

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 27.04.2022

ORDERS PRONOUNCED ON : 06.06.2022

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HON'BLE MRS.JUSTICE N.MALA

W.P.NO.16818, 27455, 27677, 28860, 28985, 29265, 13963, 3501,
4992, 29272, 34266, 34268, 30111, 34301, 1145, 2014, 3195, 3196,
31272, 31643, 31644, 31897, 32130 OF 2017, 88 OF 2018 AND
5294 OF 2016

N.SELVAN

... PETITIONER in W.P.No.16818 of 2017

A.PECHIMUTHU

... PETITIONER in W.P.No.27455 of 2017

G.ANNADURAI

... PETITIONER in W.P.No.27677 of 2017

G.CHANDRAMOHAN

... PETITIONER in W.P.No.28860 of 2017

P.BALASUBRAMANIAN

... PETITIONER in W.P.No.28985 of 2017

K.M.RAMACHANDRAN

... PETITIONER in W.P.No.29265 of 2017

G.SARAVANAN

... PETITIONER in W.P.No.13963 of 2017

1. S.ELANGO VAN

2. G.JYOTHEESWARAN

3. A.B.ARUN RASHEED

4. K.V.CHANDRASEKARAN

5. E.MANO HARAN

6. M.N.JAYAKUMAR

7. S.RAMANI

8. P.PALANIVEL

... PETITIONERS in W.P.No.3501 of 2017

V.R.VENKATESAN

... PETITIONER in W.P.No.4992 of 2017

G.SRINIVASAN	... PETITIONER in W.P.No.29272 of 2017
R.RAMAMURTHI	... PETITIONER in W.P.No.34266 of 2017
P.SEETHAPATHY	... PETITIONER in W.P.No.34268 of 2017
M.RAMADOSS	... PETITIONER in W.P.No.30111 of 2017
C.R.RANGAN	... PETITIONER in W.P.No.34301 of 2017
P.MANI	... PETITIONER in W.P.No.1145 of 2017
R.GUNASEKARAN	... PETITIONER in W.P.No.2014 of 2017
K.DURAIRAJU	... PETITIONER in W.P.No.3195 of 2017
M.MAYAVARU	... PETITIONER in W.P.No.3196 of 2017
K.P.GANGADHARAN	... PETITIONER in W.P.No.31272 of 2017
M.VAITHY	... PETITIONER in W.P.No.31643 of 2017
K.N.RANGARAJU	... PETITIONER in W.P.No.31644 of 2017
R.UVARAJAN	... PETITIONER in W.P.No.31897 of 2017
S.BALAKRISHNAN	... PETITIONER in W.P.No.32130 of 2017
A.K.SUKUMARAN	... PETITIONER in W.P.No.88 of 2018
MR.A.VENKATASWAMY	... PETITIONER in W.P.No.5294 of 2016

vs.

THE SENIOR SUPERINTENDENT OF POST OFFICES,
UNION OF INDIA,
TIRUCHIRAPALLI DIVISION
TIRUCHIRAPALLI- 620 001

... 1st RESPONDENT in W.P.Nos.16818, 27677, 31643 of 2017
2nd RESPONDENT in W.P.No.29272 of 2017

THE SENIOR SUPERINTENDENT OF POST OFFICES
UNION OF INDIA
COIMBATORE DIVISION
COIMBATORE 641 001

... 1st RESPONDENT in W.P.No.27455, 28860,
34268, 34301, 31272 of 2017, 88 of 2018

THE SENIOR SUPERINTENDENT OF POST OFFICES
UNION OF INDIA
DINDIGUL DIVISION
DINDIGUL-624 001.

... 1st RESPONDENT in W.P.No.28985 of 2017

THE SENIOR SUPERINTENDENT OF POST OFFICES,
UNION OF INDIA,
CHENNAI CITY CENTRAL DIVISION,
CHENNAI-600 017

... 1st RESPONDENT in W.P.Nos.29265, 1145,
2014, 3195, 3196 of 2017

SUPERINTENDENT OF RMS
UNION OF INDIA,
RMS "M" DIVISION,
CHENNAI-600 008.

...1st RESPONDENT in W.P.No.34266 of 2017

THE CHIEF POST MASTER GENERAL
UNION OF INDIA,
OFFICE OF THE CHIEF POST MASTER GENERAL,
TAMILNADU CIRCLE, CHENNAI 600 002

...1st RESPONDENT in W.P.No.31644 of 2017

THE POSTMASTER GENERAL
WESTERN REGION (TN)
COIMBATORE 641 002

... 2nd RESPONDENT in W.P.No.31644 of 2017

THE SENIOR SUPERINTENDENT OF POST OFFICES
ERODE DIVISION,
ERODE 638 001

... 2nd RESPONDENT in W.P.No.31897 of 2017
3rd RESPONDENT in W.P.No.31644, 32130 of 2017

THE ASSISTANT DIRECTOR (STAFF)
UNION OF INDIA
O/O THE POSTMASTER GENERAL TN,
COIMBATORE 641 002

... 1st RESPONDENT in W.P.No.31897 of 2017

THE CHIEF POSTMASTER GENERAL
UNION OF INDIA,
TAMILNADU CIRCLE,
CHENNAI-600 002

... 1st RESPONDENT in W.P.No.32130 of 2017

THE POSTMASTER GENERAL
WESTERN REGION (TN)
COIMBATORE-641 002

... 2nd RESPONDENT in W.P.No.32130 of 2017

THE CHIEF POST MASTER GENERAL
UNION OF INDIA,
O/O. THE CHIEF POST MASTER GENERAL
ANNA SALAI, CHENNAI.

