

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 24.11.2015

OA No.805/2012

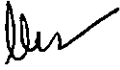
Mr. S.P.Singh, Counsel for the applicant.

Mr. V.D.Sharma, Proxy Counsel for

Mr. Arun Sharma, Counsel for respondents.

Heard the Ld. Counsel for parties.

The OA is disposed of by a separate order on separate sheets for the reasons recorded therein.


(MS.MEENAKSHI HOOJA) (JUSTICE HARUN-UL-RASHID)
MEMBER(A) MEMBER(J)

Adm/

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO.313/2011

ORIGINAL APPLICATION NO. 805/2012

Date of Order: 24.11.2015

CORAM

**Hon'ble Mr. Justice Harun-Ul-Rashid, Judicial Member
Hon'ble Ms. Meenakshi Hooja, Administrative Member**

1. Dev Karan Mahala, S/o Shri Asha Ram, aged about 58 years, R/o H.No.C-130, Breat Khan, Jhunjhunu (Office Address: Working as Sub-Post Master at Jhunjhunu City).
2. R.K.Pacherwal S/o Shri Kapurchand , aged about 55 years, R/o Vill.Kuloth Chhoti, PO Jhakod, District Jhunjhunu (Office Address: Working as Postal Assistant at Pilani Post Office).
3. Mahesh Singh S/o Shri Shubh Karan Singh, aged about 58 years, R/o Vill.+PO Mandawa, District Jhunjhunu (Office Address: working as Sub-Post Master at Jhunjhunu HO).

.....Applicants

(By Advocate Mr. S.P. Singh)

VERSUS

1. The Union of India, through the Secretary, Government of India, Ministry of Communication, Department of Post, Dak Tar Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur, 302007.
3. The Director, Post Master General, Western Region, Jodhpur.
4. Superintendent of Post Offices, Jhunjhunu Division, Jhunjhunu-333001.
5. The Director, Postal Accounts, Jhalana Dungri, Jaipur.

.....Respondents

(By Advocate Mr. V.D.Sharma,
Proxy counsel for Mr. Rajendra Vaish)

2. OA No.805/2012

Surendra Peepliwal, S/o Shri Ganga Ram, aged about 59 years, R/o H.No.28, Moti Nagar Colony, Sector VIII, RHB, Pratap Nagar, Sanganer, Jaipur (Office Address: Working as Sorting Assistant (RMS)CSO, Gandhi Nagar, Jaipur).

.....Applicants

(By Advocate Mr. S.P. Singh)

VERSUS

1. The Union of India, through the Secretary, Government of India, Ministry of Communication, Department of Post, Dak Tar Bhawan, New Delhi.
2. The Secretary, Government of India, Ministry of Personnel, Public Grievance and Pensions, Deptt. Of Personnel and Trg. New Delhi-110001.
3. The Chief Postmaster General, Rajasthan Circle, Jaipur.
4. The Senior Superintendent RMS, JP Division, Jaipur-302001.

.....Respondents

(By Advocate Mr. V.D.Sharma,
Proxy counsel for Mr. Arun Sharma)

ORDER

(Per Hon'ble Mr. Justice Harun-Ul-Rashid, Member(J))

The OA is filed seeking to set aside the Memo dated 18.5.2011 and for direction to respondents to confer the grade pay Rs.4200 instead of Rs.2800 for applicants and for other consequential benefits. The connected OA is filed seeking similar prayers.

2. Applicants approached this Tribunal alleging that their grade pay Rs.4200 granting MACP vide order Ann.A/1 has been withdrawn wrongly. It is contended that the respondents considered the entry grade into service of the applicants from Postal Assistant and time bound one promotion was granted on completion of 16 years service. It is evident that applicants were initially appointed as Postman and appeared in the examination for selection to the post of Postal Assistant and selected to the post of Postal Assistant. It is contended that the respondents have rightly extended the financial upgradation BCR/MACP-II and the entry grade was counted from entry into service

as Postal Assistant. But now MACP-II is ordered to be withdrawn and the MACP-III is granted in the same grade pay of Rs.2800 instead of Rs.4200. It is also pointed out that the applicants were fit to be promoted on completion of 16 years as TBOP and on completion of BCR on completion of 26 years MACP-II.

3. The grievance of the applicant is that the respondents did not count the service of postman for granting BCR and MACP. It is submitted that the respondent did not count form entry grade as Postman for granting TBOP, BCR and MACP and the action of withdrawing the MACP-II is not sustainable.

4. The matter was taken up for final hearing. Counsels of both the sides submitted that the similar controversy has been decided by the Tribunal in OA No. 137/2012 vide order dated 13.9.2012 by the CAT Jodhpur Bench and 10 other connected matters. It is also pointed out that the same Bench vide order dated 5.11.2015 decided the same controversy also in OA No.359/2013 and other connected matters.

5. The Tribunal finally allowed the Original Application No.137/2012 and 10 other connected matters and the impugned order was quashed and set aside. The Tribunal held that the impugned order of the respondents (Annexure A/1) is bad in law from both the points stated above that (i) being treating the passage from Mailman to Sorting Assistant as promotion, and (ii) not appreciating MACP as inferred from the own circulars of the Government. It was held that the MACP is a liberal scheme allowing financial upgradation to those who have not been able to earned promotion in the regular promotion and that it, hence, need to be liberally understood.

6. The respondents had challenged the order of this Tribunal dated 13.9.2012 passed in OA No.137 and other connected matters, before

the Hon'ble High Court of Judicature for Rajasthan at Jodhpur in DB Civil Writ Petition No.165/2013. The Division Bench of the Hon'ble High Court vide its order dated 10th August, 2015 held that the writ petitions are having no merit and hence dismissed. The Hon'ble High Court upheld the order passed by the CAT, Jodhpur Bench in the respective Original Applications.

7. In the light of the orders passed by the CAT, Jodhpur Bench in OA No.137/2012 and other connected matters and Division Bench of the Hon'ble High Court of Rajasthan at Jodhpur in DB Civil Writ Petition No.165/2013, we are inclined to allow these four Original Applications on the similar lines.

8. Accordingly present OA is allowed and order A/1 is quashed and set aside. Respondent No.4 Superintendent, Jhunjhunu Division and the respondent No.4 the Senior Superintendent RMS, Jaipur Division respectively in both the cases are directed to confer the grade pay Rs.4200 and MACP-II and to confer the grade pay Rs.4600 and MACP-III to the applicants whichever is applicable.

9. With these orders, both the OAs are disposed of with no order as to costs.

10. Copy of this order may be placed in file of OA No.805/2012.

(MS.MEENAKSHI HOOJA)
MEMBER(A)

(JUSTICE HARUN-NIL-RASHID)
MEMBER(J)

Adm/

Copy of order given to applicant & Respondent
vide - 962, 963
dt - 27/11/15
P.S. Nandy
27/11/15