

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

**Review Application No. 020/015/2018
in
Original Application No.822 of 2013**

Order of Order: 16.11.2018

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.

... Review Applicant/ 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/ Respondents

Counsel for the Applicant ... Mrs. Rachna Kumari

Counsel for the Respondents ... Mr. M.Venkateswarlu, SC for Railways

CORAM:

Hon'ble Mr. B.V. Sudhakar ... Member (Admn.)

Hon'ble Mr. Swarup Kumar Mishra ... Member (Judl.)

ORDER (By circular)

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

The review application has been filed by the original applicant in the OA
to review this Tribunal order dated 9.10.2018 in OA 822 of 2013.

2. Since no hearing is considered necessary, the Review Application is being disposed under circulation as per Rule 17(3) of the C.A.T. (Procedure) Rules, 1987.

3. The original order of this Tribunal dt 9.10.2018 reads as under:

“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.”

4. The review applicant reiterates the same ground as was stated in the OA which was examined and orders passed accordingly. The applicant in short was reverted to the grade pay of Rs 2800 on 23.7.1990 and promoted to the Grade pay of Rs.4,200 in 1992 from the lower grade pay of Rs.2,800. Hence the second

financial upgradation to the next higher grade pay (SI circular 191/2010) is Rs.4600, which was given in 2008. The third financial upgradation to grade pay of Rs.4800 is due on 6.12.2013 taking into account the 218 days leave without pay, after putting in 30 years of service (SI Circular 101/2009). It may be noted that the reversion made the difference. Thus order was passed to grant 3rd financial upgradation from 6.12.2013 with consequential benefits thereof, as was discussed in the operative portion of the judgment. The 3rd financial upgradation would mean in the grade pay of Rs.4800 from 6.12.2013 and hence the OA was partly allowed. The claim of the applicant for 3rd MACP in grade pay of Rs.5,400 has been rightly rejected in the OA and needs no review.

5. It is not out of place to state that the scope of review under Order 47 Rule 1 of the CPC read with Section 22(3) (f) of the AT Act is very limited. Unless there is an apparent error on record, it cannot be rectified under the umbrella of a Review Application. An error which is not self evident and it can be discovered by a long process of reasoning cannot be treated apparent on the face of the record justifying exercise of power of review (State of West Bengal & Ors Vs. Kamal Sengupta & Ors (2008) 2 SCC (L&S) 735 and Parsion Devi Vs. Sumitri Devi 1997 (8) SCc 715 (relied on)]

6. Besides, an erroneous decision by itself does not warrant a review as has been observed by the Hon'ble Apex Court in case of Akhilesh Yadav Vs. Vishwanath Chaturvedi [2013 (1) SCC (L&S) 371]. In the case of Subhash Vs. State of Maharashtra [AIR 2002 SC 2537], their Lordships of the Hon'ble Apex Court have taken exception to the conduct of the Tribunal in examining the matter as if it was an Original Application before it as it is not the scope of review. According to their Lordships, the Tribunal could have interfered in the matter if the error pointed out is plain and apparent.

7. We conclude affirming that a review bench cannot exercise the privilege which is available to a higher judicial forum. Since there is no error on the face of the record justifying correction and re-appreciation, the RA is dismissed. No order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (JUDL.)

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

Dated, the 16th day of November, 2018

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