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OA 1037/2013

CENTRAL ADMINISTRATIVE TRIBUNAL
KOKATA BENCH, KOLKATA

O.A. 1037/2013

Orders Reserved on : 22nd Nov., 2017

Dee. 22 Nov. 2017
Date of orders : 22 Nov., 2017

CORAM

HON'BLE MRS. BIDISHA BANERJEE, MEMBER (J)
HON'BLE JAYA DAS GUPTA, MEMBER (A)

Sri Pralay Kumar Santra, S/o Late Ranjit Santra, aged about 48 years, working as Loco Pilot [Shunting]/Elec. Under Sr. Crew Controller, Howrah, E. Rly., residing at Vill. Jalapra, PO – Paltagorh, Dist., Hoogly, PIN v- 712409.applicant

By Advocate : Mr. A.Chakraborty.

Versus

1. Union of India, through the General Manager, Eastern Railway, 17, N.S. Road, Kolkata – 700001.
2. The Sr. Divisional Personnel Officer, E. Railway, Howrah -1.
3. The Asstt. Personnel Officer, [G], E. Rly., Howrah -1.

.... Respondents.

By Advocates: Mr. A.K.Banerjee.

ORDER

Per Bidisha Banerjee, Member (J):- This application has been filed seeking the following reliefs :

"8[a] Office order dated 30.08.2012 and office order dated 05.08.2013 issued in respect of the applicant cannot be tenable in the eye of law and as such same may be quashed and also direct the respondents to allow the applicant to enjoy the benefit of G.P. of Rs. 2800/- as granted under MACP scheme."

2. Learned counsels were heard and available materials were perused.
3. During the course of hearing, the learned counsel for the applicant sought reliance upon and invited our attention to an order passed by this Tribunal in OA No.1112/2013 on 26.08.2014 in a case where a notice dated 05.08.2013 was assailed as the MACP benefit already granted on 12.05.2010 to the applicant therein was sought to be withdrawn due to a subsequent refusal of pre-promotional

training in running cadre, of 22.02.2012. This Tribunal in the OA noticed that MACP Scheme was explicit on the subject, and laid down the following –

"25. If a regular promotion has been offered but was refused by the employee before becoming entitled to a financial upgradation, no financial upgradation shall be allowed as such an employee has not been stagnated due to lack of opportunities. If, however, financial upgradation has been allowed due to stagnation and the employees subsequently refused the promotion, it shall not be a ground to withdraw the financial upgradation. He shall, however, not be eligible to be considered for further financial upgradation till he agrees to be considered for promotion again and the second the next financial upgradation shall also be deferred to the extent of period of debarment due to the refusal."

4. Accordingly, this Tribunal allowed the OA with the following observation :

"7. Having considered the matter in the light of the instructions as referred to hereinabove, we are of the considered opinion that refusal for pre-promotional training in 2012 can not entail withdrawal of MACP benefits already granted in 2010."

5. In the present OA, we noticed that the applicant Pralay Kumar Santra is identically aggrieved as of the applicant in OA 1112/2013, as would be evident from Annexure-A-2 to the OA, which is a notice dated 5th August, 2013 for withdrawal of MACP. The notice reads, thus –

"The Financial Upgradation under MACP have already been granted to you vide this office order No. E/9/TRS[Rg]/MACP/ [Loco Pilot]/Shunting]/Elect., dated 22.02.2012 and No.E/9/TRS/3/ET& Goods [E] dated 30.08.2012.

You are, therefore, asked to offer your remakrs as to why overdrawn MACP arrear[along with current] amount should not be recovered from your forth coming salary bill in 6 instalments. Your remarks are scheduled to be arrived at this orffice within 15 days from the date of receipt of this letter without fail"

6. The applicant in the case at hand had refused pre-promotional training, vide notice dated 22.2.2012 and 30.08.2012 due to which the MACP already granted vide order dated on 12.05.2010 was sought to be withdrawn.

7. Apply the same logic, that refusal to a subsequent pre-promotional training

[in 2012] could not entail withdrawal of MACP benefit already granted [in 2010] or earlier, the present applicant would deserve identical reliefs as the applicant in OA 1112/2013..

8. Therefore, in view of para 25 of the MACP Scheme as extracted [supra] and the order passed by this Tribunal in OA 1112 of 2013, which the learned counsel for the respondents admits at bar, has been implemented, we quash the notice dated 05.08.2013 and dispose of this OA with direction upon the respondent authorities to extend the identical benefits to the present applicant, as extended to the applicant in OA 1112/2013. No costs.

[Jaya Das Gupta]
Member (Admn.)
mps/-

[Bidisha Banerjee]
Member (Judicial)