

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA 3473/2012

Reserved on: 17.10.2016
Pronounced on: 19.10.2016

Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Mr. Raj Vir Sharma, Member (J)

Lokchand
S/o Shri Sumer Singh
R/o T-36 C, Railway Colony,
Hapur, Ghaziabad, UP ... Applicant

(Through Shri U. Srivastava, Advocate)

Versus

Union of India, through :

1. The General Manager,
Northern Railway,
Headquarters Office,
Baroda House, New Delhi
2. The Divisional Railway Manager,
Northern Railway,
Moradabad Division,
Moradabad, U.P.
3. The Assistant Divn. Engineer
Northern Railway Hapur
Ghaziabad, U.P. ... Respondents

(None appeared)

ORDER

Mr. P.K. Basu, Member (A)

The applicant worked as casual labour (daily wager) from 9.12.1976 to 30.05.1988 in broken periods with the respondent-railways. The applicant was injured on 13.04.1980 and after

fitness certificate being given by the railway doctor, he was reengaged as casual labour on 1.10.1983. Subsequently, screening of casual labour/ substitute was conducted by the respondents between the period 15.01.1996 and 25.01.1996 and the applicant was declared fit for the post of Mali. The respondents, however, regularized the applicant as Khalasi instead of Mali in the same pay, grade and capacity as there was no vacant post of Mali in the unit where the applicant was working. He was given a choice vide letter dated 28.08.2002 that in case he is not interested for regularization on the post of Khalasi, he may submit a representation for posting as Mali at any place in Moradabad Division. The applicant approached the Tribunal in OA 2574/2002, which was decided on 31.10.2002 with a direction to the respondents to have the case of the applicant examined in accordance with the rules and instructions for the post of Mali and having regard to the facts and documents relied upon by the applicant.

2. In compliance of the Tribunal's directions, the applicant was posted as Mali with immediate effect vide order dated 26.12.2002 against a supernumerary post, which was later regularized as permanent Mali.

3. The respondents in their reply have stated that the applicant's pay has been upgraded from Rs.1800/- to Rs.1900/- with effect from 1.09.2008 in terms of Modified Assured Career Progression (MACP) Scheme and that the next upgradation is due on 30.08.2013 to Grade Pay of Rs.2000/- on completion of

20 years of permanent service. The applicant is aggrieved by this action of the respondents.

4. The learned counsel for the applicant states that though the applicant had been declared fit for regularization on the post of Mali in the screening held from 15.01.1996 to 25.01.1996 but in absence of vacancy, he could be regularized on the post of Mali only with effect from 20.12.2002 whereas, if he had been regularized with effect from 28.05.1997 on the basis of the results declared, he would admittedly have got the benefit of ACP/MACP Schemes. The applicant has, therefore, prayed for the following reliefs:

- "(b) Declaring the actions of the respondents to not to considering and finalizing the case of the applicants for the grant of financial up-gradation stipulated under the MACP Scheme for which the applicant is eligible too is as illegal, unjust, arbitrary, biased, perverse, malafide, unconstitutional, against the principles of natural justice violative of articles 14, 16 & 21 of the Constitution of India, in violation of the mandatory provisions of law and discriminatory also; and thereafter,
- (c) Directing the respondent to consider and finalize the case of the applicant for extension of the benefits of financial up-gradation in accordance with the relevant rules and instructions on the subject more particularly the ACP/MACP Scheme with all other consequential benefits namely the arrears of pay differences with interest etc. etc. admissible to the applicants.
- (d) Allowing the O.A. of the applicants with all other consequential benefits and cost."

5. The respondents have admitted that the applicant has been granted first upgradation under MACP Scheme in the grade

pay of Rs.1900/- with effect from 1.09.2008 i.e. the date on which MACP Scheme came into existence. They have also stated that he is entitled for second upgradation on completion of twenty years of permanent service to the Grade Pay of Rs.2000/- with effect from 30.08.2013. Since this date has passed, we presume that upgradation to the Grade Pay of Rs.2000/- would have been implemented by the respondents.

6. From the statement of the respondents, it becomes clear that they have counted the applicant's services from 30.08.1993 for completion of twenty years on 30.08.2013 and, on completion of twenty years of service, the applicant has earned two upgradations as stated above. It is thus clear that no further upgradation is due to the applicant.

7. In view of above, we find no merit in the OA and it is, therefore, dismissed. No costs.

(Raj Vir Sharma)
Member (J)

(P.K. Basu)
Member (A)

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