

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00490/17

Date of Order: 21.02.2019

C O R A M

HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

Jamil Akhtar, S/o Md. Fida Hussain, resident of Village- Mura Harlochanpur, PO- Malpur Agrail, PS- Sakra, District- Muzaffarpur.

.... **Applicant.**

By Advocate: - Mr. J.K. Karn

-Versus-

1. The Union of India, through the Chief PMG, Bihar Circle, Patna- 800001.
2. The PMG, Northern Region, Muzaffarpur-842001.
3. The DPC (N), O/o the Postmaster General Northern Region Muzaffarpur- 842001.
4. The Director of Accounts (Postal), Patna- 800001.
5. The Director, Postal Training Centre, Darbhanga- 846005.
6. The Asstt. Director (Admn), Postal Training Centre, Darbhanga- 846005.

..... **Respondents.**

By Advocate: - Mr. Bindhyachal Rai

O R D E R
[ORAL]

Per Dinesh Sharma, A.M:- The case of the applicant is that he came in service at Postal Training Centre, Darbhanga in the year 1982-83 on daily wages basis, was conferred temporary status in 1989, and was appointed in Group D cadre in the year 1999. He was given 1st MACP w.e.f 11.6.2009, but has been denied benefit of increment which would have been due on 1st July 2009. He has come to know later that this happened because of his not giving the appropriate option at the time this MACP was granted. The

applicant alleges he was never asked to give this option and now he is getting lesser salary in comparison to his juniors because of no fault on his part. He has also cited and annexed (as Annex 7) the decision of CAT, Patna in OA/050/0875/15, dated 9.3.2016, in which a revision beneficial to the employee, given without the employee exercising this option, was found to be in order.

2. In the written statement filed on behalf of the respondents by Astt. Director (Admin) Postal Training Centre, Darbhanga, the respondents have alleged that the official accepted financial up-gradation w.e.f. 11.6.2009 (from date of promotion). He has submitted his representation after a lapse of more than six years. On his request they had sent a letter (dated 18.5.16) to Director of accounts (Postal) Patna who is the competent authority. This authority has directed them to decide the case as per rule. They have again sent a D.O. letter to Director of Accounts to rectify the error of not giving the option since in the memo of promotion dated 8.10.2010, the clause for giving option was inadvertently left to mention. In response to this the DA (P) Patna has directed them to seek clarification from Postal Directorate. Their letter to D.G. [Post] dated 11.8.2017 has remained unanswered till date. The respondents have, however, denied the claim of the applicant as barred by limitation and also because the applicant should have himself been aware of the rules and given appropriate option whether specifically asked for or not.

3. We have gone through the pleadings and heard the learned counsels of both the parties. During the arguments, the Id. counsel for the

applicant brought to our attention this Tribunal's decision in OA 487/2017, dated 30.1.2019 and requested us to decide it on the same lines. We have gone through this decision. The facts of the present case are very similar to those in OA 487/2017. The affected party in this case, too, is a group D employee, who cannot be expected to be very conversant with the rules. The loss in salary income, due to this one-time error, admittedly contributed by the default on the part of respondents (to seek option), is a continuing one, and, therefore, in the light of the action taken by his immediate superiors to have this matter redressed, it cannot be said to be barred by period of limitation.

4. We therefore, allow the OA. The respondents are directed to revise the pay and consequential benefits of the applicant deeming as if the applicant had exercised the option of having his pay fixed, at the time of the grant of 1st MACP on 11.6.2009, w.e.f. from the date of his next increment, i.e. 1.7.2009. No orders as to costs.

[Dinesh Sharma]
Administrative Member
Sr.k.

[Jayesh V. Bhairavia]
Judicial Member