



W.P.Nos.12653 & 17053 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos. 12653 & 17053 of 2013

**W.P.No.12653 of 2013**

Rocky Pinheiro

.... Petitioner

Vs

1. The Union of India  
rep. by the General Manager,  
Southern Railway,  
Chennai – 3.

2. The Chief Security Commissioner,  
Railway Protection Force,  
Southern Railway,  
Chennai – 3.

3. The Financial Advisor  
and Chief Accounts Officer,  
Southern Railway, Chennai – 3.

4. The Senior Divisional Security Commissioner,  
Chennai Division, Railway Protection Force,  
Southern Railway, Chennai – 3.

5. The Staff Officer,  
O/o.The Chief Security Commissioner,  
Railway Protection Force,  
Southern Railway, Chennai – 3.

.... Respondents



W.P.Nos.12653 & 17053 of 2013

**PRAYER:** Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the 4<sup>th</sup> respondent made in Memorandum in No.XP/521/MACP/ASIPF/20/13 dated 11.03.2013 and to quash the same and consequently direct the respondents to restore fixation of petitioner's pay with effect from 01.09.2008 accrued as a result of upgradation under the MACP Scheme.

**W.P.No.17053 of 2013**

K.Palani

.... Petitioner

Vs

1. The Union of India  
rep. by the General Manager,  
Southern Railway,  
Chennai – 3.

2. The Chief Security Commissioner,  
Railway Protection Force,  
Southern Railway,  
Chennai – 3.

3. The Financial Advisor  
and Chief Accounts Officer,  
Southern Railway, Chennai – 3.

4. The Senior Divisional Security Commissioner,  
Chennai Division, Railway Protection Force,  
Southern Railway, Chennai – 3.

5. The Staff Officer,  
O/o.The Chief Security Commissioner,  
Railway Protection Force,  
Southern Railway, Chennai – 3.

.... Respondents



W.P.Nos.12653 & 17053 of 2013

**PRAYER:** Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the 4<sup>th</sup> respondent made in Memorandum in No.XP/521/MACP/ASIPF/20/13 dated 11.03.2013 and to quash the same and consequently direct the respondents to restore fixation of petitioner's pay with effect from 02.01.2011 accrued as a result of upgradation under the MACP Scheme.

**In both W.Ps**

For Petitioners : Mr.L.Chandrakumar

For Respondents : Mr.Vijay Anand  
Standing Counsel

**COMMON ORDER**

W.P.No.12653 of 2013 has been filed challenging the impugned order dated 11.03.2013 passed in No.XP/521/MACP/ASIPF/20/13 by the fourth respondent, thereby rejected the claim of the petitioner to restore fixation of his pay with effect from 01.09.2008 accrued as a result of upgradation under the MACP Scheme.

2. W.P.No.17053 of 2013 has been filed challenging the impugned order dated 11.03.2013 passed in No.XP/521/MACP/ASIPF/20/13 by the fourth respondent, thereby rejected the claim of the



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petitioner to restore fixation of his pay with effect from 02.01.2011 accrued as a result of upgradation under the MACP Scheme.

3. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents and perused the materials available on record.

4. The petitioner in W.P.No.12653 of 2013 joined the cadre of Railway Protection in the year 1987 as a Constable carrying the scale of pay Rs.825-1200. As per the 5<sup>th</sup> Central Pay Commission, the scale of pay was revised as Rs.3050-4590. Since the petitioner did not get any promotion for over a period of 12 years, he was extended with the first Assured Career Progression to the scale of pay Rs.3200-4900 with effect from 01.12.1999.

5. While being so, he was subjected to departmental competitive examination, he was declared to have qualified for being appointed as an Assistant Sub-Inspector Protection Force carrying the scale of pay Rs.4000-6000 vide a Memorandum dated 07.11.2006. He



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was upgraded to grade pay of Rs.4200/-with pay band of Rs.9300-34800 by an order dated 20.09.2010. While being so, the fourth respondent passed an impugned order dated 11.03.2013 and reduced the petitioner's pay and accordingly regulated their fixation of pay as per the chart.

6. On perusal of the counter filed by the respondents revealed that the petitioner was erroneously granted with 2<sup>nd</sup> Financial upgradation under MACP with effect from 20.09.2012 with Grade Pay of Rs.2800 to Grade Pay of Rs.4200 and later it was regularised the irregular grant of MACP to the petitioner as per the provisions of existing Railway Board Rules. The MACP provides for 2<sup>nd</sup> financial upgradation after completion of 20 years of regular service, if an employee did not get promotion/financial upgradation on his own before the stipulated period. Already the petitioner has been extended with financial upgradation under Assured Career Progression - ACP (Prior to implementation of MACP) with effect from 01.12.1999. The petitioner has been promoted to the rank of Assistant Sub Inspector from Grade Pay of Rs.2400 to Grade Pay of Rs.2800 with effect from 02.03.2007. Therefore, he earned one ACP and one regular promotion before



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completion of 20 years of service and hence the grant of 2<sup>nd</sup> financial upgradation of the petitioner is not in order.

7. Pending Writ Petition, pay of the petitioner in W.P.No.12653 of 2013 has been refixed vide communication dated 23.09.2022. However, the refixation of pay is subject to the out come of this writ petition.

8. Considering the above, the impugned order dated 11.03.2013 passed in No.XP/521/MACP/ASIPF/20/13 by the fourth respondent, is hereby set aside. Accordingly, the second respondent is directed to implement the order dated 23.09.2022 and refix the pay of the petitioner with effect from 01.09.2008 accrued as a result of upgradation under the MACP Scheme within a period of four weeks from the date of receipt of a copy of this order.

9. Insofar as W.P.No.17053 of 2013 is concerned, the impugned order dated 11.03.2013 passed in No.XP/521/MACP/ASIPF/20/13 by the fourth respondent, is hereby quashed. The second



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respondent is directed to refix the pay of the petitioner with effect from 02.01.2011 in the light of refixation of pay of the petitioner in W.P.No.12653 of 2013 accrued as a result of upgradation under the MACP Scheme within a period of four weeks from the date of receipt of a copy of this order.

10. In the result, both the Writ Petitions stand allowed.

There shall be no order as to costs.

26.07.2023

Internet: Yes  
Index: Yes/No  
Speaking/Non-speaking order  
Lpp  
To

1. The General Manager,  
Union of India,  
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Chennai – 3.

2. The Chief Security Commissioner,  
Railway Protection Force,  
Southern Railway,  
Chennai – 3.

3. The Financial Advisor  
and Chief Accounts Officer,  
Southern Railway, Chennai – 3.



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Lpp

4. The Senior Divisional Security Commissioner,  
Chennai Division, Railway Protection Force,  
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5. The Staff Officer,  
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