

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTINGS:GWALIOR

Original Application No.202/01013/2018

Gwalior, this Friday, the 26th day of October, 2018

HON'BLE SHRI R. RAMANUJAM, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Kedar Prabhakar Bhujang
S/o Shri Dr. P.S. Bhujang,
Aged 53 years,
Occupation Sr. Section Engineer,
Rail Spring Karkhana
Sitholi-474001
R/o H No.20 Ganga Vihar
Gwalior 474002 (M.P.)

-Applicant

(By Advocate –**Shri S.C. Sharma**)

V e r s u s

1. Union of India
General Manager
North Central Railway
Subedarganj
Allahabad 211015 (U.P.)

2. Chief Workshop Manager,
Rail Spring Karkhana, Sitholi
475001 Gwalior (M.P.)

3. Astd. Personal Officer,
Rail Spring Karkhana
Sitholi 475001
Gwalior (M.P.)

- Respondents

(By Advocate –**Shri Avinash Kumar Dubey proxy counsel for
Shri M.K. Sharma**)

ORDER (ORAL)

By R. Ramanujam, AM:-

Heard. The applicant has filed this O.A. seeking the following reliefs:

“8.1 That, impugned order in Annexure A/6 dated 15.12.2017 and A/8 dated 23.03.2018 respectively may kindly be quashed.

8.2 That, respondents may kindly be directed and ordered to stop recovery and refund the whole amount recovered on account of implementation of order dated 23.03.2018 in Annexure A/8 with interest.

8.3 Any other suitable relief which this Hon’ble Tribunal deems fit be also allowed with cost Rs.15000/-.”

2. The applicant is aggrieved that the 2nd MACP granted to him w.e.f.16.10.2008 had been withdrawn as erroneous by impugned Annexure A/6 communication dated 15.12.2017. The applicant had not been given an opportunity to be heard before passing such order which was in complete violation of MACP scheme under which the 2nd MACP does not have to wait till completion of 20 years, if the first promotion had been granted to an employee in less than 10 years, it is alleged. The applicant made Annexure A/7 representation dated 09.01.2018 in this regard, which remained unanswered. However, without reference to such representation, the respondents proceeded with the matter with Annexure A/8 communication dated 23.03.2018 by which the applicant was

informed that the 2nd MACP granted to him w.e.f.16.10.2008 was erroneous and, therefore, an amount of Rs.43564/- paid to him in excess would be recovered in 10 equal installments. Thereafter, Annexure A/9 legal notice dated 04.10.2018 was served on the respondents which has not met with any response. Aggrieved by the unilateral action of the respondents, the applicant is before this Tribunal.

3. We have considered the matter in terms of the records/correspondence as submitted along with the O.A. It appears that the respondents took a view that the 2nd MACP granted to the applicant w.e.f. 16.10.2008 was erroneous as such financial upgradation could only granted to him after completion of 20 years of service. Although, the Railway Board letter dated 20.12.2011 and 27.06.2014 have been referred to in the communication, but it is not clear how exactly the scheme of MACP as approved by the DOPT had been applied in the case of the applicant who had apparently been granted his first promotion in 1998, ahead of ten years of completion of service. In any case, the applicant was entitled to a reasoned and speaking order in reply to his Annexure A/7 representation dated 09.01.2018. We are, therefore, of the view that this O.A. could be disposed of with a direction to the respondents to pass a reasoned and speaking order in accordance

with law/scheme of MACP as approved by the DoPT and the relevant instructions of the Railway Board, duly dealing with the points raised in the representation as well as Annexure A/9 legal notice dated 04.10.2018 within a period of three (03) months from the date of receipt of a copy of this order. Further recovery from the applicant's salary shall be deferred till such order is passed by the competent authority.

4. O.A. is disposed of in the above terms. No costs.

(Ramesh Singh Thakur)
Judicial Member
kc

(R. Ramanujam)
Administrative Member