

**CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**ERNAKULAM BENCH**

**Original Application No. 180/00749/2018**

**Thursday, this the 21<sup>st</sup> day of November, 2019**

**CORAM:**

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

Mary Silvi Kurian, aged 63 years, W/o. M.Z. Kurian,  
 (Retired Matron, Railway Hospital, Trivandrum),  
 Residing at Muppathiyil House, (PRA 55), Manarcadu PO,  
 Kottayam. .... **Applicant**

**(By Advocate : M/s. Varkey & Martin)**

**V e r s u s**

1. The General Manager, Southern Railway,  
Park Town PO, Chennai – 600 003.
2. Senior Divisional Personnel Officer, Southern Railway,  
Trivandrum Division, Trivandrum-14. .... **Respondents**

**(By Advocate : Mr. V.A. Shaji)**

This application having been heard on 15.11.2019 the Tribunal on  
 21.11.2019 delivered the following:

**ORDER**

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

The relief claimed by the applicant are as under:

“I) Declare that the applicant is entitled for financial benefits arising out of Annexure A1/A3/A4 orders with consequential arrears of pay and terminal benefits and; direct the respondents accordingly.

II) Pass such other orders or directions as deemed fit.”

2. The brief facts of the case are that the applicant joined as Staff Nurse in Southern Railway on 10.7.1985 in the scale of pay of Rs. 425-640/- with

the benefit of counting Military service as qualifying service. She was promoted as Nursing Sister in scale of Rs. 1,640-2,900/- and as Chief Matron in PB Rs. 15,600-39,100/- plus Grade Pay of Rs. 5,400/- on 13.5.2009. While continuing as such the applicant was granted 3<sup>rd</sup> MACP in Grade Pay of Rs. 6,600/- w.e.f. 6.9.2012. However vide OM dated 26.8.2013 (Annexure A2) the 3<sup>rd</sup> MACP granted to the applicant was withdrawn and her pay was reduced to Rs. 23,550/- plus Grade Pay of Rs. 5,400/-. In Annexure A2 the Railway Board had clarified that financial upgradation under ACP/MACP schemes cannot be to a higher Grade Pay than what can be allowed to an employee on his normal promotion. The applicant retired from service on 31.8.2013 with pay of Rs. 24,420/- plus Grade Pay of Rs. 5,400/-. An amount of Rs. 58,443/- was recovered from her settlement dues as overpayment towards MACP. The applicant submitted that vide Annexure A3 the embargo of granting higher Grade Pay under MACP scheme above the Grade Pay in the promotional hierarchy has been lifted and the nursing staff who were in service and similarly situated to the applicants were granted the consequential benefits. However, the applicant has been excluded though she is eligible for similar benefits from 6.9.2012 to 31.8.2013. Aggrieved by non-restoration of her 3<sup>rd</sup> MACP in Grade pay of Rs. 6,600/- w.e.f. 6.9.2012 in the light of Annexure A3 clarification, the applicant submitted a representation. But there was no response from the side of the respondents. The applicant's pension w.e.f. 1.1.2016 has been revised as Rs. 38,850/- and family pension as Rs. 23,310 which are based on the pay without the 3<sup>rd</sup> MACP. Hence, this OA.

3. Notices were issued to the respondents. They entered appearance through Shri V.A. Shaji, learned counsel who filed a reply statement contending that the instant Original Application is hit by inordinate and unexplained delay. The applicant was granted 3<sup>rd</sup> MACP in Grade Pay of Rs. 6,600/- erroneously. It was withdrawn vide Annexure A2 memorandum. As per RBE No. 142/2012 the Railway Board clarified in consultation with DoP&T the nodal Department of the Government in respect of MACP scheme that the financial upgradation under ACP/MACP schemes cannot be to higher Grade Pay than what can be allowed to an employee on his normal promotion and in such cases financial upgradation under MACP scheme would be granted to the same Grade pay. As per Railway Board's order No. RBE 95/2013 applicant is eligible for an increment on grant of MACP in the same Grade pay. As such the applicant is entitled for one increment and the process of granting the same to the applicant is in progress.

4. Heard Shri Martin G. Thottan, learned counsel for the applicant and Mr. V.A. Shaji, learned counsel appearing for the respondents at length. Perused the record.

5. The applicant was initially given the 3<sup>rd</sup> MACP in Grade Pay of Rs. 6,600/- which was later withdrawn by the respondent on the pretext that the post of Assistant Nursing Officer is also having same Grade Pay of Rs. 5,400/- in PB-3 which is the promotional post of Chief Matron carrying Grade Pay of Rs. 5,400/- in PB-3 after implementation of the VIth CPC. Therefore, the applicant is only entitled for increment in lieu of the 3<sup>rd</sup>

MACP. This position has now been clarified by the Southern Railway Headquarters vide its letter dated 7.3.2014. It reads thus:

“ .....

