

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 4232 of 2018**

B.L. Gangber S/o Late Ramsingh Gangber, Aged About 56 Years Sub-Post Master, Byron Bazar Post Office, (Presently Posted As Pandri Post Office) Raipur 492001, District Raipur Chhattisgarh.

---- Petitioner

Versus

1. Union of India Through The Secretary, Ministry of Communication, Department Of Posts, Dak Bhawan, New Delhi 110001
2. The Chief Post Master General, Chhattisgarh Circle, CPMG Office, M.G. Road, Raipur 492001 Chhattisgarh.
3. The Director (Postal) Office of Chief Post Master General CPMG Office, M.G. Road, Raipur- 492001 Chhattisgarh.
4. The Sr. Superintendent of Post Offices, Raipur Division, First Floor of Ganj Post Office, Station Road, Raipur 492009, Chhattisgarh

---- Respondents

For Petitioner	: Shri B.P. Rao, Advocate.
For Respondent/UOI	: Shri B.Gopa Kumar, Assistant Solicitor General.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Pritinker Diwaker, Judge

Order on Board**17/07/2018****Per Ajay Kumar Tripathi, Chief Justice**

1. The writ application has been preferred against the order dated 28.02.2018 passed by the Central Administrative Tribunal, Jabalpur Bench, Circuit Sitting at Bilaspur (hereinafter referred to as 'Tribunal').
2. The Original Application No.569 of 2014 was filed by the present Petitioner aggrieved by non-payment of the salary for the period of suspension as well as for imposition of penalty of withholding of one increment without cumulative effect.

Besides the above two reliefs, one issue which has been raised before us is that the Petitioner should have been extended the benefit of Modified Assured Career Progression Scheme (hereinafter referred to as 'MACP Scheme') from an earlier date, instead of the date from which such benefit has been conferred upon him.

3. The Tribunal after considering the various aspects of the facts and the arguments, refused to sit in appeal over the decision to impose punishment keeping in mind the principle laid down by the Hon'ble Apex Court in the case of ***B.C. Chaturvedi v. Union of India*** reported in **(1995) 6 SCC 749**. The Tribunal opined that since there was no procedural illegality or irregularity pointed out with regard to the conduct of the departmental inquiry and since there was no violation of principle of natural justice, the Court refused to interfere with the orders passed by the disciplinary authority, the appellate authority as well as the revisional authority.

4. After the above aspect was settled against the Petitioner, he prayed for advancing the date of his financial up-gradation under the MACP Scheme.

5. The Tribunal took note of the fact that after the departmental inquiry found the petitioner guilty, a minor penalty of withholding of one increment without cumulative effect was imposed vide order dated 14.10.2011 which took effect from 01.07.2012 and lasted till 30.06.2013. The second MACP Scheme was extended to the Petitioner w.e.f. 01.07.2013 and the reason for Tribunal not to push back the date for such grant or benefit was the provision which have been talked about in the MACP Scheme itself that in case an employee is facing a departmental or disciplinary proceeding and if there is a penalty imposed or subsisting against him, the normal rules of promotion will govern such consideration for grant of MACP Scheme and such cases are to be regulated under the provisions of CCS (CCA) Rules, 1965.

6. Rule 18 of the MACP Scheme reads as follows:-

“18. In the matter of disciplinary/penalty proceedings, grant of benefit under the MACPS shall be subject to rules governing normal promotion. Such cases shall, therefore, be regulated under the provisions of the CCS (CCA) Rules, 1965 and instructions issued thereunder.”

7. Since the Petitioner did suffer a punishment after the authority found him guilty in the departmental inquiry, therefore, the period when he was under a disciplinary proceeding as well as the time when the punishment order was imposed upon him, will surely come in the way of shifting the date for grant of MACP.

8. We do not feel that the Tribunal has committed any error in disallowing the Original Application and refusing to grant the relief which was sought for including shifting the date of MACP. The writ application therefore has no merit and it stands dismissed.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-

(Pritinker Diwaker)
JUDGE