

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00044/2018

DATED THIS THE 26th DAY OF OCTOBER, 2018

HON'BLE DR. K.B. SURESH, MEMBER (J)

HON'BLE SHRI DINESH SHARMA, MEMBER (A)

Bakkappa
S/o Nagappa Chavan,
Aged about 63 years,
retired as Postal Assistant,HPO,
Bidar , Residing at
C/o vishwanath dharmanoor,
Hema Reddy Mallamma colony,
Gumpa, Bidar 585 403.

APPLICANT

(By Shri AR.Holla..... Advocate)

vs.

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

2.The Post Master General,
N K Region,
Dharwad-580 001.

3.The Superintendent of Post Offices,
Bidar Division,
Bidar 585 401.

RESPONDENTS

(By Shri S.Sugumaran ... ACGSC)

ORDER (ORAL)

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

1. Heard. All these matters are covered by our order in OA.No.377/2017 dated 9.8.2018 which we quote:-

The facts of this case are almost exactly similar to the case that was adjudicated by the Jodhpur Bench of the Tribunal in O.A No. 353/2011 and was relied on by the Madras Bench of the Tribunal in O.A. No. 1088/2011. The order of the Madras Bench of the Tribunal was later affirmed by the Hon'ble High Court of Madras in Writ Petition No. 30629/2011 and the SLP No. 4848/2016 against the said judgement was rejected by the Apex court vide Annexure A-8 proceedings dated 16.08.2016. Going by the decisions cited above, the applicant deserves for 3rd financial upgradation under the MACP Scheme, as requested.

2. The respondents have given the same arguments against it which were not accepted by the Jodhpur and Madras Benches of the Tribunal as also by the Hon'ble High Court of Madras. The respondents have also argued that the Apex Court has kept the question of law open. This argument does not help us in deciding against what has been settled by the other Benches of the Tribunal and Hon'ble High Court.

3. In view of the above, we allow this O.A by setting aside the order at Annexure A-11 dated 22.06.2017. The respondents are directed to extend the benefit of 3rd financial upgradation under the MACP Scheme to the applicant with effect from 1.9.2008 with all consequential benefits. As ordered by the Madras Bench of the Tribunal, this order will also be subject to the final outcome of Civil Writ Petition No. 11414 of

2012, if it is still pending before the Hon'ble Supreme Court. No orders as to costs.

2. Therefore, since the applicants are also in parimateria situation, they are also eligible for their grievances to be settled in accordance with the judgement above said. OA is, therefore, allowed. Benefits to be made available to the applicants within next 2 months. No order as to costs.

(DINESH SHARMA)
MEMBER (A)

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

bk.

Annexures referred to by the applicant in O.A. No. 44/2018

Annexure-A1: Copy of the order dated 13.12.1982

Annexure-A2: Copy of the order dated 10.3.1995

Annexure-A3: Copy of the order dated 27.8.2009

Annexure-A4: Copy of the order dated 21.9.2010

Annexure-A5: Copy of the order dated 14.03.2013 in O.A. No. 1088/2011 of Central Administrative Tribunal, Madras Bench

Annexure-A6: Copy of the order dated 04.02.2015 in Writ Petition No. 30629/2014 of Hon'ble High Court of Madras

Annexure-A7: Copy of the order dated 16.08.2016 in SLP No. 4848/2016

Annexure-A8: Copy of the order dated 22.03.2017

Annexure-A9: Copy of the applicant's representation dated 1.06.2017

Annexure-A10: Copy of the order dated 3.10.2017

Annexures with reply statement

Annexure-R1: Copy of the Office Memorandum No. 4-7/ (MACPS)/2009-PCC dated 18.09.2009

Annexure R-2: Copy of corrigendum dated 20.5.2010

Annexure R-3: Copy of recruitment rules

Annexure R-4: Copy of Hon.CAT Bengaluru order dated 2.2.2016 in OA.1259/2014

Annexure R-5: Copy of Hon. High Court of Delhi order dated 29.9.2014 in WP.4131/2014

Annexure R-6: Hon. High Court of Delhi order dated 1.4.2016 in WP.2806/2016

Annexure R-7: Copy of Hon. High Court of Karnataka order dated 19.7.2018 in WP.23249/2018

