

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00371 to 373/2018

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ORIGINAL APPLICATION NO.170/00729/2017

DATED THIS THE 31st DAY OF OCTOBER, 2018

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

HON'BLE SHRI DINESH SHARMA, MEMBER (A)

OA.NO.170/00371 to 373/2018

1.N.Venugopal Krishna,
S/o Late A.Nanjundaswamy,
Aged about 63 years,
Retd. As Public Relation Officer,
Basavanagudi HO.,
Bengaluru 560 004.
Residing at
No.28, 2nd Cross,
Gorinayakanahalli,
Kumaraswamy Layout,
Bengaluru 560 078.

2.Vrushabendrappa,
S/o Mallappa,
Aged about 61 years,
Retd. Postmaster
Koramangala VI Block,
Bengaluru 560 095.
Residing at
No.90, 5th Cross,
Vallabhanagar,
Konanakunte Cross,
Bengaluru 560 062.

3.K.Parthasarathi,
S/o Krishnappa TR,
Aged about 64 years,
Retired as PRI(P)
Jayanagara HO.,
Bengaluru 560 041.
Residing at
No.365, 5th Cross,

11th Block, BSK 6th Stage,
Bengaluru 560 070.

....Applicants

(By Advocate Shri P.Kamalesan)
vs.

1. Union of India,
Represented by its Secretary,
Department of Post,
Dak Bhavan,
New Delhi – 110001.

2. Chief Post Master General,
Karnataka Circle,
Bengaluru 560 001.

3. Senior Superintendent of Post Offices,
Bengaluru South Division,
Bengaluru 560 041.

...Respondents.

(By Shri Shri S.Sugumaran.. ACGSC)

OA.NO.170/00729/2017

SK.Ghate
Aged about 64 years,
S/o Krishna
Retired PA
Chikodi
Residing at
Buddha Nagar
Chikodi 591201

....Applicant

(By Advocate Shri P.Kamalesan)
vs.

1. Union of India,
Represented by its Secretary,
Department of Post,
Dak Bhavan, New Delhi – 110001.

2. Chief Post Master General,
Karnataka Circle,
Bangalore 560 001.

3. Postmaster General,

NK Region,Bengaluru 560 001.

4.Senior Superintendent
of Post Offices,
Chikkodi Division,
Chikodi 591201

(By Shri Shri VN.Holla.. Sr.Panel Counsel)

ORDER

SHRI DINESH SHARMA MEMBER (A)

1. Since the facts and the issues involved in the above OAs, are similar, these are being disposed off by the following common order:-

2. The relief sought in these OAs is to apply the judgement of this Tribunal in OA.No.361/2014 dated 9.10.2015 (Basanna Nayak vs UOI), where this Tribunal has followed the judgement of CAT, Jodhpur Bench in OA.No.382/2011, dated 22.5.2012, which was upheld by Hon'ble High Court of Rajasthan, Jodhpur in WP.No.11336/2012 dated 10.8.2015. In short, all these judgments have found that selection on the basis of Limited Departmental Exam to the post of Postal Assistant is not a promotion and it should not be counted as one of the promotions while granting financial upgradation under MACP. The respondents have not disputed the core facts mentioned in the OAs and have also not denied the relevance of the above cited judgements to the facts of these cases. However they have cited the judgement of Hon'ble Delhi

High Court in WP.No.(C)4131/2014 (UOI & ors. vs.Shakeel Ahmad Burney) which was reviewed in Review Petition No.441/2014 by order dated 29.9.2014 and sent back to CAT, New Delhi, for reexamination. Hon'ble CAT, Principal Bench, New Delhi, on reexamination, have disposed of the OA, vide order dated 3.11.2015, again on the basis of the judgement of CAT, Jodhpur Bench upheld by Hon'ble High Court of Rajasthan, Jodhpur. However, Hon'ble Delhi High Court has stayed the above order. Thus, in effect, the defence of the respondents mainly rests on this stay granted by the Hon'ble Delhi High Court. They have also argued that the earlier dismissal of SLPs by the Hon'ble Apex Court (of appeals against the High Court judgements) in this matter was a summary dismissal and therefore, cannot be said to be a final order on the issue of law.

