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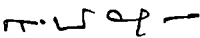
**CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR**  
**ORDER OF THE TRIBUNAL**


Date of order : 11.4.2014  
O.A. No. 589/2013

Mr. P.N.Jatti, counsel for the applicant  
Mr. Mukesh Agrawal, counsel for respondents

Heard learned counsel for parties.

Order is reserved.

  
(M.Nagarajan)  
Member (J)

  
(Anil Kumar)  
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 589/2013

Order Reserved on: 11/04/2014  
Order pronounced on: 12/5/2014

Coram:

**Hon'ble Mr. Anil Kumar, Administrative Member**  
**Hon'ble Mr. M. Nagarajan, Judicial Member**

Surendra Kumar-II S/o Shri Bansi Lal by cast Sharma, aged about 56 years R/o H.No. 34/506, Pratap Nagar, Sanganer, Jaipur presently working as AAO in the office of the Chief Post Master General, I.C.O., Jaipur.

....Applicant

Mr. P.N. Jatti, counsel for the applicant.

VERSUS

1. Union of India through the Secretary to the Govt. of India, Department of Post, Dak Bhawan, Sansad Marg, New Delhi.
2. Joint Secretary and Financial Adviser, Ministry of Communication, Department of Post, Dak Bhawan, Sansad Marg, New Delhi.
3. D.D.G. (PAF), Ministry of Communication, Department of Post, Dak Bhawan, Sansad Marg, New Delhi.
4. Director of Accounts (Postal), Jhalana Doongari, Jaipur.

....Respondents

Mr. Mukesh Agarwal, Counsel for the respondents.

ORDER (ORAL)

Per : Hon'ble Shri Anil Kumar, Administrative Member

The applicant has filed the present O.A. being aggrieved by the rejection of his representation by respondents with regard to

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grant of 3<sup>rd</sup> financial upgradation under MACP vide letter dated 23/04/2013 (Annexure-A/1).

2. The brief facts of the case are that the applicant was initially appointed as J.A. on 27/11/1982. The applicant got promotion as S.A. w.e.f. 02/07/1990. Thereafter, the applicant was given 2<sup>nd</sup> financial upgradation in the PB-2 in the Grade Pay Rs. 4800/- on 31/12/2006 on completion of 24 years of regular service under the ACP scheme. The applicant was subsequently given promotion as A.A.O. on 01/02/2010 in PB-2 with grade pay of Rs. 4800/-. The applicant was not given any benefit of fixation of pay on promotion as A.A.O., as his pay has already been fixed during second financial upgradation under ACP scheme.

3. The learned counsel for the applicant submitted that the applicant became eligible for 3<sup>rd</sup> financial upgradation in the grade pay of Rs. 5400/- on 13/12/2012. According to the learned counsel for the applicant the respondents have denied him the benefit of 3<sup>rd</sup> financial upgradation on the ground that the applicant was initially appointed as J.A. and then got promotion in the cadre of S.A., subsequently also got financial upgradation under ACP scheme before implementation of MACP scheme and then got regular promotion as A.A.O. and thus have already earned one financial upgradation (ACP) and two regular promotion (S.A. & A.A.O. cadre). According to the respondents the third financial upgradation would be admissible to employee under MACP scheme on completion of 30 years of regular service

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provided that he has not earned 3<sup>rd</sup> promotion in the hierarchy. According to the learned counsel for the applicant he has not earned third promotion in the hierarchy. The third promotion in the hierarchy would be in the PB-2 Rs. 9300-34800/- with the grade pay of Rs. 5400/-. The applicant has got only two promotion; one as S.A. and second as A.A.O., in between he got the benefit of 2<sup>nd</sup> ACP in lieu of promotion to the post of A.A.O., therefore, the benefit given under the Second ACP stands merged when he was given promotion as AAO.

4. The learned counsel for the applicant submitted that similarly situated person Shri S.S. Bijarnia, Shri Jai Prakash and Shri Kishan Singh have been granted 3<sup>rd</sup> financial upgradation under MACP scheme. Shri Kishan Singh has not even passed the Jr.A.O. examination whereas the applicant has passed the said examination. He further submitted that the second promotion of the applicant to the post of A.A.O. is erroneously being interpreted as 3<sup>rd</sup> promotion in the same grade pay of Rs. 4800/- According to him his 3<sup>rd</sup> promotion should be in the grade pay of Rs. 5400/-. Therefore, he prays that the O.A. be allowed and respondents be directed to grant third financial upgradation under MACP scheme on completion of 30 years of regular service.

5. The respondents have filed their reply. The respondents in their reply have stated that under the provisions as contained in the MACP Scheme, the financial upgradations are to be counted from direct entry grade on completion of 10, 20 and 30 years of

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service. Further financial upgradation under the scheme will be admissible whenever a person has spent 10 years of continuously in the same grade pay. It is also provided in the scheme that 3<sup>rd</sup> financial upgradation would be admissible to employee under MACP scheme on completion of 30 years of regular service provided that he has not earned 3<sup>rd</sup> promotion in the hierarchy.