... 1st RESPONDENT in W.P.No.5294 of 2016

THE POST MASTER GENERAL
O/O. THE POST MASTER GENERAL,
ANDRAPRADESH SOUTHERN REGION,
KURNOOL-518 004.

... 2nd RESPONDENT in W.P.No.5294 of 2016

THE SUPERINTENDENT RMS
(RAILWAY MAIL SERVICE)
"TP" DIVISION, TIRUPATHI-517501.

... 3rd RESPONDENT in W.P.No.5294 of 2016

THE SENIOR SUPERINTENDENT OF POST OFFICES,
UNION OF INDIA
VELLORE DIVISION, VELLORE 632 001

... 2nd RESPONDENT in W.P.No.13963 of 2017

THE SENIOR SUPERINTENDENT OF POST OFFICES
UNION OF INDIA,
CHENNAI CITY NORTH DIVISION,
CHENNAI 600 008.

... 1st RESPONDENT in W.P.No.3501, 4992, 30111 of 2017

THE DIRECTOR GENERAL,
UNION OF INDIA,
DEPARTMENT OF POSTS,
DAK BHAWAN, NEW DELHI 110 001.

... 1st RESPONDENT in W.P.No.29272 of 2017

THE REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL,
MADRAS BENCH, CHENNAI

... 1st RESPONDENT in W.P.Nos.13963 of 2017
... 2nd RESPONDENT in W.P.No.34266, 34268, 30111,
34301, 1145, 2014, 3195, 3196, 31272, 31643,
16818, 27455, 27677, 28860, 28985, 29265,
3501, 4992 of 2017, 88 of 2018

... 3rd RESPONDENT in W.P.No.29272, 31897 of 2017

... 4th RESPONDENT in W.P.No.31644, 32130 of 2017, 5294 of 2016

Prayer in W.P.No.16818 of 2017:-

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records and quash the order dated 29.08.2016 passed by the Central Administrative Tribunal, Madras bench in O.A.No.131 of 2016 and consequently direct the first respondent to grant him financial up-gradation under MACP III besides re-fixing the petitioners pension accordingly with all attendant benefits including interest on arrears at the rate of 12% per annum till the date of payment.

Prayer in W.P.No.27455 of 2017:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records and quash the order dated 29.08.2016 passed by the Central Administrative Tribunal, Madras Bench in O.A.No.130 of 2016 and consequently direct the 1st respondent to grant the petitioner financial upgradation under MACP III besides re-fixing his pension accordingly with all attendant benefits including interests on arrears at the rate of 12% per annum till the date of payment.

Prayer in W.P.No.27677 of 2017:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records and quash the order dated 29.08.2016 and corrigendum dated 18.07.2017 passed by the Central Administrative Tribunal, Madras bench in O.A.No.1104 of 2016 and consequently direct the 1st respondent to grant the petitioner financial upgradation under MACP III besides re-fixing his pension accordingly with all attendant benefits including interest on arrears at the rate of 12% per annum till the date of payment.

Prayer in W.P.No.28860 of 2017:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records and quash the order dated 29.08.2016 passed by the Central Administrative Tribunal, Madras Bench in O.A.No.215 of 2016 and consequently direct the 1st Respondent to grant the Petitioner financial upgradation under MACP III besides re-fixing his pension accordingly with all attendant benefits including interests on arrears at the rate of 12% per annum till the date of payment.

Prayer in W.P.No.28985 of 2017:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records and quash the order dated 01.02.2017 passed by the Central Administrative Tribunal, Madras Bench in O.A.No.1566 of 2015 and consequently direct the 1st respondent to grant the petitioner financial upgradation under MACP III besides re-fixing his pension accordingly with all attendant benefits including interests on arrears at the rate of 12% per annum till the date of payment.

Prayer in W.P.No.29265 of 2017:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records and quash the order dated 11.08.2016 and corrigendum dated 20.06.2017, passed by the Central Administrative Tribunal, Madras Bench in O.A No.885 of 2015 and consequently direct the 1st Respondent to grant the petitioner financial upgradation under MACP III besides re-fixing his pension accordingly with all attendant benefits including interests on arrears at the rate of 12% per annum till the date of payment.

