

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

OA 4259/2014
MA 3752/2014

Reserved on: 17.02.2016
Pronounced on: 25.02.2016

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

Prem Nath Sharma
Age about 62 years
Ex. T.I.
R/o C-90, IIInd Floor, DDA Colony
West Gorakh Park Extn.,
Shahdara, Delhi-110032 ... Applicant

(Through Ms. Pratishtha Vij for Shri SanjOy Ghosh, Advocate)

Versus

1. The Chairman-cum-MD
Delhi Transport Corporation
DTC Head Quarters, I.P. Estate,
New Delhi-110002
2. Depot Manager
S.N. Depot, D.T.C.,
New Delhi ... Respondents

(Through Shri N.K. Singh for Mrs. Avnish Ahlawat, Advocate)

ORDER

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

The applicant was appointed on 24.08.1973 as a Driver by the Delhi Transport Corporation (DTC). The Assured Career Progression Scheme (ACPS) was introduced in DTC on 12.08.2002 and the applicant was granted first and second ACP on the same date on completion of 24 years of service. On

23.04.2003, the applicant was offered ad hoc promotion from the post of Driver to the post of ATI subsequent to the grant of first and second ACP. The applicant, however, refused the said offer of promotion. He is aggrieved by the action of the respondents withdrawing benefit of first and second ACP on the ground of refusal of promotion by him in view of the para 10 of the ACPS. Later, on 11.08.2008, the applicant was offered and he accepted such offer of promotion to the post of ATI from Driver. On 1.09.2008, the Modified Assured Career Progression Scheme (MACPS) was introduced. Since the applicant had completed almost 29 years of service on 23.04.2003 and thereafter rendered continuous service upto the date of superannuation, he claimed that he was entitled to be granted with benefits of three MACPs but the same was not granted to him. The applicant superannuated on 31.08.2012 but the advantage of MACPS was not granted to him while fixing his retiral benefits.

2. On 2.09.2013, the respondents restored the benefit of financial upgradation that had been granted under ACPS. However, on 24.09.2013, the respondents issued the impugned order declining the benefit of third financial upgradation under MACPS on the ground that as the applicant had refused to accept ad hoc promotion on 25.04.2003 and had ultimately accepted the same on 11.08.2008, the period between these two dates i.e. 5 years, 3 months and 16 days would be the period for which the applicant's third upgradation would stand deferred. According to the applicant, the interpretation of paragraphs 15

and 25 of MACP guidelines, which provide for such deferment, refers to "regular" promotion and not "ad hoc" promotion and, therefore, the benefit of upgradation under MACPS could not have been denied.

3. On 6.05.2014, the Public Grievances Commission, Government of National Capital Territory of Delhi disposed of the complaint of the applicant mentioning that the applicant had already been granted second ACP and no further action was pending on the part of the respondents and as such, the Commission decided to close his case.

4. The respondents were asked to clarify whether promotion offered to the applicant to the post of ATI in 2003 was on ad hoc basis or on regular basis. The respondents along with their reply dated 16.12.2015 have enclosed order dated 23.04.2003 (Annexure II), which is regarding promotion of drivers/conductors to the post of Assistant Traffic Inspector and this order clearly states that the promotion was on ad hoc basis. The respondents have further placed before us copy of Draft Agenda Note dated 6.10.2003, which is regarding regularization of ad hoc promotion of Assistant Traffic Inspector in which the concluding para is as follows:

"CONCLUSION:-

The matter is placed before the DTC Board for consideration and decision for regularization of 484 ad hoc promotees to the post of Assistant Traffic Inspectors with effect from 25.10.2003, whose period of ad-hoc promotion is going to be completed on **24.10.2003.**

5. It is argued that the ad hoc promotees were to be regularized to the post of ATI with effect from 25.04.2003 which means that the original offer of April 2003 should be construed as offer for regular promotion and, therefore, paragraphs 15 and 25 of MACP guidelines will operate. The respondents have also at page 11-12 of the document filed on 16.12.2015 placed the minutes of the DPC which recommended the applicant along with others for regular promotion to the post of ATI in its meeting held on 28.06.2008.

6. Aggrieved by the rejection order dated 24.09.2013, the applicant has filed this OA with the following prayers:

- “a) Set aside the order dated 24.09.2013 made by Respondent, which had declined the benefit of the 3rd financial upgradation under the MACPS.
- b) to grant any other appropriate relief as per the facts and circumstances of the case, besides the cost and expenses of the present litigation.”

7. It is clear that when the offer was made on 25.04.2003, it was for ad hoc promotion as the order itself states such. Later on, the respondents decided to give the benefit of regularization from October 2003. First of all, at the time of refusal of ad hoc promotion, there is no way the applicant can know that on a future date, a decision would be taken to regularize them from a back date. So the applicant was basically offered ad hoc promotion and he refused. In fact, when he was offered regular promotion, he did accept it. Since he was earlier offered ad hoc

promotion, paragraphs 15 and 25 of MACP guidelines will not apply at all and to that extent the order dated 24.09.2013 is against the rules and needs to be quashed.

8. In view of above discussion, the OA is allowed and the impugned order dated 24.09.2013 is quashed and set aside. The respondents are directed to consider the applicant for 3rd upgradation under MACPS. Time frame for compliance is fixed at 2 months. No costs.

(Raj Vir Sharma)
Member (J)

(P.K. Basu)
Member (A)

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