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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00020/2017

Tuesday, this the 26th day of March, 2019

CORAM:

HON'BLE Mr.E.K.BHARAT BHUSHAN,	...ADMINISTRATIVE MEMBER
HON'BLE MR.ASHISH KALIA,	...JUDICIAL MEMBER

Shri Balakrishnan K.,
S/o Chattukutty (Late),
Aged 67 years,
Retired SPM Edakulam,
Vadakara Postal Division,
Department of Posts,
residing at "Dhanya",
Kothamangalam,
Koyilandi -673 305.

....Applicant

(By Advocate Mr.V.Sajith Kumar)

V e r s u s

1. The Union of India
represented by the Secretary
to Government,
Department of Posts,
Ministry of Communications,
Government of India,
New Delhi – 110 001.

2. The Chief Postmaster General,
Kerala Circle,
Trivandrum – 695 033.

3. The Superintendent of Post Offices,
Vadakara Postal Division,
Vadakara – 673 101.

....Respondents

(By Advocate Mr. P.G.Jayan, ACGSC for Respondents)

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This application having been heard on 19th March, 2019, the Tribunal on 26th March, 2019 delivered the following :

ORDER

HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER

OA No.20/2017 is filed by Shri K.Balakrishnan, retired SPM against the refusal on the part of the respondents to consider his claim for second MACP in Postal Assistant cadre, despite possessing 32 years of qualifying service.

He seeks the following reliefs:

- (i) To direct the Respondent to grant 2nd financial upgradation to the Applicant in the PA cadre in view of his 25 years service without promotion and grant him consequential benefits by notionally fixing the pay and pension accordingly.
- (ii) Grant such other reliefs as may be prayed for and as the Court may deem fit to grant, and
- (iii) Grant the cost of this Original Application.

2. The applicant entered service as Group 'D' under the respondents in the year 1977. On passing the Departmental Competitive Examination, he was promoted to the cadre of Postman in the year 1982. In the year 1984 he was appointed to the cadre of Postal Assistant based on LGO Examination. He was granted TBOP upgradation in the year 2000 on completion of 16 years of service. He went on to superannuate from service with effect from 30.04.2009. Thus despite having more than 25 years of service in the cadre

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of Postal Assistant, he had to satisfy himself with one TBOP upgradation.

3. He submits that he was promoted to the cadre of Postal Assistant on the basis of a Competitive Examination. He further submits that if he had continued in Group 'D' post without availing the Postman's appointment he would have got this promotion in the normal course. Having spent 25 years of service as Postal Assistant he is entitled to two upgradations in pay, whereas he has got only one benefit under TBOP. He complains that there are persons who are junior to him in the cadre of Postal Assistant who are drawing higher pay on the date of retirement.

4. A reply statement has been filed on behalf of the respondents. It is maintained therein that applicant's promotion to the cadre of Postman from the Group 'D' post and further promotion to the cadre of Postal Assistant are to be reckoned as first and second financial upgradation respectively. The applicant was granted TBOP with effect from 25.09.2000 on completion of 16 years of continuous service in the cadre of Postal Assistant and this amounts to third financial upgradation. His case has been duly considered by the screening committee under MACP Scheme and the said committee had come to the conclusion that the applicant was not eligible for MACP-III. It is further reiterated that the applicant, having obtained two promotions and one financial upgradation, cannot claim for any further benefits as made out in the OA.

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5. Heard Shri Sajith Kumar for the applicant and the Standing Counsel for the respondents. There are two aspects to be considered here. The facts show that the applicant originally a Group 'D' employee was promoted as Postman and then further promoted as Postal Assistant. While he has worked for nearly 32 years and retired as Postal Assistant, he did obtain one TBOP upgradation. The applicant has referred to the judgment of the Madras Bench of Central Administrative Tribunal in OA No.1088/2011 dated 14.03.2013, which was confirmed by the Hon'ble Apex Court. It was a case in which the applicant therein had been appointed as Postman in 1973 and on qualifying in the competitive examination was appointed as Postal Assistant in 1977. He had completed 30 years of service in 2007 and retired from service. His claim was that having completed 30 years of service, he is eligible for third financial upgradation. The relief sought was allowed by the Madras Bench and the view taken was confirmed by the Hon'ble High Court of Madras and the Hon'ble Supreme Court. Taking a similar view, we are inclined to accept that since the applicant had spent more than 20 years as Postal Assistant, a post for which he had become eligible through a competitive examination, he is eligible for second MACP considering the fact that he had got only one upgradation under TBOP. Thus we rule that the applicant shall be granted second MACP from the date he completed 20 years as Postal Assistant. Financial benefits will however be restricted to three years previous to filing of the OA. Orders in this regard are to be issued within

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two months from the date of receipt of a copy of this order. OA is disposed of. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures in O.A. No.180/00020/2017

- 1. Annexure A1:** True copy of the Representation dated 29.12.2014 submitted by the applicant to the 1st Respondent.
 - 2. Annexure A2:** True copy of the final order dated 22.05.2012 in OA No.382/2011 of the Jodhpur Bench of this Honourable Tribunal.
 - 3. Annexure A3:** True copy of the order dated 03/7/2015 in OA No.308/2013 of the Honourable Tribunal; Guwahati published in Swamynews.
 - 4. Annexuren R1:** True copy of the letter No.4-7/MACPs/2009-PCC dated 18.09.2009.
 - 5. Annexure R2:** True copy of the Minutes of the Screening Committee held on 19.11.2010.
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