Prayer in W.P.No.13963 of 2017:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the 1st respondent in O.A. No.1089 / 2012 dated 08.01.2016 and the order of the 2nd respondent in No.B1 / MACP /dlgs dated at Vellore - 632 001 the 24.02.2011 and quash the said orders and direct the respondents (2) to grant to the petitioner financial upgradation under the MACP scheme without counting his appointment as Postal Assistant from the post of Group - D as a promotion earned in the course of natural progression and grant him all consequential benefits.

Prayer in W.P.No.3501 of 2017:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the 2nd respondent in O.A.No.613/2012 dated 08.01.2016 and the order of the first respondent in B2/MACP/dlgs dated at Chennai 600 008 the 07.02.2012 and quash the said orders and direct the first respondent to grant financial upgradation under the MACP scheme to the Petitioner without counting their

appointment as Postal Assistant from the post of Postman as a Promotion earned in the course of natural progression and grant them all consequential benefits.

Prayer in W.P.No.4992 of 2017:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records and quash the order dated 05.12.2016 passed by the Central Administrative Tribunal, Madras Bench in O.A. No.738 of 2015 and consequently direct the 1st respondent to grant the petitioner financial upgradation under MACP III besides re-fixing his pension accordingly with all attendant benefit including interests on arrears at the rate of 12% per annum till the date of payment.

Prayer in W.P.No.29272 of 2017:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records and quash the order dated 02.01.2017 passed by the Central Administrative Tribunal, Madras Bench in O.A. No. 1272 of 2015 and consequently direct the 1st and 2nd Respondents to grant the Petitioner financial upgradation under MACP III besides re-fixing his pension accordingly with all attendant benefits including interests on arrears at the rate of 12% per annum till the date of payment.

Prayer in W.P.No.34266 of 2017:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records and quash the order dated 26.10.2016 passed by the Central Administrative Tribunal, Madras Bench in O.A. No.1264 of 2015 and consequently direct the 1st Respondent to grant the Petitioner financial upgradation under MACP III besides re-fixing his pension accordingly with all attendant benefits including interests on arrears at the rate of 12% per annum till the date of payment.

Prayer in W.P.No.34268 of 2017:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records and quash the order dated 29.08.2016 passed by the Central Administrative Tribunal, Madras Bench in O.A. No.129 of 2016 and consequently direct the 1st Respondent to grant the Petitioner financial upgradation under MACP III besides re-fixing his pension accordingly with all

attendant benefits including interests on arrears at the rate of 12% per annum till the date of payment.

Prayer in W.P.No.30111 of 2017:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records and quash the order dated 11.08.2016 passed by the Central Administrative Tribunal, Madras Bench in O.A No.1026 of 2015 and consequently direct the 1st Respondent to grant the Petitioner financial upgradation under MACP III besides re-fixing his pension accordingly with all attendant benefits including interests on arrears at the rate of 12% per annum till the date of payment.

Prayer in W.P.No.34301 of 2017:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records and quash the order dated 29.08.2016 passed by the Central Administrative Tribunal, Madras Bench in O.A.No.134 of 2016 and consequently direct the 1st Respondent to grant the petitioner financial upgradation under MACP III besides re-fixing his pension accordingly with all attendant benefits including interests on arrears at the rate of 12% per annum till the date of payment.

Prayer in W.P.No.1145 of 2017:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to quash the order dated 11.08.2016 passed by the Central Administrative Tribunal, Madras Bench in O.A.No.1024 of 2015, after calling for the concerned records from the 2nd respondent and consequently direct the 1st respondent to grant petitioner his financial upgradation under MACP III.

Prayer in W.P.No.2014 of 2017:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records and quash the order dated 11.08.2016 passed by the Central Administrative Tribunal, Madras Bench In O.A. No. 1030 of 2015 and consequently direct the 1st Respondent of grant financial upgradation under MACP III besides re-fixing the petitioner pension accordingly with all attendant benefits including interests on arrears at the rate of 12% per annum till the date of payment.

Prayer in W.P.Nos.3195 and 3196 of 2017:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records and quash the order dated 11.08.2016 passed by the Central Administrative Tribunal, Madras Bench in O.A. No.1029 of 2015 (W.P.No.3195 of 2017) O.A. No.1031 of 2015 (W.P.No.3196 of 2017) and consequently direct the 1st respondent to grant the petitioner Financial upgradation under MACP III besides re-fixing his pension accordingly with all attendant benefits including interests on arrears at the rate of 12% per annum till the date of payment.

Prayer in W.P.No.31272 of 2017:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records and quash the order dated 29.08.2016 passed by the Central Administrative Tribunal, Madras Bench in O.A. No.133 of 2016 and consequently direct the 1st respondent to grant the petitioner financial upgradation under MACP III besides re-fixing his pension accordingly with all attendant benefits including interests on arrears at the rate of 12% per annum till the date of payment.

