

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

11.10.2012

OA No. 698/2012

Mr. C.B. Sharma, Counsel for applicant.

Heard learned counsel for the applicant. The OA is disposed of by a separate order.

Anil Kumar
(Anil Kumar)

Member (A)

K.S.Rathore
(Justice K.S.Rathore)
Member (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 698/2012

DATE OF ORDER: 11.10.2012

CORAM

**HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER**

D.P. Gupta S/o Shri Ram Ji Lal Gupta, aged about 49 years, R/o 41, Surya Nagar, Taroon Ki Koot, Tonk Road, Jaipur, and presently working as Chief Law Assistant, North Western Zone, North Western Railway, Head Quartered Office, Jawahar Circle, Jagatpura, Jaipur.

...Applicant

Mr. C.B. Sharma, counsel for applicant.

VERSUS

1. Union of India through General Manager, North Western Zone, North Western Railway, Head Quartered Office, Jawahar Circle, Jagatpura, Jaipur.
2. Chief Personnel Officer, North Western Zone, North Western Railway, Head Quartered Office, Jawahar Circle, Jagatpura, Jaipur.

... Respondents

ORDER (ORAL)

Heard learned counsel appearing for the applicant and carefully gone through the pleadings as well as documents available on record.

2. By way of filing the present Original Application, the applicant has prayed for the following relief: -

"(i). That the respondents may be directed to treat regular service from 30.10.1998 to 07.01.2003 rendered by the applicant on the post of Law Assistant scale Rs. 6500-10500 on adhoc basis followed by regular service as regular service for all benefits by quashing



letter dated 25.07.2012 (Annexure A/1) with all consequential benefits.

- (ii) That the respondents be further directed to extend benefits treating regular service from 30.10.1998 on the post of Law Assistant with all consequential benefits.
- (iii) Any other order, direction or relief may be passed in favour of the applicants which may be deemed fit, just and proper under the facts and circumstances of the case.
- (iv) That the costs of this application may be awarded."

3. The present Original Application is directed against the order dated 25.07.2012 (Annexure A/1) whereby pursuant to his representation dated 04.07.2012, the applicant has been informed that at the present he is not entitled to get the benefit of MACP as he was regularized with effect from 08.01.2003, thus, he will be granted the benefit of MACP with effect from 08.01.2013. It was also informed to the applicant that he was promoted with effect from 28.11.1998 only on adhoc basis, in such situation; he is not eligible to get the benefit of MACP from the date of adhoc promotion. In the impugned order dated 25.07.2012 (Annexure A/1), it has also been mentioned that in OA No. 120/2010, filed by the present applicant, this Bench of the Tribunal vide order dated 02.09.2012 has held that as the applicant was regularized with effect from 08.01.2003, therefore, after completion of 10 years of regular service, he will be entitled to get the benefit of MACP.

4. We have also carefully gone through the order dated 02nd September, 2011 (Annexure A/2) passed by this Bench of the



Tribunal in OA No. 120/2010 (D.P.Gupta vs. Union of India). The relevant para 9 of order dated 02nd September, 2011 in OA No. 120/2010 (supra), which reads as follows:

"9. Having considered the MACP scheme which clearly indicates that benefit of the scheme can only be given to those persons who have completed 10 years continuous regular service in same grade pay and admittedly, the applicant was regularized w.e.f. 8.1.2003 and has not completed 10 years requisite service for the purpose of benefit under MACP scheme. Consequently, we find no merit in this OA and the OA being devoid of merit deserves to be dismissed, which is hereby dismissed with no order as to costs."

From bare perusal of the above, it is crystal clear that this Bench of the Tribunal has already held that admittedly the applicant was regularized w.e.f. 08.01.2003 and has not completed 10 years requisite service for the purpose of benefit under MACP scheme, and in view of the MACP scheme, the benefit of the scheme can only be given to the persons who have completed 10 years continuous regular service in the same grade pay.

5. As the applicant has filed the present O.A., agitating the same issue as has been agitated by the applicant in his earlier OA No. 120/2010 (supra), by challenging the order dated 25.07.2012 (Annexure A/1), which, in our considered view, has been passed by the respondents in accordance with the provision of law / rules on the subject as well as in view of the observations made vide order dated 02nd September, 2011 in OA No. 120/2010 (supra), we find no illegality in the impugned

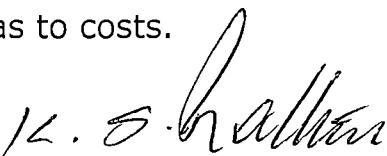


order dated 25.07.2012 (Annexure A/1). Therefore, the order dated 25.07.2012 (Annexure A/1) requires no interference whatsoever by this Tribunal. In this view of the matter, we find no merit in the present O.A. and the same deserves to be dismissed.

6. Further, as the applicant is praying for the same relief in this O.A. as has been prayed by him in OA No. 120/2010 (supra), the present Original Application is barred by constructive res judicata. Thus, in this view of the matter also, the present Original Application deserves to be dismissed.

7. Consequently, in view of the above observations, the present Original Application being devoid of merit fails; and the same is hereby dismissed in limine without issuing notice to the respondents. There shall be no order as to costs.


(ANIL KUMAR)
MEMBER (A)


(JUSTICE K.S. RATHORE)
MEMBER (J)

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