

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

Original Application No.718/2016

Date of C.A.V. : 09.11.2017

Date of Order : 16.02.2018

Between :

1. V.Raja Rao, S/o V.Devadanam,
aged 53 years, Occ : Mail Guard,
O/o The Station Manager, South Central Railway,
Vijayawada Division, Vijayawada, R.S.
2. Sk. Kaleemulla, S/o Sk.Bandenawaz,
aged 55 years, Occ : Mail Guard,
O/o The Station Manager, South Central Railway,
Vijayawada Division, Vijayawada R.S.
3. M.Gunalan, S/o C.Murugan,
aged 51 years, Occ : Mail Guard,
O/o The Station Manager, South Central Railway,
Vijayawada Division, Vijayawada R.S.
4. K.Eswara Murthy, S/o K.N.Murthy,
aged 59 years, Occ : Mail Guard,
O/o The Station Manager, South Central Railway,
Vijayawada Division, Rajahmundry R.S.
5. V.Murali Mohan, S/o V.Ramaiah,
aged 56 years, Occ : Mail Guard,
O/o The Station Manager, South Central Railway,
Vijayawada Division, Rajahmundry R.S.
6. M.Prabhakara Rao, S/o M.Lakshmana Rao,
aged 58 years, Occ : Mail Guard,
O/o The Station Manager, South Central Railway,
Vijayawada Division, Rajahmundry R.S.
7. A.Srinivas, S/o Appa Rao,
aged 53 years, Occ : Mail Guard,
R/o The Station Manager, South Central Railway,
Vijayawada Division, Rajahmundry R.S.

8. Ch.H.V.R.Prasad, S/o Ch.Pardha Saradhi,
aged 53 years, Occ : Mail Guard,
O/o The Station Manager, South Central Railway,
Vijayawada Division, Rajahmundry R.S.

9. N.Nageswara Rao, S/o N.Chandraiah,
aged 52 years, Occ : Mail Guard,
O/o The Station Manager, South Central Railway,
Vijayawada Division, Vijayawada R.S.

10. J.Srinivasa Rao, S/o J.V.Subba Rao,
aged 51 years, Occ : Mail Guard,
O/o The Station Manager, South Central Railway,
Vijayawada Division, Vijayawada R.S.

... Applicants

And

1. Union of India, rep. by the
Chairman, Ministry of Railways,
Railway Board, Rail Bhavan, New Delhi.

2. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.

3. The Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.

4. The Senior Divisional Personnel Officer,
Vijayawada Division, Vijayawada.

... Respondents

Counsel for the Applicants	...	Mr. K.R.K.V.Prasad, Advocate
Counsel for the Respondents	...	Mr. V.Vinod Kumar, S.C. For Rlys.

CORAM:

<i>Hon'ble Mr.Justice R.Kantha Rao</i>	<i>...</i>	<i>Member (Judl.)</i>
<i>Hon'ble Mrs.Minnie Mathew</i>	<i>...</i>	<i>Member (Admn.)</i>

ORDER

{ As per Hon'ble Mr.Justice R.Kantha Rao, Member (Judl.) }

The applicants are working as Mail Guards in Vijayawada division of South Central Railway. They filed the present OA to direct the respondents to grant 2nd and 3rd Modified Assured Career Progression (MACP) Scheme to them and fix their pay from time to time by granting requisite increments and to draw all consequential benefits thereof.

2. The applicants were initially appointed in the cadre of Trains Clerks / Commercial Clerks during the years 1982 to 1992. Later they were selected as Goods Guards and were given further promotion as Senior Passenger Guard and Mail / Express Guards and presently working as Mail / Express Guards. According to them, they were appointed in the existing pay structure with Grade Pay of Rs.2400/- as Trains Clerks / Commercial Clerks, appointed to the new post i.e. Goods Guard with Grade Pay Rs.2800/- and promoted to the next higher grade post in that cadre with Grade Pay of Rs.4200/-. The posts of Senior Goods Guard, Passenger Guard and Mail Guard are operated with Grade Pay of Rs.4200/- only. Their version is that under the 6th CPC pay scales they are entitled for two financial upgradations. According to them, counting the financial upgradations earned in the cadre hierarchy for the purpose of MACP Scheme is obviously illegal. Therefore, they say that the initial appointment of the applicants to the post of Trains Clerk / Commercial Clerk have to be ignored and their entry into Guards cadre can be considered as basis for reckoning upgradation.

