

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

**O.A. No.3687/2014
M.A. No. 3166/2014**

**Reserved on: 23.08.2018
Pronounced on: 13.09.2018**

Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. A.K. Bishnoi, Member (A)

Shri Niaz Ahmad (Aged about 63 years)
Sr. Traffic Inspector (Retd.)
S/o Late Shri Moinuddin
R/o H. No. 64, Ward No. 6, Kothiwal Nagar,
Muradabad (UP)

-Applicant

(By Advocate: Shri Lalta Prasad)

Versus

Union of India through

1. General Manager,
Northern Railway,
Baroda House, New Delhi.
2. Divisional Railway Manager,
Northern Railway,
Muradabad Division, Muradabad (UP)
3. Sr. Divisional Personal Officer
Northern Railway (Muradabad Div.),
Divisional Railway Manager Office,
Muradabad (UP)

-Respondents

(By Advocate: Shri Prabodh Kumar Singh for Shri Kripa
Shankar Prasad)

ORDER

By Hon'ble Mr. A.K. Bishnoi, Member (A):

The applicant has filed this Original Application seeking the
following reliefs:

- “(a) direct the respondents to grant the benefit of IIIrd MACP to applicant.
- (b) direct the respondents to refix the pay of the applicant in grade pay Rs.5400 at par with the similarly situated persons.
- (c) direct the respondents to, after taking action upon the relief no.(a) and (b) grant, all the consequential benefits to applicants.”

2. Briefly the facts of the case, as stated by the applicant, are that he was selected in the year 1981 for the post of Traffic Apprentice (TA) and was appointed on 1.3.1981 in the scale of pay of Rs.455-700, pre-revised Rs.5500-9000 for Traffic Apprentice. As per Recruitment Rules of the Traffic Apprentice, training for two years was required for absorption in scales as Station Masters, Asstt. Yard Masters, Traffic Inspectors and Section Controller.

2.1 As per the RRs on completion of two years apprentice at Chandausi, he was posted under the respondents. In the year 1996-97 he was posted under the respondents as per the RRs on the post of Station Superintendent, Hapur in the pay scale of Rs.6500-10500 with grade pay of Rs.4600/-.

2.2 Subsequently, the respondents issued the office order dated 27.09.2004 promoting the applicant to the post of Traffic Inspector in the same scale of pay of Rs.6500-10500 with grade pay of Rs.4600/- which was thereafter upgraded from Traffic Inspector to Senior Traffic Inspector vide order dated 1.11.2003 but without any change in the grade pay.

2.3 On acceptance of the recommendations of the V Central Pay Commission, the pay of the applicant was revised and fixed in the pay scale of Rs.7450-11500 in Grade Pay Rs.4600/- w.e.f. 11.1.2006. The fixation orders were issued on 05.03.2014.

2.4 As per the fixation of pay order issued on 05.03.2014 his pay has been fixed on 1.7.2008 at Rs.23400 + grade pay Rs.4800/-. The respondents issued a letter on 21.1.2010 thereby giving the benefit of IIIrd MACP and IInd MACP Scheme to some employees. The respondents have given IIIrd MACP benefit to similarly situated persons fixing the pay at Rs.23400 on the post of Traffic Inspector, whereas the applicant's pay has been fixed at Rs.22920/- as on 1.7.2008 by giving him the benefit of IInd MACP arbitrarily and illegally.

2.5 The applicant made representation to the respondents on 30.1.2012 and also sent applications under RTI but no response has been received thereon. He mentioned the names of similarly situated persons who have been given grade pay of Rs.5400/- but no reply mentioning reasons for doing so was given by the respondents.

3. The applicant has given the following grounds for claiming reliefs:

3.1 The action of the respondents is illegal, arbitrary and also violative of Articles 14 and 16 of the Constitution of India since they have given the benefit of IIIrd MACP to similarly placed persons but deprived the same to the applicant.

3.2 The representations made by the applicant in which he mainly contended that he has completed 30 years of regular service and is hence entitled to Grade Pay of Rs. 5400/- with benefit of IIIrd MACP were not suitably considered and replied to, which is illegal and arbitrary.

