

**THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE G. SHYAM PRASAD**

WRIT PETITION No.19783 of 2017

DATE: 11.08.2017

Between:

Union of India rep. by its General Manager,
South Central Railway, Rail Nilayam,
Secunderabad – 500071, Telangana, and others

....Petitioners

and

Mohd. Iqbal, S/o late Sri Mohd. Kashim,
Aged 61 years, Retd, SC/CCM/O/SC,
South Central Railway, R/o 30-118/2/4,
Bharath Nagar Colony, Old Safilguda,
Hyderabad – 500056, Telangana, and another

....Respondents

COUNSEL FOR THE PETITIONERS : Ms. T. Balajayasree

COUNSEL FOR RESPONDENT No.1 : Mr. T. Balaji

COUNSEL FOR RESPONDENT No.2 : ----

**THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
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ORDER: (Per the Hon'ble Sri Justice C.V. Nagarjuna Reddy)

Order of the Central Administrative Tribunal dated 24.06.2016 of the Hyderabad Bench in O.A.No.021/00347/2015 is assailed in this writ petition by the Union of India and the Officers of South Central Railway, Secunderabad.

Bereft of unnecessary details, the main issue that was considered by the Tribunal was whether withdrawal of the first Modified Assured Career Progression (for short 'MACP') benefit allowed to respondent No.1 on 01.09.2008 based on a Serial Circular No.13/2013 was proper or not. The Tribunal has rendered elaborate reasons in holding that the said withdrawal was illegal. The main ground on which such conclusion was drawn by the Tribunal was that the aforementioned Circular issued in 2013 being prospective, should not have been relied upon by the petitioners to withdraw the benefit already granted to respondent No.1 which at that point of time was correctly granted. Admittedly, the Serial Circular No.13/2013 did not contain any provision for reviewing grant of MACPS. Therefore, a right which came to be vested in respondent

No.1 cannot be taken away based on a Circular which was not given retrospective operation. Hence, we do not find any reason to interfere with the order of the Tribunal on this aspect.

Learned counsel for the petitioners however submitted that respondent No.1 was given regular promotion as Senior Clerk with effect from 01.07.2011. She has however stated that respondent No.1's pay scale was once again revised by taking into consideration his promotion from Junior Clerk to Senior Clerk on 01.02.2011 *vide* Corrigendum dated 29.09.2011. She has further submitted that the benefit of pay fixation available at the time of regular promotion shall be given strictly in accordance with Serial Circular No.85/09 / Pay Commission's Circular No.110. She therefore requested that the petitioners may be permitted to re-fix the respondent No.1's pay scale in the cadre of Senior Clerk in terms of the aforementioned Circular after restoration of the first MACP benefit. The learned counsel for respondent No.1 has not specifically opposed this request.

In the light of the above, while affirming the order of the Tribunal to the extent of direction issued to the petitioners to restore the first MACP benefit, liberty is however given to them to re-fix the pay scale of respondent No.1 strictly in accordance with Serial Circular No.85/2009 / Pay Commission Circular No.110,

No.P(PC)487/VI CPC/ACP, dated 18.06.2009, issued in terms of Railway Board's letter No.PC-V/2009/ACP-2, dated 10.06.2009.

Subject to the above, the writ petition is disposed of.

As a sequel to disposal of Writ Petition, WPMP.No.24166 of 2017 filed by the petitioners stands disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

11th AUGUST, 2017.

G. SHYAM PRASAD, J

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