

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE G.SHYAM PRASAD

Writ Petition No.11007 of 2016

Order: (per V.Ramasubramanian, J.)

Aggrieved by the order of the Central Administrative Tribunal, Hyderabad Bench, at Hyderabad, allowing an application filed by the 1st respondent herein with regard to the withdrawal of the 2nd financial upgradation granted under Modified Assured Career Progression (MACP) Scheme, the Department of Posts has come up with the present writ petition.

2. Heard Mr. A.Kranthi Kumar Reddy, learned Standing Counsel for the petitioners and Mr. M.Venkanna, learned counsel for the 1st respondent.

3. The admitted facts are that the 1st respondent was originally appointed to Group-D post on 30-3-1979; that he appeared for a written examination for promotion to the post of Postman on 21-11-1982; that the results of the said examination were declared on 20-12-1982; that he also appeared for the examination for promotion to the post of Postal Assistant on 31-12-1982, the results of which were declared on 08-02-1983; that after joining the post of Postman and working in the post for one month, the 1st respondent relinquished the promotion and accepted the promotion to the post of Postal Assistant; that in the post of Postal Assistant, he underwent training from 01-6-1983 to

20-8-1983 and was appointed on 24-9-1983; that he was granted financial upgradation under Time Bound One Promotion (TBOP) Scheme on 27-9-1999; that upon the introduction of the MACP Scheme by the Office Memorandum dated 18-9-2009 with effect from 01-9-2008, the 1st respondent was granted a financial upgradation with effect from 01-9-2008; that the said financial upgradation was withdrawn by the Department by the proceedings dated 23-8-2010; that challenging the withdrawal and also seeking a direction to grant financial upgradation, the 1st respondent filed O.A.No.225 of 2012 on the file of the Central Administrative Tribunal; that the Tribunal allowed the application on the ground that the 1st respondent could not be taken to have secured promotion to two posts and that therefore the Department is before us.

4. The only question that fell for consideration before the Tribunal was as to whether the 1st respondent had gained two promotions or not.

5. Both sides agreed that if the 1st respondent had gained promotions to two posts, the 1st respondent would not be entitled to the benefit of MACP. Otherwise, he would be entitled to the benefit.

6. The case of the Department is that the promotion of the 1st respondent to the post of Postman on 28-01-1983 and his continuance in the post for about a month would tantamount to the 1st promotion and that his subsequent

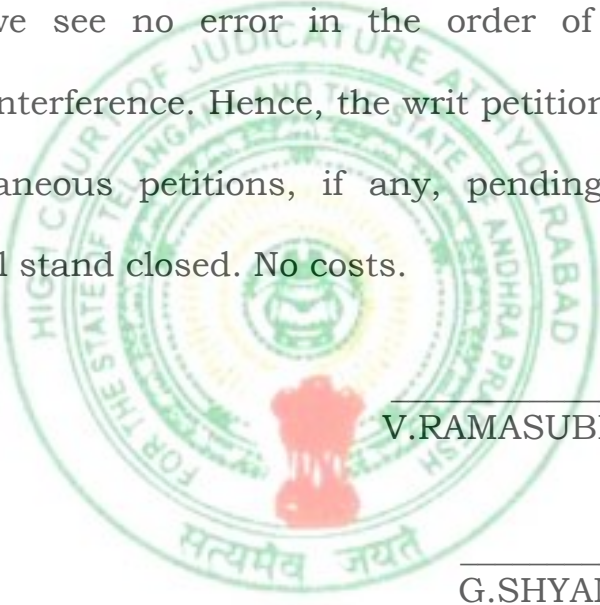
promotion to the post of Postal Assistant with effect from 24-9-1983 should be considered as the 2nd promotion.

7. But the above contention of the Department is flawed. Admittedly, a Group-D post happens to be the feeder category to both the posts of Postman and Postal Assistant. The post of Postman, is a rank lesser in status than that of the post of Postal Assistant. This is why a Group-D post as well as the post of Postman, both happen to be feeder categories to the post of Postal Assistant.

8. In other words, a Postman as well as a Group-D category employee is entitled to be promoted to the post of Postal Assistant. In addition, a Group-D category employee is also entitled to be promoted to the post of Postman, which is an intermediary post between a Group-D post and the Postal Assistant post.

9. Looking at the admitted sequence of events, it is seen that the 1st respondent appeared for selection to the post of Postman on 21-11-1982 and also appeared for selection to the post of Postal Assistant on 31-12-1982. In other words, the selection for both categories of posts has happened simultaneously. But unfortunately, the results for selection to the post of Postman came a little earlier than the results for selection to the post of Postal Assistant. Therefore, the 1st respondent reported for duty as Postman, but withdrew the same immediately upon the declaration of results for selection to the post of Postal Assistant.

10. In the above facts and circumstances, it cannot be said that the 1st respondent gained two promotions, one to the post of Postman and another to the post of Postal Assistant. If the contention of the Department is to be accepted, the 1st respondent should have been promoted from the post of Postman to the post of Postal Assistant. It did not happen. He was promoted only from the post of Group-D category to the post of Postal Assistant. Therefore, the Tribunal was right in allowing the claim of the 1st respondent. Therefore, we see no error in the order of the Tribunal warranting interference. Hence, the writ petition is dismissed. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.



V.RAMASUBRAMANIAN, J.

G.SHYAM PRASAD, J.

29th December, 2016.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE G.SHYAM PRASAD

Writ Petition No.11007 of 2016
(per VRS, J.)



29th December, 2016.
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