Prayer in W.P.No.31643 of 2017:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records and quash the order dated 29.08.2016 passed by the Central Administrative Tribunal, Madras Bench in O.A.No.1105 of 2016 and consequently direct the 1st respondent to grant the petitioner financial upgradation under MACP III besides re-fixing his pension accordingly with all attendant benefits including interests on arrears at the rate of 12% per annum till the date of payment.

Prayer in W.P.No.31644 of 2017:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records and quash the order dated 29.08.2016 passed by the Central Administrative Tribunal, Madras Bench in O.A.No.1050 of 2016 and consequently direct the 1st respondent to grant the petitioner financial upgradation under MACP III besides re-fixing his pension accordingly with all attendant benefits including interests on arrears at the rate of 12% per annum till the date of payment.

Prayer in W.P.No.31897 of 2017:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records and quash the order dated 29.08.2016 passed by the Central Administrative Tribunal, Madras Bench in O.A.No.1132 of 2016 and consequently direct the 1st Respondent to grant the petitioner financial Upgradation under MACP II with effect from 01.09.2008 instead of 01.06.2009 and further grant him financial upgradation under MACP III in the grade pay of Rs.4600/- besides re-fixing his pension accordingly with all attendant benefits including interests on arrears at the rate of 12% per annum till the date of payment.

Prayer in W.P.No.32130 of 2017:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records and quash the order dated 29.08.2016 passed by the Central Administrative Tribunal, Madras Bench in O.A. No.1052 of 2016 and consequently direct the Respondents to grant the Petitioner financial upgradation under MACP III besides re-fixing his pension accordingly with all attendant benefits including interests on arrears at the rate of 12% per annum till the date of payment.

Prayer in W.P.No.88 of 2018:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records and quash the order dated 29.08.2016 passed by the Central Administrative Tribunal, Madras Bench in O.A.No.115 of 2016 and consequently direct the 1st Respondent to grant the petitioner financial upgradation under MACP III besides re-fixing his pension accordingly with all attendant benefits including interests on arrears at the rate of 12% per annum till the date of payment.

Prayer in W.P.No.5294 of 2016:-

This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the connected records leading to the issue of the impugned order of the 4th Respondent dated 16.10.2015 in O.A. No.520/2012 and quash the same and direct the Respondents to grant 3rd financial up gradation and consequential direction to the respondents to pay the pension in accordance to the upgraded grade pay.

For Petitioners (in W.P.Nos.16818, 27455, 27677, 28860, 28985, 29265, 4992, 29272, 34266, 34268, 30111, 34301, 1145, 2014, 3195, 3196, 31272, 31643, 31644, 31897, 32130 of 2017 & W.P.No.88 of 2018)	:	Mr.S.Arun
For Petitioners (in W.P.Nos.13963 & 3501 of 2017)	:	Mr.P.Rajendran
For Petitioners (in W.P.No.5294 of 2016)	:	Mr.R.Amardeep
For R1 (in W.P.Nos.16818, 27455, 27677, 28860, 28985, 29265, 34266, 34268, 30111, 1145, 2014, 3195, 3196, 31272, 31643, 31644, 31897, 32130, 13963, 3501 of 2017)	:	Mr.V.Balasubramanian
For R1 (in W.P.No.4992 of 2017)	:	Mr.B.Sudhir Kumar SCGSC
For R1 (in W.P.No.29272 of 2017)	:	Mr.M.Aravind Kumar SCGSC
For R1 (in W.P.No.5294 of 2016)	:	Mr.Perambur E.Palani ACGSC
For R1 (in W.P.Nos.88 of 2018 & 34301 of 2017)	:	Mr.J.Madanagopal Rao ACGSC

COMMON ORDER

[Order of the Court was made by S.VAIDYANATHAN,J. and N.MALA, J.]

These batch of writ petitions are filed against the orders' dated 29.08.2016, 11.08.2016, 08.01.2016, 05.12.2016, 02.01.2017, 26.10.2016 and 16.10.2016 of the CAT rejecting the petitioners' applications filed under Section 19 of the

Administrative Tribunals Act 1989, wherein a challenge was made to the action of the respondents in refusing to grant financial up-gradation under MACP Scheme.

2.As the outcome of the batch of writ petitions would be a direct sequetur of the controversy whether the post of Postal Assistant is the Promotional post of Postman or whether the selection to the post of Postal Assistant on the basis of departmental test is direct recruitment, hence all the writ petitions are taken up together and a common order is passed.

3.The service particulars of the individual petitioners is tabulated below for better understanding and appreciation.