6. The learned counsel for the respondents submitted that the applicant initially appointed as junior Accountant and then got regular promotion in Senior Accountant cadre and then got financial upgradation under ACP Scheme before the implementation of MACP scheme and then got regular appointment as AAO (JAO and AAO being merged as one i.e. AAO) thus have already earned one financial upgradation (ACP) and two regular promotion (SA/AAO cadre) and will not be eligible for 3<sup>rd</sup> Financial up gradation under MACP scheme.

7. Therefore the learned counsel for the respondents argued that the representation of the applicant has been rightly rejected by the respondents vide their letter dated 23<sup>rd</sup> April 2013 (Annexure-A/1) and the O.A. has no merit and it should be dismissed with cost.

8. Heard the learned counsel for the parties and perused the documents on record.

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9. The facts of the case are not disputed that applicant got one promotion to the post of S.A. in 1990, then the applicant was given second financial upgradation in PB-2 in the grade pay of Rs. 4800/- on 13/12/2006 on completion of 24 years of regular service under the ACP scheme. He was given promotion as A.A.O. on 01/02/2010 in Pay Band-2 with the same grade pay of Rs. 4800/-. That the applicant has passed Jr.A.O. Exam. The respondents are treating the second financial upgradation to the applicant, given under the ACP scheme, as second promotion and promotion to the post of A.A.O. as 3<sup>rd</sup> promotion. It is not disputed that the applicant was given second financial upgradation in the PB-2 with grade pay of Rs. 4800/-. He was also promoted as A.A.O. in the same pay band in the same grade pay of Rs. 4800/-.

10. If the applicant would have got his regular promotion as A.A.O. prior to completion of 24 years of service, then he would not have been entitled for second financial upgradation on completion of 24 years of regular service under the ACP scheme. The post of A.A.O. is next promotion post to the post of S.A. in the hierarchy of the posts. The applicant was given second financial upgradation on completion of 24 years of service because he could not be promoted from S.A. to the A.A.O., therefore, according to us the promotion of the applicant to the post of A.A.O. on 01/02/2010 can not be treated as 3<sup>rd</sup> promotion. His second financial upgradation under the ACP

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scheme stood merged, when he was given promotion as A.A.O. on 01/02/2010.

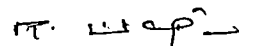
11. The learned counsel for applicant produced the minutes of the Screening Committee dated 09/01/2014 in which certain employees like Shri Brahamand, S.A., Shri Babulal, S.A. (presently working as A.A.O. on adhoc basis), Shri Satya Narain Vijay, S.A. (presently working as A.A.O. on adhoc basis), Shri Ashok Kumar Pareek, S.A. and Shri Raj Kumar Sharma, S.A. (presently working as A.A.O. on adhoc basis) have been recommended for grant of third financial upgradation under MACP scheme. All these employees were given second financial upgradation either in 2007 or in 2008 and they have been recommended for grant of 3<sup>rd</sup> MACP in 2013 or in 2014 i.e. before 10 years of completion of continuous service in the same grade pay. Therefore, the learned counsel for the applicant prayed that the applicant should also given financial upgradation.


12. The department of post have issued some clarification on 18<sup>th</sup> October, 2010 in which it has been clarified that the employee will also become eligible for 3<sup>rd</sup> MACP on completion of 30 years of regular service or after rendering 10 years service in second MACP whichever is earlier. Thus, in view of this clarification, contention of the learned counsel for the respondents that an employee has to spent 10 years continuous service in the same grade pay to be eligible for 3<sup>rd</sup> financial upgradation under MACP scheme is not acceptable.

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13. In the present case, the applicant got one promotion as S.A. in 1990 and then he got his financial upgradation under ACP scheme, after completion of 24 years of regular service and subsequently got his promotion as A.A.O. As stated earlier, the pay band and grade pay under the second ACP and A.A.O are the same. It is not disputed that the post of A.A.O. is next promotion post in the hierarchy to the post of S.A. Therefore, we hold that the applicant got only two promotion and his financial upgradation under the ACP scheme before his promotion to the post of AAO is to be ignored for the purpose of granting 3<sup>rd</sup> financial upgradation on completion of 30 years of regular service.

14. Hence the respondents are directed to consider the case of applicant for grant of 3<sup>rd</sup> financial upgradation within a period of three months from the date of receipt of a copy of this order. With these directions the O.A. is disposed of. However there shall be no order as to costs.

  
(M. NAGARAJAN)  
MEMBER (J)

  
(ANIL KUMAR)  
MEMBER (A)