

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Original Application No. 200 of 2011

Reserved on 05.8.2015

Pronounced on 2nd September, 2015

**Hon'ble Mr. Navneet Kumar, Member-J
Hon'ble Ms. Jayati Chandra, Member-A**

S.S. Yadav, S/o Sri V.P. Yadav, aged about 48 years, Chief Controller, Divisional Railway Manager's office, N. Rly, Hazratganj, Lucknow.

.....Applicant

By Advocate : Sri S.M.S. Saxena

Versus.

1. Union of India through Secretary, Railway Board, Ministry of Railways, Rail Bhawan, New Delhi.
2. Chief Personnel officer, Northern Railway, Baroda House, New Delhi.
3. The DRM, NR, Hazratganj, Lucknow.
4. Sri Y.K. Gupta, S/o Sri J.D. Gupta, Chief Controller, Divisional Railway's Office, Northern Railway, Hazratganj, Lucknow.

.....Respondents.

By Advocate : Sri Rajendra Singh

Alongwith

Original Application No. 214 of 2011

P.P. Gautam, S/o late Sri J. Ram, aged about 57 years, R/o L0231 Sector L, LDA Colony, Kanpur Road, Lucknow, presently posted as Chief Controller in the office of Divisional Railway manager, Northern Railway, Hazratganj, Lucknow.

.....Applicant

By Advocate : Sri S.M.S. Saxena

Versus.

1. Union of India through Secretary, Railway Board, Ministry of Railways, Rail Bhawan, New Delhi.
2. Chief Personnel officer, Northern Railway, Baroda House, New Delhi.
3. The DRM, NR, Hazratganj, Lucknow.
4. Sri R.P. Srivastava, S/o Sri R.D. Srivastava, Chief Controller in the office of, Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.

.....Respondents.

By Advocate : Sri Rajendra Singh

Alongwith

Original Application No. 219 of 2011

D.K. Arora, S/o Sri Lachhman Dass, aged about 55 years, S/o late Harendra Prasad Verma, present working as Dy. Chief Controller in the office of Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.

.....Applicant

By Advocate : Sri S.M.S. Saxena

Versus.

1. Union of India through Secretary, Railway Board, Ministry of Railways, Rail Bhawan, New Delhi.
2. Chief Personnel officer, Northern Railway, Baroda House, New Delhi.
3. The DRM, NR, Hazratganj, Lucknow.
4. Sri Rajendra Kumar, S/o Sri S.D. Sharma, Dy. Chief Controller, Divisional Railway Manager's office, Northern Railway, Hazratganj, Lucknow.

.....Respondents

By Advocate : Sri Rajendra Singh

ORDER

Per Ms. Jayati Chandra, Member (A)

Since the facts and the relief(s) claimed in the aforesaid O.As are similar and common and as such with the consent of the parties' counsel they have been heard together and are being disposed of by a common order.

2. Through the aforesaid O.As the applicants have sought the common relief and as such the relief sought in O.A. no. 200/2011 is being quoted below:-

- (i) to fix pay of the applicant at par with his much junior respondent no.4 from the date the respondent no.4's pay was fixed and Grade Pay of Rs. 4800/- was granted and to grant financial up-gradation as the applicant has put in more than 10 years continuous service in the same grade.
- (ii) Any other relief as considered proper by this Hon'ble Tribunal be awarded in favour of the applicant.
- (iii) Cost of the application be awarded to the applicant."

3. The facts of the case (O.A. no. 200 of 2011 being leading one) are as under:-

The applicant was initially appointed on the post of TNC on 9.12.1983 in the pay scale of Rs. 260-400/- corresponding to revise pay scale of Rs. 5200-20200/- with Grade pay of Rs. 1900/-. On 9.9.1987, the applicant was promoted to the post of Sr. TNC with Grade Pay of Rs. 2400/-. He further promoted as AYM in the pre-revised pay scale of Rs. 1400-2300 (now Grade Pay of Rs. 4200/-). The applicant was again promoted to the post of SCNL on 10.8.1992 in the pre-revised pay scale of Rs. 1400-2600 (Grade Pay of Rs. 4200). On 24.10.1994, the applicant was further promoted to the post of Dy. CHC in the pays scale of Rs. 2000-3200 (Grade Pay of Rs. 4600) and lastly he was promoted as CHC on 24.2.2006 in the pay scale of Rs. 7450-11500/- (Grade Pay of Rs. 4600). The claim of the applicant is that though he has rendered more than 10 years of service in the Grade Pay of Rs. 4600/-, hence he was entitled to be given the Grade Pay of Rs. 4800/-. The applicant submitted a representation dated 14.7.2010 before the respondents followed by reminder dated 15.12.2010; hence this O.A.

