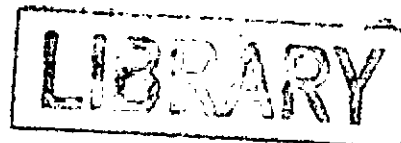


CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA



No.O A /350/1197/2015

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

Bipul Ghosh,
Son of Sri Khagendra Kumar Ghosh,
Aged about 56 years,
Working as Senior Loco Inspector,
Residing at HD Apartment,
Megnad Sahu Sarani,
P.S. – Pradhannagar, Siliguri,
District: Darjeeling, Pin : 734 003;

..... Applicant.
Versus

1. Union of India,
Service through the General Manager,
North East Frontier Railway,
Maligaon,
Guwahati – 781 011;
2. Chairman,
Railway Board,
New Delhi,
Ministry of Railways,
Government of India,
Rail Bhawan Raisina Road,
New Delhi – 110 001;
3. Senior Divisional Mechanical Engineer,
North East Frontier Railway,
Siliguri Junction,
P.O. Pradhannagar,
District : Darjeeling,
PIN : 743 003;
4. General Manager (Personnel),
Maligaon, North East Frontier Railway,
Head Quarter, Maligaon,
Guwahati – 781 011, Assam.

..... Respondents.

For the applicant : Mr. A. Chakraborty, counsel
Mr. C. Dutta, counsel

For the respondents : Mr. B.P. Manna , counsel

Heard on : 13.12.2018

Order on : 7.1.19

ORDER

Bidisha Banerjee, Judicial Member

This O.A. was filed seeking the following reliefs:-

"8.(a) An order directing the respondents to forthwith and/or immediately set aside and/or quash the impugned orders dated 02.01.2015, 09.01.2014 and 07.08.2014 on the issue of MACP benefits and the order dated 29.01.2014 on the issue of Stepping up of pay;

(b) An order directing the respondents to forthwith and/or immediately set aside and/or quash the orders dated 02.01.2015, 09.01.2014 and 07.08.2014 on the issue of MACP benefits and the order dated 29.01.2014 on the issue of Stepping up of pay;

(c) Leave under Rule 11 of the CAT Rules."

2. Ld. Counsel were heard. Materials on record were perused.

3. The grievance of the applicant in a nutshell is that he has been disallowed 3rd MACP. The applicant vide his representation dated 19.09.2014 has depicted by way of a chart the reasonableness of his claim of MACP in the following manner:-

"The Table below shown how the merger of scale and question arises of MACP.

Designation	Date of Joining & Promotion	3 rd CPC scale	4 th CPC Scale	5 th CPC scale	6 th CPC Gr. Pay	Remark
Fireman "A"	08/1/1977	290-350	950-1500	Shunter scale merger on 4 th CPC		No promotion
Shunter Promotion	Sep/1981	290-400				
Driver/goods	Sep/1985	330-560	1350-2300		4200/-	1 st promotion
LI/Diesel	Oct/1991		2000-3200		4600/-	2 nd Promotion
Sr. LI/Diesel	Jun/2003	Sr. LI's scale merger on 6 th CPC.		7450-11500	-	

4. Admittedly the applicant was granted promotion from the post of Fireman A to Shunter and, thereafter to Driver/Goods then to Loco Inspector, Diesel and finally to Senior Loco Inspector, Diesel. He has claimed that due to merger of the two scales of 290 -350 and 290-400 of Fireman-A and Shunter to the single scale of 950-1500, in the 4th CPC, the movement from Fireman-A to Shunter should not be considered as promotion. Similarly the scales of Loco Inspector and Senior Loco Inspector having merged to give a Grade Pay of Rs.4600, the movement of L.I to Senior L.I should not be considered as a promotion. Resultantly two promotions had to be ignored for the purpose of MACP and, therefore, the applicant should not be bestowed with 3 MACPs.

