

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**PATNA BENCH, PATNA**  
**OA/050/00869/15**  
**With**  
**MA/050/00379/15**

Reserved on: 28.01.2019  
Pronounced on: 20.02.2019

**C O R A M**

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

Kesho, Son of Gughali, Retired Fitter Khalasi under SE (Works), Kursela, Office of DRM, EC Railway, Sonpur, Resident of Village- Gangwakt, PO- Singhauna, District- Azamgarh (UP).

..... Applicant.

- By Advocate: - Mr. Sudama Pandey

-Versus-

1. Union of India through the General Manager, EC Railway, Hajipur (Vaishali).
2. The Divisional Railway Manager, EC Railway, Sonpur.
3. The Divisional Railway Manager (Engg.), EC Railway, Sonpur.
4. The Divisional Railway Manager (P), EC Railway, Sonpur.
5. The ADEN, EC Railway, Thanabihpur (Bhagalpur).

..... Respondents.

- By Advocate(s): - Mr. B.K. Choudhary

**O R D E R**

**Per Dinesh Sharma, A.M.:-** This OA has been filed on being aggrieved with the speaking order no. KA/263/CAT/PAT/OA-731/12/Son dated 23.01.2013 issued by DRM, EC Railway in compliance of this Tribunal's order in OA 731 of 2012 dated 29.08.2012. The contention of the applicant is that as per judicial verdicts, the 2<sup>nd</sup> financial upgradation should have been done based on next higher post hierarchy and not on grade pay hierarchy.

However, in his case the 2<sup>nd</sup> financial upgradation was granted in GP Rs. 2000 instead of Rs. 2400 w.e.f. 01.09.2008 and the 3<sup>rd</sup> MACP in GP Rs. 2400/- w.e.f. 25.08.2009 instead of Rs. 2800 GP. This, according to him, is against rules and judicial pronouncements by Jabalpur Bench of CAT, Punjab and Haryana High Court and CAT, Principal Bench, New Delhi.

2. The respondents, in their written statement, have denied the claim of the applicant. Besides questioning the application on ground of law of limitation they have also questioned its merit. According to them, the speaking order passed by DRM, Sonpur is in full compliance of this Tribunal's earlier order in OA 731/2012 dated 29.08.2012 and is also in compliance with the rules and regulations relating to the grant of ACP/MACP.

3. The applicant has filed MA/050/00379/2015 in which he has requested for condonation of delay quoting a number of other cases in which long delays were condoned by various courts in the interest of justice.

4. The applicant has also filed a rejoinder in which, besides reiterating his earlier submission, he has again quoted the judicial pronouncements (again, without giving any details) of Jabalpur Bench of CAT, Punjab and Haryana High Court and CAT, Principal Bench (against which SLP was also dismissed).

5. We have gone through the pleadings and heard the arguments of the learned counsels of both the sides.

6. The order of DRM, EC Railway, Sonpur at Annexure A/1 gives full details of how the various upgradations under ACP/MACP have been

done. It explains the three financial upgradations which have been sanctioned to him in the following way: -

(i) The first financial upgradation in the pay scale of 2650-4000 dated 01.10.1999 (12 years).

(ii) The second upgradation in the pay scale of Rs. 3050-4590/- by order dated W/2/Artisan/1664 dated 04.06.2005 w.e.f. 24.10.2003 (24 years).

(iii) After this to ensure three financial upgradations under MACP he has been given another financial upgradation from Grade Pay Rs. 1900/- to Rs. 2000/- w.e.f. 01.09.2008 and from GP Rs. 2000/- to Rs. 2400/- w.e.f. 25.08.2009.

7. The applicant has questioned this by way of referring to the decisions of this Tribunal by its Jabalpur and Principal benches and the decisions Punjab and Haryana High Court (without actually quoting the numbers or the dates of these judgments).

8. At the time of the arguments, the advocate for the applicant brought to our attention the decision of Hon'ble Punjab and Haryana High Court in UOI & Ors. Vs. Rajpal & Ors. In this case, the Hon'ble High Court have commented upon the beneficial nature of the ACP and MACP scheme and have accepted parity between the post of Photocopier and that of Hindi Typist for grant of financial upgradation under the MACP scheme. Thus, this ruling does not apply directly on the facts of this case. It is also a fact that the applicant is questioning an order was passed in the year 2013 which he should have questioned within one year of the passing of that order. The applicant's Misc. Application (MA/050/00379/15) for condonation of delay on ground that condonation can be and has been granted in many other

cases, is also not worthy of consideration in the absence of any strong reasons justifying condonation in this particular case. The OA is, therefore, dismissed both on merit as well as on ground of it being barred by period of limitation. No order s to costs.

**[ Dinesh Sharma ]**  
**Administrative Member**  
**Srk.**

**[Jayesh V. Bhairavia]**  
**Judicial Member**