3. The claim of the applicants is opposed by the respondents Railway in

their reply statement contending as follows :

The applicants have joined as Goods Guards in Group-C cadre and earned three promotions as Senior Goods Guard, Passenger Guard / Senior Passenger Guard and Mail & Express Guard. In terms of the Railway Board's letter No.PC-V/2009/ACP/2, dated 10.06.2009 RBE No.101/2009 circulated by South Central Railway as Serial Circular No.85/2009 (Anx-R-1), financial upgradations will be granted in the immediate next higher Grade Pay in the hierarchy of the Pay Band and Grade Pay whenever an employee has completed 10 years continuous service in the same grade.

4. As per Railway Board's letter dated 10.02.2011 circulated by South Central Railway as Senior Circular No.25/2011 (Anx-R-2) it is clarified that an employee appointed as Goods Guard and has earned three promotions i.e. from Goods Guard to Senior Goods Guard, from Senior Goods Guard to Passenger Guard and from Senior Passenger Guard to Mail / Express Guard (Passenger Guard to Senior Passenger Guard to be ignored) are not eligible for any further upgradation under MACPS. All the applicants joined as Goods Guard and earned three promotions as Senior Goods Guard, Passenger Guard / Senior Passenger Guard and Mail & Express Guard. Therefore, they are not eligible for further upgradation under MACP Scheme as per the above Railway Board instructions.

5. Thus according to the respondents the promotions earned in the post carrying same Grade Pay in the promotional hierarchy as per Recruitment Rules shall be counted for the purpose of MACPS and this will apply in case of

promotion from Senior Goods Guard to Passenger Guard and accordingly promotion from Senior Goods Guard in PB-2 with Grade Pay Rs.4200/- to Passenger Guard in PB-2 with Grade Pay Rs.4200/- shall be counted for the purpose of MACPS. Therefore, the respondents contended that an employee who was appointed as Goods Guard and later promoted as Senior Goods Guard, Passenger Guard and Mail / Express Guard is not entitled for any further financial upgradations under MACPS. The respondents on the aforementioned ground sought to dismiss the OA.

6. Heard Mr.K.R.K.V.Prasad, learned counsel for the applicants and Mr.V.Vinod Kumar, learned standing counsel for the respondents.

7. The very same issue fell for consideration before the Jaipur Bench of C.A.T. in OA.468/2011 and batch. In the said case the Tribunal following the order of C.A.T. Allahabad Bench in O.A. 1241/2011 which was upheld by the Allahabad High Court in W.P.18244/2013 and also the order of the C.A.T. Ernakulam Bench in OA.482/2011 and batch held that the legal position has been well settled by the judicial pronouncements in the said cases by taking the view that the movement of Senior Goods Guard to the post of Passenger Guard cannot be considered as a promotion for the purpose of considering the benefits of MACP.

8. As rightly contended by the applicants their existing pay structure shows only two Grade Pays in respect of the four posts but they have been wrongly treated as promoted three times in 30 years of service and their prayer for grant of 2nd and 3rd financial upgradations can be granted. Therefore, they are

entitled for the relief as prayed for in the OA.

9. Consequently the respondents are directed to grant 2nd and 3rd financial upgradations under MACP Scheme to the immediate next higher Grade Pay in the hierarchy of the recommended revised Pay Bands and Grade Pay as given in Section 1 of Part-A of the first schedule of the Railway Services (Revised Pay) Rules 2008 i.e. PB-2 with Grade Pay of Rs.4600/- and Rs.4800/- on completion of 10 years and 20 years from the 1st promotion to the Grade Pay of Rs.4200/- to the applicants and accordingly fix the pay of the applicants from time to time by granting requisite increments, draw arrears and grant all consequential benefits thereof within a period of three months from the date of receipt of a copy of this order.

10. In the result, OA is allowed. Consequently, M.A.No.560/2017 stands dismissed. There shall be no order as to costs.

(MINNIE MATHEW)
MEMBER (ADMN.)

(JUSTICE R.KANTHA RAO)
MEMBER (JUDL.)

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