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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2022

CORAM

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN
AND
THE HONOURABLE MS. JUSTICE N. MALA

W.P. NO. 13211 OF 2020
&
W.M.P. NO. 16335 OF 2020

1. Union of India,
rep. by the Secretary,
Department of Posts (Postal and
Accounts Wing),
Ministry of Communications and
Information Technology,
Dak Bhavan, Sansad Marg,
New Delhi - 110 001.
2. The Secretary,
Department of Personnel and Training,
Ministry of Public Grievances and
Pension,
North Block, New Delhi - 110 011.
3. The Deputy Director General (PAF),
Ministry of Communications,
Department of Posts, PA Wing,
Dak Bhavan, Sansad Marg,
New Delhi - 110 001.
4. The General Manager,
Postal Accounts and Finance,
Ethiraj Salai,
Chennai - 600 008.

.. Petitioners

Vs.

1. G. Santhanam
2. G. Damodaran
3. R. Parameshwaran
4. N.S. Ramachandran
5. P. Munusamy
6. A. Natarajan
7. N. Rajagopalan - II
8. B. Rajendra Singh



9. M.I. Mohammed Sultan Muhamud
10. M. Manoharan - II
11. The Registrar,
Central Administrative Tribunal,
Chennai.

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..Respondents

Prayer:

Petition under Article 226 of the Constitution of India praying for issue of a Writ of Ceritorari to call for the records relating to the order passed by the 11th respondent in O.A./310/00234/2017 dated 16.07.2019 and quash the same.

For Petitioners :: Mr.V. Chandrasekaran
For Respondents :: Mr.R.Malaichamy for R1 to R5
 & R7 to R10
 No appearance for R6

O R D E R

S. VAIDYANATHAN, J. AND N. MALA, J.

The present writ petition has been filed by the Union of India challenging the order dated 16.07.2019 passed by the Tribunal in O.A. No. 310/00234/2017 wherein the petitioners herein were directed to consider the stepping up of pay of the respondents 1 to 10 herein/applicants before the Tribunal, on par with their juniors who are direct recruits on the basis of the law laid down in the case.

2. The contesting respondents herein entered the service as Sorter in the erstwhile Director of Audit and Accounts Department. Thereafter, they were promoted as LDC, then as UDC/Junior Accountant and thereafter, due to upgradation of posts, they were appointd as Senior Accountant and retired from service on various dates. The fifth respondent and respondent Nos. 1 and 10 had obtained one more promotion to the cadre of Assistant Accounts Officer during the period of service. Under the Assured Career Progression Scheme, which was introduced with effect from 09.08.1999 to provide relief from the stagnation due to lack of adequate promotional avenues in respect of Group "C" and "D" employees, originally, financial upgradation was granted on completion of 12 years of service and after 24 years of service, two financial upgradations were granted. After the introduction of MACP, the period was reduced to 10 years and 20 years. While implementing the ACP scheme, the contesting respondents were denied the benefits of the scheme on the ground that they had already received two promotions and those who



joined as Junior Accountants by direct recruitment had got only one promotion and they were given the benefit of one ACP thereby resulting in the directly recruited Junior Accountants getting their pay fixed higher than the contesting respondents. Aggrieved by the same, contending that they are entitled to get stepping up of their pay on par with the directly recruited Junior Accountants, the contesting respondents initially approached the Tribunal by filing O.A. No. 1758 of 2014 challenging certain clause of the ACP scheme, seeking stepping up of pay on par with their juniors and to revise and re-fix their pay and allowances and also the retirement service benefits and for payment of arrears. The said O.A. came to be disposed of directing the petitioner Department to consider and dispose of the representations of the contesting respondents by a speaking order within a stipulated time. Pursuant to the same, order dated 03.11.2016 came to be passed by the petitioner Department rejecting the claim of the contesting respondents giving rise to filing of the present O.A. No. 234 of 2017 relying upon various decisions of the Co-ordinate Benches of the Tribunal wherein similarly placed employees had been granted the benefits.

3. Defending the order dated 03.11.2016, it was contended on behalf of the petitioners before the Tribunal that the contesting respondents are not entitled to upgradation under the ACP Scheme as they had earned more than two promotions and financial upgradation under the ACP Scheme granted to an employee who had stagnated is purely personal and has no relevance to his seniority the Tribunal. Further, petitioners stated that Department vide official memorandum dated 08.12.2016 had advised that stepping up of pay on account of MACP (ACP scheme of 5th CPC was modified into MACP scheme in 6th CPC) is not allowable and that the matter is sub judice.

4. The Tribunal, taking into consideration the decisions rendered by the Co-ordinate Benches in Harcharan Singh Sudan V. Union of India (O.A.No. 96-CH-2007), Ashok Kumar V. Union of India & Others (O.A. No. 156/JK/2008 dated 19.01.2010 which was confirmed by the Punjab and Haryana High Court Order in CWP No. 12894/2010 dated 23.07.2010 and the SLP filed against the order was also dismissed), the decision of CAT, Principal Bench in O.A. No. 2124 of 2011 dated 01.02.2013, which was also confirmed by the Hon'ble Apex Court and also the admission of the petitioners that the order of the Principal Bench in O.A. No. 2124 of 2011 in favour of applicants therein had already been implemented, set aside the order dated 03.11.2016, and directed the petitioner Department to consider stepping up of pay of the contesting respondents on par with their juniors who are direct recruits on the basis of the law laid down in the case as they were also similarly placed. It is this order which has given



rise to the present writ petition at the instance of Union of India.

5. Heard both sides and perused the records.

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6. The only issue in the present writ petition is that the contesting respondents herein had retired from service in 2007 and the request for upgradation under MACP was sought only in 2014. The Tribunal, in the light of the decision dated 19.01.2010 of the Chandigarh Bench of the Central Administrative Tribunal in Ashok Kumar V. Union of India and others (O.A. No. 156/JK-2009) which was confirmed by the Punjab and Haryana High Court's order in CWP .No. 12894/2010 dated 23.07.2010 and the dismissal of SLP filed against the said order and also the decision rendered in Harcharan Singh Sudan V. Union of India (O.A. No. 96-CH-2007), stepping up of pay of the contesting respondents on par with their juniors has been directed to be considered in the light of the law laid down in such cases and the benefits have been directed to be extended to the applicants in the O.A., who are the contesting respondents herein. Though there appears to be a delay in making the representations, the delay issue was not canvassed before the Tribunal by the writ petitioners herein. When stepping up of pay and pay anomaly need to be set right is an accepted fact, in the absence of any plea on the delay aspect by the petitioners before the Tribunal, the applicants in the O.A., who are the contesting respondents herein, are entitled to the benefits as directed by the Tribunal. Hence, we are not inclined to interfere with the order of the Tribunal and the writ petitioners are expected to release the differential amount within a period of four months from the date of receipt of a copy of this order. However, arrears of payment will not attract any interest, if paid within the stipulated period of four months or else, 6% interest shall be paid on the same. The writ petition is dismissed with the above directions. No costs. Connected W.M.P. is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

nv



To

1. The Secretary,
Department of Posts (Postal and
Accounts Wing),
Ministry of Communications and
Information Technology,
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5. The Registrar,
Central Administrative Tribunal,
Chennai.

+1cc to Mr.R.Malaichamy, Advocate, S.R.No.23980

W.P. No. 13211 of 2020

AJB (CO)
PM/27/05/2022