

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 154/2013

New Delhi, this the 23rd day of April, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

1. Madhukumar V. B.,
PIS No. 28862747,
SI (RT) in Delhi Police,
Aged about 46 years,
S/o Late Sh. Bhaskaran Nair,
R/o 92-D, J-Block,
Ashok Vihar –I, Delhi-52.

...Applicant

(By Advocate: Mr. Anil Singhal)

Versus

1. Union of India,
Through its Secretary,
Department of Personnel and Training,
North Block, New Delhi.
2. Commissioner of Police,
PHQ, IP Estate, New Delhi.
3. Dy. Commissioner of Police,
HQ (Establishment), PHQ,
IP Estate, New Delhi.
4. D.C. P. (Communication),
OPL, Rajpur Road, Delhi – 54.
5. Sh. Jamuna Dutt, (Performa Respondent),
(PIS No. 28824538),
SI (RT) in Delhi Police,
Through Commissioner of Police,
Police Head Quarter,
I.P. Estate, New Delhi.

...Respondents

(By Advocate: Mr. Amit Anand)

ORDER (ORAL)**Mohd. Jamshed, Member (A):-**

The applicant was appointed to the post of Constable (Executive) in Delhi Police w.e.f. 01.09.1986. He was permanently absorbed as Constable (Workshop Hand) of Communication Unit of Delhi Police vide memo dated 15.02.1990. The applicant was promoted to the rank of Head Constable (Fitter Battery) w.e.f. 27.09.1993 in the pay scale of Rs. 975-25-1150-EB-30-1660. He was reverted to his substantive rank of Constable (Workshop Hand) w.e.f. 11.04.1996 vide PHQ's order dated 15.04.1996. He was promoted as officiating ASI (Workshop Assistant) vide notification dated 14.05.2001 in the pay scale of Rs. 4000-100-6000. In the meanwhile, Respondent No. 5 was promoted to the rank of Head Constable (Workshop Hand) in the year 1993.

2. While the applicant was promoted to the rank of ASI (Workshop Assistant) in the pay scale of Rs. 4000-6000 vide order dated 14.05.2001, the Respondent No. 5 was not promoted to the rank of ASI (Workshop Assistant) as he was not eligible. Further, the applicant was promoted to officiate as ASI (Radio Technician) w.e.f. 09.11.2001 in the pay scale of Rs. 5000-150-8000. Vide order dated 22.04.2004, the applicant was upgraded to the rank of SI (Radio Technician) along with his juniors, i.e., Respondent No. 5 in the pay band Rs. 9300-34800 with Grade

Pay of Rs. 4200 on implementation of 6th CPC. Later, another group of Head Constables were promoted to the rank of ASI (Radio Technician) vide order dated 09.03.2000. The Respondent No. 5 was also granted 3rd MACP benefit in the grade pay of Rs. 4600 on completion of 10 years w.e.f. 19.09.2012.

3. The applicant submitted his representation dated 10.10.2012 to the Competent Authority for grant of 3rd MACP scheme benefit in the grade pay of Rs. 4600 or step up the pay of the applicant equivalent to the grade pay of the Respondent No.5, who has been his junior throughout.

4. Respondents vide the impugned order dated 12.10.2012 rejected the representation of the applicant stating that the applicant has already got three promotions during the service and as such he is not eligible for grant of financial upgradation. The applicant has filed this present OA challenging the impugned order and seeking the following reliefs:-

“(i) To call for the records and direct the official respondents to grant 3rd MACP Scheme benefit to the applicant by granting Grade Pay of Rs. 4600/- or step-up the pay of the applicant equal to what is being drawn by the respondent No. 5 as of now with all consequential benefits w.e.f. 9.11.2011.

(ii) To award cost in favor of the applicant.”

5. Respondents have opposed the submissions in the OA stating that the applicant was promoted to the rank of Head Constable (Fitter Battery), ASI (Workshop Assistant) and finally as ASI (Radio Technician) w.e.f. 09.11.2001 in the pay scale of Rs. 5000-150-8000 and thus, he got 3rd financial upgradation by way of 3rd promotion without completing 30 years of mandatory service for 3rd financial upgradation. It has also been stated by the respondents that Respondent No. 5 did not complete 5 years as on 11.04.2001 and, therefore, he was not promoted in the pay scale of Rs. 4000-100-6000 along with the applicant. However, the Respondent No. 5 passed the required BRT course and was given his promotion w.e.f. the same date as that of the applicant in the same grade of Rs. 5000-150-8000 and the same was considered as his second promotion.