3. After examining the pleadings and hearing the arguments, it is clear that the earlier decision taken by this Tribunal which was upheld by the Hon'ble High Court of Karnataka in WP.No.200807/2016, still holds good and is applicable to the facts of this case. The stay by the Hon'ble Delhi High Court on a decision by Hon'ble CAT, Principal Bench, New Delhi, does not, ipso facto, amount to over-ruling that decision. We, are therefore, constrained to follow our earlier decisions in this regard and allow the prayer made in this OA.

4.

4. The respondents are directed to grant the financial up-gradation MACP-III to the applicants after completion of 30 years of their respective services in PA cadre, with all consequential monetary benefits within three months of this order. These OAs are disposed off. No order as to costs.

(DINESH SHARMA)
MEMBER (A)

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

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Annexures referred to by the Applicant in OA.No.371-373/2018

Annexure A-1: Copy of representation of applicant dated 20.7.2017 & 1.3.2018

Annexure A-2: Copy of letter dated 6.3.2018.

Annexure A-3: Copy of representation of applicant No.2 dated 16.8.2017 & 13.3.2018

Annexure A-4: Copy of letter dated 13.3.2018.

Annexure A-5: Copy of representation of applicant No.3 dated 19.7.2017

Annexure A-6: Copy of letter dated 13.3.2018.

Annexure A-7: Copy of Hon.CAT Jodhpur order dated 22.5.2012 in OA.382/2011

Annexure A-8: Copy of Hon. High Court of Rajasthan at Jodhpur order dated 10.8.2015 in WP.11336/2012

Annexure A-9: Copy of Hon.CAT Bengaluru order dated 9.10.2015 in OA.361/2014

Annexure A-10: Copy of Hon. High Court of Karnataka at Kalaburagi Bench order dated 20.9.2016 in WP.200807/2016

Annexure A-11: Copy of Hon.CAT Madras order dated 14.3.2013 in OA.1088/2011

Annexure A-12: Copy of Hon. High Court of Madras order dated 4.2.2015 in WP.30629/2014

Annexure A-13: Copy of Hon. Apex Court order dated 16.8.2016 in SLP.No.(C)4848/2016

Annexure A-14: Copy of Hon. Apex Court order dated 13.9.2017 in Review SLP.No.(C)1939/2017

Annexure A-15: Copy of letter dated 22.3.2017

Annexure A-16: Copy of letter dated 2.3.2018

Annexures referred to by the Respondents in the Reply Statement

Annexure R-1: Copy of OM dated 18.9.2009

Annexure R-2: Copy of corrigendum dated 20.5.2010

Annexure R-3: Copy of letter dated 18.10.2010.

Annexure R-4: Copy of Hon. High Court of Delhi order dated 29.9.2014 in WP.4131/2014

Annexure R-5: Copy of Hon. High Court of Delhi order dated 1.4.2016 in WP.2806/2016

Annexure R-6: Copy of Appendix 9

Annexure R-7: Copy of Hon.CAT Bengaluru order dated 2.2.2016 in OA.1259/2014

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Annexures referred to by the Applicant in OA.No.729/2017

Annexure A-1: Copy of memo dated 19.12.1978

Annexure A-2: Copy of letter dated 7.2.1983

Annexure A-3: Copy of memo dated 21.7.1999

Annexure A-4: Copy of memo dated 10.8.2010.

Annexure A-5: Copy of representation of applicant dated 2.3.2016

Annexure A-6: Copy of memo dated 6.8.2016.

Annexure A-7: Copy of Hon.CAT Bengaluru order dated 5.2.2016 in OA.361/2014

Annexure A-8: Copy of Karnataka at Kalaburgi Bench order dated 20.9.2016 in WP.200807/2016

Annexure A-9: Copy of Hon. High Court of Madras order dated 4.2.2015 in WP.30629/2014

Annexure A-10: Copy of Hon. Supreme Court order dated 16.8.2016 in SLP.No.(C)4848/2016 & RP SLP.No.(C)1939/2017 in SLP.No. (C)4848/2016 dated 13.9.2017

Annexures referred to by the Respondents in the Reply Statement

Annexure R-1: Copy of OM dated 18.9.2009

Annexure R-2: Copy of corrigendum dated 20.5.2010

Annexure R-3: Copy of letter dated 18.10.2010.

Annexure R-4: Copy of Appendix 9

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.CAT Bengaluru order dated 2.2.2016 in OA.1259/2014

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