

**Central Administrative Tribunal
Madras Bench**

OA/310/01490/2013

Dated 20th December Two Thousand Eighteen

P R E S E N T

**Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)**

M.Veerachamy,
S/o Murugaiah,
N.Pallapatti,
Narikudi S.O.,
Virudhunagar District,
PIN 626 607. .. Applicant
By Advocate **M/s.R.Malaichamy**

Vs.

1. Union of India, rep by the Postmaster General, Southern Region (TN), Madurai 625 002.
2. The Director of Postal Services, O/o The Postmaster General, Southern Region (TN), Madurai 625 002.
3. The Senior Superintendent of Post Offices, Virudhunagar Division, Virudhunagar 626 001. .. Respondents

By Advocate **Mr.K.Ramasamy**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

This is an OA filed seeking the following relief:-

“i) To call for the records of the 2nd respondent pertaining to his order which is made in memo No.VIG/18-70/11-12 dated 18.6.2012 and set aside the same; consequent to

ii) direct the respondents to regularize the suspension period of the applicant from 11.6.2007 to 15.10.2008 as duty period for the purpose of pay benefits and other consequential service benefits such as grant of 2nd MACP to the applicant and to pay the arrears of difference of pay and allowances to the applicant and also revise and re-fix the pensionary benefits and to pay the difference of arrears of pension and connected benefits to the applicant; and

iv) to pass such further orders as this Tribunal may deem fit and proper.”

2. According to the applicant, he entered the service of the respondents as Postman on 01.5.1977 and he was promoted as Postal Assistant on 02.8.1982 and he retired from service after superannuation on 31.1.2011. According to him, he had rendered 35 years of service. According to him, the 3rd respondent had suspended him on 11.6.2007 and thereafter on 1.4.08 a charge memo was issued for irregularities. The main allegation was that there was cash shortage. The applicant denied the allegations and enquiry was conducted. In the meanwhile, the respondents had revoked the suspension on 15.10.2008. After conducting the enquiry, the 3rd respondent had imposed a punishment of reduction to Pay Band of Rs.8,370/- with Grade Pay of Rs.2800/- for a period of 1 year. It was also ordered that the applicant

will not earn increment during the period of reduction and that on expiry of this period the reduction will not have the effect of postponing his future increments of pay. After the above order, the 2nd respondent issued a show-cause notice on 13.1.2009 to explain why the punishment shall not been enhanced. The applicant gave a detailed reply and after considering the various points, the 2nd respondent had enhanced the punishment by commencing the punishment from the date of his reinstatement for a period of 1 year on 11.3.09. Thereupon the applicant filed an appeal before the Postmaster General and the said appeal was dismissed. Thereafter he retired from service.

3. Now the applicant submits that he had completed 30 years of service in the year 2007 itself ie. before the commencement of enquiry and charge memo etc. The 3rd respondent had issued a letter to the applicant for taking steps to consider him for grant of financial upgradation under MACP. Thereupon the applicant had filed a representation dated 15.3.12 to the 2nd respondent and submitted all relevant particulars to grant the 2nd MACP benefits. But on 14.5.2012 it was rejected stating that the applicant had not mentioned regarding the punishment period without considering the fact that the period of suspension was after the completion of 30 years service. According to the applicant, the 3rd respondent has given a grading of "Satisfactory" regarding his character, conduct, quality of work, integrity and devotion to duty etc. and there was nothing adverse against him in the Confidential Report(CR). So, the applicant has filed another representation to the 1st respondent to

regularise the suspension period and to grant 2nd MACP to him. But there was no orders passed. So, according to the applicant he is entitled to get the financial benefits.

4. The respondents entered appearance and filed a detailed reply admitting the employment of the applicant, his suspension, the enquiry conducted and the punishment imposed on him as stated in the application. But according to them, the applicant is not entitled to get MACP as the grading of the applicant was only “Average.” The respondents had directed the applicant to submit a representation to the 2nd respondent requesting upgradation of final gradings before 15.3.12. He had also not mentioned the punishment imposed on him in the representation. So, according to the respondents, the applicant is not entitled to get any relief as prayed for.

5. Both sides were heard. **The counsel for the applicant during hearing has submitted that he is limiting his claim to grant of MACP alone on the basis of the clarification OM No.35034/3/2008-Estt.(I) (Vol.II) dated 04.10.2012** wherein it is clarified that “wherever promotions are given on non-selection basis (ie. on seniority-cum-fitness basis), the prescribed benchmark as mentioned in Para 17 of Annexure-I of MACP Scheme dated 19.5.2009 shall not apply for the purpose of grant of financial upgradation under MACP Scheme”. He prays for a direction to consider the representation of the applicant in the light of the above clarification and

he will be satisfied if a reasoned and speaking order on the basis of the OM mentioned above is passed by the respondents in this case. Learned counsel for the respondents have no objection if the applicant files a representation stating the OM relied upon by him and the respondents will consider the same and pass appropriate orders.

6. On going through the above, We find that the applicant has limited the relief to the question of granting the 2nd MACP which he claims to be entitled after completion of 30 years. On a perusal of the OM dated 04.10.12, it seems that the DOPT had clarified that ***“It is now further clarified that wherever promotions are given on non-selection basis (i.e. on seniority-cum-fitness basis), the prescribed benchmark as mentioned in para 17 of Annexure-I of MACP Scheme dated 19.5.2009 shall not apply for the purpose of grant of financial upgradation under MACP Scheme”***. But this Tribunal has no information regarding any modification or change in the Scheme issued by the DOPT in this regard except the one mentioned above. ***“Since the applicant has limited his prayer to the question of considering the grant of MACP Scheme alone, we hereby direct the applicant to submit a comprehensive representation showing the official memorandum dated 04.10.12 relied upon by him for grant of MACP within a period of one month from the date of receipt of a copy of this order. On receipt of the same, the respondents will pass a considered and speaking order regarding the entitlement of MACP to the applicant within a period of three months thereafter.***

7. With the above direction the OA is disposed of without going into the merits of the case. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

20.12.2018

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