

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

W.P.No. 3420 OF 2017

DATED 04TH AUGUST, 2017

Between:

Union of India,
Rep. by Secretary to Government of India,
Ministry of Communication & IT,
Department of Posts-India,
Dak Bhavan, Sansad Marg,
New Delhi – 110001, and others

... Petitioners

AND

Parna Muniratnam Chetty and another

.... Respondents

Counsel for the petitioners : Assistant Solicitor General of India

Counsel for respondent No. 1 : Sri M.Venkanna

Counsel for respondent No. 2 : --

THIS COURT MADE THE FOLLOWING

ORDER: *(per Hon'ble Sri Justice C.V.Nagarjuna Reddy)*

This Writ Petition is filed by the Union of India and its functionaries of Postal Department feeling aggrieved by order dated 01-06-2016 in O.A.No. 409 of 2015 on the file of the Central Administrative Tribunal, Hyderabad Bench, Hyderabad (for short, 'the Tribunal'), whereby it has allowed the said O.A. filed by respondent No. 1 for quashing Memo No. ST-1/MACP/14-15 dated 05-03-2015 of petitioner No. 4 with a consequential direction to extend him the 3rd financial upgradation under Modified Assured Career Progression Scheme (for short, 'MACPS').

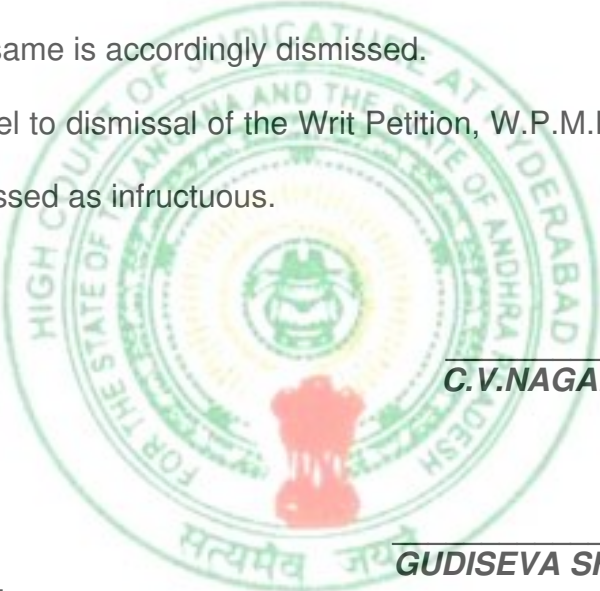
2. From the admitted facts of the case, it is evident that respondent No. 1 has joined the Postal Department as Postman on 27-01-1970 and through a limited departmental competitive examination, he was appointed as Postal Assistant on 30-06-1975. Subsequently, he was given two financial upgradations. Under MACPS, every employee is entitled to a minimum of three financial upgradations in his career. As respondent No. 1 was denied third financial upgradation, he made a representation after his retirement. The said representation was rejected by the aforementioned Memo dated 05-03-2015, questioning which respondent No. 1 filed the above mentioned O.A. before the Tribunal. The said O.A. was allowed by the Tribunal as observed hereinabove.

3. Sri B.Narayana Reddy, learned Assistant Solicitor General of India, submitted that the view taken by the Tribunal is erroneous as respondent No. 1 was promoted as Postal Assistant which shall be treated as a financial upgradation. While denying the claim of respondent No. 1 for the third financial upgradation under MACPS, petitioner No. 4 has taken into consideration the former's appointment as Postal Assistant on 30-06-1975 also as one of the three financial upgradations. The learned counsel for respondent No. 1 submitted and in our view rightly that the appointment to the post of Postal Assistant on 30-06-1975 being by way of a limited departmental

recruitment through a selection process, the same cannot be considered as a financial upgradation. In ***Union of India and others Vs. D.Sivakumar and another***¹, a Division Bench of the Madras High Court dealt with an identical aspect, wherein also the appointment as Postal Assistant was treated as the first financial upgradation. In the above judgment, the Division Bench has clearly observed that such an approach is erroneous in view of the fact that appointment as Postal Assistant was not granted to the employee after mere completion of 10 years in the cadre of Postman and that he was appointed after he participated in selection process and on being selected and appointed on merit to the post of Postal Assistant.

4. In the light of the above discussion, we do not find any merit in this Writ Petition and the same is accordingly dismissed.

5. As a sequel to dismissal of the Writ Petition, W.P.M.P.No. 4062 of 2017 shall stand dismissed as infructuous.



C.V.NAGARJUNA REDDY, J.

GUDISEVA SHYAM PRASAD, J.

Date: 04-08-2017
JSK

¹ CDJ 2015 MHC 4401