

IN THE HIGH COURT OF JUDICATURE AT MADRAS

|             |              |
|-------------|--------------|
| Reserved on | Delivered on |
| 22.08.2016  | 01.09.2016   |

CORAM :

THE HON'BLE MR.JUSTICE A.SELVAM  
AND  
THE HON'BLE MR. JUSTICE P.KALAIYARASAN

W.P.No.16143 of 2016

T.Thirumalai .. Petitioner

Vs.

1 Union of India  
Rep. by the Secretary  
Railway Board  
Ministry of Railways  
New Delhi.

2 The General Manager  
Southern Railway  
Park Town  
Chennai-600 003.

3 The Divisional Personnel Officer  
Chennai Division  
Southern Railway  
Park Town  
Chennai-600 003.

4 The Registrar  
Central Administrative Tribunal  
Madras Bench  
Chennai-600 104.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus to call for the records pertaining to Original Application No.1338 of 2012 and to quash the orders passed by the 4th respondent dated 18.11.2015 and consequently to direct the respondents to extend the benefits of III MACP with effect from 27.11.2011.

For Petitioner : Mr.R.Pandian  
For Respondents : Mr.J.Harikrishna for R1 to R3  
R4 - Tribunal

ORDER

(Order of the Court was made by A.SELVAM, J.)

This Writ Petition has been filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed in Original Application No.1338 of 2012 dated 18.11.2015 by the Central Administrative Tribunal, Madras Bench and quash the same and consequently to direct the respondents 1 to 3 to extend the benefits of III MACP with effect from 27.11.2011 to the petitioner.

2. The petitioner, as applicant, has filed Original Application No.1338 of 2012 on the file of the Central Administrative Tribunal, Madras Bench, wherein the present writ respondents 1 to 3 have been shown as respondents.

3. It is averred in the application that the petitioner has been appointed as an Assistant Station Master in the year 1989 and after completion of successful training, he has been posted in the same post. On 27.11.1991, he has been promoted to the grade of Rs.5000-8000 and subsequent promotion has been been to the grade of Rs.5500-9000 from 1.11.2003. As per VI Central Pay Commission, the two grades mentioned supra have become merged and the revised pay is Rs.9300-34800. Further, the grade of Rs.6500-10500 is upgraded to Rs.7450-11500. On the basis of merger, the earlier promotion given to the applicant has been wiped out and accordingly he has been given II MACP on 1.9.2008 to the grade pay of Rs.4600/- upon the introduction of MACP Scheme. On completion of 10 years of service from the regular promotion extended on 27.11.1991, the applicant is entitled to get next MACP on 27.11.2011. The applicant has given a representation and the same has not been considered and under the said circumstances, this application has been filed for getting the relief sought therein.

4. The Central Administrative Tribunal, Madras Bench, after considering the rival submissions made on either side, has dismissed the Original Application No.1338 of 2012, by way of passing the impugned order and the same is being challenged in the present Writ Petition.

5. The learned counsel appearing for the writ petitioner/applicant has sparingly contended that as per Clause 5 of the Modified Assured Career Progression Scheme (MACPS), the earlier promotion given to the petitioner has to be ignored, since merger has taken place as per MACPS and further the petitioner has completed 20 years of service from the date of earlier effective promotion. Under the said circumstances, he is entitled to get the benefit of III MACP. Under such circumstances, a representation has been given to the respondents 1 to 3 and the same has not been considered. The Central Administrative Tribunal has also failed to consider the case of the petitioner and therefore, the dismissal order passed by the Central Administrative Tribunal is liable to be quashed.

6. Per contra, the learned counsel appearing for the respondents 1 to 3 has contended that for getting the benefits of III MACP, the petitioner has to complete 30 years of service and since he has not completed the same, he is not entitled to get the said benefit and the Central Administrative Tribunal has rightly dismissed the Original Application No.1338 of 2012 and therefore, the impugned order passed by the Central Administrative Tribunal is not liable to be quashed.

7. It is an admitted fact that the petitioner has been recruited as Assistant Station Master on 13.3.1989. It is also equally an admitted fact that on 27.11.1991, he has been promoted to the pay scale of Rs.5000-8000. Further, on 1.11.2003, he has been promoted to the scale of Rs.5500-9000.

8. At this juncture, the Court has to look into Clause 5 of Modified Assured Career Progression Scheme (MACPS), wherein it is stated like thus:

"5. Promotions earned/upgradations granted under the ACP Scheme in the past to those grades which now carry the same Grade Pay due to merger of pay scales/upgradations of posts recommended by the Sixth Pay Commission shall be ignored for the purpose of granting upgradations under modified ACPS."