SI. No.	W.P.No.	OA.No./ Applicant	Entry Post/Date	Promotion Post on LDCE/Date	TBOP Date	BCR/MACP Date
1	88 of 2018	115/2016 A.K.Sukumaran	Group 'D'/ 10.08.1978	Postal Assistant/ 05.05.1982	05/17/98	07/01/08
2	34268 of 2017	129/2016 P.Seethapathy	Postman/ 22.06.1978	Postal Assistant / 21.07.1980	07/28/96	01/01/07
3	27455 of 2017	130/2016 A.Pechimuthu	Postman/ 11.12.1970	Postal Assistant / 02.10.1978	10/11/94	01/01/05
4	16818 of 2017	131/2016 N.Selvan	Group D/ 08.07.1977	Postal Assistant / 06.06.1981	06/20/97	01/01/08
5	31272 of 2017	133/2016 K.P. Gangadharan	Postman/ 22.09.1973	Postal Assistant / 27.02.1979	03/06/95	07/01/05
6	34301 of 2017	134/2016 C.R.Rangan	Postman/ 10.01.1970	Postal Assistant / 17.12.1973	08/14/89	01/01/00
7	28860 of 2017	215/2016 G.Chandramohan	Postman/ 08.09.1970	Postal Assistant / 12.11.1974	11/08/90	01/01/01
8	31644 of 2017	1050/2016 K.N.Rangaraju	Postman/ 25.06.1976	Postal Assistant / 08.06.1981	06/15/97	01/01/08
9	32130 of 2017	1052/2016 S.Balakrishnan	Postman/ 16.08.1972	Postal Assistant / 12.10.1978	10/25/94	01/01/05

SI. No.	W.P.No.	OA.No./ Applicant	Entry Post/Date	Promotion Post on LDCE/Date	TBOP Date	BCR/MACP Date
10	27677 of 2017	1104/2016 G.Annadurai	Postman/ 12.11.1977	Postal Assistant / 15.05.1983	05/25/99	09/01/08
11	31643 of 2017	1105/2016 M.Vaithy	Postman/ 27.01.1979	Postal Assistant / 08.05.1983	05/25/99	03/09/08
12	31897 of 2017	1132/2016 R.Uvarajan	Postman/ 27.01.1979	Postal Assistant / 08.05.1983	05/17/99	11/03/10
13	28985 of 2017	1566 of 2015 P.Bala subramanian	Postman/ 24.09.1970	Postal Assistant / 06.04.1975	04/09/91	07/01/01
14	29265 of 2017	885 of 2015 K.M.Rama chandran	Postman/ 24.04.1978	Postal Assistant / 05.06.1983	06/05/99	07/01/09
15	13963 of 2017	1089 of 2012 G.Saravanan	Group D / 1979	Postal Assistant / 05.05.1987	06/08/03	08/31/08
16	3501 of 2017	613 of 2012 1.S.Elangovan 2.G.Jyothees waran 3.A.B.Arun Rasheed 4.K.V.Chandra sekaran 5.E.Manoharan 6.M.N.Jaya kumar 7.S.Ramani 8.P.Palanivel	Postmen 18/04/85 11/07/83 12/04/83 11/07/83 21/07/83 26/03/81 01/07/83 23/07/83	Postal Assistants 03/03/90 03/03/90 03/03/90 13/10/90 25/11/89 03/03/90 03/03/90 13/10/90	04/04/06 03/04/06 31/03/06 13/11/06 25/12/05 25/03/06 29/03/06 10/11/06	01/09/08 " " " " " " "
17	7992 of 2017	738 of 2015 V.R.Venkatesan	Group D/ 19/01/71	Postal Assistant / 19/09/75	12/17/83	10/11/91
18	29272 of 2017	1272 of 2017 G.Srinivasan	Group D/ 05/03/76	Postal Assistant / 21/10/1980	07/31/96	01/01/07
19	34266 of 2017	1264 of 2015 R.Ramamurthi	Group D/ 15/10/73	Sorting Assistant / 10/07/1980	07/20/96	01/01/07

SI. No.	W.P.No.	OA.No./ Applicant	Entry Post/Date	Promotion Post on LDCE/Date	TBOP Date	BCR/MACP Date
20	30111 of 2017	1026 of 2015 M.Ramadoss	Postman / 28/10/71	Postal Assistant / 21/08/76	12/17/83	10/11/91
21	1145 of 2017	1024 of 2015	Postman / 19/05/69	Postal Assistant / 08/05/73	12/17/83	10/11/91
22	3195 of 2017	1029 of 2015 K.Durairaju	Postman / 30/10/72	Postal Assistant / 28/03/78	03/29/94	07/01/04
23	2014 of 2017	1030 of 2015 R.Gunasekaran	Postman / 14/04/70	Postal Assistant / 20/04/78	12/17/83	10/11/91
24	3196 of 2017	1031 of 2015 M.Mayavaru	Postman / 14/10/70	Postal Assistant / 16/12/75	01/24/92	03/06/03 w.e.f. 01/01/02
25	5294 of 2016	520 of 2012 A.venkataswamy	Mailman / 10/07/80	Sorting Assistant / 26/03/91		

4.From the said table it is clear that all the petitioners joined the respondent Department on various dates either as Postman or in Group D posts. All the petitioners wrote the departmental tests and were selected to the post of Postal Assistant on the dates given against each of the petitioners. That the respondents introduced certain schemes to provide career advancement to its employees is not disputed. The TBOP Scheme was introduced on 17.12.1983 and one financial up-gradation was given to all employees who completed 16 years of service in a particular cadre and BCR Scheme was introduced on 11.10.1991 and financial up-gradation was extended to all employees who completed 26 years of service in the particular cadre. The MACP Scheme was introduced on 19.05.2009 and under the scheme financial up-gradation to next pay band and grade pay in promotional hierarchy was extended on completion of 10, 20 and 30 years of Departmental Service. The MACP Scheme was introduced with an avowed object to avoid stagnation in a particular post and was limited to three financial up-gradations in the entire service of the employee.