However, Chief Matrons who were promoted as Assistant Nursing Officer in PB-3/Grade Pay Rs. 5400/- will be entitled for fixation of pay as per the provisions of Rule 13(i) of RS (RP) Rules, 2008 as advised by Railway Board vide their letter No. PC VI/2011/IC/1 dated 12.9.2013 (RBE No. 95/2013).”

6. The respondents in their reply statement submitted that applicant is eligible for the benefits granted to the employees as mentioned in Annexure A4. The relevant portion of the reply statement reads thus:

“7) The averments in Grounds 5.B are made on misinterpretation. It is accepted that the Ministry of Railways has accepted the VI Pay Commission's recommendations for giving 3 financial up gradations at regular intervals of 10, 20 and 30 years of continuous regular service provided there is no regular promotion during interregnum. Accordingly, the applicants have been granted the three financial up gradations in service. But she was granted Grade Pay Rs. 6600/- instead of Grade Pay Rs. 5400/- inadvertently while granting III financial upgradation. However, granting 3% increment on pay fixation as per Annexure A3 is under process and the same will be granted to the applicant along with arrears restricted 3 years prior to the date of filing of OA after adjusting over payment made, subject to eligibility, it is humbly submitted.”

7. Learned counsel for the applicant has drawn our attention to Annexure A7 letter produced along with the rejoinder issued by the Deputy Director, Pay Commission-V, Railway Board dated 14.6.2018 regarding grant of Grade Pay of Rs. 6,600/- in PB-3 to Nursing Personnel i.e. Staff Nurses/Nursing Sister/Matron/Chief Matron under 3<sup>rd</sup> MACP. The relevant part of the same reads thus:

“a) Those staff Nurse / Nursing Sister / Matron / Chief matron who have been awarded 1<sup>st</sup> and 2<sup>nd</sup> financial upgradation under ACP scheme in the hierarchy pay scale of Rs. 5500-9000 and Rs. 6500-10500 up to 31.8.2008 may be granted a replacement Grade Pay of Rs. 4800/- PB-2 and Rs. 5400/- PB-3. Therefore, the 3<sup>rd</sup> financial upgradation under MACP scheme, if granted to these categories of officials maybe revised to Rs.

6600/PB-3 from Rs. 5400/- in PB-3.

b) Those staff Nurse / Nursing Sister / Chief Matron who have been granted 1<sup>st</sup> ACP in the pre-revised pay scale of Rs. 5500-9000 up to 31.8.2008 may be placed in the replacement Grade Pay of Rs. 4800/- PB-2. They will be entitled for grant 2<sup>nd</sup> and 3<sup>rd</sup> financial upgradation under MACP scheme in the Grade Pay of Rs. 5400/ PB-2 and Rs. 5400/PB-3 only.

c) All the remaining Staff Nurse/ Nursing Sister / Matron / Chief Matron who are to be granted 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> financial upgradation under MACP scheme may be granted next higher Grade Pay.

d) .....

The above order clearly clarifies that the Nursing Staff who are in PB-III with Grade Pay of Rs. 5,400/- should be granted next higher Grade Pay, meaning thereby that in the instant case since the applicant is in the Grade Pay of Rs. 5,400/- in PB-III, the next higher Grade Pay is Rs. 6,600/- in PB-III. The applicant's case is fully covered by this Railway Board order dated 14.6.2018.

8. Thus, we have no hesitation to hold that the applicant being Chief Matron having revised Grade Pay of Rs. 5,400/- in PB-III is entitled for 3<sup>rd</sup> MACP in Grade Pay of Rs. 6,600/- in PB-III. Ordered accordingly. We further hold that the applicant is entitled for the same from the date she is entitled for 3<sup>rd</sup> MACP.

9. Accordingly, the present Original Application is having merit and it is allowed. The respondents are directed to implement the order of this Tribunal within three months from the date of receipt of a copy of this order. There shall be no order as to costs.

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

**(E.K. BHARAT BHUSHAN)**  
**ADMINISTRATIVE MEMBER**

**“SA”**

**Original Application No. 180/00749/2018****APPLICANT'S ANNEXURES**

- Annexure A1** - True copy of the office order O.O. No. 23/2012/MD dated 19.11.2012.
- Annexure A2** - True copy of the office memorandum No. V/P.535/VII/MACP/MD dated 26.8.2013.
- Annexure A3** - True copy of the clarification letter No P(S)535/VIII/NS/VI-PC/Fixation/GP. Revision dated 7.3.2014 along with enclosure RBE No. 142/2012 and RBE 95/2013.
- Annexure A4** - True copy of the memorandum No. V/P.524/VIII/SN/Vol.II dated 16.2.2017.
- Annexure A5** - True copy of the representation dated 2.12.2017 to the 2<sup>nd</sup> respondent.
- Annexure A6** - True copy of the Railway Board's letter RBE No. 101/2009 dated 10.6.2009.
- Annexure A7** - True copy of the Railway Board's letter RBE 87 of 2018 dated 14.6.2018.

**RESPONDENTS' ANNEXURES**

Nil

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