

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.822 of 2013

Reserved on : 05.10.2018

Order pronounced on : 09.10.2018

Between:

B.Ramachandrudu, S/o. B. Veerappa,
Aged about 52 years, Working as SS/RU,
South Central Railway, Res: 16/B Railway Quarters,
West Railway Station, Tirupati – 517 502.

... Applicant

And

1. Union of India represented by
The General Manager, South Central Railway,
Rail Nilayam, Secunderabad.
2. The Divisional Railway Manager,
South Central Railway, Guntakal Division, Guntakal.
3. The Addl. Divisional Railway Manager,
South Central Railway, Guntakal Division, Guntakal.
4. The Senior Divisional Personnel Officer,
South Central Railway, Guntakal Division, Guntakal.
5. The Senior Divisional Operating Manager,
South Central Railway, Guntakal Division, Guntakal.

... Respondents

Counsel for the Applicant	...	Mrs. Rachna Kumari
Counsel for the Respondents	...	Mr. M.Venkateswarlu, SC for Railways

CORAM:

<i>Hon'ble Mr. B.V. Sudhakar</i>	...	<i>Member (Admn.)</i>
<i>Hon'ble Mr. Swarup Kumar Mishra</i>	...	<i>Member (Judl.)</i>

ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)}

The OA is filed against the impugned order dt 19.1.2013 of the 3rd respondent in not granting grade pay of Rs.4,800 from 1.9.2008 under Modified Assured Career Progression Scheme (MACPS).

2. Brief facts are that the applicant joined as Asst. Station Master (ASM) in Hubli division of the respondents organisation on 16.4.1983 in the grade pay of Rs.2800 and got promoted to the grade of Rs.4200 on 6.12.1983, according to the applicant. As per MACPS the claim of the applicant was that he is due for Grade pay of Rs.4,600 in 1993 and Grade pay of Rs.4,800 in 2008 when the MACP came into existence. Having not been granted the same the present OA has been filed.

3. The contention of the applicant is that he has put in 29 years of service but was not given financial upgradation as per MACPS which envisages three financial upgradation counted from the direct entry grade on completion of 10,20,30 years of service. Financial upgradation is given when one spends 10 years continuously in the same grade pay. The applicant joined in 1983 with grade pay of Rs 2800 and as per the scheme he should get grade pay of Rs 4600 in 1993 and Rs 4800 by 2003 or from the date of commencement of the MACPS in 2008, whereas he was given the grade pay of Rs 4600 on 1.9.2008. A junior by name Sri V.K. Raju who joined in November 1986 was given the grade pay of Rs 4800 from 21.5.2009 which is discriminative. The applicant has quoted Honorable Ernakulam Bench decision in regard to MACPS to press his case.

4. The respondents confirm that he was absorbed in Grade pay of Rs 2800 on 6.12.1983 at Hubli and was promoted to the Grade pay of Rs 4200 on 17.11.92. The respondents further clarify that the applicant was actually promoted to the grade pay of Rs 4200 on 1.7.1988 but since he sought inter-divisional transfer to Guntakal, his request was acceded and was placed in lower grade pay of Rs.2800 on 23.7.1990. Nevertheless, the applicant was thereafter promoted to the Grade pay of Rs. 4200 on 17.11.1992. Based on this promotion he was given financial upgradation to Rs 4600 though due in 2003 but was given on 1.9.2008 when the

MACPS came into vogue. As per the respondents he is actually due for the next higher grade of Rs 4800 under MACP only in 2013 but being on Leave without pay for a period of 218 days it gets postponed to 13.7.2014. The respondents admit that they made a mistake in allowing the junior Sri Kumarswamy Raju, the grade pay of Rs 4800 on 26.5.2009 and that they have withdrawn it vide memorandum dt 24.4.2012.

5. The essential issue in this case is in regard to the promotion to the grade of Rs 4200 which the applicant initially got it in 1988 but by seeking inter divisional transfer to Guntakal from Hubli, he had to move to a lower grade of Rs 2800 and then return to the grade of Rs 4200 in 1992. The applicant has not stated this fact in his OA but choose to be silent. It would be healthy to state facts and seek justice. As per RBE No. 101/2009 dt 10.6.2009 to which the MACPS scheme was appended, clause 9 of the said scheme clearly states that past continuous regular service in another Government/Department in a post carrying same grade pay prior to regular appointment in a new department, without a break shall also be counted towards qualifying regular service for the purpose of MACPS only. The applicant quoted this circular to support his argument stating that as per this clause he was promoted to Rs 4200 in 1983 whereas the respondents claim that he was re-promoted to Rs 4200 grade pay only in 1992. As per clause 9 of MACPS the applicant should continue in the same grade pay of Rs 4200 to consider the service rendered in Hubli but he did not since he was reverted to the lower grade pay of Rs 2800 on joining Guntakal on 23.7. 1990. As there is no continuity in having the same grade pay as per clause 9 of the MACPS the claim of the applicant is against MACPS rules. Therefore his promotion to the next higher grade of Rs 4600 has to be considered only from 1992 and accordingly it has to be granted only in 2008 when the

MACP scheme was grounded. The action of the respondents is as per MACP norms and is correct to this extent. However, as per clause 11 of MACP scheme all kinds of leave duly sanctioned are to be reckoned as regular service. Deducting the period of 218 days, during which the applicant was on Leave without pay and which was permitted by the respondents and not refuted in reply statement, is irregular. Hence the applicant is eligible for the 3rd financial upgradation on 6.12.13 after completion of 30 years of service on entering the direct entry grade on 6.12.1983 and not on 13.7.2014 as claimed by the respondents. The decision of the Honourable Ernakulam bench of this Tribunal in OA 647/2011 is not applicable to the present case as there was no reversion to the lower grade pay as is seen in the case of the applicant in the present OA. Hence the OA partly succeeds and allowed accordingly.

6. Therefore the respondents are directed to consider:

- 1) Grant of 3rd financial upgradation on 6.12.2013 with all the consequential benefits like fixing of pay, increments , arrears etc which arise consequent to this order
- 2) Time allowed to implement this order is 3 months from the date of receipt of this order.

7. No order to costs.

(SWARUP KUMAR MISHRA)
MEMBER (JUDL.)

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 9th day of October, 2018

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