5.All the petitioners participated in the Departmental Test and were selected to the post of Postal Assistant on the dates tabulated above and they were also extended two financial up-

gradations one under the TBOP Scheme on completion of 16 years in Postal Assistant cadre and the second financial up-gradation was extended under BCR Scheme on completion of 26 years in the Postal Assistant cadre. On introduction of the MACP Scheme, all the petitioners requested for financial up-gradation under MACP III, along with other benefits, but the same was rejected by the respondents, hence they preferred the O.A.s' before the CAT. The Administrative Tribunal vide orders dated 29.08.2016, 11.08.2016, 08.01.2016, 05.12.2016, 02.01.2017, 26.10.2016 and 16.10.2016 dismissed all the O.A.s' and hence the petitioners have approached this Hon'ble Court by way of the above writ petitions.

6.The above facts are not disputed, the only controversy is on the extension of MACP III to the writ petitioners. The petitioners pray for extension of MACP III to them on the basis that on their appointment as Postal Assistant, they were settled only two financial up-gradation under TBOP Scheme and BCR Scheme, and on completion of 30 years of service, they were further entitled to the third financial up-gradation under MACP Scheme. The petitioners further contention is that their appointment to the post of Postal Assistant after successfully passing the Departmental Test cannot be considered as promotion but should be considered only as Direct Recruitment.

7.On the other hand the contention of the respondent is that the appointment of the petitioners as Postal Assistants consequent to the passing of Departmental Test is to be considered only as promotion and not direct recruitment. If it is considered as a promotion, then the petitioners would not be eligible for MACP III.

8.Similar issue of financial up-gradation under the MACP Scheme was raised before two Division Benches of this Hon'ble Court on earlier occasions. Two different views were rendered in the Judgments in 2019 SCC Online Mad 9326 and CTC 2015 MHC 4401. We have gone through both the Division Bench Judgments and we find that as the Rule position was not placed before the Hon'ble Division Benches different views were taken. In the present cases, the respective learned counsels' placed the Rule position before us and extensively argued on the basis of the Rules. We therefore venture to decide the controversy on the basis of the Rule position.

9.The learned counsels for the petitioners in support of their contention that appointment to the post of Postal Assistant on passing the Departmental Test is only promotion highlighted the following points from the Recruitment Rules of 1971:

1) That though the method of selection is given as both Direct Recruitment and promotion through a test, as no DPS is constituted, it cannot be taken as promotion.

2) That the selection is only through test from nearly 49 categories of officials and no other criteria is laid down for selecting the candidates.

3) The critical character of a promotional process like consideration of seniority of officials in the feeder post is absent.

4) The crucial aspect of separate quota for the purpose of promotion to be earmarked for the respective feeder posts, if there is more than one is also absent.

5) The failure to explain in column 5 of the schedule to the RR of 1971 as to whether it is a selection post or non-selection post would again point to the fact that it is only direct recruitment.

10.The further submissions of the counsels were that on earlier occasions when financial up-gradation under TBOP Scheme and BCR Scheme were granted the date for calculating 16 years and 26 years of qualifying service respectively was date of entry as Postal Assistant hence it was not fair to take a contrary stand now.

11.The learned counsel further relied on the following Judgments in support of their case.

1.Union of India & Others Versus Shakeel Ahmad Burney reported in CDJ 2014 DHC 3054,

2.Union of India, Rep. By Director General, Department of Posts & Others - Vs - D.Sivakumar & Another reported in CDJ 2015 MHC 4401,

3.Union of India - Vs - Bhanwar Lal Regar & Others, and

4.Union of India - Vs.- Bhanwar Lal Regar & Others (Review Petition No.171 of 2016 & Batch of Petitions)

12.The learned counsel for the respondents relied on the schedule to the Recruitment Rules to drive home the point that the appointment to the Post of Postal Assistant was only promotion and not Direct Recruitment.

13.The learned counsel further submitted that two modes of appointment to Postal Assistant Post were given in the Recruitment Rules. One was by way of Direct Recruitment and other by way of promotion on the basis of test at 50% each.

According to the learned counsel as the petitioners were already in service, they were permitted to appear for Departmental Tests and therefore their appointment is only promotion and not direct recruitment.