4. The respondents have contested the claim of the applicant by filing a detailed Counter Reply through which they have stated that since the applicant has already earned more than five promotions from the date of entry in the service and as such the benefit of MACP is not applicable to him. As per the MACP Scheme, there are three financial up-gradation at the intervals of 10, 20 and 30 years of continuous service by taking into account the direct entry grade. They have lastly stated that since the applicant had already earned five promotions; hence he is not entitled to get the benefit flow under the MACP Scheme.

5. The applicant has filed Rejoinder Reply by reiterating the averments already made in the Original Application and denying the contentions made by the respondents in their Counter Reply.

6. We have heard the learned counsel for the parties and have also perused the pleadings available on record.

7. It is pleaded by the applicant that he is working in Pay Band-II of Rs. 9300-34800/- with Grade Pay of Rs. 4600/- for the last more than ten years and has been denied financial up-gradation. The emphasis of the applicant is that according to Railway Board's circular "financial up-gradation under the scheme, will be admissible whenever a member has spent 10 years continuously in the same Grade Pay." Since the applicant has completed 10 years of service in the Grade Pay of Rs. 4600/-, he becomes eligible for this financial up-gradation to Grade pay of Rs. 4800/-. Further his contention is that the claim of MACP lays down that promotion earned/up-gradation under ACP scheme in the posts on those grades, which now carry the same Grade Pay due to merger of pay-scale/up-gradation of posts recommended by 6th Central Pay Commission (CPC) shall be ignored for the purposes of granting Grade Pay under MACP due to non-availability of next higher post in his hierachal cadre/category. The applicant has been stagnated on the same post in the same pay scale and Grade Pay despite having put in 10 years of service in that scale. He further submits that three financial up-gradations in whole service career are minimum for those suffering due to non-existence of promotion avenues resulting in stagnation, but there is no restriction in extending 4th and 5th financial up-gradation.

8. The MACP scheme provides as follows:-

There shall be three financial up-gradations under MACP Scheme **granted from the direct entry grade** on completion of 10th, 20th and 30 years of service respectively. It clearly envisages financial up-gradation to alleviate financial hardships due to lack of timely promotion and provides for three such financial up-gradation in the entire service career to a Government employee, counting from the entry grade. The applicant has admittedly availed five regular promotions from his entry grade, which was Trains Clerk with equivalent Grade Pay of Rs. 1900/-. It is not the intent of the MACP scheme to provide financial up-gradation in such matters where an employee has already availed up-gradations of both posts and pay in the normal course. The stagnation, being referred to by the applicant at Grade Pay of Rs. 4600/-, has occurred after he has already availed more than 10 years of service.

promotions and consequent financial up-gradation. Further regular service has been defined for the purpose of MACP scheme by stating that "regular service shall commence from the date of joining of a post in direct entry grade on regular basis either on direct recruitment or by absorption/ re-employment....." The order passed by this Bench in O.A. no. 217 of 2011, which was referred to by the counsel for the respondents during the course of hearing, was also examined. In this case also, the applicant had a similar career progression as the applicant of the O.A., herein, and after joining as Trains Clerk, he got five promotions and became Deputy Chief Controller. The relief claimed by the applicant in that case and the applicant in the instant case, are also similar. It was held in the referred case that the purpose of MACP Scheme is that those employees, who do not get promotions in their service career, they will be compensated by granting three financial up-gradations on completion of 10th, 20th and 30 years of regular service. The order in O.A. no. 217 of 2011 also refers to the clarification provided in Swami Compilation on Seniority and Promotion where it is stated that if Government servant has already earned three promotions and is stagnating in one grade for more than 10 years, then he is not entitled to any further up-gradation under MACP Scheme since he has already earned five promotions.

9. In view of the rival submissions of the parties, we find that the prayer made by the applicant is untenable under the provisions of MACP scheme as the applicant has already earned five regular promotions before the issuance of the scheme.

10. In view of the above, O.As. fail and are accordingly dismissed. No order as to costs.

11. Copy of this order be placed in all the aforementioned O.As.

Murber (A)

cc -

Murber (C)

Girish/
02-9-2015
Secretary
Central Administrative Tribunal
Lucknow Bench
Lucknow
02-9-2015