who enjoys the pay protection as stated above. When the applicant joined the Trivandrum Division, he has to take the bottom most seniority. At the same time he is getting a higher pay than this individual. As on 01-09-2009, when MACP is granted to both, if the same is granted as is normally granted (one increment plus the next higher Grade Pay), the senior (person in the same Division) would be getting less than the applicant. Thus, there would be an anomaly. To remove the same, all that could be held is that when a person gets so transferred from one Division to another, while working the MACP, he should be treated as having been recruited in the very same Division and his

pay has to be worked out. In other words, his pay would be at par with the other individual who had been inducted on the same date as Commercial Clerk in the present Division. If the same is less than that which the applicant is now drawing, the latter could be retained as a part of pay protection. He cannot, however, be granted one more increment at the time of MACP as otherwise, there would be double benefit to the applicant inasmuch as, in addition to the increment drawn by him at the time of pay fixation on his promotion, he would have to be paid another increment as per MACP scheme. This is an unintended benefit. **Thus, the entitlement of the applicant would be only difference in grade pay and no increment otherwise available on grant of financial upgradation under MACP would be available in such case.** Hence, the applicant is entitled to higher Grade Pay of Rs 2,400/- and would retain the pay he was drawing as on 01-09-2009. This is however, applicable if the argument of the respondents is addressed and decided against them.

17. Coming to the argument of the respondents, their contention is that for extending the provisions of DOPT order dated 04-10-2012, a separate order of the Railways is required. This contention has to be negated for twin reasons:-

- (a) True, all orders of the DOPT are extended to the Railways by a separate order. However, clarification when granted by the DOPT, the same could be extended to the Railways even without such separate order. For, the authority for issue of orders on MACP by the railways is the scheme dated 19-05-2009 of the DOPT. The very same scheme provides for clarification to be given only by the Central Government. Thus, once the Railways have adopted the provisions of MACP Scheme as introduced through the DOPT, the clarification given by the DOPT should automatically apply as a clarification cannot but be given only by the very same source.
- (b) Again, para 24 stipulates that in case, an employee after getting promotion/ACP seeks unilateral transfer on a lower post or lower scale, he will be entitled only for the second and third financial upgradation on completion of 20/30 years of regular service under the MACPS, as the case may be, from the date of his initial appointment to the post in the new organization. If the person comes within the zone of consideration for promotion (taking into account his past service which has to be taken into account at the time of working out the requisite experience, vide the decision of the Apex Court in the case of *Renu Mullick vs Union of India (1994) 1 SCC 373*) his promotion cannot be denied on the ground that he was earlier



*promoted. Since MACP is in lieu of such promotion subject to attendant conditions, and since the applicant had not reaped the fruits of promotion on having come to the transferred Division, save pay protection, he is entitled to be considered for the first financial upgradation.*

18. In view of the above, the O.A. deserves to be allowed to the extent that it is declared that the applicant is entitled to first financial upgradation on and from 01-09-2009 under the provisions of MACPS and subject to the attendant conditions and the upgradation would be limited to the grant of higher grade pay w.e.f. 01-09-2009 (Rs 2,400/-) without any difference in the stage of pay he is placed at as on that date. He is not entitled to that part of the benefit as contained in the first sentence of para 4 of the Scheme (which stated, *Benefit of fixation available at the time of regular promotion shall also be allowed at the time of financial upgradation under the Scheme*). We order accordingly.

19. Respondents are directed to implement this order and afford the financial upgradation within a period of four months. Arrears arising out of the same be also paid to the applicant within the above mentioned period.

No costs.

  
K.NOORJEHAN  
ADMINISTRATIVE MEMBER

  
Dr K.B.S.RAJAN  
JUDICIAL MEMBER

**CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**ERNAKULAM BENCH**

**Original Application No. 39 of 2012**

FRIDAY, this the 29<sup>th</sup> day of May, 2015

**CORAM:**

**Hon'ble Mr. Justice N.K. Balakrishnan, Judicial Member**  
**Hon'ble Mr. R. Ramanujam, Administrative Member**

Jiju Varghese, Son of P.L. Varghese,  
Commercial Clerk, Southern Railway,  
Mavelikara, Residing at Chirackumel  
Puthenveedu, Kadappa, Myanagappally PO,  
Kollam – 690 519.

..... **Applicant**

**(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. Senior Divisional Personnel Officer,  
Southern Railway, Trivandrum Division,  
Thiruvananthapuram – 695 014.
3. Senior Divisional Finance Manager,  
Southern Railway, Trivandrum Division,  
Thiruvananthapuram – 695 014.

..... **Respondents**


**(By Advocate – Mr. K.M. Anthru)**

This application having been heard on 21.05.2015, the Tribunal on  
29.05.2015 delivered the following:

**ORDER**

**Hon'ble Mr. Justice N.K. Balakrishnan, Judicial Member -**

This case was earlier disposed of by this Tribunal as per order dated  
12.2.2013 declaring the applicant as entitled to 1<sup>st</sup> financial up-gradation on



and from 1.9.2009 under the provisions of MACP and subject to the attendant conditions and that upgradation would be limited to the grant of higher Grade Pay of Rs. 2,400/- with effect from 1.9.2009.


