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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00730/2015

Wednesday, this the 25th day of July, 2018

C O R A M :

**HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER**

P.K.Krishnankutty,
Puthenpuravadakkathil Krishna Sree,
(Near Udaya Nagar), Kadappa,
Mynagappally P.O., Kollam – 690 519.

...Applicant

(By Advocates – Dr.K.P.Satheesan,Sr. & Mr.P.Mohandas)

V e r s u s

1. Union of India represented by the Secretary,
Department of Posts, Dak Bhavan,
New Delhi – 110 001.

2. The Director of Accounts,
Department of Posts,
Office of the Director of Accounts (Postal),
Kerala Circle, G.P.O Building, 4th Floor,
Thiruvananthapuram – 695 001.

3. The Accounts Officer (Pension),
Postal Accounts Office, Kerala Circle,
Thiruvananthapuram – 695 001.

...Respondents

(By Advocate – Mr.E.N.Hari Menon,ACGSC)

This Original Application having been heard on 20th July 2018, the Tribunal on 25th July 2018 delivered the following :

O R D E R

Per : Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

The applicant is a retired Assistant Accounts Officer who superannuated from the office of the Directorate of Accounts (Postal), Kerala Circle on 30.11.2013. His services under the respondents

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commenced on 22.10.1983 when he joined as Temporary Junior Accountant. Subsequently he was promoted as Senior Accountant on 1.4.1987 and thereafter as Assistant Accounts Officer. It is from this grade that he retired on 30.11.2013.

2. Government of India as part of the recommendations of the 6th CPC introduced Modified Assured Career Progression Scheme (MACPS) for Central Government civilian employees with effect from 1.9.2008. The scheme envisages three financial upgradations at intervals of 10, 20 and 30 years of continuous regular service to all regularly appointed Group A, B and C Central Government civilian employees. Due to participation in a strike conducted on all India basis he was imposed with '*dies non*' for one day. The applicant's Pension Order issued after his retirement showed the date of joining duty as 23.10.1983 whereas he had joined on 22.10.1983 (A/N) and qualifying service is mentioned as 29 years, 11 months and 29 days with non-qualifying service 1 month and 10 days (40 days). Thus, the applicant's qualifying service falls short of 30 years by one day. The reliefs sought in the O.A are as follows :

1. To set aside Annexure A-7 pension payment order No.Postal/2013/KE/21899/Pen6 dated 15.11.2013 issued by the 3rd respondent to the extent of mentioning the date of joining into service as 23.10.1983 instead of the actual date of joining of 22.10.1983.
2. To set aside Annexure A-9 order No.327/Admn.I/E.I/C-82/2015-16 dated 19/21.6.2015 issued by the 2nd respondent denying third MACP to the applicant and also for not condoning the two days dies-non as applied for by the applicant.
3. To issue an order or direction to the 3rd respondent to correct Annexure A-7 pension payment order showing the qualifying service as 30 years reckoning the date of joining as 22.10.1983.

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4. To issue an order or direction to the 2nd respondent to grant third MACP to the applicant making his grade pay as Rs.5400/- reckoning the entire service of 30 years rendered by the applicant, if necessary by condoning the declaration of one day as dies-non for one hour strike.

5. To issue such other order or direction as this Hon'ble Tribunal may be deemed fit and proper in the facts and circumstances of the case.

3. Per contra, the respondents have filed a reply statement wherein the facts mentioned in the O.A have been admitted. It is submitted that the applicants qualifying service being only 29 years, 11 months and 29 days his claim for 3rd MACP was not allowed as per rules governing the MACP Scheme. It is also stated that in his Service Book the applicant is seen as having joined as Temporary Junior Accountant with effect from 22.10.1983 afternoon whereby his service is counted from 23.10.1983 only.

4. When the case was finally heard on 21.6.2018 Sr.K.P.Satheesan, Senior Counsel appeared for the applicant and Shri.E.N.Hari Menon, ACGSC appeared for the respondents. A judgment in **Mathai.M.V. vs Accountant General (A&E) and others reported in I.L.R (2015) 4 Kerala 682** was produced whereby it has been ordered that service rendered on 29th February of the leap year on which days the employees who have been working should also be taken into account for computing service. Thus including these days it is clearly to be seen that the applicant possesses the necessary service of 30 years for claiming his 3rd MACP upgradation benefit. The learned counsel for the respondents did not oppose the contention that the length of the applicant's service has been estimated without taking the 7 days (extra days in February during the 28 years) into account.

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5. Apart from this argument, the record presented at Annexure A-3 which is a seniority list dated 17.3.1989 acknowledges that the applicant's service had commenced from 22.10.1983. We may also opine that the arguments instituted by the respondents to deprive an employee who has spent 30 years in service of a financial upgradation due to him lacks grace and generosity. The O.A is hereby allowed. The respondents are directed to grant 3rd MACP benefits (Grade Pay of Rs.5400/-) to the applicant as prayed for in the O.A. The order shall be complied with within a period of three months from the date of receipt of a copy of this order. No order as to costs.

(Dated this the 25th day of July 2018)

ASHISH KALIA
JUDICIAL MEMBER

E.K.BHARAT BHUSHAN
ADMINISTRATIVE MEMBER

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List of Annexures in O.A.No.180/00730/2015

- 1. Annexure A-1** – A true copy of the Circular issued by the Government of India dated 18.2.2015.
 - 2. Annexure A-2** – A true copy of the entry in the relevant page of the service book of the applicant.
 - 3. Annexure A-3** – A true copy of the Circular issued by the Deputy Director of Accounts (Postal) dated 17.3.1989.
 - 4. Annexure A-4** – A true copy of the memo issued by the Deputy Director of Accounts (Postal) Kerala Circle dated 4.3.1986.
 - 5. Annexure A-5** – A true copy of the order issued by the Director of Accounts (Postal), Kerala Circle dated 10.4.1986.
 - 6. Annexure A-6** – A true copy of the representation filed by the applicant to the Post Master General, Kerala Circle, Thiruvananthapuram dated 23.7.1986.
 - 7. Annexure A-7** – A true copy of the pension payment order No.Postal/2013/KE/21899/Pen6 dated 15.11.2013 issued by the 3rd respondent.
 - 8. Annexure A-8** – A true copy of the representation filed by the applicant before the 2nd respondent dated 1.11.2013.
 - 9. Annexure A-9** – A true copy of the order No.327/Admn.I/E.1/C-82/2015-2016 dated 19/21.6.2015 issued by the 2nd respondent.
 - 10. Annexure R-1** – A true copy of the DOPT OM dated 19.5.2009.
 - 11. Annexure R-2** – A true copy of the letter No.4-7/(MACPS)/2009-PCC dated 24.12.2013 communicating the clarification issued by the nodal ministry.
 - 12. Annexure R-3** – A show cause notice was issued to all the officials who had absented themselves from duty on 17.12.2008 and 18.12.2008 vide Memo No.38/Admn.I/EVII/Strike/17/18.12.2008 dated 8.4.2009.
 - 13. Annexure R-4** – A true copy of the Memo No.38/Admn.I/EVII/Strike/17/18.12.2008 dated 22.5.2009.
 - 14. Annexure R-5** – A true copy of the representation of the applicant dated 1.11.2013.
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