

OA.No.170/00226/2017/CAT/BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00226/2017

DATED THIS THE 18TH DAY OF APRIL, 2018

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

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

Nalinakshi M
Aged about 61 years,
R/a No. B-5, 692, 7th A Main,
2nd Stage, 3rd Phase,
BDA flats, Domlur,
Bangalore – 560 071

...Applicant

(By Advocate Shri N. Obalappa)

Vs.

1. The Union of India,
Represented by its Secretary
Ministry of Information
and Broadcasting,
'A' Wing, Shastry Bhavan,
New Delhi – 110 001.

2. The Director,
Department of Personnel & Training,
Ministry of Personnel, P.G. & Pensions,
New Delhi – 110 001.

3. The Chief Executive Officer,
Prasar Bharati, II Floor,
PTI Building, Parliament Street,
New Delhi – 110 001.

4. The Director General,
All India Radio, Akashvani Bhavan,
Parliament Street, New Delhi – 110 001.

5. The Station Director,
All India Radio, AIR Complex,
Raj Bhavan Road,
Bangalore – 560 001.

6. The Pay & Accounts Officer,
All India Radio, Kamarajar Salai,
Mylapore, Chennai – 600 004

...Respondents

(By Shri. S. Prakash Shetty, Senior Panel Counsel)

O R D E R (ORAL)

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

Heard. The applicant was appointed first on 19.07.1985. Thereafter he

got his first promotion on 17.09.1990. He was given his 1st MACP on 01.09.2008. Thereafter he was given 2nd MACP on 17.09.2010 and he retired from service on 28.02.2015. It is submitted at the bar that on an understanding of what is stated in paragraph 28 of the MACP scheme that it has been granted but later on wisdom dawned on the respondents that the wordings used may not be correct according to the usual grammar. Reason and logic will dictate that the 3rd financial upgradation will be available on the completion of 30 years of service from the initial date of appointment. There is no way or scope for any other technical thing to come in between and erase this reason and logic and this has been clarified by the DoPT also vide the DoPT ID No. 35034/4/2013-Estt(D) dated 10.09.2013

“Reference notes on pre-page.

2. The issue relating to grant of third financial upgradation under MACP Scheme to employees who have completed 20 years of service after earning first promotion has been considered by this Department in consultation with the Department of Expenditure.

3. Specific reference of Ministry of Railways was illustrated as under:

- i) Date of joining as JAA (GP Rs. 2800/-) (on DR basis) – 12.11.1984*
- ii) Date of 1st Promotion as AA — 08.11.1987*

In the above case, as he could not complete 24 years of service as on 31.08.2008, he could not avail 2nd ACP. The employee was allowed 2nd MACP w.e.f. 01.09.2008 and his eligibility for grant of 3rd MACP will be on completion of 30 years of service ie. w.e.f. 12.11.2014.

4. The basic concept of MACP Scheme is to provide 1st, 2nd and 3rd financial upgradations to an employee in consideration of completion of 10/20/30 years of regular service in the same scale/Grade Pay respectively. Regular service for grant of benefits commence from the direct entry grade. The Scheme also provides for grant of financial upgradation whenever a person has spent 10 years continuously in the same grade pay.

5. Even though the illustrations No. (i), (ii) and (iii) of para 28 of the Scheme suggest that while 2nd MACP could be given after overall 18 years and the 3rd one after overall 28 years, the fact remains that in both the cases the crucial 2nd and 3rd MACPS is being given only after the mandatory 10 years residency for the 2nd and 3rd MACP respectively. Thus, the 3rd MACP is intended to be given based on either 10 years from the 2nd MACP/Promotion or 30 years of the overall service. Either of these two conditions needs to be fulfilled. In this case, neither of these is fulfilled. The 2nd MACP is rightly given on 1.9.2008 – the date of effect of the MACPS itself. Now either 10 years from 01.09.2008 or overall 30 years service will need to be fulfilled for grant of the 3rd MACP ie. w.e.f. 12.11.2014. Hence, the proposal of the Ministry of Railways is not found to be covered within the parameters of the MACP Scheme.

6. In view of the above, it is not possible to agree to the proposal for grant of third financial upgradation under MACP Scheme to employees who have completed 20 years of service after earning first promotion as the same involves alteration of the basic concept of the MACP Scheme.

7. This issues with the approval of JS(E).

(Mukta Goel)
Director (E-I)

Ministry of Railways

DOPT I.D.No. 35034/4/2013/-Estt(D) dated 10.09.2013”

2. Therefore we feel that unnecessarily a litigation had been forced upon the respondents by the applicant. There must be reason and logic in service matters also. We find that not only there is no merit in the contention but unfortunately frivolous and vexatious contentions are raised. The MACP is a special scheme devised by the Hon'ble Apex Court which of course has metamorphosis from the ACP so that there will be no stagnation in service but it has to be considered and evaluated on a rational and logical basis and not on any other basis. The Hon'ble Apex Court had clearly held that in

certain frames of time certain benefits must be made available so that there cannot be a stagnation for a government employee. This special benefit cannot be allowed to be misused or abused. This is clearly an abuse of process of Court. Therefore the OA is dismissed with a cost of Rs.5,000/-.

(PRASANNA KUMAR PRADHAN)

MEMBER (A)

(DR.K.B.SURESH)

MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No. 170/00226/2017

Annexure A1 Copy of DOPT OM No. 35034/1/97-Estt (D) dated 09.08.1999

Annexure A2 Copy of DOPT OM No. 35034/3/2008 Estt. (D) dated 19.05.2009

Annexure A3 Copy of pay fixation order of the applicant issued vide order dated 11.01.2010

Annexure A4 Copy of letter No. A. 32016/4/2009-S.II/156 dated 17.02.2011 & letter No. Ban 1 (20)-S dated 11.06.2010

Annexure A5 Copy of order No. Ban 1 (20)/MACP/12-S dated 10.01.2012

Annexure A6 Copy of letter No. A-32016/02/2014-SII/141 dated 12.01.2015

Annexure A7 Copy of letter AIR/CHEN/PEN/2014-15/846 dated 04.02.2015

Annexure A8 Copy of No. Ban 1 (20)/MACP/2015-S/2562257 dated 27.03.2015

Annexure A9 Copy of Central Administrative Tribunal, Bangalore Bench order in O.A. No. 296/2015 dated 13.04.2016

Annexure A10 Copy of representation of the applicant dated 08.09.2016

Annexure A11 Copy of Hon'ble High Court order dated 03.02.2017 in Writ Petition No. 11826/2016

Annexures with reply statement

Annexure R1 Copy of DOPT I.D.No. 35034/4/2013/-Estt(D) dated 10.09.2013

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