6. We heard Mr. Anil Singhal, learned counsel for the applicant and Mr. Amit Anand, learned counsel for the respondents and perused the records.

7. The applicant joined the Delhi Police as Constable (Executive) in the pay scale of Rs. 950-1400 on 01.09.1986 and was permanently absorbed as Constable (Workshop Hand) on 15.02.1990. On the other hand, Respondent No. 5 joined as Constable (Executive) in pay scale of Rs. 950-1400 on 20.10.1982 and was permanently absorbed as Constable (Workshop Hand) on

28.01.1992. Thereafter, the applicant has remained senior to him and got his first promotion as Head Constable (Fitter Battery) in the pay scale of Rs. 975-25-1150-EB-30-1660 w.e.f. 11.04.1996, whereas the similar promotion was granted to the Respondent No.5 w.e.f. 23.12.1997. As per the requirement, 5 years of service is required for promotion to the rank of ASI (Workshop Assistant). The applicant completed 5 years as on 11.04.2001 and was promoted as ASI (Workshop Assistant) in the pay scale of Rs. 4000-100-6000. However, the Respondent No. 5 did not complete 5 years and was not promoted.

8. Later, as per the requirement, the applicant and Respondent No. 5, both passed the BRT course on 28.06.2001 together. Having passed the required course, the applicant was promoted to officiate as ASI (Radio Technician) in the pay scale of Rs. 5000-150-8000 w.e.f. 09.11.2001 along with Respondent No. 5. However, for the applicant the same was considered as 3rd promotion and as 2nd promotion for Respondent No. 5. Whereas, the first promotion for both the applicant and Respondent No. 5 was granted on 11.04.1996 and 23.12.1997, respectively, the second promotion has been granted to the applicant on 11.05.2001 after completion of 5 years of service in grade Rs. 4000-100-6000 and his 3rd promotion has been treated w.e.f. 09.11.2001 in the pay scale of Rs. 5000-150-8000 on having passed the BRT course. On the other hand, after the first promotion of the Respondent No. 5

on 23.12.1997, he did not get the second promotion along with the applicant as he had not completed the required 5 years. Later, on having passed the BRT examination along with the applicant, the Respondent No. 5 also got his promotion in grade Rs. 5000-150-8000 and the same has been considered as his second promotion.

9. The respondents have denied any further upgradation under MACP to the applicant stating that he has already been given three promotions during service and as such he is not eligible for any further financial upgradation under MACP scheme. On the other hand Respondent No. 5 has been granted the 3rd financial upgradation under MACP scheme w.e.f. 09.11.2011, after completion of 10 years of regular service from the date of his second promotion.

10. From the above, it is evident that the applicant has got three promotion, i.e., first after 10 years in 1996, second after 5 years in 2001 and the 3rd only after 5 months of the second promotion in 2001 on having passed the BRT examination. Respondent No. 5 on the other hand got a direct jump from grade Rs. 3200-85-4900 to Rs. 5000-150-8000 after having passed the required BRT examination and this was considered as his second promotion. The respondents have further granted him the 3rd upgradation under MACP on 09.11.2011 on completion of 10 years, a benefit denied to the applicant. The promotion of the applicant on

completing 5 years of service on 11.05.2001 has been considered as second promotion and the third promotion has been considered w.e.f. 09.11.2001 in the grade Rs. 5000-150-8000 having passed the BRT course, which was after a gap of only six months.

11. It is well settled that the MACP benefits are to be given on completion of 10, 20 and 30 years of service respectively and the clubbing of two promotions within a time frame of six months cannot be considered as second and third promotion if the two promotions are granted within the second block of ten years. The denial of MACP benefit to the applicant vide impugned order is, therefore, not as per the laid down principles of MACP. At the same time, Respondent No. 5, who has been junior to the applicant has been granted 3rd MACP w.e.f. 09.11.2011.

12. In the interest of justice, we allow the OA by setting aside the impugned order dated 12.10.2012 and directing the respondents to consider and grant the applicant the benefit of financial upgradation under MACP scheme at par with that of Respondent No. 5 within a period of three months from the date of receipt of certified copy of this order. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

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(Justice L. Narasimha Reddy)
Chairman