

OA.No.170/00036/2017/CAT/Bangalore Bench
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATIONS NO. 170/00036/2017

DATED THIS THE 28th DAY OF NOVEMBER, 2017

HON'BLE SHRI K.B. SURESH, MEMBER (J)
HON'BLE SHRI P. K. PRADHAN, MEMBER (A)

M.L.Revenkar
Aged about 68 years
S/o.
Retired PA
Dharwad HO-580 008.
Residing at:
H.No.16637/B-1
Gudi Oni, Channapet
Old Hubli-24. ... Applicant

(By Advocate Shri P.Kamalesan)

Vs.

1. Union of India
Rep. by its Director General of Posts
Department of Posts
Dak Bhavan
New Delhi-110 001.
2. Chief Post Master General
Karnataka Circle
Bangalore-560 001.
3. Post Master General
N.K.Region
Dharwad-580 001.
4. Senior Supt. of Post Offices
Dharwad Postal Division
Dharwad-580 008. ... Respondents

(By Advocate Shri M.Rajakumar)

ORDER

(PER HON'BLE PRASANNA KUMAR PRADHAN, MEMBER (A))

The applicant was initially appointed as Group-D in the Postal Department. Based on selection, he was appointed as Postman w.e.f. 28.2.1981. Thereafter he appeared for Limited Departmental Competitive Examination for recruitment to the post of Postal Assistant and on being selected he was appointed as Postal Assistant w.e.f. 15.11.1988. He was granted TBOP after completion of 16 years of service in the PA cadre w.e.f. 31.8.2004. Following the introduction of Modified Assured Career Progression(MACP) Scheme by the Central Government, the Dept. of Posts has adopted the MACP scheme replacing the TBOP/BCR scheme w.e.f. 1.9.2008. The applicant represented the respondents claiming that he is eligible for 2nd MACP w.e.f. 1.9.2008 with grade pay of Rs.4200 but there was no response. The applicant retired from service on 30.9.2008. The respondents vide communication dated 16.3.2016 stated that the appointment of the applicant from Group-D to Postman and Postman to Postal Assistant was considered as two promotions and TBOP as one financial upgradation and hence the applicant is not entitled for further financial upgradation. Aggrieved by the same, the applicant has approached this Tribunal seeking the following relief:

- i. *Quash the Letter No.DWD/B1/MACP/Pen/2016/Dlgs-Dharwad dated:16.3.2016 issued by Senior Supdt., of Post Offices, Dharwad Postal Division, Dharwad-560 008-Annexure-A3.*
- ii. *Direct the respondents to consider the applicant for MACP-II from the date of eligibility counting his regular service from PA cadre and grant all consequential financial benefits.*

2. The applicant has referred to the judgment of the Jodhpur Bench of the Tribunal in OA.No.382/2011 wherein the appointment through Limited Departmental Competitive Examination was not considered as promotion for direct recruitment. The said order was upheld by the

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Hon'ble High Court of Rajasthan and subsequently by Hon'ble Apex Court. The applicant has also referred to the judgments passed by this Tribunal dated 9.10.2015 in OA.No.361/2014 and order dated 5.2.2016 in OA.No.1312/2014 where a similar view was taken and benefits granted. Therefore he prayed for a direction on the respondents to grant the 2nd MACP counting his regular service in the Postal Assistant cadre.

3. The respondents have contended in the reply statement that the applicant has already earned two promotions to the post of Postman and Postal Assistant cadres and thereafter one financial upgradation under TBOP w.e.f. 31.8.2004. Therefore he is not entitled to any financial upgradation as claimed by him. They filed review petition against the order of Jodhpur Bench of the Tribunal before Hon'ble High Court of Rajasthan and review petition before the Hon'ble High Court of Karnataka against the order passed in OA.No.361/2014. They also referred to an order of this Tribunal in OA.No.1259/2014 wherein the Tribunal held that the selection to the post of Sorting Assistant cannot be considered as promotion.
4. It is a fact that in a number of judgments by different Benches of the Tribunal including this Tribunal and Hon'ble High Courts and Hon'ble Supreme Court, it has been held that the appointment to the post of Postman and Postal Assistant cadres through Limited Departmental Competitive Examination cannot be treated as promotion. However, in this case the applicant was appointed to the Postal Assistant cadre on 15.11.1988 and got TBOP on 31.8.2004. We note that he has already retired from service on 30.9.2008 i.e prior to completion of 20 years of

service in the Postal Assistant cadre. To get 2nd financial upgradation under MACP the applicant has to complete 20 years of service in the Postal Assistant cadre which he would have completed only on 15.11.2008 had he been in the service. But he retired on superannuation before that. Therefore the applicant is not entitled to any further financial upgradation as claimed by him.

5. Accordingly, we do not find any merit in the contention made by the applicant and hence the OA being devoid of any merit stands dismissed. No order as to costs.

(P.K. PRADHAN)
MEMBER(A)

(DR. K.B. SURESH)
MEMBER (J)

/ps/

Annexures referred to by the applicant in the OA.170/00036/2017

Annexure-A1: Copy of Pension Payment Order
Annexure-A2: Copy of representation dtd.14.1.2016
Annexure-A3: Copy of Sr.Suptd., Dharwad Postal Division Letter
No.DWD/B1/MACP/Pen/2016 Dlgs. Dtd.16.3.2016
Annexure-A4: Copy of Hon'ble CAT, Jodhpur order dtd.22.5.2012 in
OA.No.382/2011
Annexure-A5: Copy of Hon'ble CAT, Bangalore order dated 9.10.2015 in
OA.No.361/2014
Annexure-A6: Copy of Hon'ble CAT, Bangalore order dated 5.2.2016 in
OA.No.1312/2014
Annexure-A7: Copy of Hon'ble High Court of Rajasthan, Jodhpur Bench order
dtd.10.8.2015 in DB Civil WP/11336/2012
Annexure-A8: Copy of Hon'ble High Court of Karnataka, Kalaburgi Bench order
dtd:20.9.2016 in WP.No.200807/2016(S-CAT)
Annexure-A9: Copy of Hon'ble Apex Court order dated: 24.09.2014 in Civil Appeal
No.4717-4719/2013 in the case of Union of India vs. Atul Shukla etc.

Annexures with reply statement:

Annexure-R1: Copy of OM dated 9.9.2010
Annexure-R2: Copy of the interim order dated 1.4.2016 in WP.No.2806/2016
Annexure-R3: Copy of the order of CAT, Bengaluru in OA.No.1259/2014
