

In the High Court of Judicature at Madras

Dated : 04.2.2015

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN

and

The Honourable Mr.Justice P.R.SHIVAKUMAR

Writ Petition No.30629 of 2014 and M.P.No.1 of 2014

- 1.Union of India, rep.by its Director General, Department of Posts, New Delhi.
- 2.The Chief Postmaster General, Tamilnadu Circle, Chennai-2.
- 3.The Senior Superintendent of Post Offices, Chennai City North Division, Chennai-8.Petitioners

Vs

- 1.D.Sivakumar
- 2.The Central Administrative Tribunal, rep. by its Registrar, Madras Bench, Chennai-104.Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the second respondent in its impugned order dated 14.3.2013 in O.A.No.1088 of 2011 and quash the same.

For Petitioners : Mr.Haja Mohideen Gisthi, SCGSC

For Respondent-1 : Mr.G.Ravishankar

ORDER OF THE COURT WAS MADE BY V.RAMASUBRAMANIAN,J

This writ petition is filed by the Union of India represented by the Director General, Department of Posts, the Chief Postmaster General, Tamilnadu Circle and the Senior Superintendent of Post Offices, challenging an order passed by the Central Administrative Tribunal, Madras Bench, allowing an application filed by the first

respondent, seeking third financial upgradation under the Modified Assured Career Progression Scheme.

2. Heard Mr.Haja Mohideen Gisthi, learned Senior Central Government Standing Counsel for the petitioners and Mr.G.Ravishankar, learned counsel appearing for the first respondent.

3. Even according to the petitioners, the first respondent entered into service as a Postman on 22.9.1973. He appeared for a selection to the post of Postal Assistant and was selected and appointed to the said post on 12.11.1977. After completion of nearly 31 years of service in the cadre of Postal Assistant, the first respondent retired on reaching superannuation on 31.10.2008.

4. Finding that he was not granted the third financial upgradation under the Modified Assured Career Progression Scheme, the first respondent made a representation and it was rejected on 28.9.2010. Challenging the said order, the first respondent filed an application in O.A.No.1088 of 2011 on the file of the Central Administrative Tribunal. The said application was allowed by the Tribunal on the basis of the decision rendered by the Jodhpur Bench of the Tribunal. As against the said order, the Department of Posts and two others have come up with the above writ petition.

5. The main contention of the learned Senior Central Government Standing Counsel appearing on behalf of the petitioners is that the order of the Jodhpur Bench is under stay by the Rajasthan High Court in a writ petition filed by the Department in W.P.No.11414 of 2012.

6. The matter has not reached finality. Therefore, we do not think that there is any impediment for us to look into the correctness of the order of the Tribunal.

7. In paragraph 19 of the affidavit filed in support of the above writ petition, the Department itself has given the entire service particulars of the first respondent. The same can be summarized for easy appreciation as follows :

Details	Date of Appointment	Remarks	Grade Pay
Entered in service as Group-D	30.5.1973	Ignored as per DG's guidelines vide order No.4-7/MACPS/009/PCC dated 25.4.2011	Rs.1,800/-

Details	Date of Appointment	Remarks	Grade Pay
Entry in Postman Cadre	22.9.1973	Taken an Entry grade for the purpose of MACP	Rs.2,000/-
Promoted to Postal Assistant Cadre	12.11.1977	Adjusted against MACP-I	Rs.2,400/-
Granted financial upgradation under TBOP Scheme on completion of 16 years of service	15.11.1993	Adjusted against MACP-II	Rs.2,800/-
Granted financial upgradation under BCR Scheme on completion of 26 years of service	1.1.2004	Adjusted against MACP-III	Rs.4,200/-

8. A close look at the above tabular column would show that even from the date of his promotion as Postal Assistant, namely 12.11.1977, the first respondent completed more than 30 years before his retirement. The fact that he stagnated in the post of Postal Assistant, is borne out by the very pleadings of the petitioners.

9. What the Department had done is to adjust the appointment of the first respondent as the Postal Assistant on 12.11.1977, as the first financial upgradation under Modified Assured Career Progression-I. This is clearly erroneous in view of the fact that the appointment as Postal Assistant was not granted to the first respondent after mere completion of 10 years in the Cadre of Postman. From the Cadre of Postman, to which, the first respondent got appointed on 22.9.1973, he participated in a selection to the post of Postal Assistant and got appointed. Therefore, to adjust the said appointment against Modified Assured Career Progression-II, is clearly erroneous. Once that error is removed, it will be clear that the first respondent would be entitled to three modified assured career progressions for every ten years. Hence, we are of the opinion that the Tribunal was right in directing the Department not to take into account the appointment granted to the post of Postal Assistant and to adjust it against Modified Assured Career Progression-I.

10. Moreover, it is to be pointed out that even the second modified assured career progression was granted under the Modified Assured Career Progression Scheme only after 16 years and the third

is said to have been granted after 26 years. If the first appointment is adjusted against Modified Assured Career Progression-I, this could not have actually happened. For doing so, the Department has counted the first appointment as 12.11.1977. Therefore, they cannot do so for the Modified Assured Career Progression Scheme in a different manner.

11. Accordingly, the writ petition is dismissed. No costs. Consequently, the above MP is also dismissed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

The Registrar, Central Administrative Tribunal, Madras Bench,
Chennai-104.

1 cc to M/s. S. Haja Mohideen Gisthi, Advocate, sr. 6129

1 cc to M/s. G. Ravishankar, Advocate, sr. 5750

RS

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and MP.No.1 of 2014

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