

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

O.A No.3939/2013

**Reserved On:24.01.2018
Pronounced on:31.01.2018**

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)**

Raj Kumar Garg,
Assistant Cashier,
P.T. No.32684, WPD,
S/o Late Shri Jagdish Rai Garg
R/o H.No.518, Gali No.36,
Onkar Nagar, Tri Nagar,
Delhi-110035. Applicant

(By Advocate: Shri Anil Mittal)

Versus

Delhi Transport Corporation,
I.P. Estate,
New Delhi-110002
(through Chairman-cum-Managing Director) Respondent

(By Advocate: Ms. Arati Mahajan Shedha with Shri Manoj Kumar)

ORDER

By Mr. V. Ajay Kumar, Member (J)

The applicant, an Assistant Cashier in the respondent-Delhi Transport Corporation (DTC), filed the OA seeking a direction to the respondents to grant the benefit of 3rd MACP with effect from 09.10.2012 and to refix his pay accordingly with all consequential benefits.

2. The applicant was appointed as a Conductor with the respondent-DTC on 09.04.1982 on regular basis. In pursuance of

the ACP Scheme, as adopted by the respondent-DTC and since the applicant completed more than 12 years in service without any promotion, he was granted the benefit of 1st ACP in August, 2002. Again, in the year 2006, on completion of 24 years of service without any promotion, the applicant was granted the 2nd ACP benefit also and his pay was fixed in Pay Band-1 of Rs.5200-20200 with Grade Pay of Rs.2800/-.

3. In pursuance of a Notification issued by the respondent-DTC from eligible conductors for filling up the Assistant Cashier post's in Pay Band-1 of pay scale of Rs.5200-20200 with Grade Pay of Rs.2400/-, the applicant applied and on his selection, he was appointed as Assistant Cashier with effect from 15.09.2011 and was kept on probation for one year in the Pay Band of Rs.5200-20200 with Grade Pay of Rs.2400, but the respondents even after the applicant was appointed as Assistant Cashier continued to pay the same salary to the applicant as he was getting as a Conductor in Pay Band-1 of Rs.5200-20200 with Grade Pay of Rs.2800/-. He was also not given the benefit of one annual increment. The applicant satisfactorily completed the probation and accordingly his services were confirmed in the post of Assistant Cashier vide letter dated 20.09.2012.

4. Since the applicant completed the continuous service of 30 years in the year 2012 and as he was entitled for granting of 3rd MACP, he made representations to the respondent to grant him the

said benefit of MACP, but the respondent by their impugned orders rejected his claim and hence the OA.

5. The respondents vide their counter while not disputing the aforesaid facts, however, submits that the applicant's appointment as Assistant Cashier is in a different grade/category of post, i.e., from the post of Conductor to that of Assistant Cashier, which is a different cadre, he is not entitled for counting of his service as Conductor for granting of 3rd MACP. It is further submitted on behalf of the respondent that even if the change of cadre is ignored but since the applicant as a Conductor has already got the benefit of 1st and 2nd ACPs and since the Assistant Cashier is a promotional post in the hierarchy, he is not entitled for the 3rd MACP in view of his promotion as Assistant Cashier. Accordingly, the respondent submits that if the applicant's appointment as Assistant Cashier is treated as a fresh appointment in a different cadre, he is not entitled for the benefits of MACP Scheme and even if his appointment to the said post was treated as a promotional post, he is not entitled for 3rd MACP as he was already granted the 1st and 2nd MACP benefits.

6. Heard Shri Anil Mittal, learned counsel for the applicant and Ms. Arati Mahajan Shedha, learned counsel for the respondents and perused the pleadings on record.

7. As rightly pointed out by the respondents that the applicant was already granted the 1st and 2nd MACP benefits and if his

appointment to the promotional post of Assistant Cashier was treated as a promotion, he is not entitled for the 3rd MACP, similarly, if the applicant's appointment as Assistant Cashier is treated as a fresh appointment in a different cadre, then also he is not entitled for 3rd MACP benefit.

8. The submission of the applicant that in the similar circumstances, one Shri Virender Kumar, who was a Conductor and was also appointed as an Assistant Cashier along with the applicant was granted the benefit of 3rd MACP is unsustainable since the said Virender Kumar became eligible for benefit of 3rd MACP with effect from 19.07.2011, i.e., much prior to his appointment as Assistant Cashier and whereas the applicant was promoted as Assistant Cashier before the date of his entitlement for the benefit of 3rd MACP.

9. In the circumstances and for the aforesaid reasons, we do not find any merit in the OA and accordingly the same is dismissed. No costs.

(NITA CHOWDHURY)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

RKS