2. The respondents challenged the same before the Hon'ble High Court of Kerala by OP (CAT) No. 3336 of 2013. Along with the petition filed before the Hon'ble High Court of Kerala, a clarification issued by the respondents which was marked before that Court as Exhibit P8 was also produced. Since Exhibit P8 was issued subsequent to the order pronounced by this Tribunal and since Exhibit P8 was only clarificatory in nature the Hon'ble High Court vacated the order passed by this Tribunal restoring the Original Application and directed this Tribunal to have *de novo* consideration in accordance with law.

3. The brief facts necessary for the case can be stated as hereunder:-

3.1. The applicant entered the service as a Commercial Clerk on 1.9.1999 in South Central Railway. The pay scale attached to the said post was Rs. 3,200-4,900/-. He had applied for inter-zonal transfer to Southern Railway in 2000. That was not considered by the respondents for several years. In the meanwhile he was promoted as Senior Commercial Clerk in the scale of pay of Rs. 4000-6000/-. He was relieved in 2007 and joined the Trivandrum Division as Commercial Clerk in the grade of Rs. 3,200-4,900/- on 27.3.2007. Prior to his move from South Central Railway to Southern Railway his pay in the pay scale applicable to the post of Senior



Commercial Clerk was Rs. 4,100/-. On transfer he had to be placed in the lower pay scale and thus his pay was fixed at Rs. 4,050/- plus Rs. 50/- as personal pay which was to be adjusted against future increments. The pay was revised in terms of VIth Central Pay Commission with retrospective effect from 1.1.2006. The pay of the applicant in the scale of pay of Rs. 5,200-20,200/- before his transfer was Rs. 7,750/- plus Grade Pay of Rs. 2,800/-. His pay after transfer in the same pay scale Rs. 5,200-20,200/- of Commercial Clerk was Rs. 7,700/- plus Grade Pay of Rs. 2,000/-. The Railways had introduced the provisions of MACP with effect from 1.9.2008 as per which there shall be three financial up-gradations under the MACP on completion of 10 years, 20 years and 30 years of service respectively. Because of the transfer the applicant's pay was got reduced by Rs. 800/-, he was denied the 1<sup>st</sup> financial up-gradation under the Modified Assured Career Progression Scheme (MACP) and hence he made a representation dated 15.06.2011 but the 2<sup>nd</sup> respondent rejected the same <sup>as</sup> evidenced by Annexure A2. The willingness expressed by the applicant at the time of his relief from South Central Railway is not a bar for getting the first financial up-gradation. Hence, the applicant sought a declaration that Annexure A2 letter is unjust, illegal and opposed to paragraph 24 of MACP scheme and Annexure A4 clarification and a further declaration that he is entitled to the 1<sup>st</sup> financial upgradation under MACP with effect from 1.9.2009 with all attendant benefits.



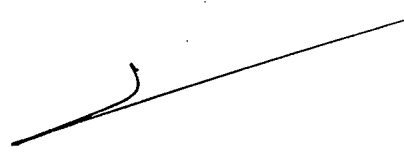
4. Respondents resisted the application contending as follows:-

4.1. The claim made by the applicant is untenable in the light of paragraph 24 of Annexures A3 and A4. On his joining the Southern Railway the pay he had received in the higher grade, namely Rs. 4,100/- was protected and his pay was fixed at Rs. 4,050/- plus Rs. 50/- as personal pay in the scale of Rs. 3,050-4,590/- On the implementation of the VI<sup>th</sup> Central Pay Commission his pay was re-fixed with effect from 1.1.2006. The plea that Annexure A2 is unjust and illegal is untenable. The applicant's claim that he is entitled to the 1<sup>st</sup> financial up-gradation with effect from 1.9.2009 is totally unsustainable.

5. In the light of the clarification, Exhibit P8, issued by the respondents the crucial question for consideration is whether the applicant is entitled to get financial upgradation as sought for by him?

6. Heard the learned counsel for the applicant Mr. M.P. Varkey and learned counsel for the respondents Mr. K.M. Anthru.

7. It is argued by the learned counsel for the applicant that since the clarification/Exhibit P8 was not issued by DOP&T it cannot be looked into at all. In this connection the learned counsel also points out paragraph 9 of the MACP scheme dated 19.5.2009 where it was specified that any interpretation/clarification of doubt as to the scope and meaning of the provisions of the scheme shall be given by the DOP&T. The authority for issue of orders on MACP by the Railways is discernible from the scheme



dated 19.5.2009 of DOP&T. The very same scheme provides for clarification if any to be given. Thus once the Railways have adopted the provisions of MACP scheme as introduced through the DOP&T the clarification given by the DOP&T automatically apply. It is also trite law that when it is only a clarification it would have retrospective effect from the date of the original order/notification/circular issued on that point which is intended to be clarified by the clarificatory notification or orders. Therefore, there can be no doubt that Exhibit P8 produced by the respondents has to be considered while deciding the issue involved in this case. The challenge against Exhibit P8 put forward by the applicant cannot thus be sustained.