14.The learned counsel further submitted that under the MACP Scheme the qualifying service of 10, 20 & 30 years is counted from the date of entry in department and not from the date of entry to a particular cadre, the counsel therefore submitted that the submission of the petitioners counsel in this aspect deserves no merit. The learned counsel with reference to the Judgment of the Rajasthan High Court and the Division Bench Judgment of this Hon'ble Court in D.Sivakumar case cited supra submitted that the said Judgments were taken by way of an appeal to the Hon'ble Supreme Court and the Hon'ble Supreme Court dismissed the appeal leaving open the question of law. Therefore according to the counsel the issue is still res integra.

15.The respondents counsel with reference to the service books of the petitioners submitted that the petitioners had already availed the three financial upgradations viz., MACP I by promotion to the cadre of Postal Assistant from Postman & Group 'D' and MACP II by way of financial up-gradations under TBOP and MACP III by financial up-gradation under BCR. The counsel therefore submitted that the petitioners were given three financial up-gradations and they were not entitled to any further financial up-gradations under the MACP scheme.

16.The learned counsel for the respondents relied on the following Judgments.

1.M.V,Akkiniveeranan and Others Vs. Union of India, rep. By the Secretary, Ministry of Communications and IT, Department of Post and Others reported in 2019 SCC Online Mad 9326, and

2.Orders of High Court of Karnataka in the case of Union of India and Others Vs. Smt.R.K.Kulkarni in W.P.No.102322 of 2018 (S-CAT)

17.We have heard the respective counsels, perused the records and we are of the view that the issue involved in these batch of cases is within a very narrow sphere.

18.We have to determine whether the Recruitment of the petitioners to the Post of Postal Assistant from the post of Postman and other Group D Posts is by way of Promotion or Direct Recruitment.

19. Before we embark on the said exercise, we deem it necessary to extract the relevant Recruitment Rule of 1971 for the post of Postal Assistant.

SCHEDULE

Name of the posts	Classification	Scale of Pay	Whether Selection post or non-selection post.	Age limit for direct recruitment	Educational qualifications and other qualifications for direct recruits.
1	2	3	4	5	6
Time Scale Clerks and Sorters excluding the time scale clerks in Tele communication Account branch	General Central Service Class III, Non gazetted Ministerial	Rs.260-8-300-EB-3-340-10-360-12-420-EB-12-480	Not applicable	Between 18 and 25 years on the 1 st July of the year of recruitment	Matriculation or equivalent examination conducted by a University or Board of any State.
Whether age and educational qualifications prescribed for direct recruits will apply in case of promotes	Period of Probation	Method of recruitment whether by direct recruitment or by promotion or transfer and percentage of vacancies to be filled by various methods	In the case of recruitment by promotion grades from which promotion to be made	If the DPs exists, what is its composition	Circumstances in which UPSC to be consulted

7	8	9	10	11	12
No	Four years of passing of the confirmation examination whichever is earlier. Note:- In the case of direct recruits, failure to pass the confirmation examination in six chances within four years result in their discharge from service while, in the case of departmental candidates they will be reverted to their former lower post.	(a) 50% by direct recruitment. (b) 50% by promotion through a test.	Promotion: Permanent or quasi permanent officials below the time-scale clerical and sorters grade in accordance with the orders	Not applicable	Not applicable

20.A cursory look at the schedule to the Recruitment Rules makes it crystal clear that recruitment to the post of Postal Assistant is either by Direct Recruitment (50%) or promotion through Test (50%).

21.It is pertinent to note here that promotion through tests is restricted to in service candidates and further the age and educational qualifications prescribed for direct recruits is not applicable to promotees. Therefore, the recruitment through Direct Recruitment is a different method with its own prescribed rules. Once the petitioners admit that they wrote the

departmental (Test) as Departmental candidates only, it is not possible to accept their contention that nevertheless recruitment is Direct. When a separate quota of 50% is earmarked for departmental candidates and it is admitted by the petitioners that they took the tests as departmental candidates it is incomprehensible to consider their recruitment as Direct Recruitment. The petitioners as departmental candidates form a separate class and on their passing the tests, they become a class within that class for whom 50% quota is reserved for promotion through tests.

22.It would be relevant to note here that the object of Departmental tests is to ensure that those who would otherwise have to wait for years to get promotion are given an opportunity to fast track their chances of promotion and further it helps in the infusion of young blood in the organization. Therefore recruitment through Departmental Test is accelerated promotion. If this object of Departmental Tests is kept in mind, then absolutely there is no confusion and the only conclusion is that the recruitment through Departmental Test is only Promotion and not direct recruitment.

23.Further support can be drawn from column 8 of the Recruitment Rule, 1971 to hold that recruitment through Departmental Test is only Accelerated Promotion and not direct recruitment. Column 8 of the Recruitment Rules provides that Probation Period is four years from the date of confirmation examination. In the note to column 8 different consequences flow on failure to pass the confirmation examination in six chances within four years for direct recruits and Departmental candidates. Whereas for Direct Recruits the consequence is their discharge from service but for Departmental Candidates the consequence is reversion to their former lower Post. If the contention of the counsels for the petitioners is accepted, then on non-confirmation, even departmental promotees ought to be sent out instead of reverting them to lower posts. Therefore in our view when the Recruitment Rules are clear, there is no scope for any interpretation against the letter of the Rules.

