

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

**OA No.2437/2015**

MA No. 2168/2015

Order Reserved on: 08.10.2018

Order Pronounced on: 10.10.2018

**Hon'ble Ms. Nita Chowdhury, Member (A)**

Shri Sugriv Chand, Age 61 years,  
S/o Sh. Rai Singh,  
Ex-Chief Office Superintendent,  
Under Divisional Railway Manager,  
Northern Railway,  
State Entry Road, New Delhi  
R/o H.No.210, VPO Dhansa,  
New Delhi-73  
(By Advocate: Ms. Meenu Mainee)

- Applicant

VERSUS

Union of India: Through

1. General Manager,  
North Railway,  
Baroda House, New Delhi
  2. Divisional Railway Manager,  
North Railway,  
State Entry Road, New Delhi
  3. Sr. Divisional Finance Manager,  
North Railway,  
State Entry Road, New Delhi
- Respondents

(By Advocate: Mr. Prabodh Kr. for Mr. Kripa Shankar)

**ORDER**

The applicant has filed the Original Application (OA),  
seeking the following reliefs:-

- “8.1 That the Hon'ble Tribunal may be graciously be pleased to allow this application and quash the impugned orders dt. 17.3.2015 and PPO without date.
- 8.2 That the Hon'ble Tribunal may be further pleased to direct the respondents to correct the entry of last pay drawn on the PPO as Rs.22420.00 instead of Rs.22340.00 and re-calculate the retirement benefits

of the applicant in accordance with the correct last pay drawn of the applicant.

- 8.3 That the Hon'ble Tribunal may also be pleased to direct the respondents to refund the amount of Rs.1,16,608.00 which has been arbitrarily recovered from the gratuity of the applicant and also direct the respondents to re-calculate other retirement benefits of the applicant which has wrongfully been recovered from the pay and other retirement benefits.
- 8.4 That the Hon'ble Tribunal may be further be pleased to direct the respondents to refund the amount which has wrongfully been recovered from the gratuity/pension of the applicant with interest @12% per Annum from the date from which the amount was recovered till the date of actual payment.
- 8.2 That the Hon'ble Tribunal may further graciously be pleased to pass any other or further order as may be deemed fit and proper on the facts and circumstances of the case.
- 8.3 That the Hon'ble Tribunal may further be graciously pleased to grant costs against the respondents and in favour of the applicant."

2. Learned counsel for the applicant states that the applicant has retired but has not been given the correct retiral benefits. The respondents ignored his representations with regard to delayed release of MACP from 01.07.2008 instead of November, 2005 and hence his pension has been affected. It is further alleged that after the applicant retired on superannuation on 31.03.2015, the respondents issued PPO without putting any date which was received by him in the month of April, 2015, and the said PPO which clearly shows that the last pay drawn by him was Rs.22,420.00 and the same has been arbitrarily and wrongfully reduced to Rs.22,340.00. Accordingly, the respondents have also worked out all retirement benefits like pension, gratuity, leave encashment, insurance etc. at the reduced pay of Rs.22340.00 instead of Rs.22420.00. The applicant further alleged that impugned order dated 17.03.2015 has been passed

without putting the applicant on notice. As a result, the respondents have wrongfully recovered an amount of Rs.1,16,608.00 in an arbitrary manner and after shifting the promotion of the applicant from 01.09.2008 to 1.11.2013 in pay grade of Rs.4600.00 which was out and out incorrect as well as illegal, arbitrary and discriminatory. Hence the present OA.

3. In their reply, the respondents have raised the preliminary objection that delay in grant of MACP is a separate cause of action and cannot be challenged in the OA which basically pertains to grant of pension. Further it is the claim of the respondents that the applicant was appointed as Constable in Grade 825-1200(2750-4400) on 09.11.1975 and promoted as Head Constable in Grade 975-1660 (3200-4900/GP-2000) on 06.09.1989 and thereafter as ASI in Grade 1320-2040 (4000-6000/GP-2400). The applicant was further selected for the post of Assistant Station Manager in Grade 1200-2040 through general selection in 1992 which was, later on, merged in Grade 4000-6000 during the 5<sup>th</sup> Pay Commission. Therefore, in view of the above, the following position emerges:-

09.11.1997- Initial appointment 825-1200/GP-1800  
Constable

06.09.1989- Promoted 975-1660/GP-2000 Hd. Constable

14.05.1991 promoted 1320-2040/GP 2400 ASI-1200-2040/GP)-2800 ASM

01.07.1995 promoted 1400-2300/GP-4200 Sr. ASM

17.12.1996 declared Med. Unfit 1400-2300/GP 4200 Hd. Clerk/OS

01.07.2013 promoted 9300-34800/GP-4600 Ch.OS

31.03.2015 Retired from service.

As per Account Deptt. observation, 3<sup>rd</sup> MACP w.e.f. 01.09.2008 was wrongly granted to him as he has already availed 03 promotions, as he got first promotion as Hd. Constable, 2<sup>nd</sup> as ASM and 3<sup>rd</sup> as Sr. ASM as per the above position. Therefore, withdrawal of 3<sup>rd</sup> MACP is correct and as per law. The respondents have therefore prayed for dismissal of the OA.

4. After hearing the parties and perusal of the counter affidavit filed by the respondents, it is quite clear that the respondents are correct in contending that one cannot ask for plural remedies as per by Rule 10 of the Central Administrative Tribunal (Procedure) Rules, 1987. Hence, if the applicant wishes to challenge the date of grant of MACP from 01.07.2008 instead of November, 2005, then this is a fresh cause of action and accordingly, this prayer is disallowed in this OA.

5. However, on the prayer with regard to payment of correct pension, the respondents have filed a brief reply from which it is not possible to come to any conclusion as to whether the pension has been correctly fixed or not as per the rules. Hence, the respondents are directed to pass a fresh order with regard to correct pension of the applicant within a period of 45 days of receipt of a copy of this order. However, with regard to the claim of the applicant that his last pay drawn is Rs.22420/- while PPO has only shown it as Rs.22340/-, the respondents shall pass a specific order on this claim and if found correct, recalculate the retirements benefits in accordance with the correct last pay drawn by him.

6. With the above directions, the OA stands disposed of. MA also stands disposed of. No order as to costs.

**(Nita Chowdhury)**  
**Member (A)**

/lg/