3.3 The pay of the applicant was wrongly fixed on implementation of the recommendations of the V CPC by wrongly granting the grade pay of Rs.4600/- instead of Rs.4800/- and that it should have been done w.e.f. 01.01.2006 instead of the year 2014.

3.4 As per the pay fixation dated 5.3.2014 issued by the Sr. DPO maintained his pay at Rs.23400 as on 1.7.2008 with grade pay of Rs.4800/- but the respondents in their letter dated 21.1.2010 gave the benefit of IInd MACP to applicant fixing his pay at Rs.22,920/- as on 1.7.2008 with grade pay of Rs.4600/ which is illegal.

4. The respondents have filed their Counter-Affidavit in which they have stated that the OA is totally misconceived and without any cause of action. The applicant was appointed on 01.03.1981 as Traffic Apprentice. After completion of training from 1.3.1981 to

17.4.1984 in Bikaner Division, he reported to Divisional Operating Superintendent, Moradabad on 30.04.1984, who declared him passed and posted at Leave Reserve Traffic Inspector, Chandausi. The training period from 18.04.1984 to 09.05.1984 was treated as extended period of training and his pay was fixed at Rs.455/- in Grade Rs.455-700 on 10.05.1984.

4.1 It is submitted by the respondents that he was promoted as Traffic Inspector in Grade Rs.2000-3200 and pay fixed at Rs.2000/- under restructuring on finalization of SF-5 case. He was again promoted as TI, his pay fixed at Rs.8125/- in scale Rs.7450-11500 and posted as TI/NI/MB under restructuring on 1.11.2003. Due to merging of two scales i.e. Rs.6500-10500 & 7450-11500 in VIth Pay Commission, his pay was fixed at Rs.21390/- with grade pay of Rs.4600/- on 1.1.2006. The applicant's pay on 01.07.2008 was Rs.23400/- in PB-2 Rs.9300-34800 in Grade Pay Rs.4600/- and not Rs.4800/- as claimed by him.

4.2 After that he was given IInd MACP, his pay fixed as Rs.24310/- in PB-9300-34800 with grade pay Rs.4800/-. He retired on 31.01.2012 on attaining the age of superannuation.

4.3 It is further stated that for 3rd financial upgradation in grade pay Rs.5400/-, 30 years and above service is required as per MACP rules. The applicant has neither completed 30 years regular service

nor has he completed 10 years service in the present grade pay, hence he is not entitled for IIIrd MACP in grade pay of Rs.5400/-.

5. The applicant has filed a rejoinder to the reply filed by the respondents more or less reiterating the averments made in the OA.

6. Heard the learned counsel for both sides and perused the pleadings available on record.

7. The applicant has prayed for the benefit of IIIrd MACP. On perusal of the facts, it is clear that the applicant was appointed on 01.03.1981 as Traffic Apprentice. After completion of training from 01.03.1981 to 17.04.1984, he was posted as Leave Reserve Traffic Inspector, Chandausi. The period upto to 09.05.1984 was treated as extended period of training. Thus, it is clear that his period of regular appointment commenced from 10.05.1984. He was given IInd MACP with pay as Rs.24310/- in PB-9300-34800 and Grade Pay Rs.4800/- w.e.f. 01.09.2008. The applicant retired on 31.01.2012

8. It is, therefore, clear from the facts put on record that the applicant:

- (1) did not complete 30 years of regular service till his retirement, and
- (2) did not spend 10 years continuously in the same grade pay.

9. This being the case, there is no need to go into any other details of the case as his claim is not covered by the MACP Scheme.

The relevant portion of MACP Scheme is reproduced below:-

“There shall be three financial upgradations under the MACPS, counted from the direct entry grade on completion of 10, 20 and 30 years service respectively. Financial upgradation under the Scheme will be admissible whenever a person has spent 10 years continuously in the same grade-pay.”

10. In view of this, there is no merit in the claim of the applicant for grant of IIIrd MACP. Consequently, the prayer for re-fixation of pay in the grade pay of Rs.5400/- also cannot be accepted.

11. The OA is accordingly dismissed. No costs.

(A.K. BISHNOI)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

cc.