

**Central Administrative Tribunal  
Ernakulam Bench**

OA No.180/00855/2017

Monday, this the 17<sup>th</sup> day of June, 2019

CORAM

**Hon'ble Mr.E.K.Bharat Bhushan, Administrative Member**

**Hon'ble Mr.Ashish Kalia, Judicial Member**

Roy Daniel (Retd. Postal Assistant)

PPO No.2067/KE/2011

Channanathil House

Mulanthuruthy-682 314.

Applicant

(Advocate: Mr. C.P.Johny)

**versus**

1. Union of India represented by  
Director General  
Department of Posts  
New Delhi-110 001.

2. Chief Postmaster General  
Kerala Circle, Thiruvananthapuram-695 033.

3. Postmaster General  
Central Region, Kochi-682 020.

4. Senior Superintendent of Post Offices  
Ernakulam Division  
Ernakulam-682 011.

Respondents

(Advocate: Mr. N.Anilkumar, SCGSC)

The OA having been heard on 13<sup>th</sup> June, 2019, this Tribunal delivered the following order on 17.06.2019:

**ORDER**

**By E.K.Bharat Bhushan, Administrative Member**

This OA is filed by Sri Roy Daniel, a retired Postal Assistant, aggrieved by the denial of 2<sup>nd</sup> MACP in the Postal Assistant Grade. He seeks the following reliefs:

- (i) Declare that the applicant's placement in TBOP has to be considered as his first MACP.*
- (ii) Declare that the applicant is eligible for 2<sup>nd</sup> MACP w.e.f. 1.9.2008*
- (iii) Direct the respondents to issue revised PPO enhancing the monthly pension by taking into account the urged 2<sup>nd</sup> MACP and make payment of the arrears thereto while in service as well as in pension period.*

2. The Applicant had joined as an Extra Departmental Stamp Vendor on 28.2.1978. After 3 years, he was selected for the post of Postman and was appointed on 4.10.1981. While continuing in the Postman Grade, he took part in a competitive examination for selection for the grade of Postal Assistant. Being successful therein, he joined as a Postal Assistant at Ernakulam Head Post Office from 14.3.1988. Subsequently, having put in 16 years of service, he was placed in Time Bound One Promotion (TBOP) Scheme in the month of April, 2004. He superannuated from service on 30.9.2011 on completion of 60 years.

3. His contention in the OA is that he had started his regular career as a Postal Assistant on 14.3.1988 and at the end of 16 years of service, got his first financial up-gradation under TBOP in April, 2004. The Department wrongly took the view that his selection as Postman was a promotion and the TBOP benefit he got was the 2<sup>nd</sup> financial up-gradation. He would have been

eligible for 3<sup>rd</sup> financial up-gradation under MACP only after 10 years of being in the same pay, which would have come about only in 2014. Having superannuated in 2011, he was not eligible for the same.

4. The crux of the matter thus is whether his appointment as Postal Assistant was a promotion or a fresh appointment. That this was a promotion was the view taken by the Department when the applicant sent a representation to the 2<sup>nd</sup> respondent, copy of which is available at Annexure A5 and is clearly seen in the reply to the representation marked as Annexure A6.

5. The instant issue has been considered by the Hon'ble High Court of Judicature, in Jodhpur, Rajasthan and the High Court of Judicature in Madras, which had held that the selection as Postal Assistant by competitive exam cannot be considered as a promotion. Again, the Madras Bench of this Tribunal had allowed a similar OA and ordered to refer the TBOP placement as first MACP and to confer 2<sup>nd</sup> and 3<sup>rd</sup> on completion of 20 and 30 years of service respectively. This view was upheld by the Hon'ble High Court of Madras in Writ Petition No.30629 of 2014 and by the Hon'ble Supreme Court in Special Leave Appeal No.4848 of 2016.

6. The respondents have filed a reply statement in which they have pointed out the undue delay in approaching this Tribunal. But pension being a matter of continuing grievance, the delay will not stand in the way of this Tribunal considering the OA.

7. As mentioned in the OA itself, the difference of opinion is in the manner in which the respondents have treated the applicant's passage from Postman to Postal Assistant as a promotion and not as a fresh appointment.

8. We have heard the learned counsel on both sides. In the various judgments quoted by the applicant, this controversy has been laid to rest. It is unequivocally expressed that the appointment as Postal Assistant is an entry posting and is to be treated as such as far as financial up-gradation schemes such as ACP or MACP benefits are concerned. The view taken by the respondents has been overruled in the judgments quoted by the applicant. The OA has merit on its side and accordingly it is allowed. Orders granting the benefits sought are to be issued as expeditiously as possible and in any case within three months from the date of receipt of this order. No order as to costs.

**(Ashish Kalia)**  
**Judicial Member**

**(E.K.Bharat Bhushan)**  
**Administrative Member**

aa.

**Annexures filed by the applicant:**

- Annexure A1: Copy of Pension Payment Order No.Postal/2011/KE/20617/Pen 9 dated 14.9.2011.
- Annexure A2: Copy of Annex-I Assured Career Progression Scheme page 17 to page 18 of Swamy's Compilation of CCS Revised Pay Rules 2008 (Sixth Pay Commission).
- Annexure A3: Copy of the judgment of Hon. High Court of Madras in WP No.30629/2014.
- Annexure A4: Copy of the judgment of Hon. Supreme Court in petition for special leave to appeal No.4848/2016.
- Annexure A5: Copy of representation dated 17.5.2017 addressed to second respondent.
- Annexure A6: Copy of the reply to representation of the applicant received from 4<sup>th</sup> respondent under No.B1/5-25/XIII/16-17 dated 24.7.2017.

**Annexures filed by the respondents:**

- Annexure R1: Copy of the letter No.F-7 (MACPS/2009-PCC dated 24.9.2009.
- Annexure R2: Copy of the letter No.4-7/ (MACPS)/2009-CC dated 18.10.2010.
- Annexure R3: Copy of the Indian Post and Telegraph (Time Scale Clerks and Sorters) Recruitment Rules, 1971.
- Annexure R4: Copy of the judgment dated 20.8.2014 in OA 725/2012.