24.It will be relevant to note here the Judgment of the Hon'ble Supreme Court in the case of Director General Rice Research Institute, Cuttack & Another Vs. Khetra Mohan Das reported in 1994 (5) SLR 728. The Hon'ble Supreme Court while dealing with the meaning of the word promotion held as follows:

"A promotion is different from fitment by way of rationalization and initial adjustment. Promotion as a generally understood; means; the appointment of a person of any category or grade of a service or a

class of service to a higher category or Grade or such service or class. In C.C.Padmanabhan Vs. Director of Public Instructions, 1980 (Supp) SCC 668; (AIR 1981 SC 64) this Court observed that "Promotion" as understood in ordinary parlance and also as a term frequently used in cases involving service laws means that a person already holding a position would have a promotion if he is appointed to another post which satisfies either of the two conditions namely that the new post is in a higher category of the same service or that the new post carries higher grade in the same service or class."

25.As also in the case of Tarsem Singh V. State of Punjab reported in 1994 (5) SCC 392 promotion was defined as follows:

"9. ... Promotion as understood under the service law jurisprudence means advancement in rank, grade or both. Promotion is always a step towards advancement to a higher position, grade or honour."

26.If the above said principles are applied to the facts of the present case it could be clear that the appointment of the petitioners as postal assistants is only promotion and not direct recruitment. The factual reasons for the said conclusion is not far to seek because the Postal Assistant is admittedly a higher post carrying higher scale and the appointment to the said post was by way of selection through Departmental Test. Therefore both legally and factually we conclude that the appointment of the petitioners to the post of Postal Assistants from the lower post of Postman and Group D is promotion and not direct recruitment.

27.We shall now begin to discuss the judgments produced by the learned counsel for the petitioners in support of their contention that the appointment of the petitioners to the post of Postal Assistants is only Direct Recruitment. We have gone through those Judgments and with great respects we find that in the cases cited by the learned counsel for the petitioners, the Recruitment Rules in question were neither referred to nor discussed. We have elaborately discussed the Recruitment Rules and also the law laid down by the Hon'ble Supreme Court and therefore we are not inclined to accept the submission of the learned counsel for the petitioners in this regard.

28.In so far as the judgments relied upon by the learned counsel for the respondents are concerned, we are in agreement with the Judgment of the Hon'ble Division Bench of this Court in the case of M.V.Akkiniveeranan and Others Vs. Union of India

reported in 2019 SCC Online Mad 9326 and the Judgment of the Karnataka High Court (Dharwad Bench) in the case of The Union of India, represented by its the Secretary, Department of Posts, Dak Bhavan, New Delhi - 110001 and three others Vs. Smt.R.K.Kulkarni in W.P.No.102322/2018 (S-CAT). In the Division Bench Judgment of the Karnataka High Court Her Ladyship Mrs.Justice B.V.Nagarathna as Her Ladyship then was considered the very same issue in the said Judgment and after discussing the Rule position held that appointment to the post of Postal Assistants on passing the Limited Departmental Competitive Examination (LDCE) has to be considered as promotion and not direct recruitment.

29.In view of the above facts and circumstances and the law, we are of the view that the writ petitioners having availed the promotion to the post of Postal Assistant from the lower post of Postman and Group D post, are not entitled to the grant of financial up-gradation under MACP III and they are also not entitled to the consequential benefits thereof.

30.In fine the batch of writ petitions are dismissed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. THE SENIOR SUPERINTENDENT OF POST OFFICES,
UNION OF INDIA,
TIRUCHIRAPALLI DIVISION
TIRUCHIRAPALLI- 620 001
2. THE SENIOR SUPERINTENDENT OF POST OFFICES
UNION OF INDIA
COIMBATORE DIVISION
COIMBATORE 641 001.
3. THE SENIOR SUPERINTENDENT OF POST OFFICES
UNION OF INDIA
DINDIGUL DIVISION
DINDIGUL-624 001.

4. THE SENIOR SUPERINTENDENT OF POST OFFICES,
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CHENNAI CITY CENTRAL DIVISION,
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5. THE REGISTRAR
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11. THE CHIEF POSTMASTER GENERAL
UNION OF INDIA,
TAMILNADU CIRCLE,
CHENNAI-600 002
12. THE POSTMASTER GENERAL
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COIMBATORE-641 002.
13. THE CHIEF POST MASTER GENERAL
UNION OF INDIA,
O/O. THE CHIEF POST MASTER GENERAL
ANNA SALAI, CHENNAI.
14. THE POST MASTER GENERAL
O/O. THE POST MASTER GENERAL,
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KURNOOL-518 004.

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17. THE DIRECTOR GENERAL,
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31897, 32130 of 2017, 88 of 2018 and 5294 of 2016

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