

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.397/2012

Date of Decision: 18th November, 2019

CORAM: R. VIJAYKUMAR, MEMBER (A)
RAVINDER KAUR, MEMBER (J)

Mufid Yakub Ansari,
Age : 60 Years,
Adult, Indian Inhabitant,
Working as : Driver-cum-Mechanic,
with office of the Director,
IRIEEN, P.O. Box No.233,
Eklahara Road, Nasik Road
And Residing at :
R.H. No.5, Keru Patil Nagar,
Barade Malla,
M.S.E.B. Sub Station,
Near Jail Road, Nasik Road,
Pin Code – 422 101.

... *Applicant*

(By Advocate Shri R.G Walia)

Versus

1. Union of India,
Through :
The General Manager,
HQ Office, CSTM,
Central Railway,
Mumbai – 400 001.
2. Divisional Railway Manager,
Bhusawal Division, Divisional
Railway Manager's Office,
Central Railway, Bhusawal.
3. Chief Personnel Officer,
Central Railway, Head
Quarters' Office, CSTM,
Mumbai – 400 001.
4. Director,
Indian Railway Institute of
Electrical Engineering,
Post Box No.223, Nasik Road,
Pin Code – 422 101.

... *Respondents*

*(By Advocate Shri V.S. Masurkar – R1 to R3
Shri S.C. Dhawan – R4)*

ORDER (ORAL)

Per : Shri R. Vijaykumar, Member (A)

This Original Application has been filed on 04.07.2012 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

"8(a) This Hon'ble Tribunal may be graciously pleased to call the records of the case which led to the passing of the impugned PPO (Annexure "A1") and after considering its legality, validity, propriety and constitutional validity be pleased to quash and set aside.

(b) This Hon'ble Tribunal further be pleased to order and direct the respondents to grant two financial upgradations tot he applicant i.e. first when he completed ten years of service and second when he completed another 10 years of service with full consequential benefits of difference of pay/salary and accordingly pay the applicant his retiral dues including monthly pension with 18% interest thereon i.e. arrears of salary/pay and retiral dues.

(c) This Hon'ble Tribunal be pleased to hold and declare that the impugned action/order of the respondents in reducing the applicant as Group "D" employee on his retirement is illegal and wrong.

(d) The Hon'ble Tribunal be pleased to hold, declare and direct the respondents that the applicant's pay and retiral dues will be paid to him in accordance with Group "C" pay and salary as drawn by him at the time of his retirement without placing him in Group "D" with all consequential benefits and 18% interest thereon.

(e) Cost of this Original Application be provided for.

(f) Any other and further orders as this Hon'ble Tribunal may deem fit, proper and necessary in the

facts and circumstances of the case."

2. The applicant entered casual service with respondent No.4 on 10.06.1988 and after being found suitable by the Screening Committee, was brought by respondent No.4 on regular basis from 22.06.1990 (Anne A-2 and A-3). Thereafter the respondent Nos.1 to 3 issued order No.HPB/706/EL/C1.IV/Gen/IRIEEN (Ann. R-1) dated 11.04.2001 regularising, with post facto sanction of the General Manager, the applicant in the Group 'D' cadre of Bhusawal Division for further avenues of promotion and other benefits etc. w.e.f. the date of regular service on 22.06.1990. This was followed by further order No.BSL.P.TRO.Elec.IREE.V dated 04.09.2002 in which the applicant was categorised as Skilled Grade-III in Electrical (General/ services) Department in A-III medical category w.e.f. 22.06.1990 and his signature obtained in affirmation. Thereafter, in office orders No.30/2010 (page 61 of the OA), the applicant was granted first MACP w.e.f. 01.09.2008 and his acceptance was obtained by way of a signature in these orders. No first ACP was

given to the applicant and the first ACP granted by both the respondents Nos.1 to 3 and Respondent No.4 from 01.09.2008.

Thereafter, it appears from Annexure A-5 which is a pay slip dated April, 2012 issued by R-4 and mentions Central Railway on the right corner, the applicant was granted second MACP. The date of grant of this MACP is derived from the reply of the respondents which states that such second MACP in Grade Pay of Rs.2000/- was granted w.e.f. 22.06.2010. At the time of retirement, the respondents appeared to have questioned this grant of second MACP and have issued the impugned PPO to the applicant setting the Grade Pay of his last pay drawn as Rs.1900/- in contrast to the Rs.2000/- Grade Pay that he was getting in IREEN and which he considers he was entitled.

3. Learned counsel for the applicant has argued that the applicant commenced regular service in 1990 and was entitled to the second MACP on 22.06.2010 as was granted by the respondents and was received by him until retirement. The respondents Nos.1 to 3 in their reply have also confirmed the same

in that they state that the applicant was eligible for second MACP in the Grade Pay of Rs.2000/- w.e.f. 22.06.2010.

4. The arguments of learned counsels for the applicant and respondents have been heard. In the happy circumstance that the respondents have conceded the claim of the applicant in their reply,, we allow the Original Application. Respondents Nos.1 to 3 are directed to refix the applicant's pension and grant him the other retirement dues based on his Grade Pay of Rs.2000/-. Such order shall be issued within eight weeks from the date of receipt of a certified copy of this order which shall be communicated within two weeks thereafter. The disbursements shall also be completed within two weeks of passing orders.

5. The Original Application is allowed in above terms. No order as to costs.

(Ravinder Kaur)
Member (J)

(R. Vijaykumar)
Member (A)

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SDA

