

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

Original Application No. 217 of 2011

Reserved on 3.2.2015

Pronounced on 5th March, 2015

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

Afzal Masood, S/o Sri Masood Azama, aged about 42 years, Dy Chief Controller, DRM, N.Rly, Lucknow's office, R/o House no. 42 Anupam Nagar near Motijheel Colony, Lucknow .

By Advocate : Sri S.M.S. Saxena

.....Applicant

Versus.

1. Union of India through Secretary, Railway Board, Ministry of Railways, New Delhi.
2. The Chief Personnel Officer, Northern Railway, Baroda house, New Delhi.
3. The Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.

.....Respondents.

By Advocate : Sri S.P. Singh for Sri Rajendra Singh

ORDER

Per Ms. Jayati Chandra, Member (A)

In this O.A., the relief(s) has been sought in the following manner:-

- "(a) to grant financial up-gradation in terms of Assured Career Progressive Scheme read with MACP by providing Grade Pay of Rs. 4800/- in PB-2 from the date the applicant has completed 10 years service in the same grade pay in PB-2 with all consequential benefits as the applicant has put in 10 years continuous regular service on 14.11.2000 in the same Grade Pay of Rs. 4600 i.e. from 14.11.2010.*
- (b) Pay interest on the aforesaid arrears of 12% p.a. till the actual date of payment.*
- (c) Any other relief as considered proper by this Hon'ble Tribunal be awarded in favour of the applicant.*
- (d) Cost of the application be awarded to the applicant."*

2. The facts of the case are that the applicant was initially appointed as Trains Clerk on 14.5.1982. He was thereafter promoted to the post of Guard on 20.8.1992. The applicant was further promoted to the post of Section Controller on 20.2.1996

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and lastly he was promoted to the post of Deputy Chief Controller on 4.11.2000. The basis for claiming the relief was that since the applicant has completed more than 10 years service in a particular Grade Pay, then he is entitled for grant of benefit flowing under the MACP Scheme. The applicant has also taken a ground that the promotions made prior to 1.1.2006 due to merger of various grades should be ignored. Hence; this O.A.

3. The respondents have contested the claim of the applicant by filing a detailed Counter Reply through which they have stated that the applicant had already got three promotions before coming into force of MACP Scheme and as such the benefit of MACP Scheme will not be extended in the case of the applicant. They have further pleaded that as per MACP scheme, there shall be three financial up-gradation counted for direct entry grade on completion of 10, 20 and 30 years of regular service which the applicant had already earned. Since the applicant had already been granted four promotions, hence he is not entitled to get the benefit under the MACP Scheme.

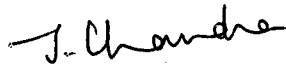
4. The applicant has filed Rejoinder reply denying the contentions made by the respondents in their Counter Reply and reiterating the averments made in the Original Application.

5. Admittedly, the applicant was initially appointed as Train Clerk on 26.7.1982. He was promoted as Sr. TNC on 20.1.1989. The applicant was further promoted to the post of SCNL/ Section Controller on 29.4.1997 and last he was promoted to the post of Dy. CHC/ Deputy Chief Controller on 4.11.2000. Though the date of promotion given to the applicant is different as mentioned by the applicant in his O.A. and in the Counter Reply filed by the respondents, but it is undisputed fact that the applicant has been given four promotions before issuance of MACP Scheme. It is worthwhile to mention here 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-gradation under the MACP scheme on completion of 10, 20 and 30 years of regular service. As per Modified ACP Scheme published in Swamy's compilation on Seniority & Promotion 16th edition 2014 page 211 to a query, it is provided that in a case where the

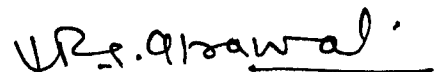
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Government servant had already earned three promotions and still stagnated in one grade for more than 10 years, whether he would be entitled for any further up-gradation under MACPS, the answer is given in negative by stating that since the Government servant has already earned three promotions, he would not be entitled for any further financial up-gradation under MACPS. The ground so taken by the applicant for merger of various grades prior to 1.1.2006 is not legally sustainable as the applicant had already earned four promotions before issuance of MACP Scheme i.e. till 2000. Since the applicant had already earned three promotions, hence he is not entitled to get the benefit of MACP Scheme.

6. In view of the above, the O.A. fails and is accordingly dismissed. No costs.



(Ms. Jayati Chandra)
Member (A)


(Navneet Kumar)
Member (J)

Girish/-