9. In the instant case, as rightly pointed out on the side of the petitioner/applicant, he has been given first promotion on 27.11.1991 and the second promotion on 1.11.2003 and as per Clause 5 of the said Scheme, earlier promotions given to the petitioner have to be ignored, since there is a merger of post.

10. It is an admitted fact that as on 27.11.1991, the petitioner has completed 20 years of service from the date of effective promotion.

11. In Clause 1 of the Modified Assured Career Progression Scheme (MACPS) , it is stated like thus:

"1. There shall be three financial upgradations under the MACPS, counted from the direct entry grade on completion of 10, 20 and 30 years of service respectively. Financial upgradation under the Scheme will be admissible whenever a person has spent 10 years continuously in the same Grade pay."

12. As detailed supra, even the condition mentioned in Clause 1 of the said Scheme is also applicable to the petitioner/applicant, but the Central Administrative Tribunal, without considering the aforesaid aspects, has erroneously dismissed the Original Application No.1338 of 2012 and therefore, the impugned order passed by the Central Administrative Tribunal is liable to be quashed.

In fine, this Writ Petition is allowed without cost. The impugned order dated 18.11.2015 passed in Original Application No.1338 of 2012 by the Central Administrative Tribunal, Madras Bench is quashed and the Original Application No.1338 of 2012 is allowed without cost. The respondents 1 to 3 are directed to extend the admissible III MACP benefits to the petitioner/applicant with effect from 27.11.2011 as per Modified Assured Career Progression Scheme (MACPS), within a period of two months from the date of receipt of a copy of this order.

Sd/-  
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

सत्यमेव जयते

ajr

To  
1 The Secretary to Governments  
Union of India  
Railway Board  
Ministry of Railways  
New Delhi.

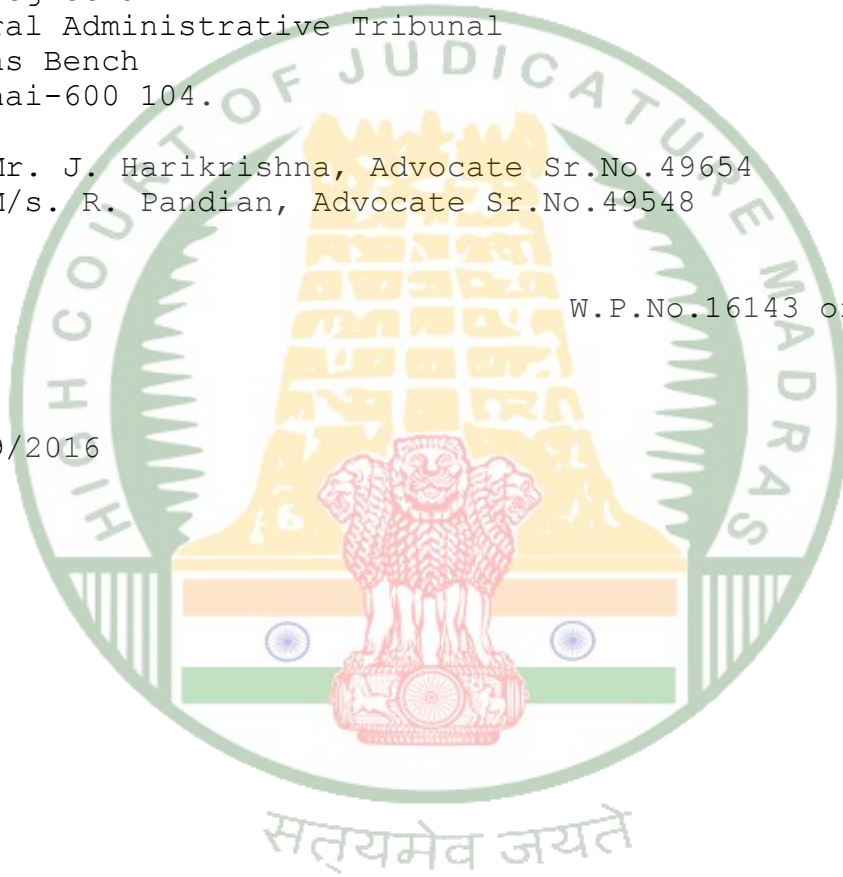
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- 2 The General Manager  
Southern Railway  
Park Town  
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Southern Railway  
Park Town  
Chennai-600 003.
- 4 The Registrar  
Central Administrative Tribunal  
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Chennai-600 104.

+1 CC to Mr. J. Harikrishna, Advocate Sr.No.49654  
+1 CC to M/s. R. Pandian, Advocate Sr.No.49548

W.P.No.16143 of 2016

NR (CO)  
MD : 19/09/2016



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