

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

O.A. No. 44/2016

New Delhi, this the 9th day of August, 2016

**HON'BLE MR. P.K. BASU, MEMBER (A)
HON'BLE DR. BRAHM AVTAR AGRAWAL, MEMBER (J)**

Brahm Prakash,
Aged 58 years,
S/o Shri Hazari Lal,
Working as Chief Office Supdt.,
In the office of Divisional Engineer,
New Delhi,
R/o 66A, DCM Railway Colony,
Delhi-6. .. Applicant

(By Advocate: Shri Yogesh Sharma)

Versus

1. Union of India
Through The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
Delhi Division,
State Entry Road,
New Delhi.
3. The Divisional Railway Manager,
North-Western Railway,
Bikaner Division, Bikaner. .. Respondents

(By Advocate : Shri Satpal Singh for R-1 & 2 and
Shri Kripa Shankar Prasad for R-3)

ORDER (ORAL)

By Hon'ble Mr. P.K. Basu

The applicant was appointed as a Clerk on 07.02.1981 in the scale of Rs.260-400. Thereafter, he was promoted as Senior Clerk on 17.07.1982 in the scale of Rs.330-560, then as Head Clerk in the scale of Rs.1400-2300 (Revised Rs.5000-8000) w.e.f. 21.07.1989 and Office Superintendent-II in the scale of Rs.6500-10500 (Revised PB-2 GP-4600) w.e.f. 22.03.2006.

2. The applicant's claim is that according to Circular dated 17.01.1997 of the respondents, the following has been provided:

“(ii) All serving graduate Clerks Grade Rs.260-400 Rs/R.S.950-1500 (RPS) who were appointed as such after 1.10.80 and have subsequently been appointed as Senior Clerks Grade Rs.330-560 (RS)/Rs. 1200-2040 (RPS) on their qualifying Limited Departmental Competitive Exam. will not be eligible for any proforma fixation w.e.f. 01.10.80 but from the date of their appointment as Clerks Grade Rs.260-400 (RS)/Rs.950-1500 (RPS) and actual benefit from the date of their joining as Senior Clerk.”

Based on this, it is claimed that the proforma fixation of pay in his case should be given from the date of his appointment as Clerk, i.e. from 07.02.1981, but he will draw his salary as Senior Clerk only from the date of his joining. Therefore, his pay should be notionally fixed in the scale of Rs.330-560/Rs.1200-2040 (RPS) from 07.02.1981.

3. The second issue raised by the applicant is that once his pay is fixed in the scale of Rs.330-560 from 07.02.1981, he has only two

upgradation, i.e. as Head Cleak (Rs.5000-8000, revised PB-2 + GP Rs.4200) and, thereafter, as Office Supdt. (PB-2 + GP + Rs.4600). This is sought on the basis of para 5 of MACP guidelines which states that promotion earned/upgradation granted under the ACP Scheme in the past grade which now carry the same Grade Pay due to merger of pay scales/upgradations of posts recommended by the Sixth Pay Commission shall be ignored for the purpose of granting upgradations under MACPS as the scale of Office Supdt. (Rs.6500-10500) and Chief Office Supdt. (Rs.7450-11500) have been merged into one grade pay of Rs.4600/- in PB-2.

4. Per contra, the learned counsel on behalf of respondents No.1 and 2, Shri Satpal Singh, argues that reading of sub-para (ii) of letter dated 17.01.1997 shows that those appointed after 01.10.1980 are not eligible for any proforma fixation. Therefore, the fixation of pay of the applicant from the date of joining as Senior Clerk is correct.

5. Shri Kripa Shankar Prasad, learned counsel on behalf of respondent No.3, stated that this matter should be governed by para 8 of the MACP guidelines which states that promotions earned in the post carrying same Grade Pay in the promotional hierarchy shall be counted for the purpose of MACP.

6. Learned counsel for the applicant also argued that 8(ii) is not an independent prayer because the 3rd financial upgradation under

MACP would accrue only if 8(i) is allowed and will be a consequence of 8(i).

7. Heard the learned counsel and perused the various pleadings.
8. We are of the opinion that in letter dated 17.01.1997, sub-para (ii) is absolutely clear and the applicant having been appointed after 01.10.1980 is governed by this sub-para and his proforma fixation will be done from the date of appointment as Clerk with actual salary from the date of joining as Senior Clerk. Thus, prayer (i) is allowed.
9. Prayer (ii) follows as a consequence of prayer (i) and, hence, is also allowed. The respondents are directed to fix the pay of the applicant notionally w.e.f. 07.02.1981 and, thereafter, grant him 3rd financial upgradation in Grade Pay of Rs.4800/- w.e.f. 07.02.2011 with all consequential benefits, including fixation of pay and arrears.
10. The O.A. is allowed. No order as to costs.

(Dr. Brahm Avtar Agrawal)
Member (J)

(P.K. Basu)
Member (A)

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