5. Ld. Counsel for the respondents while drawing our attention to the categorical statement made by the respondents at Para 10 in reply, would submit that the applicant was granted four promotions out of which two being ignored, he was also granted 2 MACPs and, therefore, the claim of the applicant for any further MACPs was not tenable. The respondents have clarified the position as under:-

".....that he was appointed as apprentice F/Man-A in scale Rs.225-350/- w.e.f. 15.12.75. Subsequently, absorbed as F/Man-A in scale Rs.290-350 w.e.f. 08.01.78 and thereafter, he promoted to the post of Shunter-B, Driver "C"/Goods Driver, Li & Sr. Li in scale Rs.290-400 Rs.330-560/-, Rs.1350-2200/-, Rs.2000/-3200/-, Rs.6500/-10500/- Rs.7450/-11500/-, 04.07.82, 08.08.85, 11.10.91, 04.08.03 respectively. Rs. Pb-2+GP Rs.4600/- 01.01.86, 01.01.96, 01.01.06."

6. We have perused the materials on record and given our anxious consideration to the same.

7. The MACP Scheme stipulates the following :-

"1. There shall be three financial upgradations under the MACPS, counted from the direct entry grade on completion of 10, 20 and 30 years service respectively. Financial upgradation under the Scheme will be admissible whenever a person has spent 10 years continuously in the same grade-pay.

2. The MACPS envisages merely placement in the immediate next higher grade pay in the hierarchy of the recommended revised pay bands and grade pay as given in Section 1, Part-A of the first schedule of the CCS (Revised Pay) Rules, 2008. Thus, the grade pay at the time of financial upgradation under the MACPS can, in certain cases where regular promotion is not between two successive grades, be different than what is available at the time of regular promotion. In such cases, the higher grade pay attached to the next promotion post in the hierarchy of the concerned cadre/organisation will be given only at the time of regular promotion.

3. The financial upgradations under the MACPS would be admissible up-to the highest grade pay of Rs. 12000/- in the PB-4.

4. Benefit of pay fixation available at the time of regular promotion shall also be allowed at the time of financial upgradation under the Scheme. Therefore, the pay shall be raised by 3% of the total pay in the pay band and the grade pay drawn before such upgradation. There shall, however, be no further fixation of pay at the time of regular promotion if it is in the same grade pay as granted under MACPS. However, at the time of actual promotion if it happens to be in a post carrying higher grade pay than what is available under MACPS, no pay fixation would be available and only difference of grade pay would be made available. To illustrate, in case a Government Servant joins as a direct recruit in the grade pay of Rs. 1900 in PB-I and he gets no promotion till completion of 10 years of service, he will be granted financial upgradation under MACPS in the next higher grade pay of Rs. 2000 and his pay will be fixed by granting him one increment plus the difference of grade pay (i.e. Rs. 100). After availing financial upgradation under MACPS, if the Government servant gets his regular promotion in the hierarchy of his cadre, which is to the grade of Rs. 2400, on regular promotion, he will only be granted the difference of grade pay between Rs. 2000 and Rs. 2400. No additional increment will be granted at this stage.

5. Promotions earned/upgradation granted under the ACP Scheme in the past to those grades which now carry the same grade pay due to merger of pay scales/upgradations of posts recommended by the Sixth Pay Commission shall be ignored for the purpose of granting upgradations under Modified ACPs."

8. We noted that out of the four movements from Fireman-A to Shunter, Shunter to Goods Driver, Goods Driver to Loco Inspector and Loco Inspector to Senior Loco Inspector even if two movements are ignored for the purpose of

MACP, since the applicant got two other promotions one from Shunter to Goods Driver and other from Goods Driver to Loco Inspector, each of which meant a movement from Grade Pay of Rs.2400 to 4200 and from Rs.4200 to 4600, therefore, at the most the applicant was eligible to only one MACP. But since he has failed to show that he was stagnating in the same grade pay for more than 10 years and apart from two promotions as enumerated supra, he was also granted 2 MACPs, his claim for 3rd MACP is neither supported by any facts and figures nor by law.

9. Accordingly we find no reason to interfere with the decision of the respondents to refuse 3rd MACP to the applicant.

10. Accordingly the O.A. is dismissed. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member