

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**Date of order : 12th October, 2013

Coram : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

(i) O.A. 799 of 2013 Sri Dipak Lodh,
Son of Late Dinesh Chandra Lodh,
Aged about 51 years,
Working as Assistant Accounts Officer,
Office of the General Manager,
Postal Accounts & Finance, West Bengal Circle,
Yogayog Bhawan, P-36, C.R. Avenue,
Kolkata - 700 012, residing at 'Santi Sadan',
Flat No. 2/A, Kabi Sukanta Road,
P.O. - Nabapally, Barasat, North 24 Pgs.,
Kolkata - 700 126.

(ii) O.A. 801 of 2013 Sri Palas Gangopadhyay,
Son of Late Priyotosh Gangopadhyay,
Aged about 53 years,
Working as Assistant Accounts Officer,
Office of the General Manager,
Postal Accounts & Finance, West Bengal Circle,
Yogayog Bhawan, P-36, C.R. Avenue,
Kolkata - 700 012, residing at
79, Plaza Housing, Jagannathpur,
Kolkata - 700 141.

(iii) O.A. 802 of 2013 Sri Naba Kumar Naskar,
Son of Late Nityananda Naskar,
Aged about 53 years,
Working as Assistant Accounts Officer,
Office of the General Manager,
Postal Accounts & Finance, West Bengal Circle,
Yogayog Bhawan, P-36, C.R. Avenue,
Kolkata - 700 012, Residing at Thanamakua,
P.O. D. Sk. Lane, P.S. Sankrail,
Dist. Howrah, Pin : 711 109,
West Bengal.

..... Applicants

Versus

1. Union of India,
Through the Secretary to the Govt. of India,

Department of Posts,
Ministry of Communications,
Dak Bhawan, Parliament Street,
New Delhi – 110 001.

2. The Director General of Posts,
Ministry of Communications & IT,
Department of Posts, Dak Bhawan,
New Delhi – 110 001.

3. The Chief Post Master General,
West Bengal Circle,
Yogayog Bhawan,
Kolkata – 700 012.

4. The General Manager (Postal Accounts &
Finance), West Bengal Postal Circle,
Kolkata, P-36, C.R. Avenue,
Yogayog Bhawan,
Kolkata – 700 012.

5. The Senior Accounts Officer (Postal),
Office of the General Manager (Postal
Accounts & Finance),
West Bengal Postal Circle,
Kolkata, P-36, C.R. Avenue,
Yogayog Bhawan,
Kolkata – 700 012.

6. The Assistant Director,
Pay Commission Cell,
Govt. of India,
Ministry of Communications & IT,
Department of Posts,
Dak Bhawan, Parliament Street,
New Delhi – 110 001.

..... Respondents.

For the Applicant : Mr. S.K. Datta , Counsel

For the Respondents : Mr. B.P. Manna , Counsel

O R D E R (Oral)

Per : Dr. Nandita Chatterjee, Administrative Member

Ld. Counsel for the applicants and respondents are present and heard.

[Signature]

2. The applicants have challenged, inter alia, the respondents' order dated 16.8.2011 (Annexure 'A-5' to the O.A.) by virtue of which the benefits of the 2nd MACP were cancelled based on certain clarifications dated 8.3.2011 of the respondent authorities (Annexure 'A-4' to the O.A.).

3. Ld. Counsel for the respondents argues that the instant O.A. cannot be entertained as the said O.A. is hopelessly barred by limitation and, more importantly, an Original Application No. 260/00392/2011 claiming financial upgradation under MACP Scheme on the same cause of action and challenging similar cancellation orders had been dismissed vide an order dated 26.9.2017 by the Central Administrative Tribunal, Cuttack Bench and, accordingly, the instant O.A. also deserves to be dismissed.

4. Upon a perusal of the orders of the Cuttack Bench in O.A. 260/00392/2011 it is seen that the applicants therein had similarly challenged Office Memoranda that observed categorically that, as the applicants were initially appointed as Postal Assistants and they received TBOP and regular promotion in AAO before implementation of MACPs, they will not be eligible for Second Financial Upgradation, having already obtained one financial upgradation and one regular promotion.

In the Full Bench decision in *John Lucas v. Addl. Chief Mechanical Engineer, S.C. Railway [(1987)-3 STC 328 (Bang)(FB)]*, it has been held as under:-

"6. Consistency, certainty and uniformity in the field of judicial decisions are considered to be the benefits arising out of the "Doctrine of Precedent". The precedent sets a pattern upon which a future conduct may be based. One of the basic principles of administration of justice is, that the cases should be decided alike. Thus the doctrine of precedent is applicable to the Central Administrative Tribunal also. Whenever an application under Section 19 of the Act is filed and the question involved in the said application stands concluded by some earlier decision of the Tribunal, the Tribunal necessarily has to take into account the judgment rendered in the earlier case, as a precedent and decide the application accordingly. The Tribunal may either agree with the view taken in the earlier judgment or it may dissent. If it dissents, then the matter can be referred to a larger Bench / Full Bench and place the matter before the Chairman for constituting a larger Bench so that there may be no conflict upon the two Benches. The Larger Bench, then, has to consider the correctness of the earlier decision in disposing of the later application. The Larger Bench can overrule the

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view taken in the earlier judgment and declare the law, which would be binding on all the Benches."

In view of the above ratio, the applicant in the instant Original Application had to raise pleadings/bring on record documents to persuade the Tribunal to take a view different from that passed in O.A. No. 260/00392/2011. As no such records or documents have been furnished before us, there is no specific challenge to the earlier decision. On 10.9.2018, parties were accorded opportunity to file written notes of arguments within 10 days. No written notes of arguments have been found on record after lapse of the scheduled time period.

5. Accordingly, the instant O.A.s are liable to be dismissed and are dismissed in terms of order dated 26.9.2017 passed in O.A. No. 260/00392/2011. There will be no orders on costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

SP