

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

Writ Petition No.39122 of 2015

P.Ravikumar

.. Petitioner

Vs.

1. Union of India,
rep.by the Manager,
Mail Motor Service,
Coimbatore-641 001.

2. The Registrar,
Central Administrative Tribunal,
Chennai-600 104.

.. Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorarified Mandamus calling for the records pertaining to the order of the second respondent which is made in O.A.No.1520 of 2013 dated 06.07.2015 and quash the same and consequently to direct the first respondent to grant 2nd financial upgradation under ACP Scheme in the scale pay of Rs.4500-125-7000 with all monetary benefits to the petitioner.

For Petitioner : Mr.R.Malaichamy
For Respondents : Mr.Aravind Kumar for R1
R2-Tribunal

सत्यमेव जयते
ORDER

(Order of the Court was made by
RMT.TEEKAA RAMAN, J.)

Challenging the correctness of the order passed by the second respondent-Tribunal in O.A.No.1520 of 2013 dated 06.07.2015, the present writ petition has been filed.

2.Before the Tribunal, the petitioner sought for extension of benefit which has been granted to similarly placed persons, by filing an application in O.A.No.1520 of 2013, in so far it relates to second financial upgradation. The application was resisted by the official respondent on the ground that the claim

was made belatedly. By order dated 06.07.2015, the Tribunal dismissed the application. Challenging the said order, the present writ petition has been filed.

3.The contention of the petitioner is that he had completed 12 years of regular service in the year 1994 and hence he was granted 1st ACP (first financial upgradation) and another 12 years, ie., 24 years of regular service in the same cadre in the year 2006 and hence he was granted second ACP, ie., second financial upgradation. In view of the same, according to the petitioner, he has to be placed in the pay scale of Rs.4500-125-7000, but his pay was fixed in the existing scale of Rs.4000-100-6000, which is applicable to the persons who have been granted first financial upgradation.

4.Upon perusal of the papers, we find that the Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), New Delhi, has issued a office memorandum dated 18.07.2001, in which, against a query as to whether following the recommendations of the Pay Commission, feeder and promotional posts have been placed in the same scale or not, it has been clarified that however, if for certain reasons, it is inescapable to retain both feeder and promotional grades as two distinct levels in the hierarchy though in the same scale of pay, thereby making a provision for allowing promotion to a higher post in the same grade, and it is inevitable that the benefit of financial upgradation under ACPS has also to be allowed in the same scale. Thus it is clear that the benefit of financial upgradation has to be allowed in the present case.

5.Considering the facts and circumstances of the case and after going through the clarificatory memorandum issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), New Delhi, dated 18.07.2001, we are of the considered view that the order of the Tribunal has to be interfered with.

6.In the result, the impugned order passed by the Tribunal is set aside and the first respondent is directed to grant the benefit of 2nd ACP to the petitioner, only from the date on which he filed the original application before the Tribunal.

7.The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Manager, Union of India,
Mail Motor Service,
Coimbatore-641 001.
2. The Registrar,
Central Administrative Tribunal,
Chennai-600 104.

+2ccs to Mr.Aravind Kumar, Advocate, S.R.No.77879

+1cc to Mr.R.Malaichamy, Advocate, S.R.No.77906

W.P.No.39122 of 2015

RR(CO)
CS/22/11/17



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