The relevant portion of Exhibit P8 reads thus:-

“2(i) .....It is now further clarified that wherever an official, in accordance with terms and conditions of transfer on own volition to a lower post, is reverted to the lower Post/Grade from the promoted Post/Grade before being relieved for the new organization/office, such past promotion in the previous organization/office will be ignored for the purpose of MACP Scheme in the new organization/office. In respect of those cases where benefit of pay protection have been allowed at the time of unilateral transfer to other organization/unit and thus the employee had carried the financial benefit of promotion, the promotion earned in previous organization has to be reckoned for the purpose of MACP scheme.”


8. Paragraph 24 of Annexure A3 says that in case an employee after getting ACP seeks unilateral transfer on a lower post or a lower scale he will be entitled only for 2<sup>nd</sup> and 3<sup>rd</sup> financial up-gradation on completion of 20/30 years of regular service under the MACP. In the old OM dated 4.10.2012 vide Annexure MA-2 filed by the applicant it was clarified that wherever an

official in accordance with terms and conditions of transfer on own volition to a lower post is reverted to the lower post/grade from the promoted post/grade before being relieved for the new organization/office, such past promotion in the previous organization/office will be ignored for the purpose of MACP in the new organization/office. It is contended by the applicant that he had applied for the 1<sup>st</sup> financial up-gradation under the MACP on completion of 10 years of service as on 1.9.2009 but it was rejected quoting paragraph 24 of MACP scheme. It is also submitted by the learned counsel for the applicant that in fact this issue was examined earlier and at that point of time it was clarified as per Annexure A4 that in case of transfer including unilateral transfer on own request regular service rendered in previous organization/office shall be counted along with the regular service in the new organization/office for the purpose of getting financial upgradation under the MACP. But the learned counsel for the respondents would submit that it would not help the applicant since it is a case which would be governed by the clarification Exhibit P8 where it is specifically stated that if the employee, having been promoted, had carried the financial benefit of promotion it has to be reckoned or treated as equivalent for the purpose of MACP scheme.

9. It is vehemently argued by the learned counsel for the respondents that so far as the case on hand is concerned the applicant was promoted as Senior Clerk before he was transferred and he had enjoyed the financial



benefit of promotion and so the benefit earned in previous organization, namely South Central Railway, has to be reckoned for the purpose of MACP scheme. But it is pointed out by the learned counsel for the applicant that his pay in the transferred unit was fixed at Rs. 4,050/- plus Rs. 50/- (as personal pay) so as to equate his pay in the former unit i.e. South Central Railway. Since the applicant's pay was fixed at Rs. 4050/- + 50/- (as personal pay) in the transferred unit, it cannot be said that the pay fixed in the lower scale, in the transferred unit, would amount to the applicant carrying the financial benefit so as to deprive him of the 1st financial up-gradation which he is otherwise entitled to get with effect from 1.9.2009. Though he claimed that he is entitled to get the grade pay of Rs. 2800/- that is found to be without any merit because that up-gradation would be only in the promotion post. The applicant's grade pay in the lower time scale was Rs. 2000/-. On up-gradation under the MACP Scheme the next stage grade pay would be only Rs. 2400/- and not Rs. 2800/-. A sum of Rs. 50/- which was added to make Rs. 4100/- was only to be adjusted against future increments and so it cannot be said that the applicant should wait for another ten years to get the financial up-gradation. If only the applicant had carried the financial benefit on promotion the contention advanced by the respondents that the applicant should be denied of the financial up-gradation would have any merit. The fact that the applicant would be otherwise entitled to the financial up-gradation with effect from 1.9.2009 is





not in dispute since he joined as Commercial Clerk in the South Central Railway on 1.9.1999. Therefore, according to the applicant it is not a case where he had carried the financial benefit on promotion.

10. In the instant case the benefit if at all is only of an amount of Rs. 50/- which was ordered to be adjusted against future increment. As such the plea strenuously projected by the learned counsel for the respondents that the applicant had carried financial benefit and so he cannot be granted the financial up-gradation on completion of his ten years of service cannot be sustained. If that argument is accepted and if the applicant continues to be a Commercial Clerk he can aspire for financial up-gradation only on completion of another ten years of service. That can never be the intention of the government/authority which framed the scheme.

11. We are of the considered view that the applicant is entitled to get the first financial upgradation on and from 1.9.2009 under the provisions of MACP Scheme but subject to the fact that the up-gradation would be limited to the grant of higher Grade Pay of Rs. 2,400/-. He is entitled to the higher Grade Pay of Rs. 2,400/- as on 1.9.2009. Original Application is allowed as above. No order as to costs.



**(R. RAMANUJAM)**  
**ADMINISTRATIVE MEMBER**



**(N.K. BALAKRISHNAN)**  
**JUDICIAL MEMBER**